
Hughes Hubbard & Reed

Expedited Antitrust Review of Proposals for Health and Safety Collaborative Efforts to Combat COVID-19

Client Advisories

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On March 24, 2020, the U.S. Department of Justice Antitrust Division (“Antitrust Division”) and the Federal Trade Commission (“FTC”) issued a joint statement describing expedited review of proposals for businesses to collaborate on providing public health and safety resources necessary to combatting the COVID-19 pandemic. The two antitrust agencies committed to a highly expedited review—including responding within seven (7) calendar days—of requests for agency comment on such proposed collaborative efforts. This is substantially swifter than the multiple months typically required for review of collaborative business proposals.

The following types of collaborative efforts will generally fall within the scope of this expedited review and are generally encouraged: R&D programs, sharing of technical know-how, development of suggested standards for patient management to assist providers in clinical decision making, and joint lobbying activity addressing the use of federal emergency authority. This expedited review does not apply to mergers and acquisitions, or to collaborative efforts not related to the COVID-19 response.

This initiative is designed to assure companies and institutions in the vital health and safety sector that the antitrust agencies will not challenge appropriate collaborative efforts. Alternatively, if the antitrust agencies conclude that a proposal raises significant competitive problems, they will inform the proponents accordingly. Submission of proposals for review is voluntary.

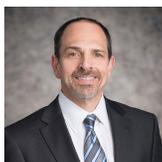
For the joint statement, please see U.S. Department of Justice Antitrust Division and Federal Trade Commission, Joint Antitrust Statement Regarding Covid-19, Mar. 24, 2020, <https://www.justice.gov/atr/joint-antitrust-statement-regarding-covid-19>. For further guidance on collaborations or assistance in obtaining antitrust review, please contact counsel.

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