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Justice Department and Federal Trade Commission Announce Updated International Antitrust Guidelines

The Department of Justice and the Federal Trade Commission (FTC) issued today revised Antitrust Guidelines for International Enforcement and Cooperation. These guidelines update the 1995 Antitrust Enforcement Guidelines for International Operations and provide guidance to businesses engaged in international activities on questions that concern the agencies' international enforcement policy as well as the agencies' related investigative tools and cooperation with foreign authorities.

The revised guidelines reflect the growing importance of antitrust enforcement in a globalized economy and the agencies' commitment to cooperating with foreign authorities on both policy and investigative matters.

"Anticompetitive conduct that crosses borders can adversely affect our commerce with foreign nations. The department's antitrust enforcement is focused on ending that conduct in order to protect consumers and businesses in the United States," said Acting Assistant Attorney General Renata Hesse, in charge of the Department of Justice's Antitrust Division. "The Antitrust Guidelines for International Enforcement and Cooperation released today provide important, up to date guidance to businesses engaged in international operations on our enforcement policies and priorities; the changes we have made to the international guidelines, last issued in 1995, reflect developments in the department's practices and in the law over the last 22 years. Developed jointly with the FTC, the Guidelines are another powerful example of the benefits of collaboration between our Agencies."

"The agencies' enforcement of the U.S. antitrust laws now frequently involves activity outside the United States, increasingly requiring collaboration with international counterparts," said Chairwoman Edith Ramirez of the FTC. "The Guidelines we are issuing today explain to the business and antitrust communities our current approaches to international enforcement policy and related investigative tools, and cooperation. They are the product of the excellent working relationship between our two agencies."

The revisions describe the current practices and methods of analysis the agencies employ when determining whether to initiate and how to conduct investigations of, or enforcement actions against, conduct with an international dimension. The Antitrust Guidelines for International Enforcement and Cooperation are different from the 1995 guidelines in several important ways. In particular, they:

Add a chapter on international cooperation, which addresses the Agencies' investigative tools, confidentiality safeguards, the legal basis for cooperation, types of information exchanged and waivers of confidentiality, remedies and special considerations in criminal investigations;

Update the discussion of the application of U.S. antitrust law to conduct involving foreign commerce, the Foreign Trade Antitrust Improvements Act, foreign sovereign immunity, foreign sovereign compulsion, the act of state doctrine and petitioning of sovereigns, in light of developments in both the law and the Agencies' practice; and
Provide revised illustrative examples focused on the types of issues most commonly encountered.

The agencies issued proposed revisions for public comment on Nov. 1, 2016, in response to which comments were

received from practitioners, academics, economists, and other stakeholders. Public comments are available at <https://www.justice.gov/atr/guidelines-and-policy-statements-0/antitrust-guidelines-international-enforcement-and-cooperation-2017>.

The Antitrust Guidelines for International Enforcement and Cooperation are available on the Department's website at <https://www.justice.gov/atr/internationalguidelines/download> and the FTC's website at www.ftc.gov/InternationalGuidelines.

The FTC vote approving the 2017 Antitrust Guidelines for International Enforcement and Cooperation was 3-0.

[Antitrust Guidelines for International Enforcement and Cooperation](#)

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Antitrust Division

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