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Amnesty for Past Mergers in Ukraine Extended till March 15, 2017

Timur Bondaryev (Arzinger) · Saturday, October 29th, 2016

Given the very low notification thresholds in Ukraine, which caught even foreign-to-foreign transactions that in the majority of cases raised no antitrust concerns and did not have local nexus, a number of parties skipped local notification and breached the law.

In some cases the agency has pursued companies for failure to notify, and these cases have involved lengthy investigations and penalties.

On September 15, 2015 the Ukrainian antimonopoly agency (the AMCU) issued an important regulation, introducing so - called amnesty for mergers (including foreign-to-foreign transactions) closed in the past without its prior approval by the AMCU. Successful amnesty applicants were guaranteed flat fine of approx. EUR 730,0 - 3.500,0 (depending on the date of application) and *postfactum* merger clearance.

The parties were entitled to claim the amnesty for transactions which were (a) closed before September 15, 2015 and (b) self-reported by the merging parties to the AMCU.

The initial amnesty period was one year, i.e. till September 15, 2016.

Late September 2016 **the AMCU extended the amnesty period till March 15, 2017.**

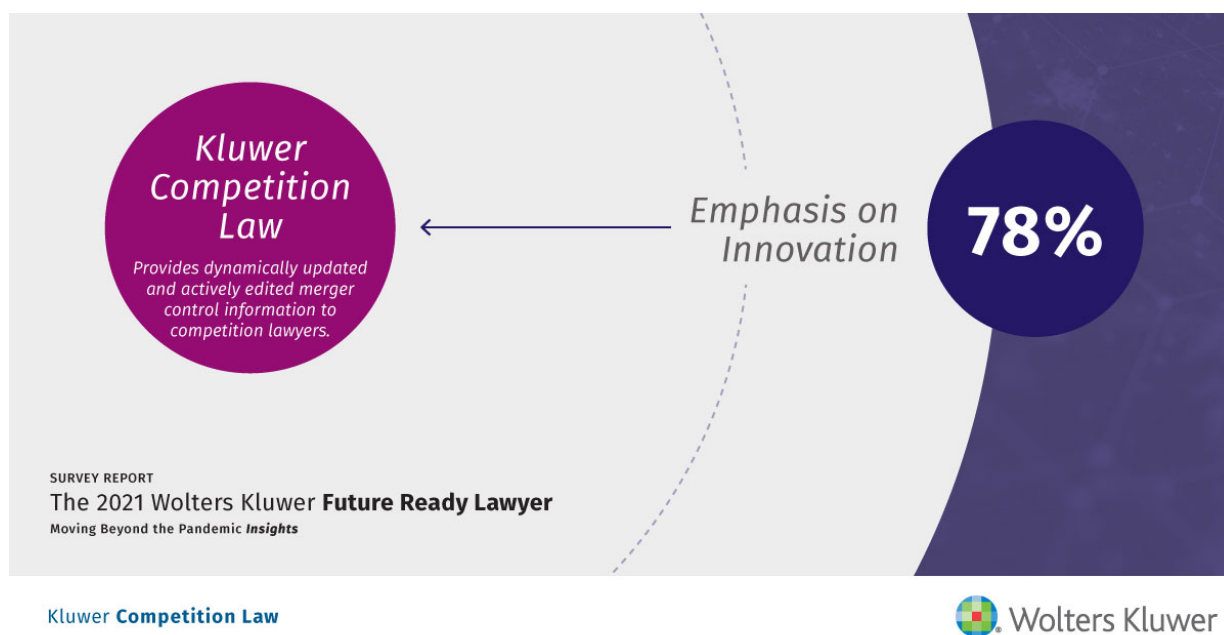
Based on our experience, the watchdog has fully complied with its promises and granted merger clearances to the applicants based on the amnesty program. Given the AMCU's practice to thoroughly investigate "the skeletons in the closet" and the trend of increasing penalties, it is strongly recommended to take advantage of the amnesty to "clean up" the history and control antitrust-related risks for future transactions.

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