

PE Firms on FTC and DOJ's Naughty List?

A photograph of a modern building with a curved glass facade, showing multiple floors and windows, set against a light blue sky.

1 MIN READ

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By: Jeny M. Maier

The FTC and DOJ have continued their efforts to take action against private equity firms for engaging in serial acquisitions (so-called “roll-ups”). The agencies claim that these deals increase prices and degrade quality for consumers, while allowing the investor groups to profit. The FTC’s latest private equity merger case, against US Anesthesia Partners and Welsh Carson, will be a critical test of the agencies’ new draft merger guidelines and their stated positions against these types of deals: specifically, “Mergers Should Not Further a Trend Toward Concentration” (Guideline 8) and “When a Merger is Part of a Series of Multiple Acquisitions, the Agencies May Examine the Whole Series” (Guideline 9).

As highlighted in a chapter of a forthcoming book, challenges to PE-backed M&A transactions are not the only aspect of the agencies’ focus on private equity. This year, the DOJ Antitrust Division has expanded its lens to examine investment funds’ representations on competing companies’ boards under Section 8 of the Clayton Act, and DOJ has raised questions around inappropriate information sharing between competitors that could arise from such “interlocking” directors. The article linked below, featured in the forthcoming book “Women in Antitrust: Antitrust Across the Borders” (available via Amazon on November 8) provides a primer on the latest developments in Section 8 activity, and the importance of antitrust compliance for firms with board seats.

https://www.axinn.com/assets/htmldocuments/PEHUB_Clayton%20Ac_FEB23.pdf

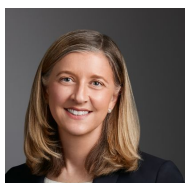
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WOMEN IN ANTITRUST ANTITRUST ACROSS THE BORDERS

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Jeny M. Maier

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