What FTC Publicis Deal Means For Data Infrastructure M&A

By **Michelle Hale and Matthew McDonald** (November 9, 2026)



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On Oct. 19, the Federal Trade Commission announced that it had entered a proposed consent order resolving its concerns over Publicis Groupe SA's $2.2 billion acquisition of LiveRamp.

The case is notable for relying on a purely vertical theory of harm centered on Publicis' control over LiveRamp's previously neutral data pipelines.[1] The remedies ordered by the FTC are designed to preserve the status quo prior to the merger, that is, to ensure that fair access and neutrality continues after the acquisition.

Merging firms should expect that deals involving important data infrastructure layers — most significantly, artificial intelligence and related technologies — will face similar scrutiny, even where the parties operate at different levels of the technology stack.

Background

Publicis provides media agency services, including media planning and buying for digital advertising campaigns. A Publicis subsidiary, Epsilon, provides audience data services for targeted marketing.

LiveRamp is, according to the FTC, the leading data connectivity provider in the U.S. media marketing ecosystem and provides cloud-based software as a service for brands, publishers and agencies to perform identity resolution and data collaboration with a focus on consumer privacy.

The FTC expressed concerns about vertical foreclosure arising specifically from the acquisition of LiveRamp's data connectivity services. In the administrative complaint accompanying the consent order, the FTC noted that LiveRamp is the largest data connectivity provider in the U.S. media marketing ecosystem, with the largest number of integrations, and the only provider with a full spectrum of services.

The FTC alleged that rivals lack the same scale and functionality and, in some cases, rely on LiveRamp to provide their own service.[2] The Oct. 19 complaint focused on two Publicis services alleged as relevant antitrust markets that could be artificially advantaged by control of LiveRamp's data connectivity services.

First, the commission found that Publicis is the largest advertising holding company in the U.S. by media billings — and its worldwide net new business since 2020 "substantially exceeds that of the other major agencies doing business in the United States" that offer comprehensive media agency services, alleging these services as a relevant market, according to the complaint.

Second, the FTC identified Epsilon's audience data services as a relevant market, noting that the market may be particularly concentrated in healthcare due to regulatory requirements. In defining these relevant markets, the FTC relied on Publicis' leading market position and Epsilon's ability to serve targeted customers.

The FTC alleged that Publicis would likely have both the ability and the incentive to foreclose or degrade its competitors' access to LiveRamp's data connectivity services to push customers to switch their media agency business to Publicis.

The FTC also alleged that the transaction would enable Publicis and Epsilon to obtain competitively sensitive data or use non-Publicis client data to advantage their own clients.

Finally, the FTC argued the deal would likely give Publicis the ability and incentive to harm competing audience data service providers that relied on LiveRamp to provide their services, either by artificially degrading or blocking their access to LiveRamp services.

The Consent Order

The consent order resolves these concerns by requiring Publicis to, for a period of five years:

- Provide nondiscriminatory accessth and support on fair and reasonable terms for LiveRamp's products and services;
- Preserve access to and support for LiveRamp's stand-alone products and services, including any access and support required from Publicis;
- Support nondiscriminatory interoperability between LiveRamp's stand-alone products and services and third-party platforms;
- Refrain from denying, degrading or otherwise impairing LiveRamp customers' access to its products and services;
- Create firewalls for customer data and confidential business information;
- Utilize an independent auditor to evaluate compliance;
- Enable LiveRamp customers to request an annual audit of compliance with the order from Publicis; and
- Refrain from retaliation against customers who discuss compliance concerns with the FTC.

The FTC's order is notable in several ways. First, its term is five years, in contrast with the 10-year terms, with behavioral commitments, the FTC imposed in other final orders this year concerning deals between The Boeing Co. and Spirit AeroSystems Holdings Inc., Omnicom Group Inc. and The Interpublic Group of Companies Inc., and 365 Retail Markets LLCandCantaloupe Inc.

The FTC has signaled that consent order length is not one-size-fits-all and should be decided on a case-by-case basis.

While the five-year term differs from other recent cases, it may simply reflect the market facts the FTC investigated. Second, instead of a court-appointed monitor that is vetted by the FTC, the order provides that Publicis-LiveRamp engage an industry standard provider that routinely performs audits in accordance with System and Organization Controls 2 standards.

This is notable because the combined firm is able to choose its own auditor to facilitate its obligations, instead of being supervised by a court-appointed monitor.

Third, the order provides a mechanism for customers to request an audit of the combined company's order compliance on an annual basis, but the customer must bear the cost of such a request.

It is no secret that an aggrieved customer, or competitor, of a firm operating under an FTC order may use claims of noncompliance with the order to gain an audience with the FTC. While that avenue remains open, this order also provides for a self-help mechanism, though the cost is borne by the aggrieved party.

Implications Beyond Ad Tech

Importantly, the implications of this matter extend beyond advertising technology and are applicable to other vertical transactions.

The FTC's alleged harm in this case did not depend on Publicis and LiveRamp competing directly with one another. Instead, the FTC focused on LiveRamp's position as a connective layer on which the Publicis' rivals relied, and on the likely ability of Publicis to use control of that layer to disadvantage its rivals.

Any asset that sits between participants in a technology stack, and is acquired by a company with downstream businesses that compete with the asset's customers, could receive similar scrutiny. This may be a particular focus of concern in the AI space, where deal activity is high.

The central questions to an agency's analysis of vertical issues are whether the acquirer could limit or degrade rivals' access, whether it would profit from doing so, and whether the resulting harm to competition would be meaningful.

Whether agency scrutiny is likely will depend on how heavily rivals depend on the asset, how easily they could switch to alternatives, and what the parties' own documents say. Ordinary course documents are a key consideration in any investigation and for the parameters of any consent order.

Deal documents that emphasize cross-selling, so-called owning the pipes or the steering of customers toward the acquirer's other services may be read as evidence of incentive to foreclose.

The same is true of any plans to integrate customer data flows. Where an acquirer's subsidiary would gain visibility into rivals' confidential information, the agencies will ask whether that information could be used to the rivals' disadvantage, which is the concern the firewall provisions in the Publicis order are meant to address.

Finally, the FTC's order is consistent with the current agency leadership's focus on settlement in merger cases and its willingness to enter into behavioral remedies to address vertical theories of harm.

Firms involved in acquisitions that include data infrastructure services should expect the antitrust agencies to investigate similar foreclosure and neutrality concerns and consider whether there are behavioral solutions to perceived competition concerns.

Such behavioral conditions may include onerous operating restrictions for the term of the order and create a channel for competitor complaints.

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[1] https://www.ftc.gov/news-events/news/press-releases/2026/10/ftc-order-preserves-competition-digital-advertising-ecosystem-part-publiciss-acquisition-liveramp&sa=D&source=docs&ust=1793990850130561&usg=AOvVaw1OZlhYvcVaKs0nQFrVE4wz;
https://www.ftc.gov/system/files/ftc_gov/pdf/Publicis-LiveRamp-DO.pdf.

[2] https://www.ftc.gov/system/files/ftc_gov/pdf/2610115publicisliverampcomplaint.pdf.