

TABLE 4

FEDERAL REPUBLIC OF GERMANY

Stature	General Motivation	Merger Definition	Merger Test	Defences, Exemptions	Decision-Making Body	Enforcement
<p>Act Against Restraints of Competition</p>	<ul style="list-style-type: none"> ● competition (subject to Ministerial override on public policy or economic grounds) 	<ul style="list-style-type: none"> ● wide definition includes interlocking directorates and "any association between or among enterprises: resulting in a "competitively significant influence on another enterprise" 	<ul style="list-style-type: none"> ● creation or strengthening of dominant position ● presumption of market dominance based on market share ● presumption of creation or strengthening of superior market position based primarily on size (total sales) 	<p><u>Thresholds</u></p> <ul style="list-style-type: none"> ● acquisition of 25% or more of registered share capital or voting rights <p><u>De Minimum Rules</u></p> <ul style="list-style-type: none"> ● exemption if <ul style="list-style-type: none"> (a) combined annual sales less than 500 million DM (b) independent enterprise (50 million DM annual sales) (c) less than 10 million DM annual sales in market which has been in existence for at least 5 years <p><u>Statutory Defence</u></p> <ul style="list-style-type: none"> ● improvement in competitive structure of one or more markets 	<ul style="list-style-type: none"> ● Federal Cartel Office (Bundes-Kartellamt) ● special permission from Minister of Economy (possible in certain cases) ● judicial review by Berlin Court of Appeal, Federal Supreme Court 	<ul style="list-style-type: none"> ● Federal Cartel Office