



SWEDEN

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1. Relevant legislation

Swedish Competition Act (2008:579), in particular Chapter 1 Section 9 and Chapter 4.

Swedish Competition Ordinance (2021:87), in particular Sections 12-14

The Swedish Competition Authority's Regulations on the Notification of Concentrations between Undertakings under the Swedish Competition Act (2008:579)

Guidance from the Swedish Competition Authority for the notification and examination of concentrations between undertakings

2. Authority

Swedish Competition Authority

www.konkurrensverket.se/en (in English)

3. Types of transactions caught

Chapter 1, Section 9

According to this Act, a concentration shall be deemed to arise if there is a change to the control of an undertaking of lasting basis as a consequence

of:

1. two or more previously independent undertakings merge, or
2. either one or more persons, already controlling at least one undertaking, or one or more undertakings acquire whether by purchase of securities or assets, by contract or by any other means direct or indirect control of the whole or parts of one or more other undertakings.

The creation of a joint venture which on a lasting basis fulfils all the functions of an autonomous economic entity constitutes a concentration within the meaning of the first paragraph, point 2.

4. Thresholds

Chapter 4, Section 6

A concentration shall be notified to the Swedish Competition Authority if

1. the combined aggregate turnover in Sweden of all the undertakings concerned in the preceding financial year exceeds SEK 1 billion, and
2. at least two of the undertakings concerned had a turnover in Sweden the preceding financial year which exceeds SEK 200 million for each of the undertakings.

5. Exceptions

Chapter 4, Section 7

If the turnover requirement according to Chapter 4, Section 6, point 1 is fulfilled, but the turnover does not exceed what is laid down in Section 6, point 2,

1. the Swedish Competition Authority may require a party to a concentration to notify the concentration, where particular grounds exist for so doing, or
2. a party and other participants in a concentration may voluntarily notify a concentration.

Chapter 4, Section 8

If a concentration consists of several transactions between the same persons or undertakings, whereby parts of one or more undertakings are acquired, for the purpose of calculating the turnover the transactions which have taken place within a period of two years shall be treated as only one concentration.

6. Notifying party(-ies)

The party or parties acquiring control over an undertaking or a part thereof. If the concentration means that two or more undertakings consolidate, the notification shall be made by both of these undertakings.

7. Submission deadline

A notification of a concentration between undertakings shall be made before the concentration is implemented. Chapter 4, Section 10, second paragraph.

8. Filing fee

No.

9. Proceedings timetable

- The Swedish Competition Authority shall within 25 business days from a complete notification of a concentration decide to (i) carry out a special investigation of the concentration; or (ii) take no further action, Chapter 4, Section 11, first paragraph.
- If the Authority within the period in the first paragraph has received a commitment from a party to the concentration aiming to a decision where the Authority shall take no further action regarding the concentration, the period will be prolonged to 35 business days, Chapter 4, Section 11, second paragraph.
- If the Swedish Competition Authority has decided to conduct a special investigation, the Authority shall within three months of the decision being announced decide on (i) a prohibition or (ii) an obligation to take pro-competitive measures, or (iii) to take no further action regarding the concentration, Chapter 4, Section 13, first paragraph.
- Appeal proceedings; Parties with a legitimate interest have the right to appeal a decision to prohibit a merger to the Patent and Market Court. An appeal must be filed within three weeks after the Swedish Competition Authority's final decision. The Patent and Market Court shall, as a general rule, decide the matter within six months of receipt of the appeal. The court's decision can in turn, be appealed to the Patent and Market Court of Appeal.

- The Swedish Competition Authority may in certain situations suspend the time limits, e.g. if a party to the concentration has not complied with an order from the Swedish Competition Authority to, for example, provide certain information.

10. Availability of pre-notification/informal consultation

Yes. A notification of a concentration between undertakings may be made as soon as a party or some other participant can demonstrate that they intend to implement a concentration.

11. Test for clearance/prohibition

A concentration shall be prohibited if it significantly impede the occurrence or the development of effective competition within the country as a whole, or a substantial part thereof. During the examination of whether the concentration shall be prohibited, account shall particularly be taken of whether it creates or strengthens a dominant position.

12. Conditional clearance – remedies

If it is sufficient to eliminate the adverse effects of a concentration, a party to a concentration, instead of being subject to a prohibition, may instead be required

1. to divest an undertaking or a part of an undertaking, or
2. to take some other measure having a favourable effect on competition.

An obligation under the first paragraph may not be more extensive than is required to eliminate the harmful effects of a restriction on competition.

13. Stand-still obligation

A party or other participant in a concentration may not take any action to implement the concentration before the Competition Authority's investigation period has expired or the authority has made a decision.

14. Failure to notify/obtain clearance

Contrary to the provisions of the Merger Regulation, there are no sanctions in the form of fees or invalidity if a notification is not made. If a notification is not made the Competition Authority may require a notification, under penalty of a fine.