



Pre-Merger Notification Interpretation Guideline Number 4

Exemption for Combinations that are Joint Ventures
(Section 112 of the Act)

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Cat. No. Iu54-35/4-2011E-PDF
ISBN 978-1-100-18850-8
60914

2011-06-20

*Aussi offert en français sous le titre Avis d'interprétation no 4 sur les préavis de fusion : Article 112 de la Loi.
Exceptions visant les associations d'intérêts : entreprises à risques partagés*



Enforcement guidelines

June 20, 2011

Notice

This publication replaces the following Competition Bureau publication:

Enforcement Guidelines — Notifiable Transactions under Part IX of the *Competition Act* — Interpretation Guidelines, April 25, 2000

This Interpretation Guideline is issued by the Commissioner of Competition ("Commissioner"), who is responsible for the administration and enforcement of the [Competition Act](#) ("Act"). The purpose of this Guideline is to assist parties and their counsel in interpreting and applying the provisions of the Act relating to notifiable transactions. This Guideline sets out the general approach taken by the Competition Bureau ("Bureau") and supersedes all previous statements made by the Commissioner or other Bureau officials. This Guideline is not intended to be a binding statement of how discretion will be exercised in a particular situation and should not be taken as such, nor is it intended to substitute for the advice of legal counsel to the parties, or to restate the law. Guidance regarding a specific proposed transaction may be requested from the Merger Notification Unit^{[Footnote 1](#)}.

The exemption under section 112 of the Act does not apply to joint ventures in corporate form. For a joint venture to be exempt under section 112 of the Act, the combination is required to be an unincorporated entity.

Subsection 110(1) of the Act provides that Part IX of the Act applies only to proposed transactions described in section 110 of the Act. Accordingly, combinations for purposes of prenotification are limited to those found in subsection 110(5) of the Act. That provision refers to proposed combinations of two or more persons intended to carry on business "otherwise than through a corporation". Therefore, when interpreting section 112 of the Act, the words "otherwise than through a corporation" should be read in because "combination" in subsection 110(5) excludes corporate entities; the meaning of "combination" in reference to prenotification is restricted to its use in subsection 110(5); section 112 is an exception to subsection 110(5); and section 112 does not explicitly include corporate entities.

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Footnote

Footnote 1

For further information, please refer to the [Procedures Guide for Notifiable Transactions and Advance Ruling Certificates Under the *Competition Act*](#) at p.14.