

FTC Guidance on Pre-Merger Information Exchange

Date: 04/23/18

The FTC recently reiterated its views on the risks of sharing information with competitors before and during merger negotiations—a concern that remains until the merger closes. The FTC recognizes that in a merger or acquisition, companies often need to share information for due diligence purposes and to plan for a smooth transition immediately after closing. However, information exchanges and other pre-merger collaborative efforts may in some cases raise antitrust risks because parties must continue to act as independent companies until the deal closes, and, for competitors and potential competitors, the exchange of competitively sensitive information (such as current and future prices, customer lists, and strategic plans) could lead to improper coordination.

Attached is the firm memorandum discussing the FTC's guidance.

Should you have any questions about the memorandum, please feel free to contact the persons identified at the end of the memo or your regular Cahill contacts. Cahill regularly publishes memoranda covering a variety of legal developments. To access copies and search our archive, [click here](#).

Attorneys

- Elai Katz
- Lauren Rackow

CAHILL GORDON & REINDEL LLP