

PROHIBITING ANTICOMPETITIVE MERGERS ACT OF 2022

In 2021, our antitrust agencies received more merger filings than in any other year during the last decade—around a [70% increase](#) above the average number of filings in recent years. At the same time, our broken merger-review process requires the Federal Trade Commission (FTC) and the Department of Justice (DOJ) to obtain injunctions in court to block mergers, costing millions in litigation fees and facing long odds due to the judge-made “[consumer welfare standard](#).” Thus, many harmful mergers proceed, allowing dominant firms to crush [consumers](#), [workers](#), and [small businesses](#). Notable recent examples include [Sprint/T-Mobile](#), [Bayer/Monsanto](#), [Facebook/Instagram](#), and [American/US Airways](#). This excessive market power costs American families [\\$5,000 per year](#) on average and has depressed median [wages by \\$10,000](#). It has also allowed corporations to [jack up prices even further](#) during this period of inflation.

The Warren-Jones *Prohibiting Anticompetitive Mergers Act* will address the problem of rampant industry consolidation by (1) banning the biggest, most anticompetitive mergers, (2) overhauling the merger-review process to allow the FTC and the DOJ to reject deals without a court order, and (3) strengthening the agencies’ tools to break up harmful mergers. By empowering our antitrust agencies to tackle consolidation head on, this bill will promote competition and protect workers, consumers, small or minority-owned businesses (including farms and ranches), local, rural, or low-income communities, communities of color, privacy, and innovation.

- ***Prohibited Mergers.*** The legislation makes “prohibited mergers” illegal, including:
 - Deals valued over \$5 billion
 - Deals resulting in market shares over 33% for sellers or 25% for employers
 - Deals resulting in highly concentrated markets under the 1992 agency guidelines

- ***Overhauling the Merger-Review Process.*** The legislation gives the antitrust agencies stronger tools to stop the most harmful mergers, including:
 - Allowing the agencies to reject mergers in the first instance without court orders
 - Requiring the agencies to reject certain mergers, including prohibited mergers
 - Prohibiting firms with a history of corporate crime or antitrust violations in the last ten years from acquiring other companies
 - Directing the agencies to scrutinize the labor impacts of each deal and reject mergers harmful to workers
 - Prohibiting private-equity “roll up” strategies that quickly consolidate industries
 - Involving relevant state attorneys general and agencies (such as the Department of Defense for large defense deals), promoting a “whole of government” approach
 - Allowing state attorneys generals to sue to block harmful mergers
 - Transforming merger litigation into simple evaluations of agency process instead of complex, expensive court battles over a deal’s potential competitive effects
 - Stripping merger litigation from the appellate jurisdiction of the Supreme Court

- ***Breaking Up Prohibited Mergers.*** The legislation establishes procedures for the government to conduct retrospective reviews and break up harmful deals, including:
 - Requiring the agencies to review every prohibited merger from the 21st century
 - Allowing the agencies to review any consummated merger
 - Requiring a break-up if the merger resulted in a market share above 50%, a highly concentrated market under the 2010 agency guidelines, or materially harmed competition, workers, consumers, or small or minority-owned businesses
 - Allowing state attorneys general to sue to break up harmful mergers