

MERGER ANTITRUST LAW

LAWJ/G-1469-05
Georgetown University Law Center
Fall 2019

Tuesdays and Thursdays, 3:30-5:30 pm
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CLASS 4 WRITTEN ASSIGNMENT

Instructions

Submit by email by 3:30 pm on Thursday, September 12
Send to dale.collins@shearman.com
Subject line: Merger Antitrust Law: Assignment for Class 4

Assignment

Time: Early 2014
Calls for a memorandum

Alice Smith, the general counsel of Safeway, has read your initial memorandum and has come back to you asking for a brief memorandum describing the process the FTC would use to evaluate an acquisition of Safeway by Albertsons.¹ She would like you to describe how the process is likely to work, including the likely timing beginning with the filing of the HSR reports, to enable her to explain the process to the other executives so that they will not be blindsided as things unfold.

Smith also understands that the FTC has the power to issue a subpoena-like document for additional information in addition to what the company supplies in its HSR filing. In your description of the merger review process, Smith would like you to include a discussion of what this document is, what types of information and other material the document is likely to request, the circumstances under which the FTC is likely to issue this type of request, how long it typically takes a company to comply with the request, and any effect that the issuance of the request might have on the waiting period.

Finally, Smith would like your views on the likelihood the FTC will issue a request in the review of the Albertsons' acquisition.

NB: You should think about how you would like to organize your memorandum. The way I have listed the topics—which is somewhat typical of the stream of consciousness that is likely to come out of a general counsel—may be a good way for you to organize the memorandum, but perhaps there is a better way. Remember, you are writing for a very busy general counsel, so clarity in organization and style are important.

¹ Most retail acquisitions, including supermarket acquisitions, are reviewed by the FTC and not the DOJ.