

The Certainty of Antitrust Review in Uncertain Times

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The Federal Trade Commission (FTC) Bureau of Competition **issued a reminder** yesterday, April 6, that it “must continue to analyze carefully the potential effects of proposed transactions and business conduct” and that it “will not suspend our usual rigorous approach to ferreting out anticompetitive harm and seeking relief, even in the face of uncertainty.”

The Bureau stated that it “will continue to follow the facts, adjust to changing market conditions, and master the many details that comprise a thorough antitrust review.” In particular, with regard to analyzing divestiture remedies in merger matters and evaluating proposed buyers of divestiture assets, “FTC staff will continue to evaluate whether the buyer has the current financial capability to acquire and operate the divestiture assets, as well as the buyer’s ability to compete in relevant markets with those assets.”

In other words, another reminder from the agencies that antitrust **does not shelter in place** during a pandemic. While we all seek, even in a spring without baseball, to be safe at home, businesses should realize that they are neither safe nor home free when it comes to antitrust review.

*To see our prior alerts and other material related to the pandemic, please visit the **Coronavirus/COVID-19: Facts, Insights & Resources** page of our website by **clicking here**.*

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