DEAL DONE: MANDATORY MERGER CLEARANCE IN AUSTRALIA BECOMES LAW

Date: 29 November 2024

Australia Policy and Regulatory Alert

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It is now confirmed that Australia will have a mandatory and suspensory (competition) pre-merger clearance regime with the passing of legislation late yesterday.

The legislation, titled the *Treasury Laws Amendment (Mergers and Acquisitions Reform) Act 2024*, will have a widespread and significant impact on the Australian merger landscape.

Under the new regime, mergers (any acquisitions of shares or assets) that meet certain thresholds *will be required to be notified to the Australian Competition and Consumer Commission (ACCC) and approved prior to proceeding*.

In brief, the thresholds are as follows:

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Economy-Wide Threshold

The combined Australian turnover of the parties
AU$200 million, AND either:

- The Australian turnover of the target is at leas

OR

- The global transaction value is at least AU$25

Very Large Acquirers

The acquirer's Australian turnover (including the
AND the Australian turnover of the target is at lea

Serial or Creeping Acquisitions (Three-Year Cumulative Effect)

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The combined Australian turnover of the parties
AU$200 million AND the cumulative Australian tu

The legislation also provides that the Treasurer will be able to adjust the thresholds to respond to concerns in relation to “high-risk” sectors—for example, the Australian government has indicated that it intends to require notification of all mergers in the supermarket sector.

Prior to these reforms, Australia was one of only three Organisation for Economic Co-operation and Development countries that did not have a mandatory merger clearance regime in place. The Australian government has stated that “the current 'ad hoc' merger process is unfit for a modern economy” and that “these reforms are the largest shakeup of Australia's merger settings in half a century”.

While parties can seek voluntarily clearance under the new regime from 1 July 2025, the regime will officially commence on 1 January 2026.

Accordingly, businesses seeking to effect mergers and acquisitions in Australia should begin considering the approach that they wish to take under the legislation, the likely timing of the proposed acquisition and its completion, as well as the effect of acquisitions that have been undertaken in the previous three years.

We set out further detail on the legislation in an earlier Insight, which can be found here.

We will continue to update you on further developments flowing from the passing of the legislation, including the ACCC's upcoming analytical and process processes.

In early 2025, we will be hosting more detailed presentation sessions on the reforms—should you wish to attend, please keep an eye on our future announcements.

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