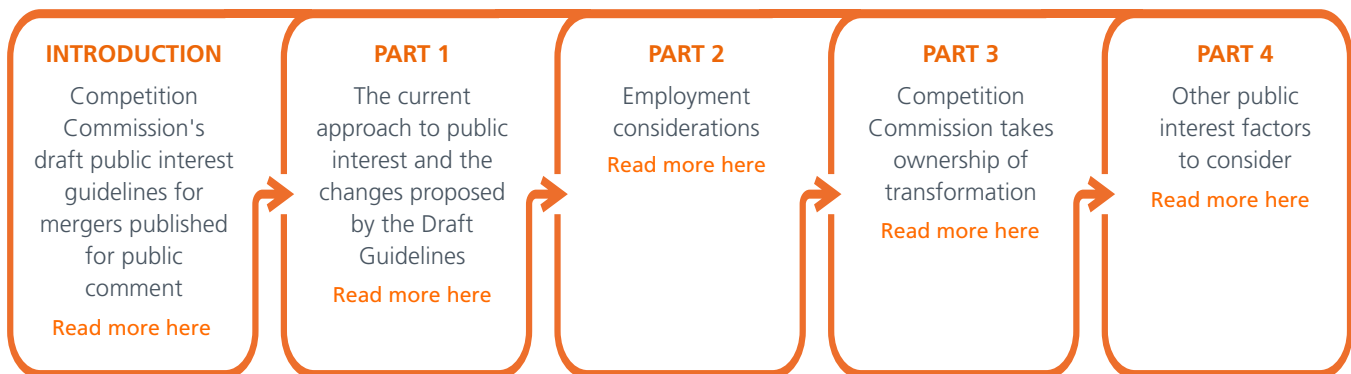


COMPETITION COMMISSION'S DRAFT PUBLIC INTEREST GUIDELINES

ARTICLE SERIES SUMMARY



Businesses have anxiously been seeking clarity on the imposition of public interest conditions in merger transactions. We have published a five-part article series unpacking the Competition Commission's Draft Public Interest Guidelines (the Draft Guidelines).



KEY TAKEAWAYS

- While the Commission's guidelines (once adopted), will not be legally binding, they will provide a clear indication of how the Commission plans to approach the public interest element of merger regulation in South Africa and how it intends to combine the transformational imperatives that underpin the Competition Act with the requirement for more clarity in merger regulation.
- When structuring their transactions, parties intending to pursue notifiable mergers in South Africa will need to consider the Draft Guidelines, particularly the impact of the merger on promoting a greater spread of ownership.
- The Draft Guidelines demonstrate that an assessment of the effect on employment in merger proceedings remains a key public interest consideration for the Commission.
- Conditions relating to other public interest factors are also frequently imposed on merger parties, and the Draft Guidelines provide valuable insights into how these factors will be examined and applied moving forward.
- It is critical, now more than ever, for competition law specialists to be consulted during the planning phase of a proposed transaction so that the possibility of public interest conditions is fully assessed and understood.

NEXT STEPS

- The period for public comments on the Draft Guidelines closed on 17 November 2023.
- It is anticipated that the Draft Guidelines will be finalised in the first quarter of 2024.
- The publication of the final guidelines is likely to coincide with the release of new merger notification forms which are anticipated to require that merger parties submit detailed information on the effect of the merger on each public interest factors.

For more information, please reach out to any of our competition law experts [here](#)

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