

Press Release



FTC to Test New Merger Guidelines in Kroger/Albertsons Challenge

PAULINA ENCK | MARCH 6, 2024

On February 26, 2024, the Federal Trade Commission (FTC) and nine state attorneys general sued to block the \$24.6 billion merger between supermarket chains Kroger and Albertsons. In a new insight, Competition Economics Analyst Fred Ashton walks through the FTC's complaint, considers the relevant market chosen for the agency's suit, and examines the broader implications of this lawsuit for the antitrust agencies' new Merger Guidelines.

Ashton concludes:

The FTC's opposition to the Kroger and Albertsons proposed merger contains several objections typically found in traditional antitrust analysis viewed through the lens of market power and its effect on consumers. It does, however, depart in some noticeable ways.

These departures reflect recent changes to the antitrust agencies' Merger Guidelines. The FTC's suit relies, in part, on a structural presumption of illegality resulting from lowered concentration thresholds and features the labor market as a prominent reason for condemning the merger. It also referenced past mergers in its suit and a trend toward consolidation in the industry, rather than independently analyzing the merger in question.

Courts will consider the validity of these novel claims and determine whether the new Merger Guidelines should inform future antitrust jurisprudence.

[Read the analysis](#)