



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

February 18, 2025

**MEMORANDUM**

**FROM:** Chairman Andrew N. Ferguson  
**TO:** FTC Staff  
**SUBJECT:** Merger Guidelines

As you know, last week the updated HSR Rule took effect. As we expected, our Premerger Notification Office (“PNO”) received a huge number of filings right before the new forms arrived. We typically see between 35 and 50 transactions per week. But during the last week under the old notification rules, the PNO received 394 filings accounting for about 200 transactions. Our dedicated PNO staff have been hard at work poring over the submissions and providing short sheets of the proposed transactions. I am grateful for their tireless effort.

As we confront this merger wave together, I write to clarify the standards which should guide your review of transactions. Insofar as there is any ambiguity, let me be clear: the FTC’s and DOJ’s joint 2023 Merger Guidelines are in effect and are the framework for this agency’s merger-review analysis.

The first ever joint Horizontal Merger Guidelines in 1992<sup>1</sup> were an important milestone. Before 1992, only DOJ had merger guidelines. But it is better for everyone—the courts, businesses, workers, and Congress—when the two agencies are singing from the same song sheet. Since the 1992 Guidelines, the agencies have been going it together. The first revisions to the 1992 Guidelines came in President Clinton’s second administration in 1997.<sup>2</sup> The 1997 revisions remained in effect until President Obama’s administration issued revisions in 2010.<sup>3</sup> Those 2010 revisions, in turn, remained in effect through President Trump’s first administration until 2023.<sup>4</sup>

Stability across administrations of both parties has thus been the name of the game. President Clinton retained the 1992 Guidelines promulgated by the George H.W. Bush Administration until 1997. President George W. Bush retained the 1997 Guidelines unchanged. And President Trump retained unchanged the 2010 Guidelines issued by the Obama Administration.

I have been asked a number of times about the fate of the 2023 Guidelines now that I am Chairman. I think the clear lesson of history is that we should prize stability and disfavor wholesale

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<sup>1</sup> U.S. Dep’t of Justice & Fed. Trade Comm’n, Merger Guidelines (1992), <https://www.justice.gov/sites/default/files/atr/legacy/2007/07/11/11250.pdf>.

<sup>2</sup> U.S. Dep’t of Justice & Fed. Trade Comm’n, Horizontal Merger Guidelines (Apr. 8, 1997), <https://www.ftc.gov/system/files/attachments/press-releases/ftc/doj-announce-revised-guidelines-efficiencies-mergers/hmg.pdf>.

<sup>3</sup> U.S. Dep’t of Justice & Fed. Trade Comm’n, Horizontal Merger Guidelines (Aug. 19, 2010), [https://www.ftc.gov/system/files/documents/public\\_statements/804291/100819hmg.pdf](https://www.ftc.gov/system/files/documents/public_statements/804291/100819hmg.pdf).

<sup>4</sup> U.S. Dep’t of Justice & Fed. Trade Comm’n, Merger Guidelines (Dec. 18, 2023), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023\\_merger\\_guidelines\\_final\\_12.18.2023.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf).

rescission. As I said last June, “guidelines work best when there’s some stability.”<sup>5</sup> A recriminatory cycle of partisan rescissions will not help the economy. If merger guidelines change with every new administration, they will become largely worthless to businesses and the courts. No business can plan for the future on the basis of guidelines they know are one election away from rescission, and no court will rely on guidance that is so obviously partisan.

Stability is also good for the enforcement agencies. The wholesale rescission and reworking of guidelines is time consuming and expensive. We should undertake this process sparingly. We have limited resources to patrol the beat and constant turnover undermines agency credibility.

By and large, the 2023 Merger Guidelines are a restatement of prior iterations of the guidelines, and a reflection of what can be found in case law. That is good reason to retain them. That is not to say that the 2023 Merger Guidelines are perfect. No guidelines are perfect. If experience teaches that revisions are appropriate, then the agencies can consider revisions as they have done in the past. This iterative and transparent revision process promotes the stability that the guidelines need to succeed. For the foreseeable future, and until any such revisions are adopted, the FTC will use the 2023 Merger Guidelines as the framework to do our important merger-enforcement work.

Thank you all for your tireless devotion to protecting competition. I am proud to serve alongside you.

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<sup>5</sup> Mercatus Center, Transcript: A Conversation with FTC Commissioner Andrew Ferguson Hosted by Alden Abbott (June 13, 2024), <https://www.mercatus.org/events/2024/06/conversation-ftc-commissioner-andrew-ferguson-hosted-alden-abbott>.