
FTC and Antitrust Division Announce Workshops and Solicitation of Public Comment Regarding Possible Revision of Horizontal Merger Guidelines

2009-09-24

The Federal Trade Commission and the U.S. Department of Justice Antitrust Division announced that they will solicit public comment and hold a series of five joint public workshops to explore the possibility of updating the agencies' joint Horizontal Merger Guidelines, which both agencies use when evaluating proposed mergers and acquisitions. The Guidelines have not been revised since 1992 (except for revisions to the Efficiencies section in 1997). The workshops and public comment may lead to significant revisions in the Guidelines. The agencies are seeking public comment on a wide variety of topics, roughly falling into the following categories:

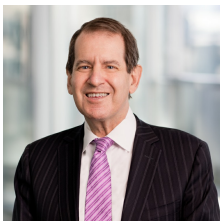
- The agencies' analytical process in determining whether to challenge a merger.
- The agencies' use of certain types of evidence and tools when analyzing a merger, such as competitive effects, hypothetical monopolist test, market definition, buyer power, HHI Index, etc.
- Competitive effects of mergers.
- The agencies' approach to remedies.

For a full list of the agencies' 20 specific questions (with subparts), click [here](#). The agencies encourage anyone submitting comments in response to the questions to comment from two perspectives: (1) whether revisions in the areas the questions cover could yield Guidelines that more accurately describe actual agency practice, and (2) whether revisions could lead to a more accurate or more efficient merger review process. The agencies also invite comments on whether aspects of the "Commentary on the Horizontal Merger Guidelines" issued in March 2006 should be incorporated into the Guidelines themselves.

Initial comments are due by **November 9, 2009**, to ensure ample time for consideration before the first workshop. The workshops will occur in December 2009 and January 2010. The first workshop is scheduled for **December 3, 2009** in Washington, DC, followed by workshops in Chicago, New York, and San Francisco, and, finally, an additional workshop in Washington, DC. Click [here](#) for more information about the schedule.

WilmerHale would be pleased to assist any firms that are interested in filing comments or possibly participating in the workshops.

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