

With Final 2023 Merger Guidelines, DOJ and FTC Formalize Aggressive Merger Enforcement Policy

A photograph of a modern building with a curved glass facade, showing multiple floors and windows, set against a clear sky.

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What You Need to Know

- The final 2023 Merger Guidelines are structured around 11 guidelines outlining the Agencies' approach to merger enforcement.
- Together with the massive changes to the HSR form proposed in June 2023, the Guidelines herald longer, tougher merger investigations based on expansive theories of harm.
- The 2023 Merger Guidelines reflect the Biden Administration's general hostility toward mergers, but it remains to be seen whether the Guidelines will be embraced by the courts or maintained in their current form by future administrations.

The U.S. Department of Justice, Antitrust Division (DOJ), and the Federal Trade Commission (FTC) (and together, the "Agencies") released the final version of the 2023 Merger Guidelines ("2023 Merger Guidelines") on December 18, 2023. The 2023 Merger Guidelines aim to "provide transparency into the Agencies' decision-making process" by describing the "factors and frameworks" the Agencies use in reviewing proposed mergers. While the Agencies made some notable revisions to the final 2023 Merger Guidelines in response to public comments on the July 2023 Draft Merger Guidelines ("2023 Draft Guidelines"), the key takeaways remain largely the same.

Learn more about the 2023 Merger Guidelines by clicking [here](#) to read our latest Antitrust Insight.



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