

Additional Withdrawals of Long-Standing Guidance and Newly Proposed Merger Guidelines

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On July 14, 2023, signaling a continuing shift in its position on antitrust issues, the Federal Trade Commission (FTC) followed the U.S. Department of Justice (DOJ) and [withdrew](#) the Statements of Antitrust Enforcement Policy in Health Care and the Statement of Enforcement Policy Regarding Accountable Care Organizations Participating in the Medicare Shared Savings Program.

On July 20, at an open meeting, the FTC voted to issue a [statement](#) that discourages reliance on 11 prior advocacy letters and reports issued between 2004 and 2014 related to pharmacy benefit managers. This latest statement indicates that the FTC believes the prior statements and reports may no longer accurately reflect the current market.

These most current withdrawals follow the prior withdrawal of the [Vertical Merger Guidelines](#).

On July 19, the FTC and DOJ issued draft [Merger Guidelines](#) for public comment. The 13 proposed guidelines describe the criteria that will be used by the agencies in evaluating mergers, and the agencies stated that the changes were intended to “respond to modern market realities” in a transparent manner. The public comment period is open for 60 days.

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