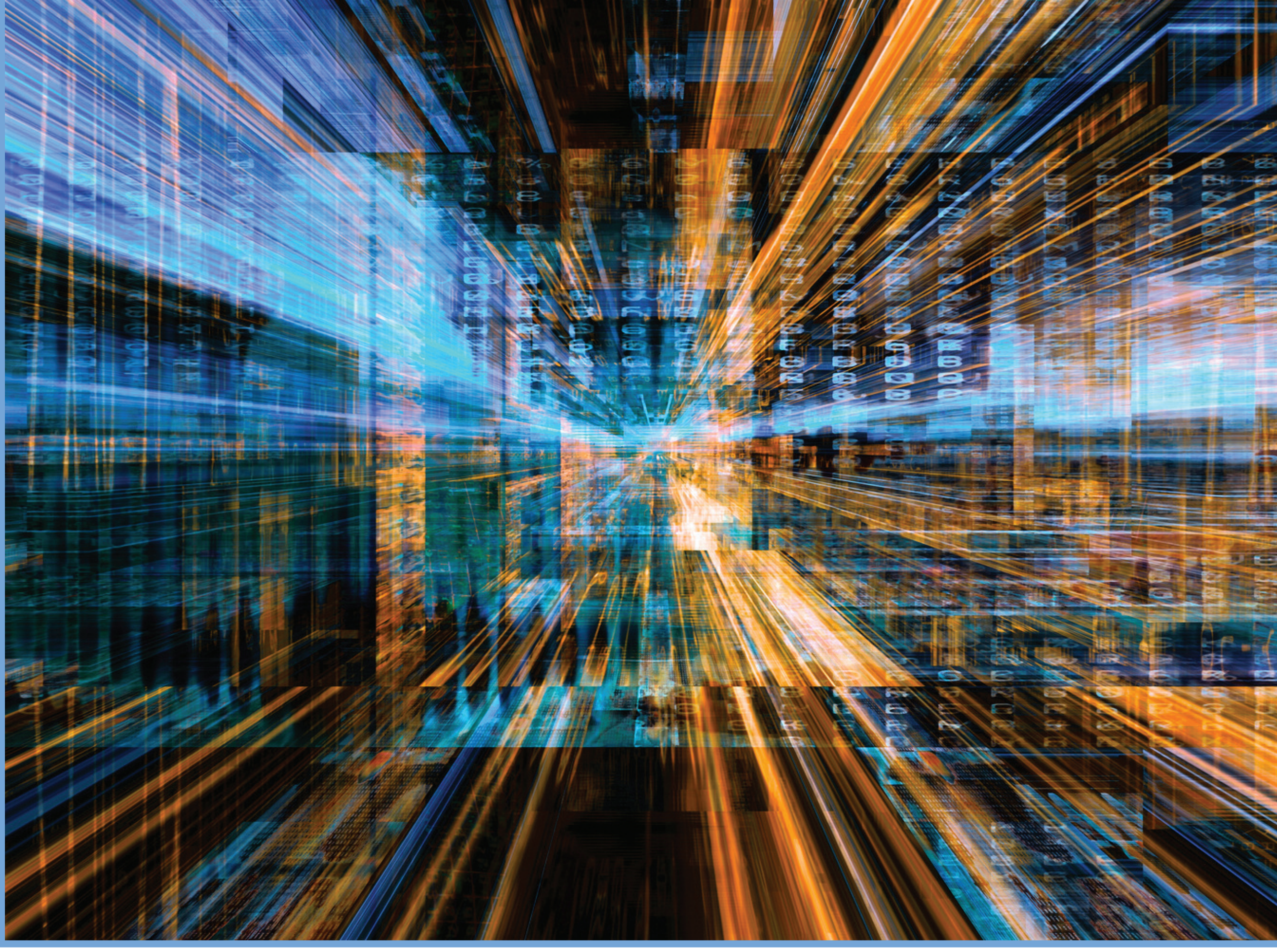

Merger Control Survey 2017

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REGULATORY FRAMEWORK

1.1 What is the applicable legislation and who enforces it?
The Competition and Anti-Monopoly Law (Royal Decree 67/2014 – the Competition Law) deals with merger control. The Public Authority for Consumer Protection (the Authority) is the competition regulator.

JURISDICTIONAL TEST

2.1 What types of mergers and joint ventures (JVs) are caught?

Notifiable mergers include: share acquisitions; asset sale and purchase transactions; joint ventures (JVs); and contractual arrangements that have the effect of establishing market dominance in the hands of an entity or entities acting in concert. Minority share acquisitions are not caught and decisive influence and only full function JVs are caught.

2.2 What are the thresholds for notification, how clear are they, and are there circumstances in which the authorities may investigate a merger falling outside such thresholds?

Mergers and JVs resulting in market dominance are notifiable. Market dominance occurs if the entity or entities acting in concert acquire a market share equivalent to 35% or more of a relevant market. A merger approval may be investigated by the Authority if it discovers that an application included misleading, fraudulent or untrue information.

2.3 Are there circumstances in which a foreign-to-foreign merger may require notification, and is a local effect required to give the authority jurisdiction?

A foreign-to-foreign merger would require notification if it results in an entity acquiring market dominance in a relevant market in Oman.

PRE-NOTIFICATION AND FILING

3.1 Is filing mandatory or voluntary and must closing be suspended pending clearance? Are there any sanctions for non-compliance, and are these applied in practice?

Filing is mandatory (if relevant thresholds are met). Closing must be suspended pending either the clearance or the elapse of 90 days from merger application filing. Failure to notify is punishable by imprisonment (between one month and three years) and, or a fine (between RO10,000 ($26,000) and RO100,000.

3.2 Who is responsible for filing and what, if any filing fee applies?

The Competition Law does not specify which party is responsible for making a filing. However, the presumption is that it is the acquirer and the practice that has developed with regard to merger filings involves the acquirer filing the application. No filing fees are prescribed.

3.3 What are the filing requirements and how onerous are these?

There are no specific filing requirements except that a written application needs to be made.

3.4 Are pre-notification contacts available, encouraged or required? How long does the process take and what steps does it involve?

No pre-notification is required.

CLEARANCE

4.1 What is the standard timetable for clearance and is there a fast-track process? Can the authority extend or delay this process?

The Authority has a maximum period of 90 days to review and issue a decision in relation to a merger application. If the Authority does not issue a decision within 90 days, the merger application is deemed to have been approved.

4.2 What is the substantive test for clearance, and to what extent does the authority consider efficiencies arguments or non-competition factors such as industrial policy or the public interest in reaching its decisions?

No specific assessment criteria are prescribed for the Authority to consider while evaluating merger clearance. Consequently, they are unclear and still evolving. The Competition Law does provide that merger clearance cannot be granted if the merger results in an entity or entities acting in concert acquiring a market share equivalent to 50% or more of a relevant market.

4.3 Are remedies available to alleviate competition concerns? Please comment on the authority's approach to acceptance and implementation of remedies.

The Competition Law does not contemplate remedies to alleviate competition concerns.

RIGHTS OF APPEAL

5.1 Please describe the parties' ability to appeal merger control decisions – how successful have such challenges been?

The Authority's decision can be appealed to the chairman of the Authority's board. The chairman is allowed a maximum period of 30 days to review and issue a decision in relation to the appeal. In the event that the chairman does not issue a decision within the prescribed period the appeal is deemed to have been allowed and the merger may proceed.

OMAN REGULATORY TRENDS

6.1 Outline any merger control regulatory trends in your jurisdiction.

Over the past year, the Authority has established a track record of accepting and efficiently dealing with merger applications. The Authority has invariably responded to applications for merger approval within the 90 day period allowed for it to consider merger applications. However, the Executive Regulations of the Competition Law, although eagerly awaited, have still not been issued.

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About the author

Ardeshir Patel is a partner and heads AMJ's corporate and capital markets team. He is a specialist in private and public M&A, joint ventures and debt and equity capital market transactions over a broad range of sectors and with a particular emphasis on energy and water, investment and financial services, retail and manufacturing. Patel represents government authorities, international, regional and domestic banks, investment houses, multinationals, issuers, asset managers, funds, private equity, publicly-listed companies and trading houses. He routinely advises on corporate and securities matters including corporate governance, directors' duties, listing and disclosure requirements and competition.

Recently Patel advised Prysmian on its €100 million acquisition in Oman Cables Industry and on the divestment in Oman's leading cinema company to Majid Al Futtaim Cinemas. Patel is a UK-qualified solicitor and a solicitor of the High Court of Mumbai. He is ranked by the IFLR1000 and Chambers as a leading lawyer and recommended by the Legal 500.