

The Source Team Examines Changes to the Final 2023 Merger Guidelines

For Health Affairs Forefront, the Source's Katherine Gudiksen and Jaime King have analyzed [changes from the draft version to the final 2023 Merger Guidelines](#) released by the Federal Trade Commission (FTC) and Department of Justice (DOJ). In a previous [Health Affairs Forefront piece](#), Source staff examined the draft guidelines. This new post examines key elements of the new guidelines, concluding that while the final version better aligns the Guidelines with the underlying antitrust laws and caselaw, the Guidelines create more grey area for companies to demonstrate that mergers do not violate antitrust laws.

Nonetheless, the development of the Merger Guidelines follow increased attention on harmful consolidation in many industries by the Biden administration and FTC and DOJ. The Guidelines provide important transparency into the process by which the FTC and DOJ will analyze proposed mergers in the wake of decades of widespread consolidation and new market conditions in health care.

The Source will continue to follow merger challenges brought by the FTC and DOJ under the 2023 Merger Guidelines.