

12 August 2024

Dear Global Policymakers,

We are the members of ACT | The App Association, a trade association representing small business technology companies worldwide. We are the entrepreneurs, innovators, and independent developers within the global app ecosystem who engage with verticals across every industry. We work with the App Association to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology.

As small businesses in the global app economy, we share the goals of many of the world's competition regulators: protecting competition through appropriate guardrails that deter anticompetitive behaviour while fostering a dynamic and diverse economy. However, we have significant concerns about the growing trend of competition regulators considering changes to merger rules that would discourage pro-competitive and pro-consumer mergers. While some believe that mergers always represent a large, powerful company buying up a small, helpless company before it can become a competitor, mergers are, in fact, a primary pathway for success for small businesses and startups and create significant benefits for consumers and the broader economy.

Success for a startup or small business can take various forms and be accomplished through different means. These means include, but are not limited to, being acquired by a larger company with the resources and knowledge to improve the product and/or streamline market entry or an initial public offering (IPO). Acquisition is often the best of these options for the business owner(s) and consumers, as IPOs are expensive and fraught with risk and thus reduce the likelihood of consumer benefit.¹ It is common for small companies to start their businesses with the understanding that once their idea has been brought to fruition, the business may be acquired, allowing them to move on to develop new businesses. The global economy and consumers have benefitted immensely from the freedom to combine the novel products small tech companies create with the resources and technical and commercial knowledge of businesses that later acquire those innovations. A merger that helps deliver better products or services for consumers is often a new small business's desired outcome and is desirable from a competition policy standpoint. The status quo of merger enforcement guidance echoes this understanding.²

¹ See Will Rinehart, "Welcome to the Kill Zone? A closer look at merger and start-up data suggests it's a cultivation zone," THE BENCHMARK (Feb. 27, 2020), *available at* <https://medium.com/cgobenchmark/welcome-to-the-kill-zone-852339601fbb> ("For startups, going public isn't a sure path to success. Companies typically sign away 4 to 7 percent of their gross proceeds to an investment bank to sell shares of the stock. They also tend to incur an additional \$4.2 million in costs to go through the process of getting listed. On top of this, a company will have to fork over another \$1 to \$2 million for federal compliance every year. Most IPOs perform worse than the overall market.").

² See, e.g., *Vertical Merger Guidelines*, U.S. Department of Justice (DOJ), https://www.ftc.gov/system/files/documents/reports/us-department-justice-federal-trade-commission-vertical-merger-guidelines/vertical_merger_guidelines_6-30-20.pdf (recognizing that vertical mergers

We encourage policymakers around the world to move carefully in updating existing merger rules. If, however, such rules must be revisited, we urge that any alteration to existing guidelines be made cautiously and with a narrow scope, rather than blanket rewrites that create significant uncertainty in the broader business ecosystem. Any modifications should maintain deference to a thorough economic analysis as a foundation of any merger review or enforcement and avoid making policy-level decisions based on edge cases or hypotheticals that do not reflect the reality of the business environment. Larger changes, on the other hand, will likely have significant long-term, negative effects on our ability to do business, innovate, and successfully compete and succeed.

We, along with the App Association, stand ready to work alongside any national competition regulator to develop policies that best promote a competitive and innovative digital economy.

Sincerely,

/n software	Galvia Digital	Proxim.ai
3DXR	Give Black	Rimidi
Actisense	Goally	Rotational Labs
Andaman7	Hanki.App	SheerID
Animated Technologies	Hive Medical	Skilltype
BadVR	Impact Project	Southern DNA
Blue Maestro	Management	SPENDiD
Brain+	Ironistic	Study Dog
Byron Assistants	Kstar Inc.	Teia Care
ComputerWays, Inc.	Layers Studio	vaic.at
Cyclopic	Lazy Moose	Vemos
Dogtown Media	LucidCircus	We3D
Epic Reach	LuciHub	WeDeliverYourVision
Extasy	Manulytica	World Challenge Game
Factoree	MotionMobs	Youdle
FMS, Inc.	Nebula Labs	Zelvor
Fresco Capital	Nourisher	
	OpenGrants	
	Particle Health	

often benefit consumers); *Horizontal Merger Guidelines*, DOJ, <https://www.justice.gov/atr/horizontal-merger-guidelines-08192010> (advising that the agencies should avoid obstructing mergers that are either competitively beneficial or neutral).