

## FTC Promises Continued Rigorous Enforcement of Antitrust Laws During the COVID-19 Emergency

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Amidst the uncertainty due to the COVID-19 emergency, Ian Conner, the Director of the Bureau of Competition of the Federal Trade Commission (FTC) warned that the Bureau will continue to rigorously enforce the antitrust laws because there are no “emergency” exceptions to the antitrust laws.

In a [blog post](#) published April 6, 2020, Conner emphasized the flexibility of the antitrust laws to account for changing circumstances. While the investigations conducted by the FTC and Department of Justice (DOJ) have changed considerably in just the last few weeks as a result of the COVID-19 emergency, including shifting from in-person meetings to conference calls and videoconferences, instituting a temporary electronic filing system for Hart-Scott-Rodino (HSR) Act filings, and offering expedited approval of business review letters, Conner stressed that “the substance of our work remains the same.” Read Winston’s relevant blogs and briefings on each of these changes [here](#), [here](#), and [here](#). This is because, Conner explained, “[t]he antitrust laws are flexible enough to account for changing market conditions.”

This stance will likely make divestitures more difficult given the tumultuous state of the economy. Although Conner stated that FTC staff are “happy to entertain reasonable settlement options,” he also emphasized that FTC staff will continue to evaluate whether proposed buyers have the current financial capability to acquire and operate the divestiture assets, as well as the ability to compete in relevant markets with those assets, and will not “relax” its usual standards. The Bureau of Competition will not “sacrifice effective relief by rushing to approve a less-than-financially-stable buyer.” In short, crafting divestiture proposals that satisfy the Commission’s divestiture standards could be even more difficult during, and in the aftermath of, the COVID-19 emergency, making it all the more important to ensure that a potential divestiture buyer has a solid financial foundation to make the divestiture a success.

Winston lawyers regularly guide clients through the HSR Act and global merger control processes, including the defense of any government investigations that may follow, and are available to advise parties regarding any unique concerns related to this emergency guidance or the HSR Act process more generally. If you have further questions, contact your Winston relationship attorney for more information.

View all of our COVID-19 perspectives [here](#). Contact a member of our COVID-19 Legal Task Force [here](#).

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