

New German Merger Control Threshold Eliminates Need for Preclosing Approval for Deals with Minimal Nexus to Germany

March 24, 2009

Effective March 25, 2009, amendments to the German competition law will significantly reduce the number of transactions subject to premerger notification and clearance in Germany.

Up until now, the German turnover thresholds were met if (i) the combined worldwide sales of all parties to the transaction (i.e., the buying group(s) and target) exceeded €500 million (approx. \$745 million) within the prior calendar year, and (ii) any of the parties achieved German sales in excess of €25 million (approx. \$37.2 million) within that time period. This resulted in many transactions being notifiable and subject to a one-month waiting period merely because one party satisfied both thresholds.

The amendments introduce an additional German turnover threshold in the amount of €5 million (approx. \$7.4 million) that must be satisfied by one of the parties to the proposed transaction (i.e., either the buying group or the target) in addition to the existing €25 million (approx. \$37.2 million) German turnover threshold being met by another party to the transaction. The new threshold will significantly reduce the number of transactions subject to premerger notification in Germany.

The new threshold will apply to all new transactions that close on or after March 25, 2009. The German Federal Cartel Office retains discretion to exercise jurisdiction over transactions that were already notified prior to this date but have not yet closed.

For more information about the issues discussed in this LawFlash, please contact Dr. Jürgen Beninca of Morgan Lewis's Antitrust Practice, or any of the following Morgan Lewis attorneys:

Frankfurt

Dr. Jürgen Beninca
Eva Rayle

+49.69.714.007.19
+49.69.714.007.59

jbeninca@morganlewis.com
erayle@morganlewis.com

Brussels

Izzet M. Sinan

+32.02.507.7522

isinan@morganlewis.com

Paris

Jean Leygonie

+33.1.53.30.4410

jleygonie@morganlewis.com

New York

Harry T. Robins

+1.212.309.6728

hrobins@morganlewis.com

Washington, D.C.

Jonathan M. Rich

+1.202.739.5433

jrich@morganlewis.com

Scott A. Stempel

+1.202.739.5211

sstempel@morganlewis.com

Willard K. Tom

+1.202.739.5389

wtom@morganlewis.com

About Morgan, Lewis & Bockius LLP

Morgan Lewis is an international law firm with more than 1,400 lawyers in 22 offices located in Beijing, Boston, Brussels, Chicago, Dallas, Frankfurt, Harrisburg, Houston, Irvine, London, Los Angeles, Miami, Minneapolis, New York, Palo Alto, Paris, Philadelphia, Pittsburgh, Princeton, San Francisco, Tokyo, and Washington, D.C. For more information about Morgan Lewis, please visit

www.morganlewis.com.

This LawFlash is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered **Attorney Advertising** in some states. Please note that the prior results discussed in the material do not guarantee similar outcomes.

© 2009 Morgan, Lewis & Bockius LLP. All Rights Reserved.