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Working Party No. 3 on Co-operation and Enforcement

**Optimal Design, Organisation and Powers of Competition Authorities – Note by the
United States**

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More documents related to this discussion can be found at
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1. Introduction

1. In recent years, the Federal Trade Commission (“FTC”) and the Antitrust Division of the U.S. Department of Justice (“Division”) (collectively, the “Agencies”) have faced many challenges in their competition enforcement missions. Some of the most significant include increased digitalization, systemic dominance in markets, ongoing industry consolidation, and anticompetitive behavior in labor markets. This paper discusses three strategies that the Agencies have used to modernize themselves and address these challenges: adding technology expertise and focusing resources; considering the intersection of competition and consumer protection, particularly privacy; and implementing a “whole of government” approach to promote competition in the economy.

2. Adding Technology Expertise and Focusing Resources

2. The strategies that the Agencies have taken to respond to contemporary competition enforcement challenges build upon the shared strong foundation that both Agencies have developed over a century of experience. Both Agencies employ large numbers of attorneys dedicated to casework. While most work in offices that have amassed expertise in particular industries, others work in offices that focus on non-merger conduct irrespective of the industry. Specialization in both industry and type of case continues to be critical to the Agencies’ effectiveness. In addition to attorneys, both Agencies also employ significant numbers of economists, financial analysts, and staff with other technical expertise.¹ Despite some differences in how the Agencies organize these professionals, both Agencies have historically used an interdisciplinary approach to staffing their case teams, with attorneys, economists, financial analysts, and other personnel collaborating on cases.

3. With ongoing digitalization and growing use of data in the economy by virtually all businesses, to best tackle these new challenges, modern competition authorities should add technology expertise. In recent years, the Agencies have built on their traditions of

¹ In addition to the substantial number of personnel dedicated to enforcement, both Agencies have long operated other offices that play important roles in maximizing the effectiveness of modern competition authorities. For instance, the Agencies’ international affairs offices are especially important for tackling contemporary competition trends. Increased industry consolidation, digitalization, and globalization of business operations are contributing to more mergers and unilateral and coordinated conduct that can affect multiple jurisdictions. In terms of enforcement, these trends have necessitated greater cooperation among competition authorities in their case work. These trends also raise significant policy issues that can benefit from greater cooperation among jurisdictions; for example, many competition authorities have recently conducted or are conducting inquiries into cloud computing, a central part of the economy upon which businesses in virtually all sectors increasingly rely. *See, e.g.*, Autorité de la Concurrence [French competition authority], Opinion 23-A-08 on Competition in the Cloud Sector ¶ 7 (June 29, 2023) (Fr.), https://www.autoritedelaconcurrence.fr/sites/default/files/attachments/2023-09/23a08_EN.pdf (stating that “the *Autorité* talked to other foreign authorities that carried out in-depth work on the competition issues raised by the cloud sector” and listing the European Commission, Japan Fair Trade Commission, Dutch Competition Authority, U.S. Federal Trade Commission, and U.K.’s Office of Communications).

expertise and using an interdisciplinary approach by adding technology expertise to the mix. The Agencies have accomplished this by hiring significant numbers of technologists and building up their enforcement offices to reflect these economic trends.

4. In early 2023, the FTC established the Office of Technology (“OT”) to strengthen the FTC’s ability to keep pace with technological challenges. OT staff have diverse professional backgrounds, including experience in academia, government, civil society, and industry, as well as a wide range of expertise across software engineering, design, product management, and research in a wide-variety of subject-matter areas, such as cloud computing, artificial intelligence and machine learning, human-computer interaction design, security, and data science. Using their experience and expertise, OT staff, or technologists, serve multiple important roles at the FTC.

5. First and foremost, OT staff strengthen and support the FTC’s law enforcement investigations and litigations by working directly with case teams. In this capacity, technologists use their expertise to help draft and negotiate data and document requests, analyze information received in investigations and litigation, identify and support outside industry experts retained for litigation, and aid in creating effective remedies. OT helps the agency deepen and diversify its technical expertise, deploy technical resources efficiently across the agency, and share lessons learned across case teams and offices.

6. Second, and separately, OT staff advise and engage with staff and senior leaders on policy and research initiatives. OT’s technological expertise is routinely integrated into non-enforcement agency actions, including industry studies, reports, requests for information, research, and policy statements. Technologists provide regular technical assistance for incoming congressional bills and engage with congressional staff via briefings in coordination with the Office of Congressional Relations. They also provide strategic guidance on technology matters through report recommendations and participate in engagement with regulatory counterparts in partnership with the Office of International Affairs. Additionally, OT conducts horizon scanning research to strengthen the agency’s muscles to nimbly respond for timely intervention and enforcement. For instance, OT staff partnered with policy staff on the FTC’s recent inquiry into the cloud computing industry, which focused on market power, business practices, and security risks.²

7. Third, OT staff engage the public and relevant experts to understand trends and advance the FTC’s work. This can be done through mechanisms such as formal workshops, research conferences, and briefings or consultations. OT staff also draw on the combined authority of its expertise and the stature of the FTC to engage the public and relevant experts to highlight key trends and share lessons learned. OT staff regularly consult with competition authorities and other regulatory agencies, domestically and abroad, to share best practices. They also organized the AI and the Creative Economy Roundtable listening session to better understand how the development and deployment of AI tools that can generate text, images, and audio—often referred to as generative artificial intelligence—may impact open and fair competition or enable unlawful business practices across markets, including in creative industries.³ Currently, OT is closely monitoring and engaging with experts on generative artificial intelligence and assessing competition issues

² FTC Office of Technology, *An Inquiry into Cloud Computing Business Practices: The Federal Trade Commission Is Seeking Public Comments*, FED. TRADE COMM’N: TECHNOLOGY BLOG (Mar. 22, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/03/inquiry-cloud-computing-business-practices-federal-trade-commission-seeking-public-comments>.

³ Press Release, Fed. Trade Comm’n, FTC to Host Virtual Roundtable on AI and Content Creation (Sept. 22, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-host-virtual-roundtable-ai-content-creation>.

like access to data, as well as the potential for open-source technology to be exploited through an “open first, closed later” strategy that is well-known in the technology industry.⁴

8. In 2023, the Division has deepened its expertise by hiring data scientists into the office that also houses the Division’s economists. To reflect its broader base of skills with the addition of data scientists, the Division’s Economic Analysis Group has changed its name to the Expert Analysis Group.

9. Data scientists enhance the Division’s ability to meet new technical challenges in antitrust. They have expertise in cloud computing, programming languages, algorithms, artificial intelligence, and machine learning. These skills, increasingly relevant to the Division’s investigations and litigation, make data scientists valuable members of case teams.

10. The Division’s data scientists collaborate directly with economists and attorneys on case teams. They help draft data requests, negotiate those requests, and analyze technical information received in investigations and litigation. Their work on case teams can involve analyzing complex data and evaluating source code. They also help case teams to ingest, structure, and visualize large data sets. The data scientists also help support economic and technical experts retained for litigation.

11. Data scientists further serve an important role in interfacing with the Division’s Technology Directorate on technical issues, including hardware, software, and network resources. In this role, data scientists work to improve the effectiveness of all technical and empirical work done by the Expert Analysis Group.

12. *Adding and restructuring enforcement offices.* The Agencies also have focused their technology expertise by creating specialized units to investigate anticompetitive conduct by technology companies that operate digital advertising, social networking, and other online platform businesses. For example, to further strengthen its technology expertise, in February 2019, the FTC established the Technology Task Force, now called the Technology Enforcement Division (“TED”), to handle investigations of potential anticompetitive conduct in markets where digital technology is an important dimension of competition. Currently, TED is litigating the FTC’s lawsuit against Meta Platforms (formerly Facebook), which alleges that the company is illegally maintaining its personal social networking monopoly through an anticompetitive course of conduct involving its acquisitions of Instagram and WhatsApp. This case alone touches on numerous digital market issues and technologies, including zero-price services, digital advertising, network effects, algorithms, data accumulation and privacy, cloud computing, and content moderation.

3. Taking an Intersectional Approach to Competition Issues by Considering Consumer Protection and Privacy

13. Modern competition authorities should consider the intersection between competition, consumer protection, and privacy issues. Technological advances, particularly widespread data collection and the rise of the surveillance economy, raise both competition and consumer privacy issues. For instance, when a dominant firm controls access to key data, it may act to exclude rivals and impede emerging competitive threats to

⁴ FTC Bureau of Competition & Office of Technology, Generative AI Raises Competition Concerns, FED. TRADE COMM’N: TECHNOLOGY BLOG (June 29, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/06/generative-ai-raises-competition-concerns>.

prolong its monopoly power. With that power, the dominant firm can then degrade consumers' privacy, a dimension of quality competition, without consequence. For example, in *FTC v. Facebook, Inc.*, the FTC, among other allegations, claimed that Facebook has exercised its monopoly power by providing lower privacy protections than it would have to provide in a competitive market.⁵ While the FTC's dual missions of competition and consumer protection provide a unique platform to conduct cross-disciplinary work,⁶ both Agencies have been considering this increasingly important intersection over the past few years across a range of industries.

14. The increasing use of automated systems, such as artificial intelligence, by businesses can lead to useful innovations, but it can also turbocharge unfair methods of competition, fraud, and discrimination. For example, automated systems can result in anticompetitive pricing, as well as be used to generate fake consumer reviews. The FTC, along with three other federal agencies, recently notified businesses that they will monitor the development and use of automated systems to promote responsible innovation, but that they would vigorously use their authority to address and untangle the multifaceted harms that such technologies can produce.⁷

15. The widespread deployment of these technology tools in "gig economy" businesses, such as food delivery and ride-hailing services, similarly raise competition and consumer protection concerns for gig workers. Gig economy companies often use artificial intelligence to govern workers' pay, performance, and work assignments. Such practices may harm competition by suppressing or fixing workers' wages. They also may implicate consumer protection obligations if companies do not keep their promises about workers' potential earnings. In September 2022, the FTC warned gig economy firms that these practices may violate competition and consumer protection law.⁸ In particular, the FTC explained that it would investigate agreements between gig companies to determine wages, benefits, or fees as potential antitrust violations. In terms of consumer protection, the FTC warned that undisclosed startup costs, training fees, or other material terms may violate Section 5 of the FTC Act, as an unfair or deceptive act or practice, as well as the Franchise Rule and Business Opportunity Rule.⁹

16. As companies in industries from healthcare to finance increasingly rely on the cloud to operate their businesses, the trend of companies outsourcing their information technology needs to cloud computing providers raises important competition and data

⁵ Substitute Amended Complaint at ¶ 222, *FTC v. Facebook, Inc.*, No. 20-cv-03590-JEB (D.D.C. Sept. 8, 2021).

⁶ Indeed, to strengthen its cross-disciplinary capabilities, the FTC recently launched an Honors Attorney Program, where selected attorneys will rotate between competition and consumer protection enforcement offices. *FTC Honors Attorney Program: Cross-Bureau Entry-Level Opportunity*, FED. TRADE COMM'N, <https://www.ftc.gov/about-ftc/bureaus-offices/bureau-competition/careers-bureau-competition/ftc-honors-attorney-program-cross-bureau-entry-level-opportunity> (last visited Nov. 15, 2023).

⁷ Press Release, Fed. Trade Comm'n, FTC Chair Khan and Officials from DOJ, CFPB and EEOC Release Joint Statement on AI (Apr. 25, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-chair-khan-officials-doj-cfpb-eeoc-release-joint-statement-ai>.

⁸ Press Release, Fed. Trade Comm'n, FTC Chair Khan and Officials from DOJ, CFPB and EEOC Release Joint Statement on AI (Sept. 15, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-crack-down-companies-taking-advantage-gig-workers>.

⁹ Fed. Trade Comm'n, Policy Statement on Enforcement Related to Gig Work (Sept. 15, 2022), <https://www.ftc.gov/legal-library/browse/policy-statement-enforcement-related-gig-work>.

privacy concerns. For instance, the structure and design of cloud computing providers' offerings may make it more difficult for customers to switch to another provider for the majority of their cloud usage, or to mix and match offerings from multiple providers. In terms of data privacy, cloud computing providers may be disproportionately shifting the burden of data security onto their customers, increasing the risk of security breaches. As part of its horizon scanning efforts, the FTC conducted an inquiry into the cloud computing industry to understand how these and other issues overlap.¹⁰ The findings of this interdisciplinary inquiry will help the FTC more quickly identify the full range of harms that can adversely affect consumers in future matters involving cloud computing.

17. The Division has similarly advocated that parties and other regulators should deeply consider the inherent value of competition on privacy rights and consumer protection. The Division's recent comment to the National Telecommunications and Information Administration ("NTIA") applauded the agency for addressing issues at the intersection of privacy, equity, and civil rights and encouraged policymakers to consider adopting a "multifaceted and interdisciplinary approach" to promoting privacy and consumer rights in the digital marketplace.¹¹ In addition, the comment acknowledged the privacy benefits that arise when markets are competitive, including affording privacy-conscious consumers greater choice and preventing a dominant firm's exclusive grip on mass quantities of data.

18. The Division has also collaborated with policymakers across the federal government on the issue of workplace surveillance, which can flout workers' privacy rights.¹² Employers' use of artificial intelligence makes sensitive data on employees easier to amass and transmit between competitors, particularly when the transmission is facilitated by artificial intelligence as well. The Division has prosecuted companies for entering into information-sharing agreements that suppress competition, even if they do not directly exchange information with each other but instead contract with a third party.¹³ Information exchanges via artificial intelligence or other technologies may similarly be anticompetitive and violate the antitrust laws. The Division will continue to monitor these types of information exchanges for anticompetitive activity.

4. Implementing A "Whole of Government" Approach to Promote Competition

19. Modern competition authorities should implement a "whole of government" approach to promote competition in consultation with sector regulators. Under this strategy, different government agencies within a jurisdiction coordinate their efforts—whether law enforcement actions, regulations, project management, or the procurement of goods and services—to ensure that policy solutions at all relevant agencies work together

¹⁰ FTC Office of Technology, *An Inquiry into Cloud Computing Business Practices: The Federal Trade Commission Is Seeking Public Comments*, FED. TRADE COMM'N: TECHNOLOGY BLOG (Mar. 22, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/03/inquiry-cloud-computing-business-practices-federal-trade-commission-seeking-public-comments>.

¹¹ Comment of the Antitrust Division of the United States Department of Justice, Docket No. 230103-0001 (Mar. 6, 2023), <https://www.justice.gov/atr/page/file/1573126/download>.

¹² See Request for Information; Automated Worker Surveillance and Management, 88 Fed. Reg. 27932 (May 3, 2023).

¹³ See Complaint, *U.S. v. Cargill Meat Sols. Corp.*, No. 1:22-CV-01821 (D. Md. July 25, 2022); see also Proposed Consent Decree, *U.S. v. Cargill Meat Sols. Corp.*, No. 1:22-CV-01821 (D. Md. July 25, 2022).

to promote competition in the economy. This approach is important because a jurisdiction's competition authority may not always have the same level of expertise of other government agencies with sector-specific responsibilities. Collaborating with other agencies ensures that competition authorities are benefiting from expertise across government, drawing on industry-specific knowledge, and in turn helping equip other agencies to diagnose and address competition problems more directly or to avoid regulations that entrench incumbent firms. Through increased collaboration and coordination, competition authorities and other government agencies can share their respective expertise, increase their reach, and conserve resources, increasing the likelihood that their actions will spur more competition in the economy.

20. In July 2021, President Biden signed an Executive Order that established a whole-of-government effort to promote competition in the American economy.¹⁴ Specifically, the Order calls on more than a dozen federal agencies, including the FTC and the Division, to work together to address issues like ongoing industry consolidation and entrenched dominance in markets. Pursuant to the Order's initiatives, the Agencies have increased outreach and coordination with other federal agencies, such as the Department of Agriculture, Food and Drug Administration, National Labor Relations Board, and Patent and Trademark Office. Acting on this Order, the Agencies have led or participated in many recent initiatives to increase competition beyond what they could achieve alone.

21. Supported by the Food and Drug Administration ("FDA"), the FTC warned pharmaceutical companies that make and sell brand-name drugs that they could face legal action if they improperly list patents in the FDA's catalog of "Approved Drug Products with Therapeutic Equivalence Evaluations," commonly known as the "Orange Book."¹⁵ The Orange Book is a list of drug products approved by the agency as safe and effective. When a brand pharmaceutical company lists a patent in the Orange Book it may lead to a statutory stay that blocks the introduction of competing drug products, including lower-cost generic alternatives, for up to 30 months. Improper listings, therefore, may harm competition by delaying the introduction of generic drugs and keeping prices artificially high for consumers. The FTC's warning encourages competition by making clear that it will scrutinize the improper listing of patents in the Orange Book and may dispute patent listing through the FDA's process.¹⁶

22. The FTC recently entered into two partnerships—one with the National Labor Relations Board ("NLRB") and another with the Department of Labor—to cooperate to protect workers from unfair methods of competition and deceptive acts and practices. The NLRB partnership focuses on protecting workers in the "gig economy" by allowing the two agencies to share information, conduct cross-training for staff, and partner on investigative efforts within each agency's authority.¹⁷ The partnership with the Department

¹⁴ Exec. Order No. 14,036, 86 Fed. Reg. 36987 (July 9, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

¹⁵ Fed. Trade Comm'n, Policy Statement Concerning Brand Drug Manufacturers' Improper Listing of Patents in the Orange Book (Sept. 14, 2023), <https://www.ftc.gov/legal-library/browse/federal-trade-commission-statement-concerning-brand-drug-manufacturers-improper-listing-patents>.

¹⁶ *Id.* at 6.

¹⁷ Press Release, Fed. Trade Comm'n, Federal Trade Commission, National Labor Relations Board Forge New Partnership to Protect Workers from Anticompetitive, Unfair, and Deceptive Practices (July 19, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/07/federal-trade-commission-national-labor-relations-board-forge-new-partnership-protect-workers>.

of Labor creates similar information-sharing mechanisms and seeks to address labor issues beyond the gig economy, including labor market concentration, one-sided contract terms, non-compete agreements, and misclassification of employees.¹⁸

23. The Division similarly signed memoranda of understanding with both the Department of Labor¹⁹ and the NLRB²⁰ to enhance enforcement efforts through greater coordination, information sharing, and cross-agency training and outreach to ensure that workers are protected from collusion and unlawful employer behavior. The partnerships address some of the challenges highlighted in a labor report by the Department of Treasury noting how lack of competition affects workers' wages and opportunities.

24. The Division and the U.S. Department of Agriculture ("USDA") expanded their existing partnership through a memorandum of understanding supporting the agencies' communications and collaborations necessary to enforce the Packers and Stockyards Act.²¹ The MOU enables the USDA to refer potential violations of the Packers and Stockyards Act to the Division to pursue meritorious competition-related cases and to allow the agencies to collaborate on other issues of mutual interest. The Division and the USDA jointly launched farmerfairness.gov, a new online tool that allows farmers and ranchers to anonymously report potentially unfair and anticompetitive practices in the livestock and poultry sectors.

25. The Division and the Office of the Inspector General of the Department of Health and Human Services signed a memorandum of understanding²² to strengthen the partnership between the two agencies to better protect healthcare consumers and workers from collusion, ensure compliance with laws enforced by the agencies, and promote competitive healthcare markets.

26. Since the Executive Order on Competition was issued in July 2021, in total, the Division has established seven interagency memoranda of understanding with the agencies that oversee labor, agriculture, ocean shipping, transportation, healthcare, and banking and financial services markets.

¹⁸ Press Release, Fed. Trade Comm'n, FTC, Department of Labor Partner to Protect Workers from Anticompetitive, Unfair, and Deceptive Practices (Sept. 21, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/09/ftc-department-labor-partner-protect-workers-anticompetitive-unfair-deceptive-practices>.

¹⁹ Press Release, Dep't of Just., Department of Justice and Labor Strengthen Partnership to Protect Workers (Mar. 10, 2022) <https://www.justice.gov/opa/pr/departments-justice-and-labor-strengthen-partnership-protect-workers>.

²⁰ Press Release, Dep't of Just., Justice Department and National Labor Relations Board Announce Partnership to Protect Workers (July 26, 2022), <https://www.justice.gov/opa/pr/justice-department-and-national-labor-relations-board-announce-partnership-protect-workers>.

²¹ Memorandum of Understanding Between the U.S. Department of Agriculture and the U.S. Department of Justice Regarding Enforcement of the Packers and Stockyards Act (Feb. 3, 2022), <https://www.justice.gov/atr/page/file/1540151/download>.

²² Memorandum of Understanding Between the Antitrust Division of the U.S. Department of Justice and the Office of the Inspector General of the U.S. Department of Health and Human Services (Dec. 9, 2022), <https://www.justice.gov/atr/page/file/1568221/download>.

27. In October 2023, President Biden issued an Executive Order to ensure that the U.S. leads the efforts to shape the benefits and manage the risks of artificial intelligence.²³ The Order calls on various agencies to establish new standards for AI safety and security, protect Americans' privacy, advance equity and civil rights, guard consumers and workers, and promote innovation and competition. In particular, the Order encourages the FTC to use its powers to promote an open and competitive AI ecosystem that enables small developers and businesses to commercialize their innovations.

28. The Division has partnered with federal agencies on reports addressing competition in labor markets, the mobile application ecosystem, seeds and other agricultural inputs, and the defense industrial base.

29. For example, the Department of Defense Office of the Under Secretary of Defense for Acquisition and Sustainment ("DoD") submitted a report to the Competition Council on the State of Competition within the Defense Industrial Base.²⁴ The Division consulted with DoD on its report, which found that the defense industrial base is highly concentrated and that efforts should be made to prevent intellectual property rights from limiting competition and to increase opportunities for new entrants and small businesses to improve supply-chain resiliency.

30. The Department of Commerce's NTIA issued a request for comment on competition in the mobile app ecosystem. The Division worked with NTIA on the request for comment, and after the comment period closed, the NTIA prepared a report²⁵ on the mobile app ecosystem incorporating the Division's feedback and recommendations.

31. The Department of the Treasury submitted to the Competition Council a Report on The State of Labor Market Competition.²⁶ The Division and the FTC worked to draft the report with the Departments of Treasury and Labor, which found that monopsony power and/or concentration in particular industries and locations can lead to workers receiving less pay, fewer benefits, and worse conditions than what they would under conditions of greater competition.

32. Both Agencies also consulted with the Department of the Treasury,²⁷ which released a report on competition in the beer, wine, and spirits markets and recommended a series of actions designed to level the playing field for small businesses and new entrants and, ultimately, increase competition.²⁸ For example, the report recommends that the Agencies continue to promote competition by engaging with state actors on legislation

²³ *Fact Sheet: President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence*, THE WHITE HOUSE, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/30/fact-sheet-president-biden-issues-executive-order-on-safe-secure-and-trustworthy-artificial-intelligence/> (last visited Nov. 15, 2023).

²⁴ DEP'T. OF DEFENSE, STATE OF COMPETITION WITHIN THE DEFENSE INDUSTRIAL BASE (2022).

²⁵ DEP'T OF COMMERCE, COMPETITION IN THE MOBILE APPLICATION ECOSYSTEM (2023).

²⁶ DEP'T OF TREASURY, THE STATE OF LABOR MARKET COMPETITION (2022).

²⁷ The Department of the Treasury's Alcohol and Tobacco Tax and Trade Bureau ("TTB") regulates the beverage alcohol industry. TTB enforces the Federal Alcohol Administration Act to ensure that only qualified businesses can engage in the beverage alcohol industry.

²⁸ Press Release, U.S. Dep't of the Treasury, Treasury Releases Competition Report for Alcohol Market, Recommends Boosting Opportunity for Small Businesses (Feb. 9, 2022), <https://home.treasury.gov/news/press-releases/jy0591>.

impacting competition in alcohol markets and scrutinize acquisitions of craft brewers by major brewers.

33. The Division has submitted nine public comments to federal agencies encouraging the agencies to promote competition through agency rulemakings and calls for information. In addition, the Division has submitted public filings in agency enforcement proceedings and merger reviews.