

	COMPETITION ACT – Notifiable Transactions¹	INVESTMENT CANADA ACT – Reviewable Transactions⁴			
		Direct Acquisitions		Indirect Acquisitions	
		Regular Threshold	Cultural Sector⁵ & Non-WTO Investors⁶	Regular Threshold	Cultural Sector⁵ & Non-WTO Investors⁶
Transaction-Size Threshold	Target has assets in Canada or revenues generated from Canadian assets (domestic sales plus exports) > C\$86 million. ²	Target has assets in Canada > C\$369 million. ⁷	Target has assets in Canada > C\$5 million.	Not reviewable.	Target has assets in Canada > C\$50 million.
AND					
Party-Size Threshold	Parties to the transaction, together with their affiliates (>50% ownership interest), have assets in Canada or revenues from sales in / from / into Canada (domestic sales plus exports and imports) > C\$400 million.	Not applicable.			
AND					
Share Ownership Threshold (for share acquisitions only)	Publicly-traded company: acquiror will hold >20% of the voting shares of the target (or >50% if the acquiror already holds >20%). Privately-held company: the acquiror will hold >35% of the voting shares of the target (or >50% if the acquiror already holds 35%).	Acquisition of “control” is deemed to occur if >50% of the voting shares of a corporation are acquired, and presumed to occur if 33%-50% are acquired unless it can be established that the acquiror will not acquire control in fact of the corporation through the ownership of voting shares. For acquisitions by State Owned Enterprises and in the Cultural sector, the Minister can determine that there has been an acquisition of control in fact, even if the above shareholding threshold is not exceeded.			
Filing Deadline	None.	None.		Within 30 days after closing.	
No-close Waiting Period	Default: 30 days unless Commissioner issues a Supplementary Information Request (SIR). If a SIR is issued: 30 days after compliance. ³ If seeking Advance Ruling Certificate without filing notification: until clearance is received.	Until approval is received from Minister of Industry (or Minister of Heritage in cultural cases) – initial 45-day waiting period, subject to a potential 30-day extension (and subsequent extensions with the investor’s consent). ⁸		Not applicable.	
National Security	Not applicable.	The Government can initiate a review of any investment (even minority interests) that “may be injurious to national security.” Special timelines, review procedures and approval processes apply to such transactions.			

***Overview:** These thresholds will apply until the 2016 inflation-adjusted amounts are published in the Canada Gazette, which is expected to occur early in 2016. This Chart has been prepared as a reference regarding the main attributes of the *Competition Act* (Canada) and *Investment Canada Act* review regimes. It does not include all applicable calculation rules, exemptions, *etc.*, does not address other sector-specific regimes in industries such as transportation, broadcasting / telecom and financial services, and does not constitute legal advice. Canadian counsel should be consulted with respect to the application of these provisions to particular factual situations.

NOTES:

¹ **Non-Notifiable Transactions Under the *Competition Act*:** The Competition Bureau has the power to, and does, review and challenge mergers which fall below the pre-merger notification thresholds for up to one year after closing.

² **Annual Adjustment of *Competition Act* Transaction Size Threshold:** C\$86 million is the threshold at the time of writing. This threshold is likely to be increased by an inflationary amount in early 2016. (Note that for formal corporate amalgamations, two thresholds apply: (i) the assets in Canada that would be owned by the continuing corporation must have an aggregate value in excess of C\$86 million or must generate revenues in excess of C\$86 million; and (ii) each of at least two of the amalgamating corporations, together with their affiliates, must have assets in Canada or gross revenues from sales in, from or into Canada, in excess of C\$400 million.)

³ ***Competition Act* Review Period:** Actual review periods may extend beyond the waiting periods. The Commissioner's non-binding "service standards" are two weeks for "non-complex" transactions and 45 days for "complex" transactions, except where a SIR is issued. If a SIR is issued, the service standard time period runs until 30 days following submission of the response to the SIR. Early termination of the initial waiting period or the SIR waiting period is possible.

⁴ **Non-Reviewable Transactions Under the *Investment Canada Act*:** For any acquisition of control of a Canadian business that does not meet the applicable review threshold, an administrative Notification Form must be submitted within 30 days after closing.

⁵ **Cultural Sector:** Investments in the cultural sector include any investments in businesses involved in the publication, distribution, sale or exhibition of books, magazines, periodicals, newspapers, film or video products, audio or video music recordings and music in print or machine readable form, as well as radio, television, cable, broadcasting undertakings and satellite programming and broadcast network services. There is no *de minimis* exemption: for example, a grocery store with magazines placed by the check-out is involved in the sale of magazines and, therefore, the acquisition of that store by a non-Canadian would be subject to the cultural sector review thresholds. In addition, the Governor-in-Council may, within 21 days after receipt of a Notification that falls below the review thresholds, require that the investor submit an application for review and obtain an approval for the investment.

⁶ **Non-WTO Investors:** The Non-WTO Investor rules apply if neither the investor nor the vendor is a "WTO Investor" (that is, an entity controlled by citizens or governments of countries that are members of the World Trade Organization).

⁷ **Annual Adjustment of *Investment Canada Act* Direct Review Threshold:** C\$369 million is the expected threshold at the time of writing for 2015 (the official amount will be published in the Canada Gazette in early 2015). This threshold is likely to be increased by an inflationary amount in early 2016. There are also pending changes which would switch to an "enterprise value" test and increase the threshold to C\$1 billion in stages over four years.

⁸ ***Investment Canada Act* Review Period:** the Minister can unilaterally extend the initial 45-day waiting period by an additional 30 days (further extensions are only available on consent of the investor).

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For a more detailed discussion of the Canadian merger review regime, see Neil Campbell, James Musgrove, Mark Opashinov and Devin Anderson "Canada", *Merger Control 2015 – Getting the Deal Through* (Law Business Research) p. 84-90.