

Do the antitrust laws apply to competitors joining together to respond to the coronavirus crisis?

Updated as of March 6, 2020:

Natural disasters and emergencies can bring out the best or worst in human nature. The antitrust agencies can be expected to target bad actors trying to exploit the coronavirus crisis. The Department of Justice will be on the lookout for companies that take advantage of Federal, State and local government procurement of goods and services to respond to the coronavirus crises by price fixing, bid rigging and market allocations. The Federal Trade Commission will be on the lookout for companies that violate consumer protections laws.

The antitrust laws, however, are sufficiently flexible to accommodate competitors joining together to respond to the coronavirus crisis. For example, hospitals or other health care facilities may need to combine resources or services to meet the needs of affected communities or two pharmaceutical companies may need to combined resources to more quickly develop a vaccine. Although these and other joint efforts by competitors to respond to the coronavirus crisis are subject to review under the antitrust laws, antitrust analysis will take into account changes in market conditions brought on by the coronavirus crisis.

If joining forces with a competitor will allow a more effective response to the coronavirus crisis, counsel can help you design a joint collaboration in a manner consistent with the antitrust laws.