

FTC and DOJ Issue Civil Merger Investigation Guidance in Light of COVID-19

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Today, the U.S. antitrust agencies continued to take steps to deal with the disruption caused by the coronavirus pandemic. Overall, the agencies are taking steps to limit in-person interactions with agency personnel and potentially to extend the duration of merger reviews.

First, the DOJ **announced** the following changes for the merger review process.

- For mergers currently pending or that may be proposed, the Antitrust Division is requesting from merging parties an additional 30 days to timing agreements to complete its review of transactions after the parties have complied with document requests. If circumstances require, the Division may revisit its timing agreements with merging parties in light of further developments.
- The Antitrust Division will allow electronic filing of Hart-Scott-Rodino submissions.
- The Antitrust Division will conduct all meetings by phone or video conference (where possible), absent extenuating circumstances.
- All scheduled depositions temporarily will be postponed and will be rescheduled using secure videoconferencing capabilities.

Second, the FTC **announced** the following changes:

- Most of FTC employees are working remotely, with limited exceptions for emergency personnel and staff who must be in the office to perform mission-essential work.
- The FTC has suspended non-critical FTC domestic and international travel.
- The FTC has suspended unplanned visitor access to FTC facilities. Perhaps more importantly, almost all internal and external meetings will be handled by telephone or videoconference, and parties should assume that meetings will be held remotely, rather than in-person, until further notice.

This preliminary guidance and will be helpful in the days ahead. There are still open questions regarding use of pull and refile, issuance of second requests, and new timing agreements, and parties will likely need to be flexible as the situation unfolds. We will continue to provide updates as they become available.

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