

and demand. These, and the other factors mentioned in Article 2 are generally consistent with the ones listed in the merger provisions of the Canadian Competition Act. A noteworthy exception, however, is the Regulation's treatment of economic efficiencies. The Regulation, unlike Canada's merger provisions, does not provide a defence based specifically on economic efficiency gains. Rather, it merely requires that the Commission take into account "the development of technical and economic progress provided that it is to consumers' advantage and does not form an obstacle to competition."²⁵

The use of competition-based criteria for the assessment of concentrations under the Regulation has not, however, completely allayed concerns that other factors may be taken into account. Rather, it has been suggested that other considerations may enter the analysis of concentrations through a number of channels. One such channel is the Member States' authority under Article 21 to take appropriate measures to protect interests that are considered to be consistent with the general principles and other provisions of Community Law. It has also been suggested that the requirement for the Commission to take account of economic and technological progress may allow industrial policy considerations to enter into the merger review process. In addition, the preamble to the Regulation requires that the Commission keep in mind the economic and social cohesion, and other fundamental objectives of the EEC Treaty when applying the Regulation.²⁶

2.4 The Procedure of Investigations

The Merger Control Regulation embodies strict time limits, set forth in the following table, for the notification of mergers having a Community dimension, the initiation of proceedings, and the Commission's assessment of the compatibility of concentrations with the common market.