

FTC and DOJ Announce Workshops on the 2023 Draft Merger Guidelines

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The Federal Trade Commission (FTC) and Department of Justice (DOJ), Antitrust Division announced that they will hold three workshops regarding their jointly issued Draft Merger Guidelines. The first virtual workshop will be held on September 5, at 1-4:15 p.m. ET.

The agencies released the Draft Merger Guidelines for public comment on July 19.^{[\[1\]](#)}

The draft sets forth the following 13 broad guidelines:

1. Mergers should not significantly increase concentration in highly concentrated markets.
2. Mergers should not eliminate substantial competition between firms.
3. Mergers should not increase the risk of coordination.
4. Mergers should not eliminate a potential entrant in a concentrated market.
5. Mergers should not substantially lessen competition by creating a firm that controls products or services that its rivals may use to compete.
6. Vertical mergers should not create market structures that foreclose competition.
7. Mergers should not entrench or extend a dominant position.
8. Mergers should not further a trend toward concentration.
9. When a merger is part of a series of multiple acquisitions, the agencies may examine the whole series.
10. When a merger involves a multisided platform, the agencies examine competition between platforms, on a platform, or to displace a platform.
11. When a merger involves competing buyers, the agencies examine whether it may substantially lessen competition for workers or other sellers.

12. When an acquisition involves partial ownership or minority interests, the agencies examine its impact on competition.
13. Mergers should not otherwise substantially lessen competition or tend to create a monopoly.

There are significant changes from the previous guidelines that are consistent with the Biden administration agencies' public statements skeptical of consolidation, dismissive of synergies, doubtful of big tech, and favoring innovation through internal research and development efforts rather than acquisition, and consistent with their enforcement actions over the last two years. We highlighted some of the most significant changes in our [recent alert](#).

The end of the current public comment period is September 18. Interested parties will be able to access the workshop through a link that will be made available on the DOJ's and the FTC's websites.

[1] <https://www.ftc.gov/news-events/news/press-releases/2023/07/ftc-doj-seek-comment-draft-merger-guidelines>

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