

LEGAL ALERT

Arzinger 

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Topic of the issue:

THE AMCU AMENDED RULES ON AMNESTY FOR MERGERS CLOSED IN THE PAST

As reported in our latest Legal Alert on February 16, 2016 the AMCU made a number of important amendments to its *Recommendations on the fine amount calculation for competition laws infringements* (http://arzinger.ua/files/file/LEGAL%20ALERT_eng.pdf).

The amendments *inter alia* touch upon the **amnesty for mergers closed in the past**. To recall, the amnesty was announced on September 15, 2015, - the day of Recommendations adoption (<http://arzinger.ua/press/newsletter/antitrust/page-2/101710/>).

Amnesty's main idea was provision of flat fines amounts to self-reporters for past mergers lacking clearance of Ukrainian antitrust authority. The mergers in question had to be closed before amnesty announcement to fall under it. Validity period: September 15, 2015 – September 15, 2016. The fine amount depended on the date of self-report.

Two main novelties are:

- elimination of condition that the merger had to be closed before September 15, 2015 to fall under amnesty;
- substitution of requirement to provide application for merger clearance to simple informing the AMCU of infringement committing within set timing.

The second amendment is meant to be a step forward towards business. Given the amendment those applicants for amnesty who are not in time with all the necessary documents required to clear the history now may self-report to the AMCU without filing package. The latest may be brought to the AMCU later within reasonable timing. In accordance with public statements of the AMCU representatives this amendment meant to shift the focus to the importance of self-reporting from documents bringing.

At this we would like to draw your attention to the fact that on March 3 the Deputy Head of the AMCU stated at *the Round Table on antimonopoly reform in Ukraine* organized by the American Chamber of Commerce in Ukraine and Arzinger Partner, Head of Antitrust & Competition, Ms. Lana Sinichkina, that the AMCU **did not mean to provide amnesty for mergers closed after Recommendations adoption**. It was explained by the fact that the new Recommendations version was mistyped in this part. The official comments are yet to follow.

At the same time the AMCU had also increased the **minimum possible basic fine for merger control-related infringements to approx. Euro 17 k** in cases where the AMCU revealed the infringement itself.

With due regard to the above we would like to state that the latest amendments are another good chance for business to be in time with self-reporting **before upcoming March 15 to receive the smallest fine possible, - approximately Euro 700**

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