

Merger Control

The international regulation of mergers and joint ventures in 69 jurisdictions worldwide

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Legislation and jurisdiction

1 What is the relevant legislation and who enforces it?

The Competition Act 2002 (as amended) (the Act) sets out the statutory basis for competition and merger control law in Ireland. The Act entered into force in January 2003. Many of the concepts used in part 3 of the Act are based on and applied by analogy with the EU merger control regime. There are also a number of guidance documents on the interpretation of certain terms used in part 3 of the Act and on various aspects of the merger review process.

The Competition Authority (the Authority) is the state body responsible for the enforcement of merger control law in Ireland. The Authority has sole responsibility for non-media mergers and shared responsibility with the minister for jobs, enterprise and innovation in relation to media mergers. The minister for finance may intervene in a merger or acquisition involving a credit institution where the transaction is necessary to maintain the stability of the financial system in the state and there would be a serious threat to such stability if it did not proceed. (Please see the response to question 30 for further information on media mergers and transactions involving credit institutions.)

2 What kinds of mergers are caught?

Section 16(1) of the Act provides that a merger or acquisition occurs if:

- two or more undertakings, previously independent of one another, merge;
- one or more individuals or other undertakings who or which control one or more undertakings acquire direct or indirect control of the whole or part of one or more other undertakings; or
- the result of an acquisition by one undertaking (the first undertaking) of the assets, including goodwill, (or a substantial part of the assets) of another undertaking (the second undertaking) is to place the first undertaking in a position to replace (or to substantially replace) the second undertaking in the business or, as appropriate, the part concerned of the business in which that undertaking was engaged immediately before the acquisition.

Mergers and acquisitions (mergers) that meet the turnover thresholds set out in section 18(1) of the Act are subject to mandatory notification to the Authority (please see question 5 for further details on turnover thresholds). Where these requirements are not met, mergers and acquisitions may be notified to the Authority on a voluntary basis.

3 Are joint ventures caught?

Section 16(4) of the Act provides that the creation of a joint venture which performs, on an indefinite basis, all the functions of an autonomous economic entity shall constitute a merger for the purposes of the Act.

4 Is there a definition of 'control' and are minority and other interests less than control caught?

For the purposes of the Act, 'control' will arise where decisive influence can be exercised in relation to the activities of the undertaking, whether such influence is conferred by the acquisition of securities or contracts, or a combination thereof, or by any other means. In particular, this will be demonstrated by ownership of assets, or even rights to use such assets, or by rights or contracts that enable decisive influence to be exercised over the composition, voting or decisions of the organs of an undertaking.

The definition of 'control' in the Act is defined in similar terms to the test under the European Union Merger Regulation (EUMR) and the Authority follows the practice and decisions of the European Commission (the Commission) in interpreting the meaning of 'control' and 'decisive influence'. The Authority has also made specific reference to the Commission's Consolidated Jurisdictional Notice for guidance on matters not covered by the Authority's own guidance.

5 What are the jurisdictional thresholds?

A notification must be made to the Authority (within one month after the conclusion of the agreement or the making of a public bid) if, in the most recent financial year:

- the worldwide turnover of each of at least two of the undertakings involved in the merger or acquisition is not less than €40 million;
- at least two of the undertakings involved carry on business in any part of the island of Ireland (ie, including Northern Ireland); and
- the turnover in the Republic of Ireland of any one of the undertakings involved is not less than €40 million.

The Authority has issued guidance on its interpretation of the meaning of 'carries on business in any part of the island of Ireland', which includes undertakings that either:

- have a physical presence on the island of Ireland (including a registered office, subsidiary, branch, representative office or agency) and make sales/or supply services to customers on the island of Ireland; or
- without having a physical presence on the island of Ireland, have made sales into the island of Ireland of at least €2 million in the most recent financial year.

The Authority has clarified that it understands 'turnover in the state' to comprise sales made or services supplied to customers within the state. The concept of 'undertakings involved' is broadly akin to the concept of 'undertakings concerned' under the EUMR and does not include the vendor.

- 6** Is the filing mandatory or voluntary? If mandatory, do any exceptions exist?

Mergers that meet the jurisdictional thresholds are subject to mandatory notification to the Authority. There are no exceptions.

Section 18(3) of the Act provides for the voluntary notification of mergers that do not meet the thresholds specified in section 18(1)(a). Voluntary notification is recommended for mergers and acquisitions that do not meet the thresholds but have the potential to substantially lessen competition in the state. A notified merger that has been cleared by the Authority is statutorily excluded from the competition prohibitions on anti-competitive agreements and abuse of dominance in sections 4 and 5 of the Act. The Authority's Notice in respect of the review of non-notifiable mergers and acquisitions provides guidance on its review of such mergers and acquisitions. Voluntary notifications are considered in the same way and under the same rules as mandatory notifications.

- 7** Do foreign-to-foreign mergers have to be notified and is there a local effects test?

There are no specific rules in the Act excluding foreign-to-foreign mergers from the notification obligation where the turnover thresholds are met and there is no specific local effects test.

Notification and clearance timetable

- 8** What are the deadlines for filing? Are there sanctions for not filing and are they applied in practice?

A notification must be made to the Authority in writing within one month after the conclusion of an agreement or the making of a public bid.

Failure to notify a notifiable transaction is a criminal offence and may incur penalties of fines of up to €3,000, plus €300 per day for continued breach. Conviction on indictment will incur penalties of up to €250,000, plus €25,000 per day for continued breach. Liability is determined based on whether the persons controlling the enterprises knowingly and wilfully authorised or permitted the breach. However, there is no record of penalties for failure to notify ever having been applied.

Notifiable mergers (and voluntarily notified mergers) may not be put into effect without receiving clearance from the Authority. Such transactions will be deemed void. The Authority is of the view that voidness is remedied at the time it makes a determination. The Act is silent on this point (see for example decision M/10/043 *Stena/DFDS* of 7 April 2011 and also question 2).

- 9** Who is responsible for filing and are filing fees required?

The 'undertakings involved' are required to notify the transaction. The purchaser and the target must notify, but the vendor is not required to. In practice, joint notifications are made. A notification of a merger or acquisition must be accompanied by a filing fee of €8,000.

- 10** What are the waiting periods and does implementation of the transaction have to be suspended prior to clearance?

The Authority will examine a transaction in one or two phases. In Phase I, the Authority has one month in which to decide either that the merger will not substantially lessen competition in the state, or that it intends to open a full Phase II investigation. The one-month period in Phase I may be extended to 45 days in order for the authority to consider any proposals from the parties offered to address the Authority's concerns. The one-month period starts from the date on which the Authority receives a complete notification (the 'effective date'). Transactions which do not raise substantive competition issues will typically be cleared during Phase I.

If the Authority makes a formal request for information the time frame is suspended and the clock starts again once the Authority receives the complete information which it has requested. This will also impact on the effective date. However, in practice the Authority frequently affords the parties to a notification an opportunity to respond to an informal request for information and does not stop the clock.

Where the Authority decides to open a Phase II investigation, the Authority has four months from the effective date in which to make a determination either to clear the transaction, prohibit the transaction or clear the transaction subject to conditions.

If the Authority fails to communicate a final determination to the parties during that period, the parties are legally entitled to put the merger into effect four months after the appropriate date (for media mergers and transactions involving credit institutions, please see question 30).

- 11** What are the possible sanctions involved in closing before clearance and are they applied in practice?

It is a criminal offence under the Act and punishable by fines not to notify a notifiable merger or to put a merger into effect in defiance of a prohibition determination or in breach of a conditional clearance. Further, any notifiable merger which is put into effect in the absence of Authority approval is deemed void.

The Act does not specify whether a transaction which it deems void is void indefinitely or until the transaction receives clearance from the Authority. However, the Authority, in M/04/003 *Radio 2000/Newstalk 106*, confirmed that any such merger remains void until such time as the Authority issues a clearance determination. In particular, the Authority stated, 'Based on a reading of all the pertinent provisions, the Authority is of the view that the [relevant] section is designed to protect the Authority's right of review and is not intended to render a merger or acquisition void indefinitely.' (See also for example decision M/10/043 *Stena/DFDS* of 7 April 2011 where the transaction was initially deemed void but was subsequently permitted to be put into effect when the Authority issued its clearance decision.)

- 12** What solutions might be acceptable to permit closing before clearance in a foreign-to-foreign merger?

There are no proposed solutions to permit closing before clearance in respect of a foreign-to-foreign merger contained in the Act or in the Authority's guidance documents.

It is not typically possible to carve out local completion in order to permit early closing in respect of a foreign-to-foreign merger. In practice, the Authority has accepted the putting into effect of international transactions where local Irish businesses are held separate until the Authority clears the transaction.

- 13** Are there any special merger control rules applicable to public takeover bids?

Section 18(1) of the Act provides that the notification of a public bid where the turnover thresholds are met, must be notified by the parties within one month of the making of the bid. In such circumstances, only the purchaser is required to notify. There are no further special merger control rules for public takeover bids.

- 14** What is the level of detail required in the preparation of a filing?

Notification of a merger must be done by completing and submitting a merger notification form to the Authority. The form requires details of the proposed transaction, the parties involved, the overlapping products and services, any ancillary restraints, as well as further information and supporting documentation, such as surveys, reports,

analyses and studies analysing the proposed transaction with respect to market shares, competition, competitors, markets, potential for sales growth or expansion.

The Act requires 'full details' of the proposed merger to be provided. The Authority understands 'full details' to mean that the form must be completed fully.

Where there are no horizontal or vertical overlaps between the activities of the parties involved, the Authority may decide not to require the parties to complete certain sections of the form.

15 What is the timetable for clearance and can it be speeded up?

Please see the response to question 10 for details of the applicable time frames for notifications to and determinations by the Authority.

There is no provision in the Act or in the Authority's guidance for shortening the timetable for clearance; however, the Authority is prepared to consider requests for accelerated investigations in exceptional circumstances.

In M/09/002 *HMV/Zavvi*, the Authority agreed to shorten the third-party submission deadline from 10 to five days, as *Zavvi* was in liquidation and its stores were likely to close with the loss of at least 100 jobs. M/10/015 *An Post/PostPoint* involved the acquisition of PostPoint, a wholly owned subsidiary of Postbank, which was in orderly wind-down. The Authority completed its assessment of the transaction within 13 days after receiving the notification.

16 What are the typical steps and different phases of the investigation?

The phases of the investigation and the typical steps involved are as follows:

- Pre-notification discussions (if appropriate)
- Phase I investigation:
 - filing of the notification form with the Authority;
 - publication of the fact of notification on the Authority's website;
 - submissions from third parties (if any);
 - formal/informal request(s) for information by the Authority (if required);
 - proposals from the parties (if appropriate);
 - determination by the Authority to clear the transaction or proceed to Phase II investigation; and
 - publication of the Phase I determination within two months of its adoption.
- Phase II investigation:
 - submissions from the parties involved and/or third parties;
 - early determination, ie, clearance (if appropriate) or assessment by the Authority of competition concerns (if appropriate);
 - access to the Authority's file;
 - written responses to the assessment by the parties;
 - oral submissions by the parties (if requested by the parties);
 - discussions with the Authority on remedies and proposals made by parties (if appropriate);
 - market testing of remedy proposals of the parties;
 - written determination by the Authority within four months of the appropriate date to block, approve or conditionally approve the transaction; and
 - publication of the Phase II determination within one month of its adoption.

Substantive assessment

17 What is the substantive test for clearance?

The Authority will assess whether the result of the merger will be to substantially lessen competition (SLC) in markets for goods or services in the state.

The Authority has published guidance on how it applies this test in practice. The Authority interprets the SLC test in terms of consumer welfare, which depends on a range of variables including price, output, quality, variety and innovation.

18 Is there a special substantive test for joint ventures?

Joint ventures that are notifiable under section 16(4) of the Act are subject to the same substantive test for clearance as mergers notifiable under the Act, namely, whether the result of the merger or acquisition would be to substantially lessen competition in markets for goods or services in the state.

19 What are the 'theories of harm' that the authorities will investigate?

The Authority will examine the effect of the merger on market structure in the relevant markets identified. An assessment is made of whether the merger has an effect on the level of rivalry among the existing competitors in the market. Unilateral, coordinated, conglomerate and vertical effects are examined. The Authority will also assess the extent to which entry by a new competitor would be sufficiently likely and timely to act as a competitive restraint. The extent to which the merger leads directly to efficiency gains that cannot be realised by any means other than the merger is also examined.

The Authority will also consider a 'failing firm' defence whereby a merger will not substantially lessen competition in a market if part or all of the merging assets are certain to exit the market in the event that the proposed merger did not take place. However, according to the Authority, the conditions for the failing firm defence are rarely met in practice.

20 To what extent are non-competition issues (such as industrial policy or public interest issues) relevant in the review process?

The Authority generally does not consider non-competition issues during its review process. However, in relation to media mergers or mergers involving a credit institution deemed necessary to maintain the stability of the financial system in the Irish state, non-competition elements of the transaction may be considered. (Please see the response to question 30 for further information on media mergers and transactions involving credit institutions.)

21 To what extent does the authority take into account economic efficiencies in the review process?

The Authority describes identifying the effect of a merger on the market structure as a central element in the process of assessing the effect of the merger. Market structure can be analysed by considering factors such as the concentration of the market, the level of vertical integration, cost and technology factors, and product differentiation.

The Authority uses the Herfindahl-Hirschmann Index (HHI) to determine market concentration pre- and post-merger. The change in HHI arising from the merger describes the change in the market concentration which would occur post-merger. The Authority uses the level and change in HHI to decide whether to intensify its analysis of the effects on competition.

Remedies and ancillary restraints

22 What powers do the authorities have to prohibit or otherwise interfere with a transaction?

Following the completion of a Phase II investigation, the Authority can prohibit a merger if it considers that it will result in a substantial lessening of competition in markets for goods and services in the state. It may also clear a merger subject to the observance of certain conditions (ie, a conditional clearance).

- 23** Is it possible to remedy competition issues, for example by giving divestment undertakings or behavioural remedies?

In accordance with the Act, the Authority may enter into discussions with the parties involved during both phases of the investigation in order to remove potential anti-competitive effects of the merger on competition in the state. In addition, the parties may make proposals to the Authority for binding commitments to remove potential anti-competitive effects of the merger.

The Authority may also make a conditional determination. For example, in *M/03/033 Scottish Radio Holdings/FM104*, the Authority imposed structural and behavioural remedies to prevent anti-competitive behaviour through the exchange of information and commonality of interest between the parties. In *M/09/013 Metro/Herald AM*, the Authority accepted divestiture commitments to ensure that Metro Herald would be operated as an independent competitor of the shareholders' newspapers and that the management of the new publication would make decisions in respect of certain key competitive parameters without requiring the approval of the shareholders or their representatives on the board.

- 24** What are the basic conditions and timing issues applicable to a divestment or other remedy?

In Phase I, the Authority may enter into discussions and the undertakings involved may make proposals within one month from the appropriate date. During the Phase II review period, but no later than three weeks following the Authority's assessment, the Authority may enter into discussions and the undertakings involved may make proposals to the Authority. While the parties may make voluntary proposals in Phase I, it is open to the Authority to impose conditions only in a Phase II determination. Once commitments are agreed by the parties, they become binding.

Under the Act, the Authority may enforce commitments or conditions by injunction in any competent court. Contravention of a provision of a commitment is a criminal offence.

- 25** What is the track record of the authority in requiring remedies in foreign-to-foreign mergers?

The Authority has not subjected any foreign-to-foreign merger to conditions to date. However, where foreign undertakings have had significant Irish operations, the Authority has accepted remedies (both behavioural and structural).

- 26** In what circumstances will the clearance decision cover related arrangements (ancillary restrictions)?

In accordance with the Act, a clearance determination includes any arrangements which are directly related and necessary to the implementation of the merger or acquisition and which are referred to in the notification.

Ancillary restraints may include, inter alia, non-compete provisions, purchase and supply obligations or licences of intellectual property.

Involvement of other parties or authorities

- 27** Are customers and competitors involved in the review process and what rights do complainants have?

Notices of mergers notified to the Authority are published on its website within seven days from the date of receipt of the notification. Notices include details of the undertakings involved, contact details of the case officer assigned to the transaction, and notice to third parties wishing to make submissions about the merger that they must do so within 10 days of publication of the notice. The Authority may change the 10-day time limit by notice on its website

in individual cases, if circumstances so require. Third-party submissions during Phase II must be received within 21 days of the date of the Authority's decision to carry out a full investigation. Under the Act, the Authority is required to consider all submissions made by the undertakings involved or by any individual or other undertaking, whether made in writing or orally.

- 28** What publicity is given to the process and how do you protect commercial information, including business secrets, from disclosure?

As required by the Act, the Authority publishes, on its website, notice of all mergers notified to it, and determinations reached. In cases that generate substantial public interest, the Authority may issue a short press release announcing the publication of a determination. In rare cases, the Authority may organise a press conference following a determination.

Submissions to the Authority should clearly indicate any information that should be treated as confidential. Upon receipt of a properly substantiated claim for confidentiality, the Authority will either accept the claim or inform the party in question that it does not agree with the claim. The party will then have an opportunity to respond and the Authority will make a final decision regarding confidentiality. The Authority will reject a claim for confidentiality if it considers that the information is necessary for the proper performance of the Authority's functions.

- 29** Do the authorities cooperate with antitrust authorities in other jurisdictions?

Under the Act, the Authority may enter into arrangements with foreign competition bodies in order to share information required and provide mutual assistance to facilitate the performance of their functions, including merger control.

The Authority regularly works alongside the European Commission and is a member of the European Competition Network and of the International Competition Network. In addition, the Authority represents Ireland at the OECD Competition Committee.

- 30** Are there also rules on foreign investment, special sectors or other relevant approvals?

Special rules apply to media mergers and to mergers in the banking sector.

Regarding media mergers, under the Act, the minister for jobs, enterprise and innovation may direct the Authority to investigate a media merger on competition grounds. Media mergers are deemed to include: mergers or acquisitions in which two or more of the undertakings involved carry on a media business in the state; and mergers and acquisitions in which one or more of the undertakings involved carries on a media business in the state and one or more of the undertakings involved carries on a media business elsewhere. A media business is defined as 'a business of the publication of newspapers or periodicals consisting substantially of news and comment on current affairs, a business of providing a broadcasting service, or a business of providing a broadcasting services platform.' Media mergers must be notified to the Authority regardless of whether the turnover thresholds are met.

If the Authority proposes to clear such a merger following a Phase I investigation, the minister may, within 10 days of the Authority's draft determination, direct the Authority to carry out a Phase II investigation. Following a Phase II investigation, if the Authority clears the merger (with or without conditions) the minister will decide whether to make the final clearance decision. However, where the Authority prohibits a media merger, the minister cannot then approve the merger.

In accordance with the Credit Institutions (Financial Support) Act 2008, where the minister for finance has formed an opinion that a proposed merger involving a credit institution is necessary to

Update and trends

Merger notifications in Ireland have continued to rise following a significant lull in 2009, and this trend appears likely to continue in the long term, although continued economic uncertainty may well have an adverse impact on merger activity in the short to medium term.

The Authority has initiated a review of its Guidelines for Merger Analysis (the Guidelines) and is set to prepare revised Guidelines for public consultation prior to 2012. The current Guidelines were originally published in December 2002. The Authority regards a revision of the Guidelines as timely given the experience it has built up with regard to mergers since 2002, coupled with developments internationally in merger review guidelines and advances in the economic analysis underlying merger review.

For its part, the Authority is facing a challenging future in terms of significant budget cuts and a continuing public sector recruitment embargo, along with the possibility that the Authority may be merged with another regulatory body (the National Consumer Agency). The Authority is committed to meeting its statutory guidelines in terms of merger review by diverting resources from other functions as and when necessary. The fact that the Authority has consistently met its statutory deadline for merger assessment is to be commended in light of the difficulties it has faced.

The economic downturn has led to an increase in the number of rescue mergers notified to the Authority, where one or more of the undertakings involved are in financial difficulty. In such cases the Authority will exercise its discretion in expediting the assessment process, where possible. To date the Authority has not had occasion to specifically assess whether one of the parties involved in a merger was a failing firm, ie, a firm whose assets would exit the market in the absence of the proposed transaction. In order to justify a failing firm defence in relation to a merger, the parties must be able to establish that the undertaking would exit the market in the imminent future absent the merger and that there is no less competitive alternative outcome than the merger in question. Rescue mergers are likely to be a feature of the merger landscape in Ireland for some time to come.

The Authority has also reported an increase in the number of media mergers. In 2010, eight media mergers involving newspaper publishing, print media, multichannel pay television, television broadcasting, television advertising, and broadband were notified. All eight of the notifications were cleared following Phase I investigations.

As a reaction to the economic downturn, the Irish government passed the Credit Institutions (Financial Support) Act 2008, which provides that the minister for finance may intervene in a merger or acquisition involving a credit institution where the transaction is necessary to maintain the stability of the financial system in the state and there would be a serious threat to such stability if it did not proceed.

The first such notification was made to the minister for finance in June 2011 and concerned the proposed acquisition of EBS Building Society (EBS) by Allied Irish Banks (AIB). EBS is a building society mainly involved with residential mortgages in the Irish market, whereas AIB conducts a broad retail and commercial banking business in Ireland as well as corporate and capital markets internationally. The proposed merger forms part of the Irish government's plans to rationalise the Irish banking system in the aftermath of the global financial crisis. The merged AIB and EBS is planned to form one of two 'pillars' of Irish banking, the second comprising Ireland's other largest bank, Bank of Ireland, in order to stabilise the banking system in Ireland. Under the Credit Institutions (Financial Support) Act 2008, the minister for finance appointed a competition adviser to assist with the merger notification and the minister also consulted with the minister for jobs, enterprise and innovation, the governor of the Central Bank and the Authority in reaching his decision. On 29 June 2011, the minister for finance approved the takeover of EBS by AIB stating that there was 'no realistic alternative which would ensure that competition from EBS would be preserved.'

maintain the financial stability of the state, the merger must be notified to the minister for finance rather than to the Authority (please see 'Update and trends' for further information).

Acquisitions of insolvent undertakings by receivers or liquidators are not notifiable mergers under the Act; neither are intra-group transfers or testamentary dispositions. Financial undertakings (such as banks, credit institutions or insurance companies) which temporarily acquire shares with a view to disposal are also exempted under the Act, provided the voting rights acquired are not exercised in relation to carrying on business or affecting competition in the state. Sector-specific regulatory legislation may also apply to mergers in the financial services and insurance markets.

Judicial review

31 What are the opportunities for appeal or judicial review?

The Act provides for appeal to the High Court against a determination of the Authority to either prohibit a merger or to permit a merger subject to conditions. There is no basis for appealing a merger clearance. The High Court may annul the determination, confirm the determination, or confirm the determination subject to specified modifications. Further appeal to the Supreme Court is available on a point of law only. Complainants and third parties do not have a right of appeal, but may apply for a judicial review of a decision by the Authority.

32 What is the usual time frame for appeal or judicial review?

An appeal must be made by a party to the transaction within one month of the date of the Authority's determination, and must be made on a point of fact or law. Where practicable, the High Court is required to hear and determine the matter within two months. In the only appeal to date of a merger decision by the Authority, Kerry Group successfully appealed against the Authority's decision to

prohibit its acquisition of Breco. The High Court delivered its opinion six months after the appeal. During 2010, the Authority made an application for a priority hearing of the Supreme Court appeal. The application was not granted and, at the time of writing, the case awaits a hearing date.

Enforcement practice and future developments

33 What is the recent enforcement record of the authorities, particularly for foreign-to-foreign mergers?

Generally, the Authority has cleared foreign-to-foreign notifications without proceeding to a Phase II investigation and without imposing conditions.

The Authority has prohibited mergers and required divestment remedies in transactions involving non-Irish parent companies. For example, in *M/04/032 IBM/Schlumberger*, the Authority prohibited a merger of two Irish components of an international transaction. The Authority's determination concluded that the merger would be likely to result in increased prices for consumers due to the lack of competitive restraint on the merged entity, either from competitors or customers, together with the lack of potential market entry.

The Authority has also required a divestment remedy in the case of the transfer of an Irish business that formed part of a largely UK-based transaction (see *M/06/098 Premier Foods/RHM*).

34 What are the current enforcement concerns of the authorities?

The Authority has not identified any particular areas of concern. Due to the financial crisis and economic downturn, in 2010, the Authority was notified of a number of mergers where one or more of the undertakings concerned were in financial difficulty, and in some cases a failing firm argument was made. (See 'Update and trends' for further information.)

35 Are there current proposals to change the legislation?

At the time of writing, there were no proposals to change the legislation.

In 2008, the Irish government announced plans to amalgamate the Authority with the National Consumer Agency, a statutory body established to defend consumer interests and to embed a robust consumer protection culture in Ireland. The current government has stated that, in line with its National Recovery Plan 2011–2014, the

Programme of State Agency rationalisation which commenced in 2008 will continue. The agencies have taken a number of practical steps towards amalgamation, but no formal legislation has yet been transposed.

In December 2010, the Authority launched a public consultation seeking comments from interested parties and practitioners on how its merger guidelines could be revised and updated. A publication date for the revised guidelines is unclear at the time of writing.

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