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Antitrust Regulators Address Business Collaboration Designed to Combat COVID-19

In yet another example of the exigencies prompted by the COVID-19 pandemic, the federal agencies charged with enforcement of the antitrust laws announced expedited procedures and other guidance designed to facilitate cooperation among companies to combat the spread of the virus and mitigate its impact on public health and safety.

In a [joint announcement](#), the Antitrust Division of the Department of Justice and the Bureau of Competition of the Federal Trade Commission sought to make clear "that there are many ways firms, including competitors, can engage in procompetitive collaboration" in the face of the pandemic. In particular, the agencies (i) announced expedited process for companies and individuals to ask the agencies to evaluate proposed collaborations related to COVID-19, and (ii) where businesses seek to act even more quickly, provided informal guidance on when such actions may serve lawful, procompetitive ends.

First, the Antitrust Division [announced](#) that it would aim to respond expeditiously to all requests through its Business Review Process that relate to COVID-19 and, for those requests addressing public health and safety, within seven days of the receipt of all necessary information. The Antitrust Division also detailed how such requests should be made. Likewise, the Competition Bureau described its own expedited process by which businesses can seek a staff advisory opinion on proposed activities related to COVID-19.

Second, and significantly, both agencies recognized that some companies and individuals "may need to act immediately in addressing this ongoing pandemic," and that many such activities would be consistent with the antitrust laws. To drive home the point, the agencies enumerated several examples that may fall within this category, such as collaboration on research and development, sharing of technical know-how, development of suggested practice parameters and joint purchasing arrangements among health care providers. They acknowledged that health care facilities may need to collaborate in offering resources and services "to communities without immediate access to personal protective equipment, medical supplies, or health care," and that other types of businesses may have to "temporarily combine production, distribution, or service networks" for supplies related to COVID-19.

Just as with other federal and state authorities in recent days, however, both the Antitrust Division and the Competition Bureau cautioned against any use of the COVID-19 pandemic for unlawful gain. The agencies vowed to pursue civil and criminal violations of the antitrust laws.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our [COVID-19 Resource Center](#).

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not

an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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