



September 15, 2023

The Honorable Lina Khan
Chairperson
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Jonathan Kanter
Assistant Attorney General
Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: FTC-2023-0043, U.S. Department of Justice and the Federal Trade Commission Draft Merger Guidelines for Public Comment

Dear Chair Khan and Assistant Attorney General for Antitrust Jonathan Kanter:

As a leading representative of America's 33 million small businesses, we are pleased to provide comments to the Federal Trade Commission (FTC) and the U.S. Department of Justice's (DOJ) newly released draft merger guidelines. This is a timely and important issue for small businesses, particularly as small business owners do not have sufficient market power to impact larger businesses' behaviors on their own.

Small Business Majority is a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. From our nine offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest businesses and those facing systemic inequities.

Robust market competition is essential to a thriving small business ecosystem. A level playing field can boost healthy competition between small and large businesses. This promotes more competitive prices and business terms, as small firms are regularly buying from and selling to larger companies. For example, small businesses depend on key online platforms to market and sell their products and services. In fact, [57% of small businesses](#) rely on such tech platforms to sell their products and services. As these tech platforms continue to take over the market, they can charge excessive fees and prices, and even impose onerous commercial terms—pricing out small businesses from the competition. We see this play out on the biggest tech platforms such as Amazon, Facebook and Google.

Likewise, small businesses depend on critical supply chains to create products or support the services they offer. Suppliers are charging high prices and imposing unfair business terms, leaving small business owners without alternative options. The same applies to other components in the product distribution process, such as shipping and transportation.

Another example of excessive monopolization that is causing indirect economic hardship to small businesses is the lack of competition within the hospital industry. When hospitals in a geographic area crowd out the competition, insurance companies are compelled to include them in a coverage plan at rates dictated solely by the monopolistic entity. Hospitals are also buying outpatient facilities and physician practices to drive up prices through vertical integration. These large, consolidated hospital systems are using their increased market power to drive up costs through anti-competitive contracting and billing practices. Those excessive costs are passed down to small business owners and their employees, forcing them to pay for overpriced healthcare.

Our polling found that [80% of small businesses](#) say that large businesses have too much control over markets that allow them to take advantage of small businesses and that the federal government needs to step in to help create a more equitable playing field.

In short, small businesses depend on a healthy, robust competitive environment to be able to conduct business and survive. The draft merger guidelines address current gaps in limiting the development of excessive economic concentration and for that reason we endorse them. Small Business Majority appreciates the opportunity to comment, and we urge the FTC and DOJ to consider the above comments.

Sincerely,

John Arensmeyer
Founder & CEO, Small Business Majority

What small business owners are saying:

“As a small business owner, I’m not in a secure enough position to completely disassociate myself from big tech platforms like Amazon or Google. And unfortunately, Amazon knows this. So, I must deal with the uncertainties of selling on big platforms that take the little guy for granted, also knowing we’re operating on an unlevel playing field. I don’t expect ‘silver spoon’ accommodations when using these platforms to sell my products. However, I hope monopolies with unlimited resources will eventually understand that regulations and policies must change to allow smaller firms to compete on the same platforms. It’s only fair.”

-- Jasmine Johnson, Owner and Inventor, ParentCo Electrical Outlet Covers, Illinois

“Being in the toy and hobby business, we are acutely aware and impacted by supply chain disruptions. As a small business owner, many of my customers are regulars. They rely on us to provide quality service and products at affordable prices. They’re aware of what’s happening in the news—like inflation and bottlenecks at ports—that may affect the prices of our products. But most of them are unfamiliar with aspects of corporate consolidations and unfair tax codes that impact the supply chain and drive prices. As a smaller firm, we’re at a disadvantage when it comes to having the resources needed to navigate things like sourcing multiple products, absorbing high shipping and transportation taxes and penalties without passing them onto our customers, and managing importing and exporting directly with manufacturers. We need to set clear and effective rules that protect competition and small firms doing business in the product distribution space.”

-- Michael Brey, Owner and President, Hobby Works, Maryland

“My husband and I have owned our small manufacturing business for 22 years. We continue to endure many challenges that test our resiliency and strain our resources. Out-of-control costs have kept us from being able to provide health insurance for our employees for many years. The consolidation and lack of competition in the healthcare industry has made insurance and healthcare less and less affordable. Big investment firms are creating huge monopolies driving up costs across the healthcare industry. These exorbitant costs are forcing working Americans and their families to make life-impacting choices, while Wall Street rakes in profits. Small businesses in Colorado and across the country need policy changes that eliminate surprise fees and curb ever-increasing deductibles driven by large consolidations of hospital systems and private medical practices. Small businesses and their employees can no longer afford to carry the burden of these excessive and unnecessary healthcare costs. Things must change.”

-- Sandra Payne, Owner and President, Denver Concrete Vibrator