



JOINT ANTITRUST STATEMENT REGARDING COVID-19

Addressing the spread of Coronavirus Disease 2019 (“COVID-19”) w(NH04250)5 (st).7/16/21

- x The Agencies have expressed that sharing technical know-how, rather than company-specific data about prices, wages, outputs, or costs, may be “necessary to achieve the procompetitive benefits of certain collaborations.” *Id.* at 15; *see also* Federal Trade Commission, [Information Exchange: Be Reasonable](#) (discussing the “safety zones” around information sharing).
- x The Agencies have explained that they will not challenge, absent extraordinary circumstances, providers’ development of suggested practice parameters – standards for patient management developed to assist providers in clinical decisionmaking – that also may provide useful information to patients, providers, and purchasers. *See* Federal Trade Comm’n & U.S. Dep’t of Justice, [Statement of Antitrust Enforcement Policy in Health Care at 41](#) (1996).
- x The Agencies have also explained that most joint purchasing arrangements among healthcare providers, such as those designed to increase the efficiency of procurement and reduce transaction costs, do not raise antitrust concerns. *See id.* at 53 (also explaining circumstances in which joint purchasing arrangements may raise concerns).
- x The antitrust laws would generally permit private lobbying addressed to the use of federal emergency authority, including private industry meetings with the federal government to discuss strategies on responding to COVID-19. *See* [FTC Staff Report on Antitrust and Health Care Reform](#) (2017), at 3.371 (noting that the antitrust laws “do not prohibit private industry meetings with the federal government to discuss strategies on responding to COVID-19”).

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and Human Services to effectuate the Defense Production Act and the Pandemic and All-Hazards Preparedness Act, as appropriate, along with other agencies working to address COVID-19.

While many individuals and businesses have and will demonstrate extraordinary compassion and flexibility in responding to COVID-19, others may use it as an opportunity to subvert competition or prey on vulnerable Americans. The Division and the Bureau will not hesitate to seek to hold accountable those who do so. In particular, the Division and the Bureau stand ready to pursue civil violations of the antitrust laws, which include agreements between individuals and business to restrain competition through increased prices, lower wages, decreased output, or reduced quality as well as efforts by monopolists to use their market power to engage in exclusionary conduct. The Division will also prosecute any criminal violations of the antitrust laws, which typically involve agreements or conspiracies between individuals or businesses to fix prices or wages, rig bids, or allocate markets.

More broadly, the Department of Justice in

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