

# Do you need to notify your Property Transaction to the ACCC under the New Merger Laws?

September 2025

## Overview

The most significant change to competition laws in decades, Australia's new "merger" laws create onerous new regulatory obligations for property transactions, with severe consequences for non-compliance.

Starting on 1 January 2026, a wide range of property deals must be notified to the Australian Competition and Consumer Commission (ACCC) before those deals can be put into effect. If your deal isn't notified when required, you risk large penalties, and your deal will **automatically be legally void**. This applies even if:

- you didn't realise you needed to notify the ACCC;
- the deal is not anticompetitive;
- you already paid money or handed over possession or control of land under the deal; or
- you signed the contract before 1 January 2026.

## Key takeaways

1

For the first time, a wide range of property transactions must be notified to the ACCC – including sales, purchases, new leases, agreements for leases and development rights. This applies even if the parties to the deal are not competitors or even in the same industry.

2

For notification to be required, what matters is whether the deal exceeds the financial notification thresholds. Commercial property transactions may exceed the notification thresholds because of the value of the underlying land or asset, or by aggregating "serial" or "creeping" acquisitions over the preceding 3 years.

3

There are a number of key exceptions for certain types of property transactions, including:

- residential property developments;
- land development businesses;
- lease renewals;
- a previously notified interest in the same land; and
- sale and leaseback arrangements.

There are several requirements for these exceptions to apply, which should be checked if you intend to rely on them.

4

More stringent rules apply if the deal involves Coles or Woolworths acquiring a supermarket business or land on which a supermarket will operate, subject to specific land size requirements. These deals must be notified, even if they fall under the general notification thresholds.

**5**

In terms of timing, notification cannot be made until all parties have signed the contract, or intend to. Agreements can be made conditional on ACCC notification and approval. The ACCC will assess notifications in phases, and subject to time limits. However, it aims to make approximately 80% of decisions within 15-20 business days.

**6**

Notification will involve significant fees — ranging from \$56,800 up to approximately \$2 million — and will be made public on the ACCC's online register.

**7**

There are also extensive information requirements — both upfront on notification and to update the ACCC during the assessment process.

**8**

There will be a simplified process of applying for a waiver, with a lower fee (\$8,300), instead of notification. This option may be appropriate for some property transactions, however, it will only be available from 1 January 2026, and further details are yet to be released.

**9**

The ACCC — instead of the court — will be the primary decision-maker on whether a deal can legally proceed, subject to limited review by the Australian Competition Tribunal. The ACCC may make its approval subject to conditions. The ACCC can also allow a deal to proceed based on public benefit — but will only do so after assessing the impact on competition.

**10**

As part of the transition to the new regime, businesses are already able to make a voluntary notification. There is also a limited window of opportunity in which you might not have to notify your deal under the new regime, if you submit an application to the ACCC under the current informal clearance regime before October 2025 and obtain informal clearance before 1 January 2026.

## For further information

Arnold Bloch Leibler's competition team can help you navigate the new merger laws by advising on notification requirements and managing the notification process.



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