Press Release

FTC Leveraged Merger Authority to Extort Consent Agreements

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In a span of five months, the Federal Trade Commission (FTC) has twice leveraged its merger review authority to extort consent agreements from merging parties – under the threat of a costly and lengthy process – despite finding no evidence the transaction posed a threat to competition. In a new insight, Director of Competition Policy Fred Ashton walks through these cases and considers their harmful future impacts.

Key points:

- The consent agreements in Exxon Mobil's $64.5 billion acquisition of Pioneer Natural Resources and Chevron's $53 billion purchase of Hess banned individual executives from the acquired companies from serving on the respective boards of the newly merged firms.
- Both agreements were accepted by the FTC commissioners with a 3–2 vote; Republican commissioners Melissa Holyoak and Andrew Ferguson dissented with concerns that the FTC was abusing its merger review process.
- Congress should be concerned about what such tactics mean for the rule of law and the risk they pose for future merger negotiations.

Read the analysis