Press Release

FTC and DOJ Publish New Merger (Mis)guidelines

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On July 19, 2023, the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ) released their long-awaited draft of the updated merger guidelines (DMG). In a new insight, Competition Economics Analyst Fred Ashton makes the case that these guidelines overzealously pursue the quashing of merger activity and that courts are unlikely to accept them.

Ashton concludes:

> *The FTC and DOJ's long-awaited draft of updated merger guidelines call for weakening the agencies' decades-long adherence to the consumer welfare standard of antitrust enforcement. In its place, the agencies have designed the DMG to quash merger activity, regardless of its consumer benefits.*
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> *Abandoning modern practices based on economic understanding and consumer welfare for a "past is present" approached based on archaic case law will make it difficult for the agencies to convince the courts to accept the DMG.*

Read the analysis