



Press Release

ESG Pledges Risk Antitrust Infractions

PAULINA ENCK | MARCH 2, 2023

Members of Congress have raised concerns about, and launched investigations into, industry-coordinated environmental, social, and governance (ESG) practices, alleging they may violate antitrust laws. In a new insight, Competition Economics Analyst Fred Ashton discusses the ways ESG policies could constitute an antitrust violation, walks through congressional and state pushback, and explores why a more specific framework from the Federal Trade Commission (FTC) is needed.

Key points:

- FTC Chair Lina Khan stated that company pledges to adopt ESG policies will not be considered an affirmative defense in otherwise illegal business activity or mergers.
- Congress and state attorneys general are likely to continue investigating potential antitrust violations related to ESG and may take further action.
- In order to limit businesses' uncertainty in navigating antitrust laws, the FTC must issue a policy statement or more detailed guidance on what constitutes a permissible pursuit of ESG practices.

[Read the analysis](#)