



UUBO COVID-19
RESOURCE HUB:



MERGER CONTROL REVIEW DURING COVID-19



On 28th April 2020, the Federal Competition and Consumer Protection Commission (“FCCPC”) published a guidance note titled “Guidance Regarding Federal Competition and Consumer Protection Commission’s (Commission) Merger Notification Process/Interpretation of the Law on Other Competition Issues Under the Federal Competition and Consumer Protection Act (FCCPA); During COVID-19 Pandemic” (“Merger Review Guidance Note”).

The Merger Review Guidance Note sets out the merger notification process in view of the current lockdown measures being implemented to mitigate the spread of the COVID-19 pandemic.

Currently, the FCCPC is prioritising merger control applications where:

- (a) there is a possibility of imminent failure of the business of a merging party if the transaction is not urgently considered;
- (b) there are time limitations in a host jurisdiction (other than Nigeria), and notification to as well as determination by the FCCPC is required prior to conclusion of the underlying transaction; and
- (c) the application is otherwise time-sensitive, for instance where other regulatory or similar approvals may expire or lapse, or such approvals were conditioned on presenting a notification to the FCCPC within a specific period.

In these circumstances, the notification should be titled “Extenuating Circumstantial Notification (ECN)” and should include an appropriate explanation and supporting evidence to demonstrate the extenuating circumstances. Applications and supporting documentation/ annexures should be submitted to the FCCPC by email at mergernotification@fccpc.gov.ng.

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