

[Antitrust & Competition Life Sciences Year in Review 2023](#)



Despite increasingly aggressive rhetoric from the agencies, 2022 was largely characterized as “business as usual” in the antitrust world. In contrast, 2023 featured a significant step up in enforcement activity, including multiple challenged transactions and lengthy investigations in the life sciences space. As notable, many of these enforcement activities involved more “novel” theories of harm — such as bundling, potential competition, and harm to research, development, and innovation — displaying a willingness by the Federal Trade Commission (FTC) to put its rhetoric into action. At the same time, the novel theories pursued by both the FTC and Department of Justice (DOJ) have generally (though not uniformly) been met by skepticism in federal court.

Antitrust + Competition lawyers [Arman Oruc](#), [Andrew Lacy](#), [Elliot Silver](#), and [Charlie Stewart](#) discuss transaction developments and predictions in the [Antitrust & Competition Life Sciences Year in Review 2023](#).

[United States: Trends of Agency Scrutiny on Pharmaceutical Transactions Expected to Shift Amid Rise in Deal Activity \(GCR\)](#)

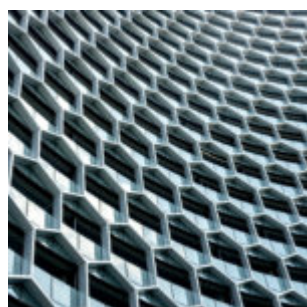


Despite the threatening rhetoric, the early years of the Biden Administration largely followed previous regimes with respect to antitrust enforcement in the life sciences space. Pharmaceutical transactions in particular encounters the expected amount of agency scrutiny, with most proceeding without an extended investigation and, in contrast to deals in the tech space, did not become testing grounds for more novel theories of competitive harm. This trend might be changing just as deal activity icked up in early 2023. [Antitrust & Competition](#) co-

chairs [Arman Oruc](#) and [Andrew Lacy](#), partner [Elliot Silver](#), and associate [Charlie Stewart](#) explain more in [GCR's The Guide to Life Sciences](#).

Read the in the press highlight [here](#).

[Antitrust & Competition Life Sciences Quarterly Update Q3 2023](#)

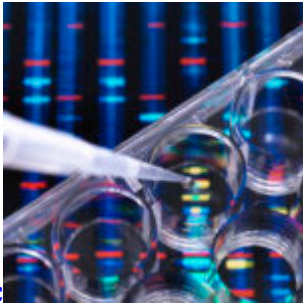


The third quarter in the life sciences space saw notable developments in significant agency enforcement actions:

- The FTC abandoned its pursuit of a novel theory and settled its Amgen/Horizon lawsuit 10 days before the scheduled preliminary injunction hearing. As detailed below, the settlement is fairly modest in scope and embraces the sort of behavioral remedy that current agency leadership (as well as recent administrations) has publicly dismissed as insufficient to resolve merger-related concerns.
- The FTC continues to explore other novel theories in its ongoing investigation of the Pfizer/Seagen transaction.
- The FTC remains concerned with “killer acquisitions” — transactions where Big Pharma with a commercial or late-stage asset acquire a clinical- or preclinical-stage asset allegedly with the purpose of eliminating or avoiding future competition. Although the agency has not challenged any transaction based on such a theory, it appears to be using the HSR process to screen therapeutics transactions for such a fact pattern.
- Finally, we also saw the creation of an industry trade group specifically focused on the FTC’s life science antitrust enforcement.

Read the full Antitrust & Competition Healthcare Quarterly Update for Q3 2023 written by Antitrust + Competition lawyers [Arman Oruc](#), [Andrew Lacy](#), [Sarah Jordan](#), [Elliot Silver](#), and [Charlie Stewart](#) [here](#).

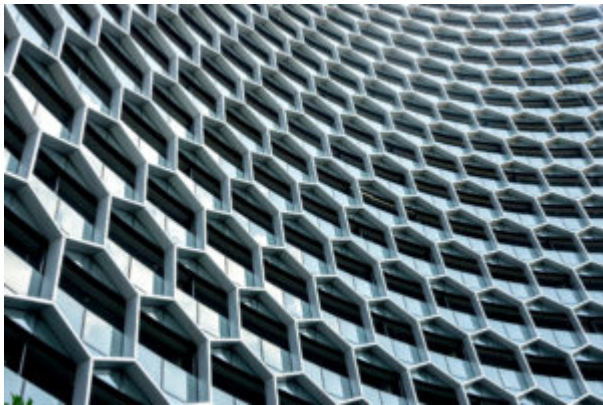
Bloomberg Intelligence - Arman Oruc's Perspective on the FTC and Pharma and Biotech Industry M&A Impact



Arman Oruc joined the **Bloomberg Intelligence** podcast to share his views on the FTC, and its impact on M&A for the pharma and biotech industry.

Listen to the podcast [here](#).

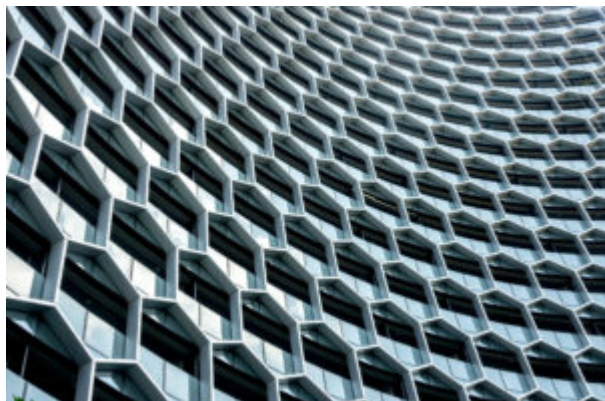
Antitrust & Competition Life Sciences Quarterly Update Q2 2023



The second quarter saw significant enforcement and dealmaking in the life sciences space. The Federal Trade Commission (FTC) announced its attempt to block Amgen/Horizon, the first such challenge to a life science transaction since 2009, and issued a second request in Pfizer's proposed \$43 billion acquisition of Seagen. In contrast, however, several sizable deals announced and closed within the normal waiting period, while the status of others is unknown at the time of publication.

Read the full Antitrust & Competition Healthcare Quarterly Update for Q2 2023 written by Antitrust + Competition lawyers [Arman Oruc](#), [Andrew Lacy](#), [Sarah Jordan](#), [Elliot Silver](#), and [Charlie Stewart](#) [here](#).

[Antitrust & Competition Life Sciences Quarterly Update Q1 2023](#)



While a number of factors suggest that deal activity, including those with material antitrust issues, will increase throughout 2023, recent enforcement activity could potentially chill the largest transactions from moving forward. But FTC's filing of a complaint to block Amgen/Horizon may signal a revived enforcement push for large transactions.

Read the full Antitrust & Competition Healthcare Quarterly Update for Q1 2023 written by Antitrust + Competition lawyers [Arman Oruc](#), [Andrew Lacy](#), [Sarah Jordan](#), [Elliot Silver](#), and [Charlie Stewart here](#).

[Antitrust & Competition Life Sciences 2022 Year In Review](#)



M&A activity in the life sciences space proceeded largely as usual in 2022, with most transactions receiving expected levels of agency scrutiny and closing in the normal course despite aggressive rhetoric from new leadership at both agencies. Notably, the government has thus far not applied more novel theories of antitrust harm outside of the tech space, and both agencies have met skeptical judges in other ongoing litigations. Antitrust + Competition lawyers [Arman Oruc](#), [Andrew Lacy](#), [Sarah Jordan](#), [Elliot Silver](#), and [Charlie Stewart](#) discuss transaction developments and predictions in the [Antitrust & Competition Life Sciences 2022 Year In Review](#).

Antitrust & Competition Life Sciences **Quarterly Update Q3 2022**



The third quarter in the life sciences space showed that business is generally proceeding as usual, with large pharma players successfully acquiring or licensing in clinical stage assets without running into antitrust delays. That said, even these inherently procompetitive deals appear to be receiving at least some attention from the agencies. As such, being ready for scrutiny should help avoid extensive and costly reviews. Indeed, a recent trio of mergers within the sickle cell disease space shows the importance of adequate preparation and engagement.

Antitrust agency activity in other sectors is also instructive. The FTC's challenge to the Meta/Within merger could portend difficulties for the life sciences space, but recent court defeats could temper the agencies' appetite for challenges based on novel and/or more aggressive theories, including potential competition.

Read the Goodwin Insight [here](#).

United States: FTC Looks Set To Open Up **New Enforcement Front (Global Competition** **Review)**



Recent merger enforcement in the pharmaceutical space continues to follow traditional principles and modes of analysis. However, with a new 3-to-2 Democratic majority, it is increasingly likely that the Federal Trade Commission's enforcement actions will reflect more aggressive theories that were previously advocated only in dissenting statements. Recent behavioural enforcement has largely consisted of pay-for-delay litigation and continuing prosecution of price-fixing charges against generic manufacturers. However, the FTC seems poised to open a new front of enforcement as it has given strong indications that it has competitive concerns with

fees and rebates paid by pharmaceutical manufacturers to pharmacy benefit managers and is looking to take related enforcement action in the near future. [Antitrust & Competition](#) co-chairs [Arman Oruc](#) and [Andrew Lacy](#), counsel [Elliot Silver](#), and associate [Brady Cummins](#) explain more in [United States: FTC Looks Set to Open Up New Enforcement Front](#). The whole publication is available [here](#).

[Antitrust + Competition Life Sciences Quarterly Update Q2 2022](#)



Although the second quarter did not feature any life sciences enforcement action by the FTC, there was plenty of news in and around the space. The FTC held a detailed “virtual workshop” as part of its pharmaceutical merger task force and news emerged of a potential Merck-Seagen deal that could set up an interesting test of the FTC’s new enforcement priorities. Finally, the FTC’s recent complaint seeking to stop the proposed *Meta/Within* transaction offers potential insight into how the new Democratic majority might approach a large pharmaceutical transaction. Antitrust + Competition lawyers [Arman Oruc](#), [Andrew Lacy](#), [Sarah Jordan](#) and [Elliot Silver](#) discuss these developments in the [Antitrust + Competition Life Sciences Quarterly Update](#).