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For Release

Federal Trade Commission and Justice Department Release 2023 Merger Guidelines

Following a Robust Public Process, Agencies Modernize Merger Guidelines to
Reflect Realities of the Modern Economy

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Today, the Federal Trade Commission and the Justice Department jointly issued the [2023 Merger Guidelines](#), which describe factors and frameworks the agencies utilize when reviewing mergers and acquisitions. The 2023 Merger Guidelines are the culmination of a nearly two-year process of public engagement and reflect modern market realities, advances in economics and law, and the lived experiences of a diverse array of market participants.

“Fair, open, competitive markets have been essential to America’s dynamic, thriving economy, and policing unlawful mergers is our front line of defense against harmful corporate consolidation,” said FTC Chair Lina M. Khan. “The 2023 Merger Guidelines reflect the new realities of how firms do business in the modern economy and ensure fidelity to statutory text and precedent. I am grateful for the thousands of comments submitted by American workers, consumers, entrepreneurs, farmers, business owners, and other members of the public. This input directly informed the guidelines and allowed us to pursue this work with a deeper understanding of the real-life stakes of merger enforcement.”

“These finalized Guidelines provide transparency into how the Justice Department is protecting the

American people from the ways in which unlawful, anticompetitive practices manifest themselves in our modern economy,” said Attorney General Merrick B. Garland. “Since releasing the Draft Merger Guidelines earlier this summer, we have engaged with stakeholders across the country, and the Guidelines are stronger as a result. The Justice Department will continue to vigorously enforce the laws that safeguard competition and protect all Americans.”

“The Guidelines we release today are faithful to the law and reflect how competition plays out in our modern markets. Ensuring that our merger enforcement protects that competition is our North Star. Competitive markets and economic opportunity for all Americans go hand in hand,” said Assistant Attorney General Jonathan Kanter of the Antitrust Division. “We were grateful to hear from authors, nurses, farmers, and other concerned citizens from across the country as we worked to put together the 2023 Merger Guidelines. Their comments were invaluable — and our merger enforcement will be better as a result.”

The 2023 Merger Guidelines released today modify the [draft Merger Guidelines released](#) on July 19, 2023, to address comments from the public, including extensive engagement from attorneys, economists, academics, enforcers, and other policymakers at the agencies’ three Merger Guidelines Workshops. They emphasize the dynamic and complex nature of competition ranging from price competition to competition for the terms and conditions of employment, to platform competition. This approach enables the agencies to assess the commercial realities of the United States’ modern economy when making enforcement decisions and ensures that merger enforcement protects competition in all its forms.

The agencies protect competition through enforcement of the antitrust laws and other federal competition statutes. Since 1968, the agencies have issued merger guidelines to enhance transparency and promote awareness of how the agencies undertake merger analysis before deciding whether or not to challenge an acquisition. Over the years, the agencies have worked collaboratively to update the merger guidelines periodically to reflect changes in the law and market realities, including in 1982, 1984, 1992, 1997, 2010, and 2020.

The robust process to develop the 2023 Merger Guidelines began in January 2022. The agencies announced an initiative to evaluate possible revisions to the 2010 Horizontal Merger Guidelines and the 2020 Vertical Merger Guidelines and published a [Request for Information on Merger Enforcement](#), which sought public comment on modernizing merger enforcement. The agencies received more than 5,000 comments. Commenters highlighted excessive market consolidation across industries and

overwhelmingly urged the agencies to strengthen their approach to merger enforcement. At the agencies' [four listening sessions](#), business owners, workers, and other advocates similarly highlighted the potential for mergers and acquisitions to undermine open, vibrant, and competitive markets, in industries ranging from food and agriculture to health care.

Informed by this feedback, agency experience and expertise, as well as developments in the market, law, and economics, the agencies drafted and jointly released a [proposed version](#) of the 2023 Merger Guidelines for public comment in July 2023 and received more than 30,000 comments reflecting the views of consumers, workers, academics, interest organizations, attorneys, enforcers, and many others across various sectors of the American economy. The agencies also held three [Merger Guidelines Workshops](#) to discuss the draft Merger Guidelines. This engagement informed an in-depth revision process culminating in today's release of the 2023 Merger Guidelines.

Like the prior horizontal and vertical merger guidelines they replace, the 2023 Merger Guidelines are not themselves legally binding, but provide transparency into the Agencies' decision-making process.

The 2023 Merger Guidelines do not predetermine enforcement action by the agencies. Although the Merger Guidelines identify the factors and frameworks the agencies consider when investigating mergers, the agencies' enforcement decisions will necessarily depend on the facts in any case and will continue to require prosecutorial discretion and judgment.

The Commission vote to approve the 2023 Merger Guidelines was 3-0.

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Press Release Reference

[FTC and DOJ Seek Comment on Draft Merger Guidelines](#)

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