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Legal Alert

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CHANGES IN UKRAINIAN ANTITRUST LEGISLATION

ELECTRONIC FILING SYSTEM INTRODUCED FOR SUBMITTING MERGER CLEARANCE AND CONCERTED ACTIONS APPLICATIONS

In 2011, the Antimonopoly Committee of Ukraine ("**AMCU**") changed the procedure for submitting applications for merger clearance and concerted actions by introducing a compulsory electronic filing system. Under the amended procedure, the application and all accompanying documents must be submitted to the AMCU both in hard copy and in electronic format. Failure to submit the application in electronic format is considered a sufficient ground for the AMCU to deny clearance without an obligation to consider the application's substance.

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Specialized software as well as instructions on installation and use of related software are posted on the AMCU's official website (<http://www.amc.gov.ua>) and are available free of charge for use by applicants or their representatives when they file applications.

AMENDMENTS TO THE INSPECTION AND MONITORING SYSTEM

The AMCU is currently working on introducing amendments to the Law of Ukraine "On Protection of Economic Competition" aimed at regulating the AMCU bodies' specific procedural actions connected with collection of evidence in cases they consider. The relevant Bill (the "Bill") was posted on its official web-site for public discussion. The Bill would empower the AMCU to initiate investigations not only upon applications by third parties (business entities, associations, citizens, institutions or organizations) but also on the basis of any data discovered by an AMCU body or a chief of its local department in the course of exercising their powers, without the need for third parties' applications.

The Bill focuses on the evidence-collection procedure and sets forth the AMCU's rights to request information, including qualified as bank secrecy, from legal entities and individuals. The obligation to prove the significant facts of a case would be imposed on the AMCU, unless otherwise established by law. A party choosing to deny the AMCU's request for information may be held liable for such denial.

If adopted, the Bill would strengthen the State's control over competition matters.

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