

Decision by the Ministry of Trade and Industry on the Calculation of Turnover of the Parties to a Concentration

(498/1998)

Section 1 - Turnover under the Act on Competition Restrictions

In sections 11a(1) and 11b of the Act on Competition Restrictions (480/1992), turnover refers to the world-wide gross sales of the ordinary activities of an entity or foundation based on the most recent profit and loss account drawn up, of which the sales rebates granted, value-added tax and other taxes directly related to the turnover have been deducted, as laid down in Chapter 4, section 1, of the Accounting Act (1336/1997).

The turnover referred to in sections 11a and 11b of the Act on Competition Restrictions shall be adjusted to correspond to the turnover of 12 months if the accounting period has differed from it.

The turnover shall be adjusted by deducting from it the turnover of the disposed business operations gained through a concentration carried out after the closing of an accounting period and by adding to it the turnover of the acquired business operations gained through a concentration carried out after the closing of the accounting period.

From the turnover shall be deducted the turnover between a party to the concentration and an entity of foundation in such a relation to it as referred to under sections 11b(1) or (3) of the Act on Competition Restrictions.

Section 2 - Change from sole control to joint control

If, as a result of a concentration, sole control that has prevailed in an entity or foundation changes to joint control, the founder of a joint venture thus established shall be considered anyone exercising joint control. The turnover of an entity or foundation that has been under sole control shall be included in the turnover of the founder of the joint venture who has exercised sole control.

Section 3 - Changes in joint control

If, as a result of a concentration,

- (1) joint control that has prevailed in an entity or foundation changes to sole control or
- (2) the one exercising joint control in an entity or foundation jointly controlled changes or the structure of control otherwise changes, the acquirer of control shall be considered anyone remaining to exercise control after a concentration has been carried out.

In the instances referred to in section 3(1) above, the entity or foundation wherein control is exercised is considered to constitute the object of acquisition. The turnover of the entity or foundation which is considered the object of acquisition will not be included in the turnover of the parties remaining to exercise control therein.

Section 4 - Division of turnover of joint ventures in certain cases

If a party to a concentration or an entity of foundation in such a relation to it as referred to under 11b(1) or (3) exercises joint control

- (1) with another party to the concentration or an entity of foundation in such a relation to it as referred to under section 11b(1) or (3); or
- (2) with another entity or foundation;

the turnover of an entity or foundation jointly controlled shall be equally divided among all those exercising control.

Section 5 - Calculation of turnover of entities of associations controlled by public-sector undertakings

To the turnover of the business operations of a public-sector undertaking and the turnover of an entity or foundation controlled by a public-sector undertaking shall be included the turnovers of the other business operations of the same public-sector undertaking and the entities or foundations controlled by the public-sector undertaking, provided that the public-sector undertaking co-ordinates their economic decision-making.

Section 6 - Turnover in foreign currency

The turnover of a foreign entity or foundation in foreign currency shall be exchanged into Finnish monetary units according to the middle rate quoted by the Bank of Finland corresponding to the relevant accounting period.

Section 7 - Credit institutions and insurance companies

This decision applies, in relevant parts, to the calculation of the total amount of the income items of credit institutions, investment firms and other financial institutions; the gross premium written of insurance and pension institutions and the premium written of pension foundations referred to in section 11a(2) of the Act on Competition Restrictions.

Section 8 - Entry into force

This decision enters into force on 1 October 1998.