



Antitrust /Mergers & Acquisitions ADVISORY ■

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COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays

Every part of U.S. society is being impacted by the coronavirus (COVID-19) pandemic, and the federal antitrust review of proposed transactions is no exception.

Effective Tuesday, March 17, 2020, the federal antitrust agencies are only accepting Hart-Scott-Rodino Act (HSR) premerger notification filings via a secure FTP. The Premerger Notification Office (PNO) of the Federal Trade Commission (FTC) has issued [specific guidance](#) on use of the e-filing system and related PNO operating procedures.

The PNO will continue to review submissions for completeness and will confirm the applicable waiting period to filing parties. However, until further notice, the government will not be granting early termination of the HSR waiting period. Parties submitting HSR filings should therefore expect to wait at least the statutorily mandated waiting period (typically 30 days) before closing.

Merging parties should also expect that agency review of mergers that raise antitrust issues will take longer to complete. The U.S. Department of Justice [has announced](#) that it will be “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.” And Ian Conner, director of the FTC’s Bureau of Competition, [posted a notice](#) explaining that parties should expect the FTC to reach out to discuss “appropriate modifications of statutory or agreed-to timing [arrangements].”

Extensions to the statutory waiting periods are voluntary. However, federal enforcers have a range of options when parties are unwilling to grant additional time, including challenging consummated transactions or seeking a temporary restraining order. As the FTC’s Conner noted, “as always, [the FTC] will take affirmative action to protect consumers when necessary, including when an unmodified time period does not allow [the FTC] to address competitive concerns.”

Parties with pending or proposed transactions should consult with antitrust counsel for guidance on complying with the new procedures and effectively managing the risk of delay or challenge.

Alston & Bird has formed a multidisciplinary [task force](#) to advise clients on the business and legal implications of the coronavirus (COVID-19). You can [view all our work](#) on the coronavirus across industries and [subscribe](#) to our future webinars and advisories.

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