

Joint Ventures

The formation of joint ventures by independent companies is long-standing. These collaborations can help consumers by, for example, setting a common product standard or allowing the creation of a product that neither party could produce alone. But joint ventures can also lessen competition through coordination or less entry or choice. Antitrust decisions have tried to balance these effects.

The stakes of this issue have increased in the last decade, when investors have become increasingly concerned with whether the companies they own promote environmental, social, and governance goals. In Europe, for example, there is a desire to allow companies to coordinate on “green” standards with their competitors. But these agreements carry the risk of being anticompetitive.

Reading

Required reading

Texaco Inc. v. Dagher, 547 US 1 (2006)

FTC v. Indiana Federation of Dentists, 476 U.S. 447 (1986)

[Analysis of Agreement Containing Consent Orders to Aid Public Comment, *In the Matter of Novartis AG*, File No. 141-0141, Docket No. C-4498](#) (describes a challenge of a recent proposed joint venture involving joint ownership by the only two branded nicotine patch producers, and the divestiture remedy)

[An Open Letter to the Global Legal Community, various bank General Counsels, September 30, 2020](#)

[OECD \(2020\), Sustainability and Competition, OECD Competition Committee Discussion Paper](#)

Background reading

Business Review Letters

[DOJ Response to the Clearing House Payments Company \(September 21, 2017\)](#)

[DOJ Response to Eli Lilly Business Review Letter \(July 23, 2020\)](#)

[Antitrust Guidelines for Collaborations Among Competitors \(FTC & DOJ\) \(April 2000\)](#)