

CORNERSTONE RESEARCH

Economic and Financial Consulting and Expert Testimony

Trends in Merger Investigations and Enforcement at the European Commission

2010–2019 (First Edition)

This is the first in a series of Cornerstone Research reports describing the European Commission’s merger investigations and enforcement activity.

The findings in this report are based on data from the European Commission’s (the Commission’s) database of mergers and the PaRR Merger Database, covering the period 1 January 2010 through 31 December 2019.

This report relies on available data to examine current activity levels and historical trends in the number of merger investigations that proceed through each phase of the Commission’s merger investigation process (phase I and phase II), and the outcomes of those investigations. The report also documents trends in merger enforcement by size and industry, and analyses trends in the length of each phase of a merger investigation after notification.

To provide further insight on the differences in enforcement trends across industries, the report presents an “Early Stage Enforcement Focus Indicator” (ESEFI) and an “Enforcement Outcome Indicator” (EOI) for each industry sector. If the ESEFI for an industry is positive, it implies that the industry accounted for a greater share of transactions that were not subject to a simplified procedure, compared to the share of all notifications accounted for by that industry. If the EOI for an industry is positive, it implies that the industry accounted for a greater share of transactions that were either cleared with commitments or blocked, compared to the share of all notifications accounted for by that industry.

This report complements Cornerstone Research’s report describing merger investigations and enforcement activity in the US, *Trends in Merger Investigations and Enforcement at the U.S. Antitrust Agencies*.

This report analyses the European Commission’s current merger investigation activities and places them in the context of historical trends.

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The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.

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Overview of the Merger Review Process

Notification

The parties to a transaction with a turnover exceeding the thresholds defined in Article 1 of the European Council Merger Regulation No 139/2004 must notify the Commission prior to the transaction's implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest.

Phase I Investigations

Upon notification, phase I of the investigation commences. During phase I, the Commission has 25 working days (35 days if the parties offer commitments) to assess whether the transaction is compatible with the internal market. Typically, at the end of phase I, the Commission may (i) unconditionally clear the merger, (ii) approve the merger subject to remedies, or (iii) open a more in-depth phase II investigation.

Phase II Investigations

Once the Commission has triggered a phase II decision, the Commission has 90 working days to make a final decision on the compatibility of the proposed merger with the Merger Regulation. However, if the parties offer commitments at this later stage, the Commission has an additional 15 days. Parties may also seek additional extensions of up to 20 working days. If the Commission determines that the notifying parties have not provided information that it requested from them, the Commission has the right to "stop the clock" until it is satisfied that the necessary information has been provided.

Simplified Procedure

Mergers that are unlikely to raise competition concerns may be assessed under a "simplified procedure", and if so, the Commission may issue a clearance decision. A horizontal merger may qualify for a simplified procedure if the combined market share is below 20 per cent. A vertical merger may qualify if the parties' individual or combined market shares (in either the upstream, the downstream, or both markets) are below 30 per cent.

Furthermore, as of 2014, a transaction may qualify for a simplified procedure if the combined market share of two merging companies is between 20 per cent and 50 per cent, but the increase in market share due to the merger is small.

Executive Summary

This report offers context for evaluating possible outcomes of individual cases as they proceed through the Commission’s merger review process. The highlights below refer to 2019 unless otherwise noted.

Overview of Merger Investigations

- There were 376 merger notifications to the Commission—a 7 per cent reduction compared to 2018.¹ (page 4)
- The share of notified transactions that were subject to a simplified procedure (simplified procedure transactions) reached a 10-year high at 79 per cent. (page 5)
- The Commission cleared the vast majority (95 per cent) of transactions in phase I, consistent with recent trends. (page 6)
- Of the 80 mergers that were not subject to a simplified procedure (non-simplified procedure transactions), only 10 per cent proceeded to phase II. (page 5)
- Of the eight mergers that proceeded to phase II, three were cleared with commitments, and five were pending decisions as of 30 January 2020. (page 7) Appendix 1 provides a breakdown of phase I and phase II outcomes.

Transaction Size

- Over the 2015–2019 period, the deal value of transactions either cleared with commitments or blocked (subject to enforcement) increased significantly compared to the 2010–2014 period. (page 8)

Enforcement Focus and Outcomes by Industry

- Compared to their representation among notified transactions, the Manufacturing, Wholesale and Retail Trade, Finance, and Construction sectors were overrepresented among non-simplified procedure transactions. (page 11)

Business Days between Notifications and Decisions

- On average, a phase I investigation lasted 38 days when the transaction was cleared with commitments. (page 13)

The share of simplified procedure transactions reached a 10-year high.

Figure 1: Summary Statistics of European Commission Merger Decisions

	2015	2016	2017	2018	2019
Notifications	330	356	375	405	376
Cleared without Commitments in Phase I	308	325	347	369	347
Cleared with Commitments in Phase I	10	21	17	18	10
Cleared without Commitments in Phase II	2	0	1	3	0
Cleared with Commitments in Phase II	5	5	4	5	3
Blocked	1	2	0	3	0

Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details. There are minor differences between the numbers reported here and the numbers reported by the Commission. See Appendix 1 and Endnote 2 for details.

Key Trends

In 2019, the number of notifications decreased, reversing the trend observed since 2014. The share of simplified procedure transactions continued to increase to 79 per cent, the highest level in the last 10 years. The Manufacturing sector remained a focus of enforcement.

- After increasing steadily from 276 in 2013 to 405 in 2018, the number of notifications dropped to 376 in 2019.² (page 4)
- In 2019, the share of simplified procedure transactions continued to increase to 79 per cent, the highest level in the last 10 years. (page 5)
- In 2019, 92 per cent of notifications were cleared in phase I without commitments. (page 6)
- In 2019, 10 per cent of non-simplified procedure transactions proceeded to phase II, a 3 percentage point reduction from 2018. (page 5)
- In the 2015–2019 period, the deal value of transactions subject to enforcement increased significantly compared to the 2010–2014 period. (page 8)
- The number of days for a clearance decision under a simplified procedure has steadily decreased from 23 days in 2010 to 19 days in 2019. (page 13)
- Throughout the 2010–2019 period, mergers in the Manufacturing sector were overrepresented among the transactions that were subject to enforcement, relative to their representation among all notified transactions.³ (page 12)
- A review of industry sectors between 2015 and 2019 shows that Information and Communication accounted 9 per cent of notifications, simplified procedure and non-simplified procedure transactions. Yet, it accounted for 18 per cent of phase II investigations (page 9)

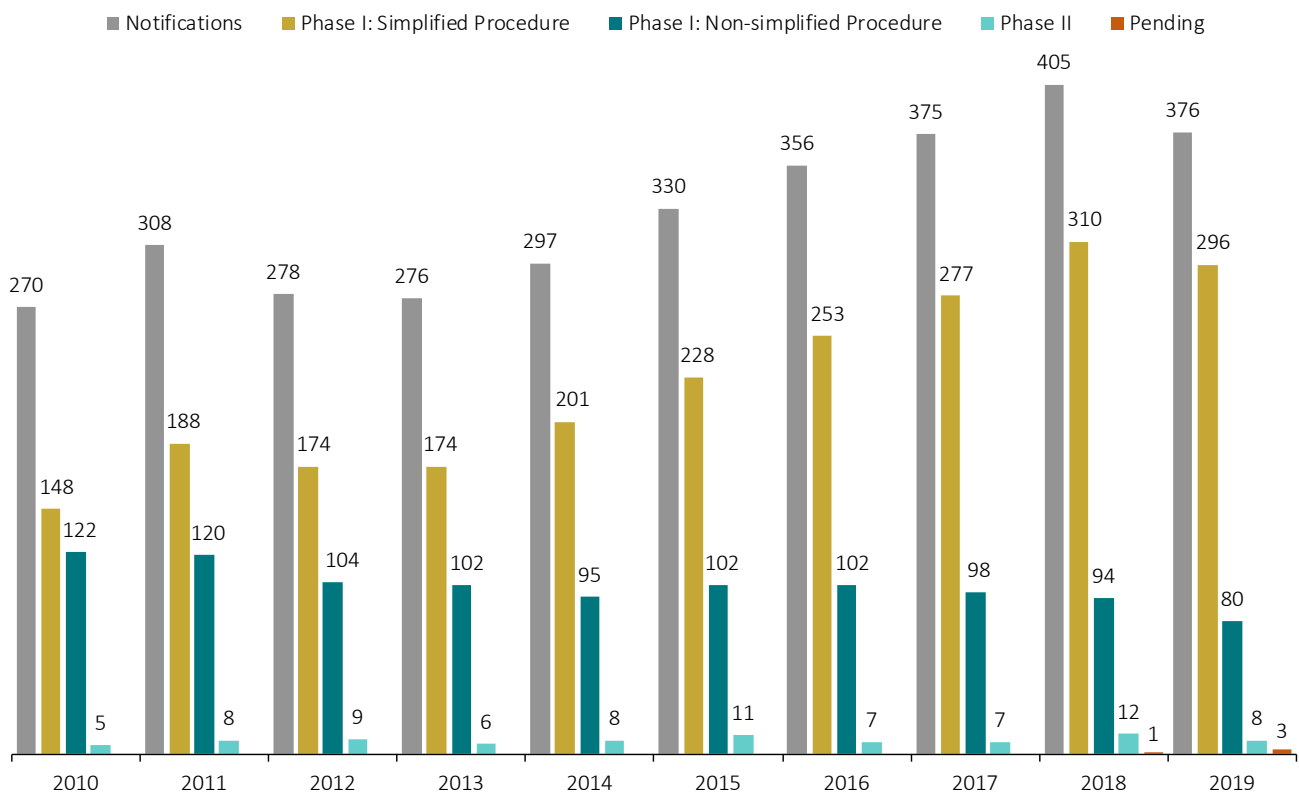
The number of notifications fell in 2019, reversing the trend observed over 2014–2018.

Overview of Merger Investigations

- In 2019, 376 mergers were notified, a 7 per cent reduction compared to 2018. The reduction reversed the increasing trend in the number of notifications annually since 2014. Between 2015 and 2018, the average annual number of notifications was 367.
- The number of simplified procedure transactions decreased slightly in 2019 to 296 from 310 in 2018. Between 2015 and 2018, the average number of such transactions per year was 267.⁴
- In 2019, eight out of the 376 proposed mergers proceeded to phase II. Between 2015 and 2018, on average, there were nine such cases per year.
- Between 2010 and 2019, the Commission rejected nine requests for the matter to be referred to the relevant national competition authority. Of these transactions, one was blocked, five were cleared with commitments, and three were cleared without commitments.

The number of notifications and phase II investigations fell in 2019, but remained broadly consistent with trends since 2014.

Figure 2: Overview of Investigations 2010–2019



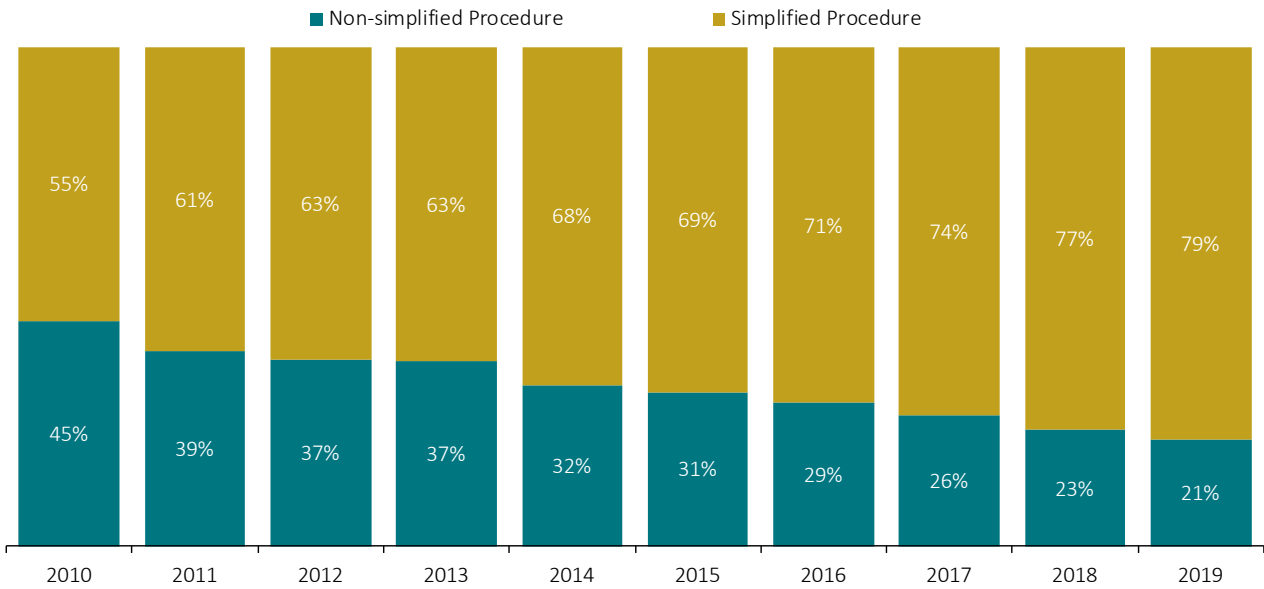
Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details. The “Pending” cases (one in 2018 and three in 2019) include notified transactions that were awaiting a phase I decision as of 30 January 2020. There are minor differences between the numbers reported here and the numbers reported by the Commission elsewhere. See Endnote 2 for details.

- Of the 376 notifications in 2019, 80 were non-simplified procedure transactions. This share has declined from 45 per cent in 2010 to 21 per cent in 2019.
- In 2019, 10 per cent of non-simplified procedure transactions proceeded to phase II. In 2018, the corresponding share was 13 per cent.

The share of transactions that were not subject to a simplified procedure has halved since 2010.

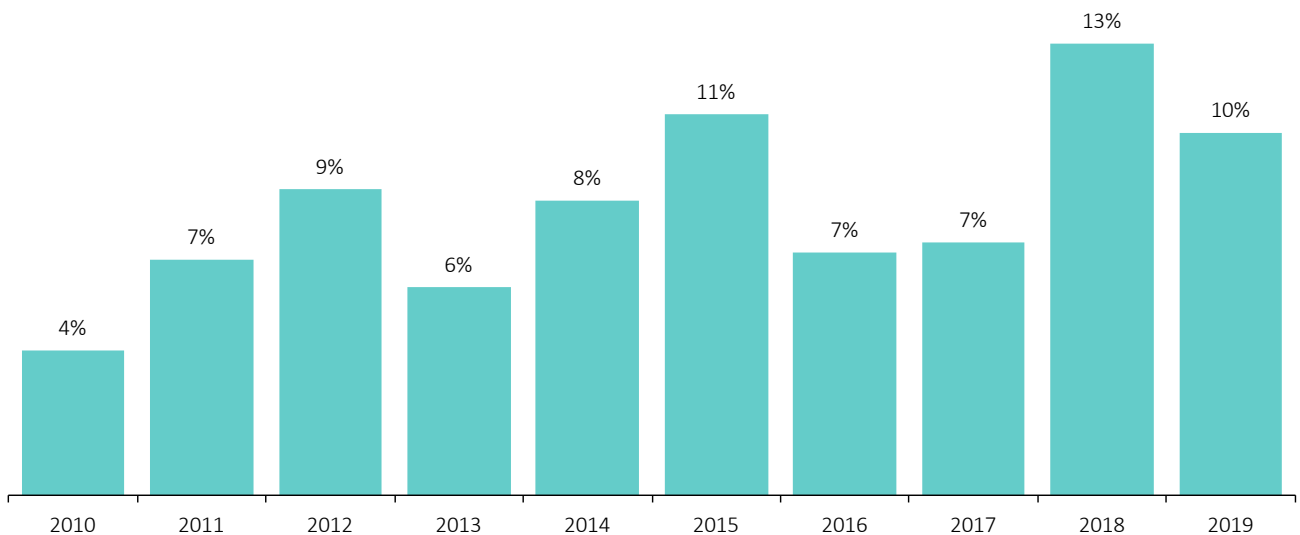
Figure 3: Simplified and Non-simplified Procedure Transactions as a Share of Notifications 2010–2019



Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details.

Figure 4: Phase II Investigations as a Share of Non-simplified Procedure Transactions 2010–2019



Source: European Commission

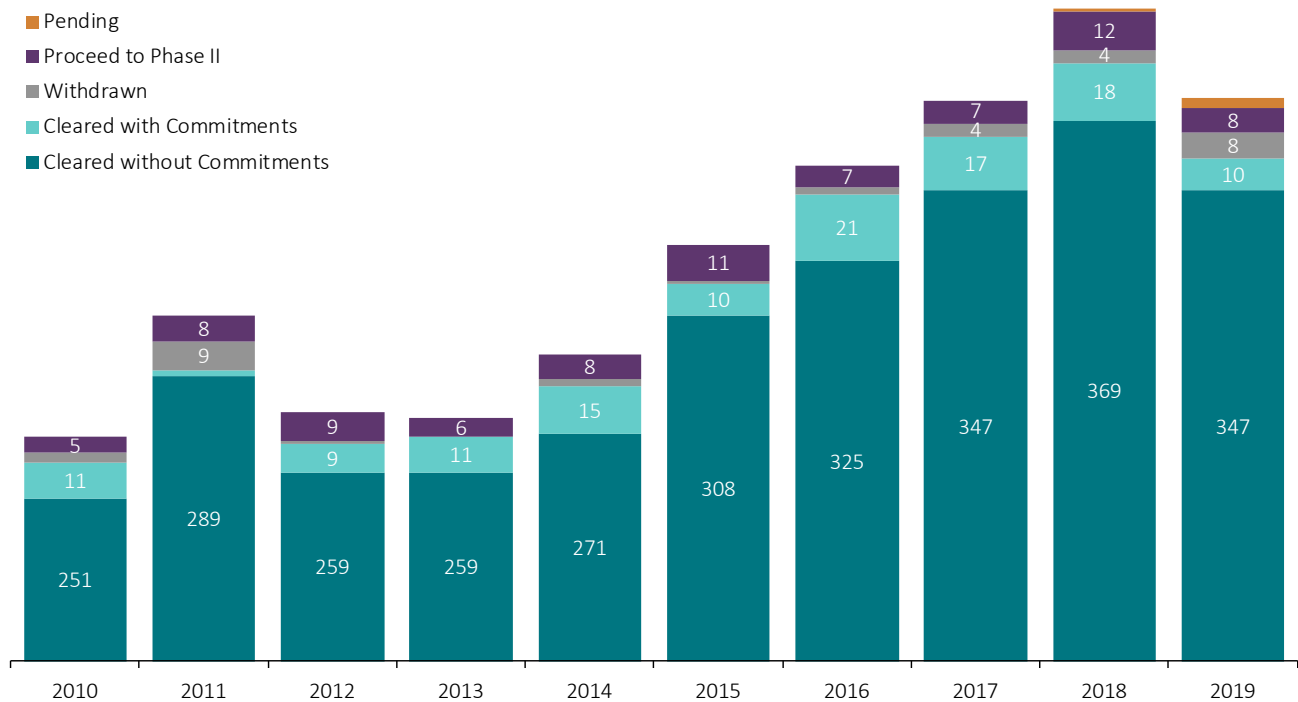
Note: Year refers to the year the merger was notified. See Endnote 1 for details.

Phase I and Phase II Outcomes

- The vast majority of transactions notified in 2019 (357 out of 376) were cleared in phase I, of which only 10 required commitments from the parties.
- In 2019, only eight of the 376 transactions notified (2 per cent) proceeded to phase II. Over the 2015 to 2018 period, an average of 3 per cent of notifications proceeded to phase II.

In 2019, 92 per cent of notifications were cleared without commitments.

Figure 5: Phase I Outcomes 2010–2019



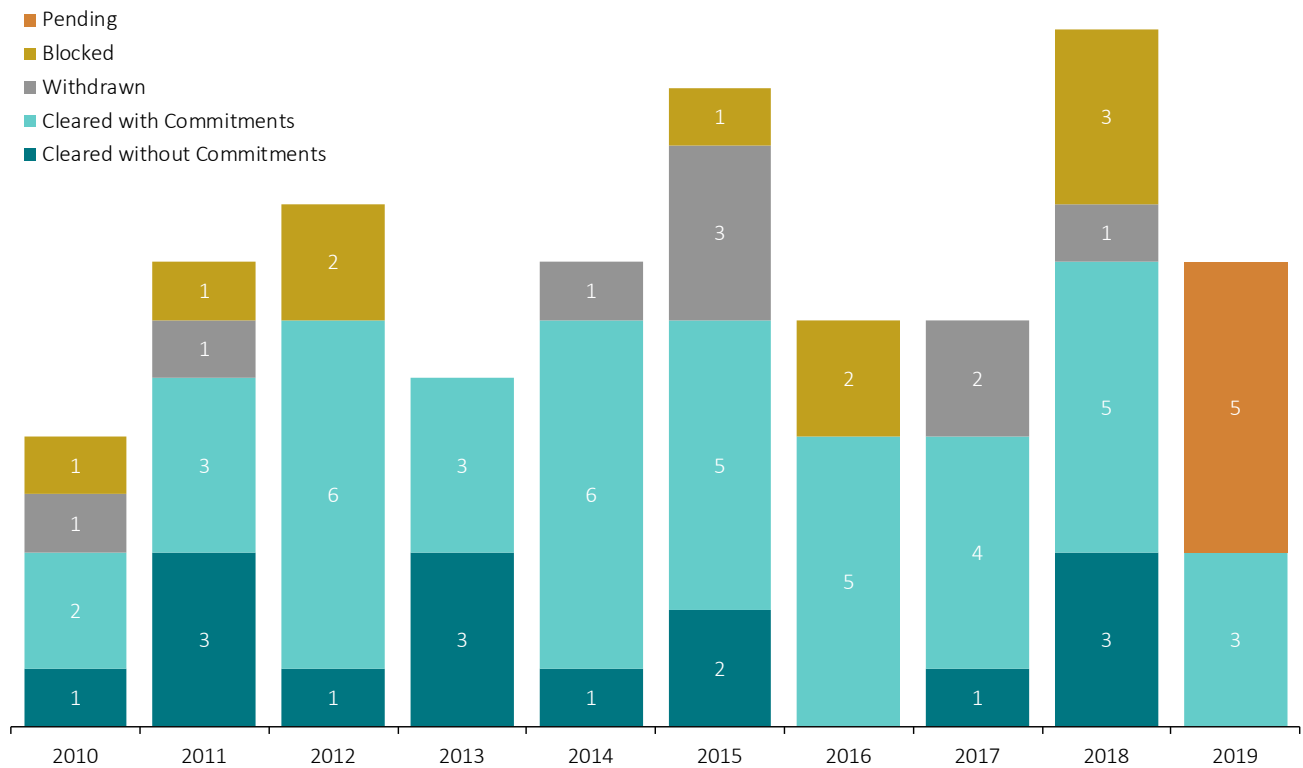
Source: European Commission

Note: The figure reports the outcome in phase I independent of the outcome in phase II. Year refers to the year the merger was notified. See Endnote 1 for details. The “Pending” cases (one in 2018 and three in 2019) include notified transactions that were awaiting a phase I decision as of 30 January 2020.

- Of the eight mergers that proceeded to phase II in 2019, three were cleared with commitments, and five were pending decisions as of 30 January 2020.
- For comparison, in 2018, 12 investigations proceeded to phase II. Three of those were cleared without commitments; five were cleared with commitments; three were blocked (highest over the 2010–2019 period); and one was withdrawn.
- Between 2015 and 2019, the Commission took 45 mergers to phase II. Six (13 per cent) were cleared without commitments; 22 (49 per cent) were cleared with commitments; six (13 per cent) were blocked; and six (13 per cent) were withdrawn.

*Between 2015 and 2019,
45 investigations proceeded to
phase II; only six of those transactions
were blocked.*

**Figure 6: Phase II Outcomes
2010–2019**



Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details. Numbers on the bars correspond to number of cases in each category. The “Pending” cases (five in 2019) include notified transactions that were awaiting a phase II decision as of 30 January 2020.

Transaction Size

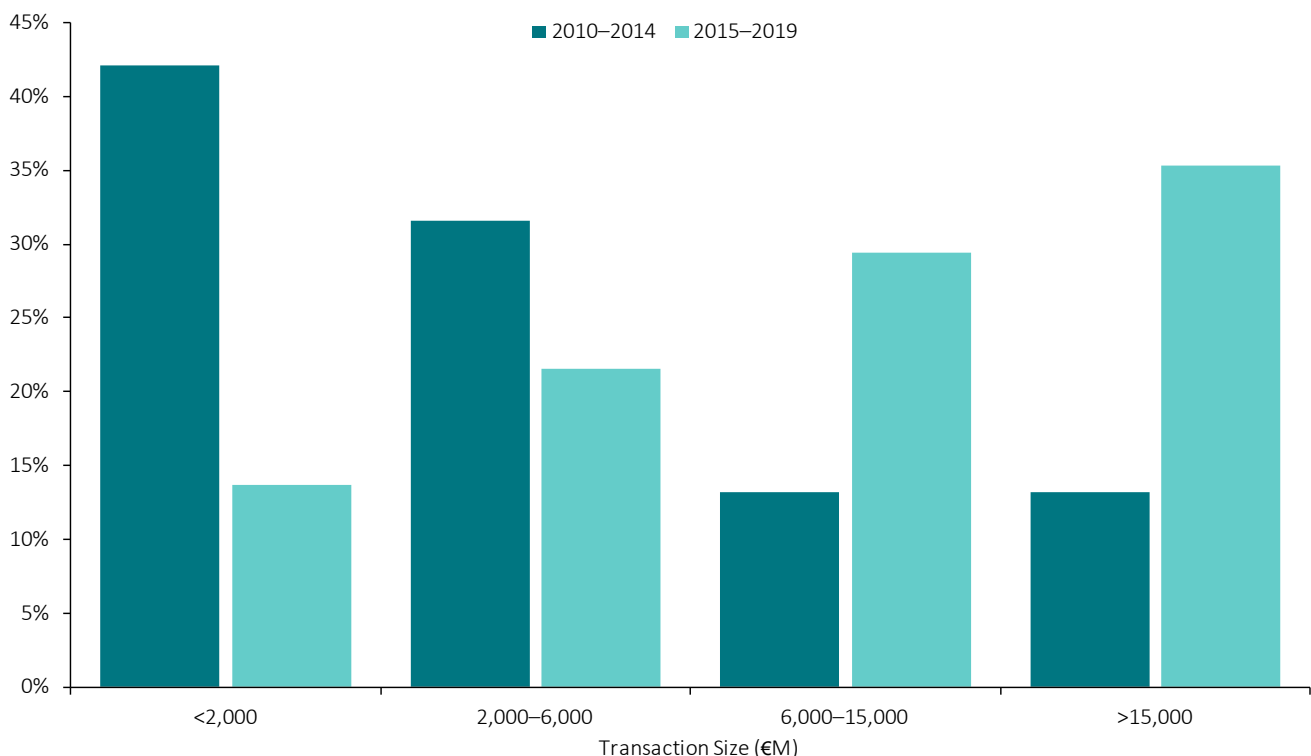
- Analysis of the PaRR Merger Database, which provides deal value information for 51 per cent of transactions that were either cleared with commitments or blocked (subject to enforcement) between 2010 and 2019, shows that:
 - Between 2015 and 2019, 86 per cent of transactions subject to enforcement had a deal value greater than €2 billion, compared to 58 per cent between 2010 and 2014.
 - Between 2015 and 2019, about 65 per cent of transactions subject to enforcement had a deal value greater than €6 billion, compared to 26 per cent between 2010 and 2014.
 - Between 2015 and 2019, 35 per cent of transactions subject to enforcement had a deal value greater than €15 billion, compared to 13 per cent between 2010 and 2014.

Between 2015 and 2019, the deal value of transactions subject to enforcement increased significantly compared to the period between 2010 and 2014.

- Between 2015 and 2019, the median deal value was €10,350 million. This represents a 221 per cent increase relative to the corresponding figure (€3,221 million) for the period between 2010 and 2014.

Figure 7: Transaction Size for Transactions Subject to Enforcement 2010–2019

Percentage of Transactions



Source: European Commission, PaRR Merger Database

Note: All deal values are denominated in 2019 euros. Over the 2010–2019 period, there were 176 transactions subject to enforcement (cleared with commitments in either phase I or phase II, or blocked in phase II). Deal value information is available in the PaRR Merger Database for 89 of those 176 transactions (51 per cent).

Review Process and Outcomes by Industry

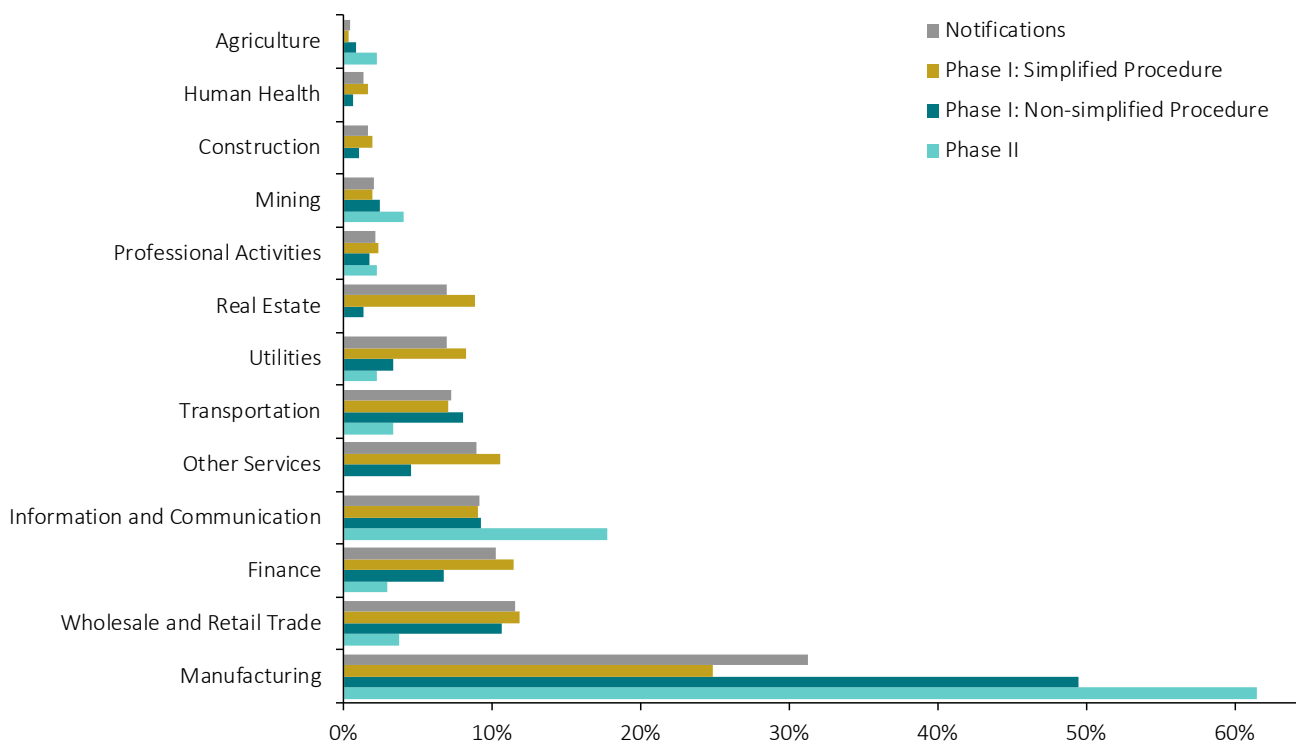
Between 2015 and 2019:

- Manufacturing accounted for the largest share of notifications (31 per cent), followed by Wholesale and Retail Trade (12 per cent) and Finance (10 per cent).
- Manufacturing accounted for the largest share of phase II investigations (61 per cent), followed by Information and Communication (18 per cent) and Mining (4 per cent).
- Information and Communication accounted for 9 per cent of notifications, simplified procedure and non-simplified procedure transactions. Yet, it accounted for 18 per cent of phase II investigations.

- Within the Manufacturing sector, the Chemical Products, Motor Vehicles, and Food Products subsectors accounted for a combined 34 per cent of notifications between 2015 and 2019.⁵

The Manufacturing sector accounted for the largest share of phase II investigations.

Figure 8: Notifications and Review Process by Industry 2015–2019



Source: European Commission

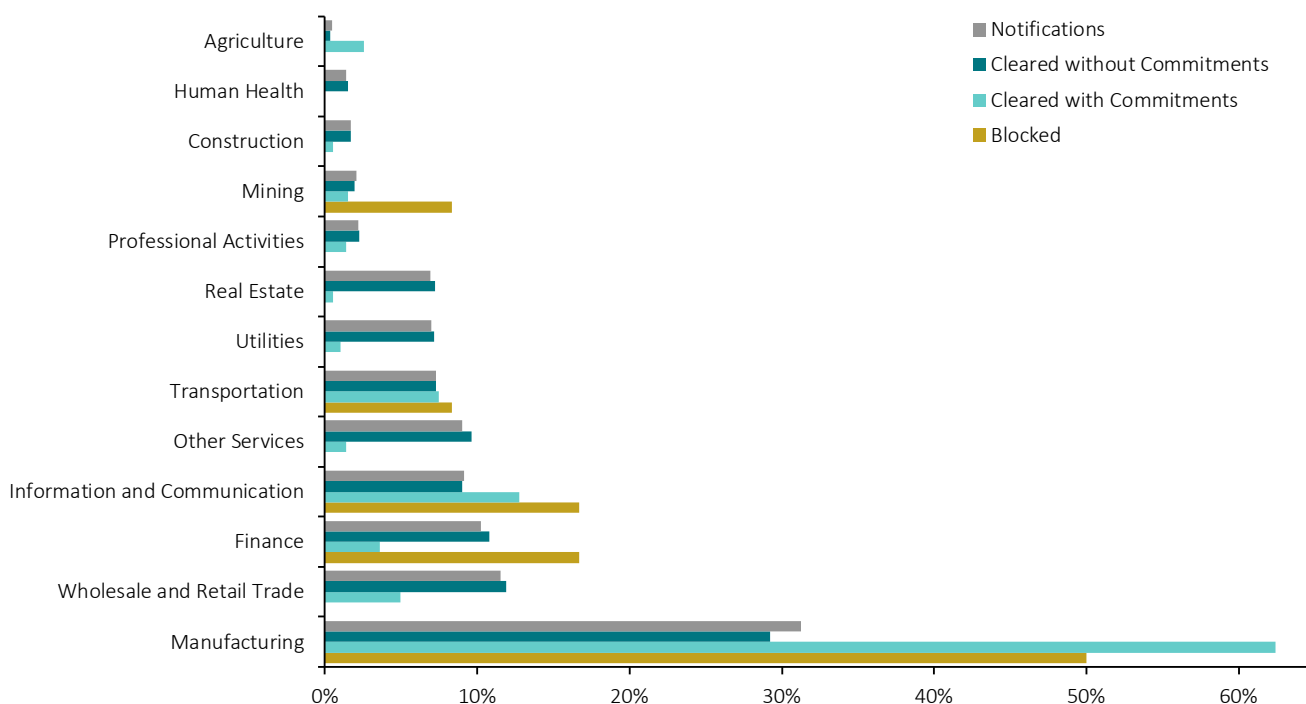
Note: For each transaction, the Commission reports all the NACE codes affected by that transaction. If a transaction affects more than one industry, it is allocated equally to all of those industries. See Endnotes 1 and 3 for details.

Between 2015 and 2019:

- Manufacturing recorded the largest share of notified transactions that were cleared without commitments (29 per cent) and notified transactions that were cleared with commitments (62 per cent).
- Wholesale and Retail Trade accounted for the second-largest share of transactions that were cleared without commitments (12 per cent), followed by Finance (11 per cent).
- Information and Communication recorded the second-largest share of transactions that were cleared with commitments (13 per cent), followed by Transportation (7 per cent).
- Manufacturing accounted for the greatest share of transactions that were blocked (50 per cent), followed by Finance, and Information and Communication (both 17 per cent).
- Within the Manufacturing sector, the Chemical Products; Pharmaceutical Products; and Computer, Electronic and Optical Products subsectors accounted for the highest share of transactions cleared with commitments, together summing to 44 per cent.⁶ However, these three subsectors accounted for 26 per cent of all Manufacturing notifications between 2015 and 2019.

The Manufacturing sector accounted for the largest shares of notified transactions that were cleared without commitments, cleared with commitments, and blocked.

Figure 9: Notifications and Outcomes by Industry 2015–2019



Source: European Commission

Note: For each transaction, the Commission reports all the NACE codes affected by that transaction. If a transaction affects more than one industry, it is allocated equally to all of those industries. See Endnotes 1 and 3 for details.

Early Stage Enforcement Focus by Industry

The Early Stage Enforcement Focus Indicator (ESEFI) is defined as the industry's share of notified transactions that were not subject to a simplified procedure minus the industry's share of all notifications. It provides an indication of the extent of early stage focus on the industry.

- In 2019, compared to their representation among notified transactions, Manufacturing, Wholesale and Retail Trade, Finance, and Construction were overrepresented among non-simplified procedure transactions.
- Real Estate, Utilities, and Other Services had negative ESEFIs for each of the past 10 years. These sectors were therefore underrepresented among non-simplified procedure transactions.
- Manufacturing had the largest ESEFI in 2019, accounting for 29 per cent of all notifications but 50 per cent of non-simplified procedure transactions. This sector had a positive ESEFI for each of the past 10 years.
- Other Services had the lowest ESEFI in 2019, accounting for 10 per cent of all notifications but only 3 per cent of non-simplified procedure transactions.

Compared to their representation in notifications, Manufacturing was the most overrepresented and Other Services was the most underrepresented industry among transactions that were not subject to a simplified procedure.

Figure 10: Early Stage Enforcement Focus Indicator by Industry 2010–2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Agriculture	0.5%	0.2%	0.1%	1.0%	0.2%	-0.6%	0.5%	0.6%	1.4%	-0.1%
Construction	-0.3%	-2.1%	-2.0%	-0.3%	-1.2%	-0.1%	-0.4%	-2.1%	-1.0%	0.2%
Finance	-1.2%	-3.2%	0.4%	1.9%	-5.2%	-9.3%	-1.8%	-1.5%	-4.4%	0.3%
Human Health	-1.8%	0.0%	-0.2%	-0.2%	-1.4%	0.1%	0.3%	-1.7%	-0.7%	-2.1%
Information and Communication	0.1%	0.9%	-0.5%	2.6%	5.1%	1.0%	-1.9%	-0.2%	3.2%	-0.7%
Manufacturing	9.2%	17.9%	11.6%	2.1%	10.4%	18.5%	15.3%	18.6%	17.3%	21.1%
Mining	0.2%	-0.6%	-1.9%	0.3%	-0.8%	1.3%	1.7%	-0.2%	-1.3%	-0.3%
Other Services	-0.5%	-1.8%	-2.8%	-2.7%	-2.7%	-7.7%	-3.3%	-0.9%	-2.7%	-7.9%
Professional Activities	0.9%	-2.0%	-0.7%	0.2%	-1.6%	-0.9%	-1.1%	1.4%	-0.3%	-1.2%
Real Estate	-2.5%	-2.2%	-0.9%	-2.5%	-3.2%	-2.8%	-5.6%	-8.9%	-6.1%	-4.2%
Transportation	0.2%	-2.2%	2.2%	1.9%	0.4%	3.0%	-1.3%	2.8%	0.0%	-0.3%
Utilities	-3.2%	-5.3%	-2.6%	-2.6%	-1.7%	-1.2%	-2.0%	-5.5%	-3.6%	-5.7%
Wholesale and Retail Trade	-1.7%	0.4%	-2.7%	-1.7%	1.4%	-1.3%	-0.5%	-2.6%	-1.8%	0.9%

Legend < -5% -5% – 0% 0% – 5% 5% – 10% 10%+

Source: European Commission

Note: For each transaction, the Commission reports all the NACE codes affected by that transaction. If a transaction affects more than one industry, it is allocated equally to all of those industries. See Endnotes 1 and 3 for details.

Enforcement Outcome Focus by Industry

The Enforcement Outcome Indicator (EOI) is defined as the industry's share of transactions subject to enforcement minus the industry's share of all notifications. A positive EOI indicates that, compared to its share of all notifications, the industry is overrepresented among transactions subject to enforcement; a negative EOI indicates that the industry is underrepresented.

- In 2019, compared to their representation among notifications, Manufacturing and Professional Activities were overrepresented among transactions subject to enforcement. Other Services, Real Estate, and Information and Communication were the most underrepresented.
- Manufacturing had the largest EOI in 2019, accounting for 29 per cent of all notifications and 62 per cent of transactions subject to enforcement.
- Other Services recorded the lowest EOI; the industry accounted for 10 per cent of all notifications but did not account for any transactions subject to enforcement.
- Compared to 2018, Finance recorded the highest increase in EOI in 2019, up from -10 per cent to -2 per cent. The biggest drop in EOI was in Information and Communication, down from 7 per cent to -6 per cent.

Compared to their representation in notifications, Manufacturing was the most overrepresented industry and Other Services was the most underrepresented industry among transactions subject to enforcement.

Figure 11: Enforcement Outcome Indicator by Industry 2010–2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Agriculture	2.8%	-0.1%	-0.7%	6.4%	-0.3%	-0.6%	1.3%	2.0%	5.0%	-0.1%
Construction	-1.5%	-2.5%	-3.0%	-2.3%	-1.7%	-1.7%	-1.4%	-2.4%	0.1%	-1.0%
Finance	-7.8%	8.3%	-7.6%	-8.5%	-11.1%	-11.2%	-2.5%	-3.3%	-10.2%	-2.0%
Human Health	-2.6%	-0.7%	-0.7%	-0.7%	-1.9%	-0.7%	-1.1%	-1.7%	-1.2%	-2.1%
Information and Communication	11.3%	-5.4%	15.5%	6.0%	7.7%	16.0%	-0.5%	2.1%	6.6%	-6.2%
Manufacturing	8.3%	33.1%	6.9%	23.4%	26.1%	22.2%	25.9%	36.1%	33.4%	33.0%
Mining	-1.4%	-1.4%	0.6%	-3.2%	-2.6%	-3.4%	5.4%	-2.2%	-1.3%	-1.7%
Other Services	-4.7%	-9.0%	-1.8%	-5.2%	-4.8%	-8.2%	-6.6%	-8.3%	-6.7%	-10.4%
Professional Activities	-1.1%	-2.0%	-2.5%	-3.7%	-0.2%	-2.0%	-1.5%	-0.7%	-1.0%	2.0%
Real Estate	-2.9%	-3.9%	-2.2%	-4.5%	-4.5%	-2.0%	-6.9%	-9.3%	-6.4%	-6.7%
Transportation	16.0%	-7.7%	14.3%	6.3%	0.7%	6.8%	0.4%	1.7%	-4.2%	-0.7%
Utilities	-1.5%	-8.6%	-5.5%	-4.8%	-4.3%	-5.2%	-4.9%	-8.4%	-6.8%	-1.6%
Wholesale and Retail Trade	-15.0%	-0.1%	-13.4%	-9.1%	-3.1%	-10.0%	-7.5%	-5.7%	-7.2%	-2.4%

Legend: < -5% -5% – 0% 0% – 5% 5% – 10% 10%+

Source: European Commission

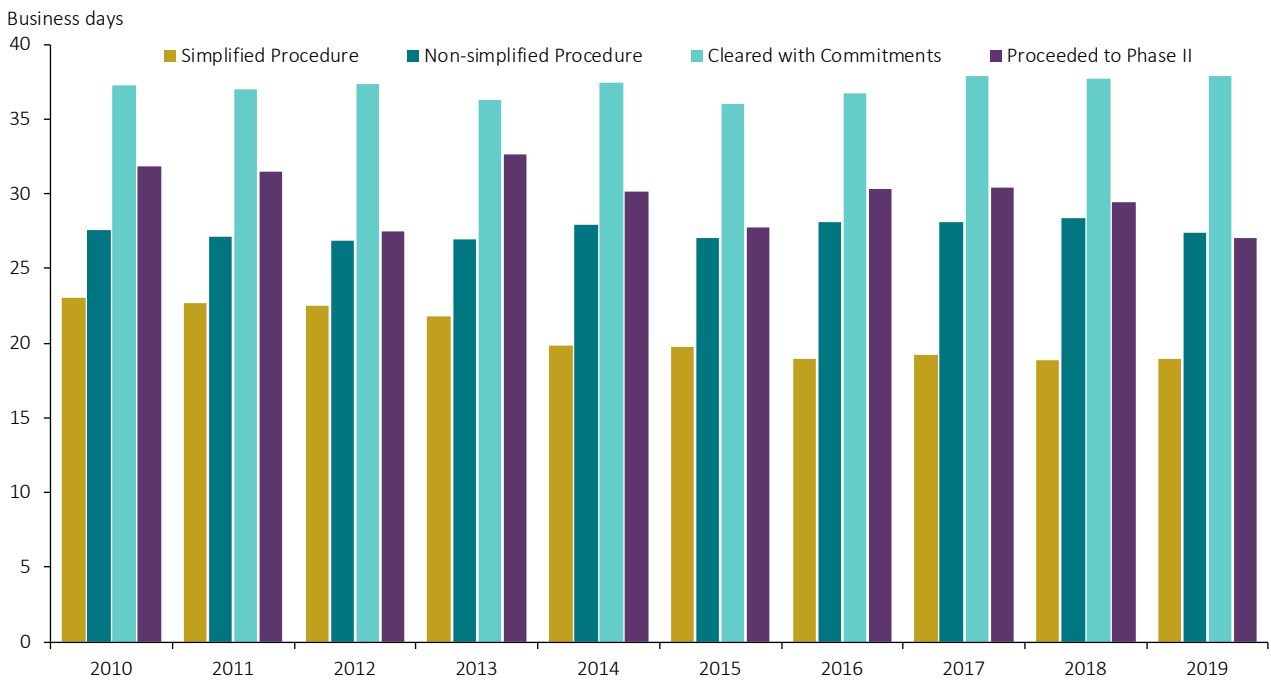
Note: For each transaction, the Commission reports all the NACE codes affected by that transaction. If a transaction affects more than one industry, it is allocated equally to all of those industries. See Endnotes 1 and 3 for details.

Length of Investigations

- In 2019, on average, a phase I investigation lasted:
 - 19 business days when under a simplified procedure;
 - 27 days when under a non-simplified procedure;
 - 38 days when the transaction was cleared in phase I with commitments; and
 - 27 days before proceeding to phase II.
- Between 2010 and 2019:
 - The average length of a phase I investigation under a simplified procedure declined. From 2010 to 2013, a decision under a simplified procedure took 22 business days on average. After the change in merger regulations, from 2014 to 2019, the average number of days dropped by almost 15 per cent to 19 days.
 - The number of days taken for a phase I decision when under a non-simplified procedure remained stable: on average, the Commission reached a decision in 28 business days. A phase I clearance with commitments came after 37 business days, on average, with some variation across the years.

Since 2010, the average length of a phase I investigation under a simplified procedure has fallen by 18 per cent.

Figure 12: Length of Investigations for Cases in Phase I 2010–2019



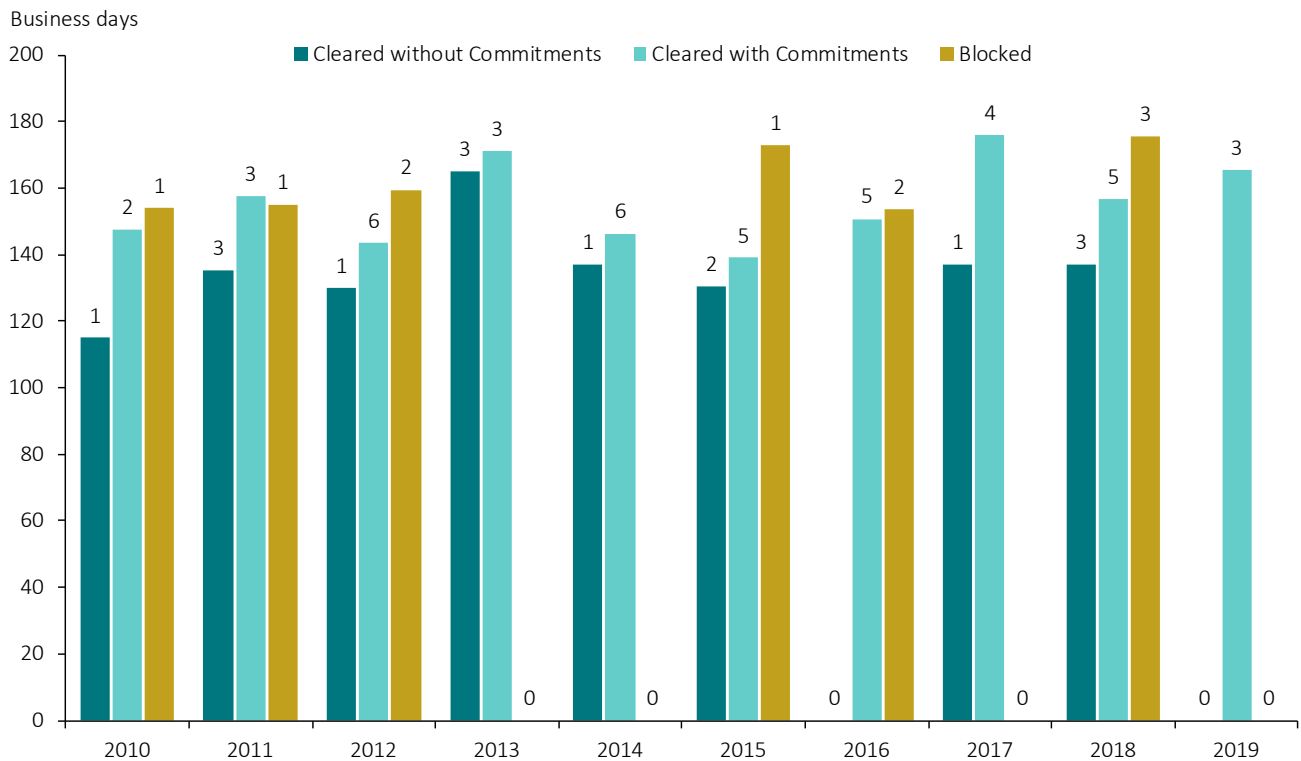
Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details. The figure excludes cases that were notified, but were pending a phase I decision as of 30 January 2020.

- Between 2010 and 2019:
 - A phase II investigation was initiated after 30 business days, on average, with some variation across the years. Since the change in merger regulations in 2014, the average number of days dropped from 31 to 29 days.
 - On average, an investigation that resulted in a phase II clearance lasted 139 days if there were no commitments, and 154 days if there were commitments.

Between 2010 and 2019, a phase II clearance took an average of 15 days longer with commitments than without commitments.

Figure 13: Length of Investigations for Cases That Proceed to Phase II 2010–2019



Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details. The figures above the bars correspond to the number of notified transactions in each category. The length of investigation is measured as the average number of business days between notification and a final decision, such that it includes time spent in phase I. The figure excludes cases that were notified, but were pending a phase II decision as of 30 January 2020.

Appendix

Appendix 1: Summary of Full Statistics of European Commission Merger Decisions

	2015	2016	2017	2018	2019
Referred to Member State	0	1	1	2	2
Notifications	330	356	375	405	376
Simplified Procedure	228	254	277	311	296
Non-simplified Procedure	102	102	98	94	80
Outcome in Phase I					
Out of Scope	0	1	0	0	0
Cleared without Commitments in Phase I	308	325	347	369	347
Cleared with Commitments in Phase I	10	21	17	18	10
Proceed to Phase II	11	7	7	12	8
Withdrawals	1	2	4	4	8
Pending Phase I Decisions	0	0	0	1	3
Outcome in Phase II					
Cleared without Commitments in Phase II	2	0	1	3	0
Cleared with Commitments in Phase II	5	5	4	5	3
Blocked	1	2	0	3	0
Withdrawals	3	0	2	1	0
Pending Phase II Decisions	0	0	0	0	5

Source: European Commission

Note: Year refers to the year the merger was notified. See Endnote 1 for details. The “Pending” cases include notified transactions that were awaiting either a phase I or phase II decision as of 30 January 2020. There are minor differences between the numbers reported here and the numbers reported by the Commission. See Endnote 2 for details.

Endnotes

- ¹ Notifications correspond to transactions for which the Commission reports a notification date, including cases that were notified but pending a phase I decision, but excluding cases that are fully referred to a single member state or multiple member states, as well as partial referrals that were not followed by a 6(1)(b) or 6(1)(c) decision. The Commission’s database reports mergers using matter codes (a four-digit code that starts with M, e.g., M.7987), and provides information related to each stage of an investigation for a notified transaction. Naturally, phase I and phase II decisions follow the notification date with a delay. As a result, for a transaction notified towards the end of a year, decisions may be published in the subsequent calendar year. Throughout this report, merger decisions following notification are recorded in the year of the notification. If a decision is annulled on appeal and the same transaction is subsequently reviewed under the same matter code after the annulment (e.g., M.7000), the transaction is taken to be notified at the later date. Case M.8990 received an Article 7(3) decision and was awaiting an Article 6 or Article 8 decision as of 30 January 2020; as it is assigned a notification date on the Commission’s website, it is counted in the “Simplified Procedure” category, but not in any phase I or phase II figures.
- ² There may be minor differences in the numbers presented in this report and the merger statistics published by the Commission (available at <https://ec.europa.eu/competition/mergers/statistics.pdf>). For instance, the number of notifications reported by the Commission is marginally greater than the number of notifications presented in this report. This is because of differences between how the Commission accounts for transactions and how transactions are recorded in its online database. For example, while there were 407 notifications in 2018 according to the Commission’s database, the Commission reports 414 notifications in its merger statistics publication. However, five of those 414 transactions were notified, withdrawn, and refiled in 2018 (i.e., notified twice in the same year), and two were refiled in 2019. Thus, as reported in the Commission’s database, there were effectively 407 unique notifications in 2018.
- ³ The Commission classifies mergers according to the appropriate NACE code, defined up to four digits, i.e., “class” level (e.g., C.28.9.5: manufacture of machinery for paper and paperboard production). Unless noted otherwise, this report tracks the transactions at the one-digit level (“section”), e.g., C (Manufacturing). Throughout this report, we refer to the industry sections as either “sector” or “industry”. If a transaction affects more than one industry, it is apportioned equally to each of those industries. For example, if it affects three industries, each industry is allocated one-third of the transaction. NACE code labels are shortened for readability. Agriculture corresponds to Agriculture, forestry, and fishing; Human Health corresponds to Human health and social work activities; Mining corresponds to Mining and quarrying; Professional Activities corresponds to Professional, scientific, and technical activities; Utilities corresponds to Electricity, gas, steam and air conditioning supply; Transportation corresponds to Transportation and storage; Finance corresponds to Financial and insurance activities; Real Estate corresponds to Real estate activities; Wholesale and Retail Trade corresponds to Wholesale and retail trade, repair of motor vehicles and motorcycles. The Other Services industry includes Accommodation and food service activities; Water Supply; Sewerage, waste management and remediation activities; Administrative and support service activities; Arts, entertainment and recreation; Public administration and defense; Compulsory social security; Activities of households as employers; Undifferentiated goods- and services-producing activities of households for own use; Education; Other service activities.
- ⁴ In EC Notice No 2013/C 366/04, the Commission outlines the conditions under which it would consider transactions unlikely to create competition concerns, allowing a transaction to qualify for a simplified procedure (e.g., the parties have no vertical or horizontal overlap, horizontal overlap does not exceed 15 per cent market share, or the vertical overlap does not exceed 25 per cent). Effective from 1 January 2014, the Commission relaxed these conditions (e.g., the horizontal overlap does not exceed 20 per cent market share or the vertical overlap does not exceed 30 per cent). See https://ec.europa.eu/commission/presscorner/detail/en/IP_13_1214.
- ⁵ NACE code labels are shortened for readability. Chemical Products corresponds to Manufacture of chemicals and chemical products; Motor Vehicles corresponds to Manufacture of motor vehicles, trailers and semi-trailers; Food Products corresponds to Manufacture of food products. Shares are calculated at the two-digit NACE code level (“division”, e.g., C.10. manufacturing of food products), and more granular codes are aggregated to corresponding divisions. If a transaction affects more than one manufacturing division, it is apportioned equally to each of those divisions. For example, if it affects three divisions, each division is allocated one-third of the transaction.
- ⁶ NACE code labels are shortened for readability. Chemical Products corresponds to Manufacture of chemicals and chemical products; Pharmaceutical Products corresponds to Manufacture of basic pharmaceutical products and pharmaceutical preparations; Computer, Electronic and Optical Products corresponds to Manufacture of computer, electronic and optical products.

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