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FTC Releases Staff Study Examining Commission Merger Remedies between 2006 and 2012

Study affirms effectiveness of FTC merger remedy process

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A new Federal Trade Commission report, [The FTC's Merger Remedies 2006-2012: A Report of the Bureaus of Competition and Economics](#), finds that the agency's process for maintaining competition when companies merge is generally effective.

"The report demonstrates that in the vast majority of cases the Commission's remedies protect or restore competition. Divestitures of ongoing businesses are particularly successful. The study also provides valuable insight on how to improve the divestiture process," said Maureen K. Ohlhausen, Acting Chairman of the Federal Trade Commission.

Some mergers raise competitive concerns in only a subset of the markets in which the merging parties operate. Consent decrees can often resolve those concerns by requiring companies to divest certain assets and take other action to protect competition.

The study examined 89 merger orders issued by the Commission between 2006 and 2012, including those requiring divestitures, as well as non-structural relief, to address anticompetitive effects. Staff used three methods to conduct the study. First, staff examined 50 orders using a case study method similar to that used in the Commission's previous remedy study, issued in 1999. Staff then supplemented its findings by interviewing additional market participants and requiring significant competitors to submit seven years of relevant sales data. Second, staff evaluated an additional 15 orders affecting supermarkets, drug stores, funeral homes, dialysis clinics, and other health care facilities by examining responses to questionnaires directed to the Commission-approved divestiture buyers in the relevant transactions. Finally, staff evaluated 24 orders affecting the pharmaceutical industry using both internal information and publicly available data.

In analyzing the success of the 50 merger orders in the case study component, staff considered whether the remedy had maintained or restored competition in the relevant market. The study found that all of the divestitures involving an ongoing business succeeded. Most divestitures of limited packages of assets also succeeded, though they fared less well. Remedies addressing vertical mergers also achieved their remedial goals.

The study also examined the remedy process more generally. The study confirmed that the process by which the Commission designs and implements merger remedies is generally effective, but also identified certain areas the Commission could improve. Based on those findings, the FTC has developed best practices related to the merger remedy process.

The Commission voted 3-0 on January 19, 2017 to issue the report.

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