

An aerial photograph of a coral reef system, showing various shades of blue and green water and dark patches of coral. A semi-transparent blue rectangular box is overlaid on the right side of the image, containing the text "Merger control" in white. Another semi-transparent blue rectangular box is overlaid on the top left of the image.

Merger control

“[Simmons & Simmons] handles a broad range of competition matters. Well respected for its mergers and investigations capabilities”

Chambers 2015

“They guide us through in a constructive and efficient manner.”

Chambers 2015

“They are good at listening to what we want, and are unafraid to be challenging while looking out for our best interests.”

Chambers 2014

## Core strengths

Our leading Competition & Regulatory team provides clients with a comprehensive and integrated merger control service through our network of international offices and the depth of experience of our lawyers.

In our merger control practice, we opt for a relationship-based approach: we want to understand the business of our clients. In our experience, this is critical when strategic operations for a client, such as an M&A transaction, need to be assessed from a competition law point of view. Regular advisers who know the business of their clients are able to identify potential issues early on in the process and get the deal through in the most efficient and cost-effective way.

We handle all aspects of EU and national merger control, from initial analysis through to in-depth Phase II investigations. As well as assisting clients with the complexities of making a filing to the European Commission and/or national competition authorities, we offer advice on strategy, interaction with the overall deal, conditionality and potential further options. As a result of our years of experience in this area, we also have an invaluable understanding of the workings of the European Commission and national competition authorities.

Within the EU, our teams are based in Brussels and in the major EU jurisdictions. We operate our teams efficiently, bringing in additional resource as and when needed and draw upon our international network. In jurisdictions where we do not have our own team on the ground, we cooperate with trusted local advisers, thus providing a seamless service to clients on a cross-border basis. Where appropriate, we team up with expert economic advisers and government relations firms.

Our client list is wide ranging, from investors, private equity houses and financial institutions to industrial companies, retail companies, those in the media and service providers.

## Our services

### Assessment of the transaction

#### Multi-jurisdictional analysis

We assist in identifying the jurisdictions where a filing will be required or, in case of voluntary regimes, where a filing may be advisable, in order to allow clients to make decisions on conditions for completion.

#### Advising on substantive transaction issues and timetables

Especially in more complex transactions, it is critical that parties obtain a preliminary assessment of the competition risks of the proposed transaction as early on in the process as possible. This assessment will also help in defining possible remedies and in setting a reliable time frame for the conclusion and implementation of the transaction.

#### Analysis of contractual documents and involvement in the corporate process

We regularly draft and review transaction documentation, to highlight potential competition issues and advise clients on the best way forwards.

#### Concept of ‘control’, joint ventures and minority stake acquisitions

We provide advice on the complexities surrounding the concept of ‘control’, joint ventures and minority stake acquisitions and the effect this has on any merger control analysis.

#### Gun jumping issues

The application of merger control regimes typically triggers suspension obligations or waiting periods. We offer clients practical and helpful advice on how to progress the transaction without engaging in any gun jumping or other breaches of competition law.

#### Handling of information flows

As long as the deal has not been cleared, the parties to a merger remain competitors and remain subject to the strict rules on information exchange between competitors. We assist parties in making sure that the necessary tools are put into place in order to avoid illegal information exchange.

## Preliminary screening

For some of our clients, M&A transactions are rare. For other clients, such as private equity firms or investment banks, these types of transactions are part of regular business.

We help clients who have regular M&A operations to develop the tools they need to capture data required for a preliminary merger control assessment and an early identification of potential competition issues within the transaction. We also provide training where this is helpful.

## Getting the deal through

### Drafting and submitting merger filings within the EU

We assist our clients (both buyers and sellers) in the merger control process, from the initial pre-notification contact through to eventual clearance, at both EU level and in the EU Member States. We also have significant experience in negotiating remedies and assisting parties in the trustee selection process.

### Coordination of merger filings around the world

We ensure that the appropriate clearances in all non-EU applicable jurisdictions are obtained within the desired transaction timetable. Our strong links with firms in other jurisdictions mean we are able to provide clients with a single point of contact for merger control throughout the review process and thus provide a seamless service.

## Litigation

We also advise parties who wish to contest a merger control decision from a competition authority (parties to a merger transaction or third parties), including intervening in court where appropriate.

## Expertise in practice

### ED&F Man

Advising on competition law issues raised by the acquisition by Südzucker of a 24.99% stake, cleared by the European Commission after an in-depth Phase II review.

### EDF/Dalkia

Handling merger control filing and clearance by the French Competition Authority of the acquisition of Groupe Cesbron by Dalkia, part of the EDF group.

### Fanatics

Advising on the competition law issues raised by the acquisition by Fanatics of Kitbag, a UK sports retail company, including conducting a global merger control analysis.

### Gilde Equity Management

Handling a number of merger control filings to the Dutch and German competition authorities in the retail, employment services, electricity supply, ICT, engineering and software sectors.

### GKN

Advising on the acquisition of the all-wheel-drive automotive components businesses of GETRAG KG, cleared by the European Commission.

### Gunvor Group

Handling the EU filing of the acquisition of a refinery based in the Netherlands, which was cleared by the European Commission, as well as coordinating the applicable non-EU filings.

### HMV Group

Advising HMV on its acquisition of a number of Zavvi stores in the UK, where UK clearance was given on the basis of the "failing firm" arguments advanced on behalf of our client.

### Intersnack

Advising Intersnack on proposed merger filings and submitting notifications for various transactions in Germany

### Irish Continental Group

Advising the Irish Continental Group on the disposal of its Feederlink container transport business to Unifeeder.

### NBHX Automotive

Advising NBHX Automotive on its acquisition of stakes in other German companies, including merger notifications of each transaction to the German Competition Authority.

### Orkla

Advising the Norwegian Group, Orkla, on the creation of a joint venture with Norsk Hydro, which is the world's largest aluminium profiles business. The joint venture was cleared by the European Commission at Phase I subject to commitments to dispose of part of the business.

### Plastipak

Advising Plastipak on its acquisition of APPE, a PET bottles manufacturer, including a notification to the European Commission and coordinating filings in other jurisdictions. The transaction was cleared by the European Commission and other competition authorities.

### Schlumberger

Advising Schlumberger on the merger control aspects of its \$12 billion acquisition of Smith International, Inc, a competing oilfield services supplier.

### Veolia

Advising Veolia Water UK on a range of issues, including the disposal of its regulated UK water business and the unification of its three regulated water businesses.

### Sovereign Wealth Fund

Advising a Sovereign Wealth Fund on the merger control issues arising from its acquisitions of minority interests in a number of businesses. Some of these transactions involved filings in one or more of the EU, China, South Korea, Turkey, and elsewhere. Other transactions were structured on the basis of our advice, so as to avoid any legal requirement to make merger control filings.

### German Aviation Subsidiary of a Canadian pension fund

Advising on the merger control aspects of the acquisition of direct and indirect stakes in a German airport holding company (holding stakes in major European airports) from Canadian and Australian institutional investors and sovereign wealth funds and a German state-owned development bank.

## Key international contacts

Key contact biographies can be viewed at [simmons-simmons.com](http://simmons-simmons.com)

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