

U.S. Antitrust Agencies Seek Tips on Anticompetitive Conduct in the Health Care Space

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The Federal Trade Commission (FTC), U.S. Department of Justice (DOJ), and U.S. Department of Health and Human Services (HHS) have just launched [HealthyCompetition.gov](https://www.healthycompetition.gov), an online portal designed to promote reporting of potentially anticompetitive and unfair health care practices. This platform is a collaborative effort aimed at bolstering the Biden–Harris administration’s broader strategy to reduce health care and prescription drug costs by increasing health care competition.

Health care companies and stakeholders should be prepared for an uptick in antitrust complaints and investigations in the short term, driven by the launch of HealthyCompetition.gov. Despite the anticipated short-term impact, the long-term impact remains uncertain and depends on the sustained engagement and use of the tipline by the public.

HOW HEALTHYCOMPETITION.GOV WORKS

Following the March 6 Workshop on Private Equity in Health Care, which convened industry experts and stakeholders to discuss the implications of private equity involvement in health care transactions, the FTC, DOJ, and HHS have taken another significant step in their campaign against perceived antitrust violations in the health care sector with the announcement of HealthyCompetition.gov. The online portal allows members of the public to submit anonymous complaints regarding unfair competition, monopolistic practices, or any other behaviors that may harm competition in the health care market. Once a complaint is submitted, it undergoes a preliminary review by staff at the FTC and DOJ’s Antitrust Division. If a complaint raises sufficient concerns under antitrust laws or falls within the jurisdiction of the HHS, the complaint will be selected for further review by the appropriate agency and could result in the initiation of a formal investigation.

With the announcement of HealthyCompetition.gov, FTC Chair Lina M. Khan emphasized the importance of public engagement, stating, “This joint initiative between FTC, DOJ, and HHS will provide a crucial channel for the agencies to hear from the public, bolstering our work to check illegal business practices that harm consumers and workers alike.” Assistant Attorney General Jonathan Kanter echoed this sentiment, highlighting the portal as a “one-stop shop” for reporting potential violations, facilitating early and collaborative action between agencies.

CONTINUED REGULATORY FOCUS ON HEALTH CARE

The collaborative efforts of the FTC, DOJ, and HHS signal a proactive approach to addressing antitrust concerns and promoting competition in health care. With the launch of HealthyCompetition.gov, the agencies have provided the public with an easily accessible platform to contribute to their ongoing investigations and enforcement actions.

Entities that may find themselves drawn into investigations through this complaint tipline include private equity firms, health care providers, pharmaceutical companies, and other stakeholders involved in the health care industry. To minimize the risk of being targeted, health care companies should continue to implement effective antitrust compliance programs and training. Health care companies, including private equity firms with health care portfolio companies, should also continue to monitor regulatory developments closely and assess their current and prospective activities in light of the heightened enforcement environment.

Winston's Antitrust/Competition Practice brings together attorneys across practices with years of experience advising on issues at the intersection of antitrust, private equity, and health care who can help clients manage this shifting regulatory landscape.

Stay tuned for more [updates](#) and [insights](#) as the FTC, DOJ, and HHS continue to take action impacting private equity and health care.

Authors

[Susannah Torpey](#)

[Conor Reidy](#)

[Nasir Hussain](#)

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[Susannah Torpey](#)



Conor Reidy



Nasir Hussain

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