

Directions on Consulting Service for Businesses Prior to Merger Notification

Promulgated by Order Kung Fu Tzu No. 1101260618 on August 17, 2021

1. These Directions are enacted by the Fair Trade Commission (hereinafter referred to as "the Commission") for the purpose to enhance efficiency of merger review, to provide consulting service for businesses prior to the merger notification (hereinafter referred to as "the Consulting Service").
2. The Consulting Service may be provided to merging parties. If merging parties authorize agent to consult, evidencing documents such as power of attorneys shall be provided.
3. Content of the Consulting Service
 - (1) To help the merging parties to clarify whether definition of merger is met, whether the threshold of notification is satisfied, and which party is obliged to make notification.
 - (2) To provide comments on documents related to merger notification and procedure applicable to the merger case.
 - (3) Other necessary issues that the Commission deems relevant to merger notification and review.
4. If merging parties desire to utilize the Consulting Service, they must send written inquiry or through the service mail of the Commission (<https://www.ftc.gov.tw>), describe the detail content of their inquiry, and clearly state the names of merging parties, products or service that they provide, transaction structure, markets that may be impacted, estimate date of notification and must also provide other document relevant with the merger.
5. The Commission may arrange consulting meeting after receiving consulting inquiry documents. Consulting meeting mentioned in preceding paragraph may be held by remote meeting.
6. It is advised that merging parties make inquiry of the Consulting Service at least 10 working days prior to estimate notification day. If the enterprises consider their merger is more complicated, it is advised to make inquiry of the Consulting Service earlier. If merging parties make merger notification to the Commission within 10 working days after their inquiry of the Consulting Service, the Commission may directly proceed with the merger notification without providing the Consulting Service further.

7. Persons involved in the Consulting Service shall keep confidential the content of enterprises' inquiry and the material provided by the enterprises.
8. In principle, for a single case of merger notification, merging parties may request the Consulting Service only one time.
9. Opinions and advices provided through the Consulting Service are only for reference, and the Commission's decisions made after review against the notified merger are not bound in any way.