

REQUEST FOR VIEWS ON
PROPOSED HORIZONTAL MERGER GUIDELINES

SUMMARY: Today, the Federal Trade Commission is releasing for public comment a proposed revision of the Horizontal Merger Guidelines. The updated Guidelines were revised jointly by the Commission and the Department of Justice (the “Agencies”). These Guidelines, if adopted in final form, will outline the principal analytical techniques and practices, and the enforcement policy of the Agencies with respect to mergers and acquisitions involving actual or potential competitors under the federal antitrust laws.

These proposed Guidelines are intended to assist the business community and antitrust practitioners by updating and increasing the transparency of the analytical process underlying the Agencies' enforcement decisions. They may also assist the courts in developing an appropriate framework for interpreting and applying the antitrust laws in the horizontal merger context.

The Agencies seek to identify and challenge competitively harmful mergers while avoiding unnecessary interference with mergers that are either competitively beneficial or neutral. The Agencies are issuing the proposed Guidelines to obtain advice and suggestions from businesses, consumers, and antitrust practitioners that will assist the Agencies in ensuring the Guidelines achieve these goals.

DATE: Written comments must be received on or before June 4, 2010.

HOW TO SUBMIT COMMENTS: Interested parties are invited to submit written comments electronically or in paper form. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at <http://www.ftc.gov/os/publiccomments.shtm>. Comments will be made public, and therefore should not include any sensitive personal information, such as any

individual's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . ," as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 C.F.R. 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 C.F.R. 4.9(c).¹

Since paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form, by using the following weblink: <https://public.commentworks.com/ftc/hmgrevisedguides> (and following the instructions on the web-based form). Comments should refer to "HMG Revision Project – Comment, Project No. P092900" to facilitate the organization of comments. To ensure that the

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 C.F.R. 4.9(c).

Commission considers an electronic comment, you must file it by using the following weblink:

<https://public.commentworks.com/ftc/hmgrevisedguides>.

A comment filed in paper form should include “HMG Revision Project – Comment, Project No. P092900” both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex P), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act may be found in the FTC’s privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

FOR FURTHER INFORMATION CONTACT: hmgWorkshops@ftc.gov.