

LEGAL UPDATES

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Competition

Merger Clearance

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Merger Reviews During the COVID-19 Pandemic

Antitrust authorities in the United States are implementing emergency procedures in order to continue merger reviews amid the COVID-19 coronavirus pandemic.

Effective March 17, 2020, the Federal Trade Commission (FTC) Premerger Notification Office (PNO) will only accept Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act) filings via a temporary e-filing process. The FTC announced the transition last Friday in connection with the growing shift by businesses, organizations, and governments to work remotely to reduce the spread of COVID-19. The U.S. Department of Justice Antitrust Division (DOJ) also made a similar announcement.

While the temporary e-filing process is in place, early termination requests will not be granted by the FTC; therefore, parties should expect to wait at least the full 30 days (or 15 days in the event of a cash tender offer) before the HSR Act waiting period expires. The FTC and DOJ are no longer accepting HSR Act filings, either in paper or DVD form, that are delivered to the agencies.

The agencies continue to review HSR Act filings and conduct merger reviews (for reportable and nonreportable transactions), although the FTC states that the majority of its work is being conducted remotely and all external meetings with parties or third parties will be handled by telephone or videoconference.

Regarding timelines for ongoing or new merger reviews, it is possible that the agencies may seek extensions to those deadlines in the event that circumstances change. The FTC's Bureau of Competition states that it is "conducting a matter-by-matter review of our investigations and litigations to consider appropriate modifications of statutory or agreed-to timing."

Contact us

Husch Blackwell's antitrust team continues to monitor the evolving situation and its implications for our clients. Should you have any questions, please do not hesitate to contact Wendy Arends, Mark Tobey or your Husch Blackwell attorney.