



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.

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*](#)