Notification thresholds

There is a monetary threshold that captures large merged firms ...

Large merged firm threshold



An acquisition must be notified if:

- a. The combined Australian revenue of the merger parties is at least \$200 million AND
- b. <u>EITHER</u> the target's Australian revenue is at least \$50 million <u>OR</u> the global transaction value is at least \$250 million

... with an additional threshold for very large companies making smaller acquisitions ...

Very large acquirer threshold



An acquisition must be notified if:

- a. The acquirer group's Australian revenue is at least \$500 million AND
- b. The target's Australian revenue is at least \$10 million

... and a separate cumulative threshold to target creeping or serial acquisitions

Creeping or serial acquisitions thresholds



For medium to large merged firms

An acquisition must be notified if:

- a. The combined Australian revenue of the merger parties is at least **\$200 million** AND
- b. The cumulative Australian revenue from acquisitions in the past 3 years that predominantly involves the same or substitutable goods or services is at least \$50 million

For very large acquirers

An acquisition must be notified if:

- a. The acquirer group's Australian revenue is at least \$500 million AND
- The cumulative Australian revenue from acquisitions in the past 3 years that predominantly involves the same or substitutable goods or services is at least \$10 million

The following acquisitions are excluded from being accumulated:

- Acquisitions **notified to the ACCC**, except those notified under the creeping or serial acquisitions threshold
- Acquisitions below \$2 million Australian revenue
- Acquisitions not connected with Australia



Even when at least one of the notification thresholds above are met, an acquisition is only required to be notified if:

- the target is connected with Australia, that is, they are 'carrying on business in Australia'
- no exemptions apply.



Exemptions from notification

There are exemptions for certain acquisitions to reduce burden and prevent disruption

Primary law exemptions

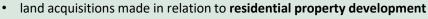


The Competition and Consumer Act exempts from notification acquisitions of shares where:

- the acquirer does not obtain control of the target or had already controlled the target before the acquisition, unless a determination requires notification despite the acquisition not resulting in control
- the target is a Chapter 6 entity and the acquisition results in a voting power of 20% or less

Land exemptions

The following types of land acquisitions are exempt from notification:





- land acquisitions for any purpose by a business **primarily engaged in buying, selling, leasing or developing land, other than to operate a commercial business on the land** that is not ancillary or incidental to the primary purpose
- lease extensions and renewals
- land acquisitions where an acquisition of an equitable interest in that land was previously notified
- · sale and leaseback arrangements.

These land exemptions extend to acquisitions of land entities and land development rights.

Financial market exemptions

To avoid disruptions to financial markets and ensure benign acquisitions are not captured, acquisitions relating to the following are exempt from notification:



- debt instruments, debt interests in an entity, money lending, asset securitisation arrangements, securities financing transactions, financial accommodation, security interests and derivatives where the acquisition does not result in control
- rights issues and fundraising (including underwriting), share buy-backs and dividend reinvestment
- financial market infrastructure, including clearing and settlement facilities, exercising a contractual right of set-off, or of combination of accounts, or to close out a transaction
- nominees and other trustees, and custodial or depository services.

Other exemptions



There are other exemptions for acquisitions relating to:

- · liquidation, administration and receivership
- the operation of a law of the Commonwealth, or of a State or Territory.



Additional requirements for major supermarkets

There are additional targeted notification requirements on the following acquisitions by Coles and Woolworths



All acquisitions of supermarket businesses



All land acquisitions above certain land sizes

- Land with a commercial building 1,000 square metres gross lettable area
- Land without a commercial building 2,000 square metres land

The following land acquisitions are exempt from notification:

- Land upon which a non-supermarket business is operating or will operate
- Lease renewals or extensions for land upon which a commercial business is being operated by the acquirer
- · Land acquisitions where an acquisition of an equitable interest in that land was previously notified
- Sale and leaseback arrangements

These acquisitions are notifiable regardless of the general notification thresholds or control exemption

