



***United States of America,
State of New York,
& State of Minnesota v.
UnitedHealth Group Inc.
& Change Healthcare Inc.***

Closing Statement

Proposed Merger Harms Competition in Three Ways



Harms competition in insurance markets by giving United access and rights, through Change, to rivals' competitively sensitive information and data



Harms competition in insurance markets by giving United control of Change's EDI clearinghouse, giving United the ability and incentive to raise rivals' costs by denying rivals access to innovations



Harms competition for first pass claims editing, a critical input for health insurers

United's Board Considered Change's Data Rights



August 2022



January 2021

UNITEDHEALTH GROUP®

331. Data did not, however, drive the transaction. Optum's final synergy model did not even include a valuation of Change's data or data rights. 8/5/22 AM Trial Tr. 98:23-25 (Yurjevich (quotation omitted); DX0840. And the UHG board approval package from January 2021, PX195 at 1, makes no mention of Change's data rights. 8/4/22 PM Trial Tr. 17:18-20 (Wichmann).

□ Strategic Rationale

modern foundation to leverage data, technology, administration and patient transaction processing, improve health outcomes, enhance the patient and physician experience and lower the cost of healthcare. In support of UHG's Digital and Advanced Technologies and Health Banking and Payments growth pillars, the transaction addresses the following:

Integration of information and networks will leverage data

establish a new and more information and networks will are and streamline accuracy and speed of experience and lower the cost of

■ Data. Clinical. Opportunities

health and health system performance, as well as support new healthcare discovery

The company holds significant data rights through its client agreements

g EMR systems through its EDI and rough its client agreements. expand data used to improve patient

Data Rights

- Cambridge holds significant data, through a major EMR systems through enrich bi-directional health system performance

Cambridge holds significant data rights, inclusive of de-identified data sets and multi-payer claims data

aims leading further and

Documents Show Change's Data Use Rights Benefit United

January 2020

[Wichmann] says if we have data rights, he's excited.

We will need to come back to him with a good answer on data and why we get a proprietary advantage from doing this deal . . . which I think we can do.

PX082 at 1, 4.

February 2020

Data page(s) → This is Wichmann's obsession so might suggest we push to have a page or two from McK on data volume, data rights, etc.

PX098 at 1.

May 2020

[Change] manages the highest volume of claims among EDI players and has penetration across medical, dental, and pharmacy networks. [Change] is particularly broad and deep in the areas of commercial claims, dental claims, eligibility and patient statements. Multipayer claims data would be additive to the datasets of Optum which are primarily comprised of UHC claims.

PX368 at 11.



David Wichmann
Retired CEO,
UnitedHealth Group



December 2020

Q. Let's just break it up so the record is really clear. There is the clinical side of things which you were just touching on. There's the administrative services side. . . .

A. Yeah. I wouldn't hastily generalize, but that's the foundation by which the business case was made.

Wichmann (CID) Dep. at 274:21-25; 275:2-12.

December 2020

[W]e believe about 60% of all data has de-identification rights.

PX945 at 2.

Data Is a Strategic Asset



David Wichmann
Former CEO

Q. You had also considered Change's data to be part of **the strategic asset** for the acquisition. Correct?

A. **Well, a network with no data isn't worth very much, yes.**

United Gaining Change's Data and Data Rights Is Significant



Andrew Witty
CEO

Q. If the transparent network does not work out, **United will still have the largest EDI clearinghouse in the United States**; right?

A. That's **correct**.

Q. **United will still have a vast amount of data and data rights** that it would acquire with Change; correct?

A. **Correct.**

The Overall Benefit to the Enterprise Is What Matters



David Wichmann
Former CEO

UNITEDHEALTH GROUP®



Daniel Schumacher
Chief Growth
Strategy Officer

UNITEDHEALTH GROUP®

Q. You took an enterprise view of virtually everything as CEO; isn't that right?

A. That's right.

Q. And what was being discussed, again, is in the context of having a enterprise, a "one United" approach to doing business. Correct?

A. Yes. Across, you know, both within businesses and across businesses.

Q. Okay. And to go across businesses, you need to have more unified decision-making so that you can remove the silos between the businesses. Correct?

A. Yes.

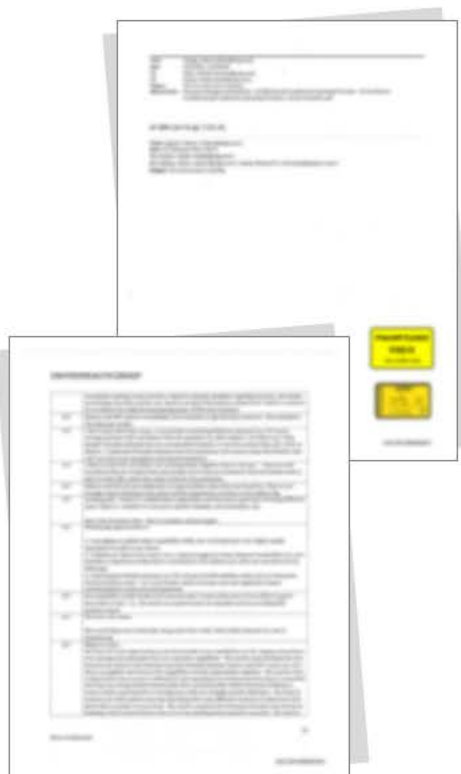
Anticompetitive Harm Does Not Require Data Misuse



Andrew Witty
CEO

- Q.** Okay. So whether it's Optum or whether it's UnitedHealth Group, **it's the lawyers at United that are going to determine where those gray areas are and how those gray areas get resolved;** right?
- A.** The **lawyers and the compliance organization, yes.**

Senior Executive Considers the Gray Area



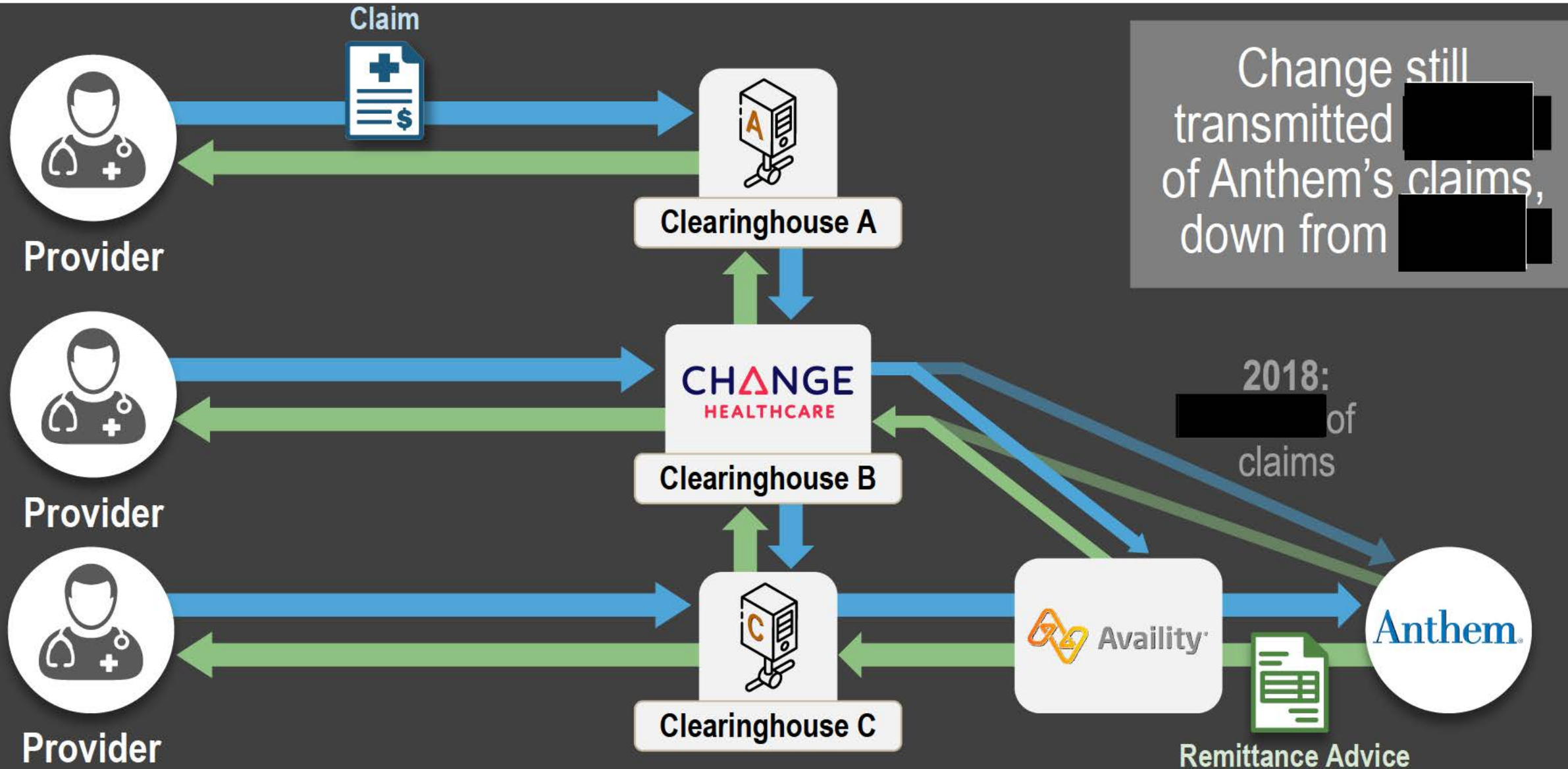
February 2021

Where to start . . .

We have SO much opportunity to put the breadth of our capabilities on full display and achieve true synergy and scale gains from our extensive capabilities. We need to stop thinking that just because we need to have financial and data firewalls between Optum and UHC means we can't show up together and harness the capabilities of both organizations together. We need to take a deep look at how success is defined for each operating unit and how performance is rewarded and stop any compensation / reward plans that unintentionally inhibit Enterprise thinking or worse create moral hazards or incongruency with our strategic growth objectives. We need to improve our CRM systems and stop operating with many different instances of sales force that don't talk to another at some level. We need to continue the Enterprise Growth work aimed at building a total comprehensive view of our top existing and prospective accounts.

Payers Cannot Disintermediate Change

Transmission Paths of Claims: Anthem



Proposed Merger Harms Competition in Three Ways



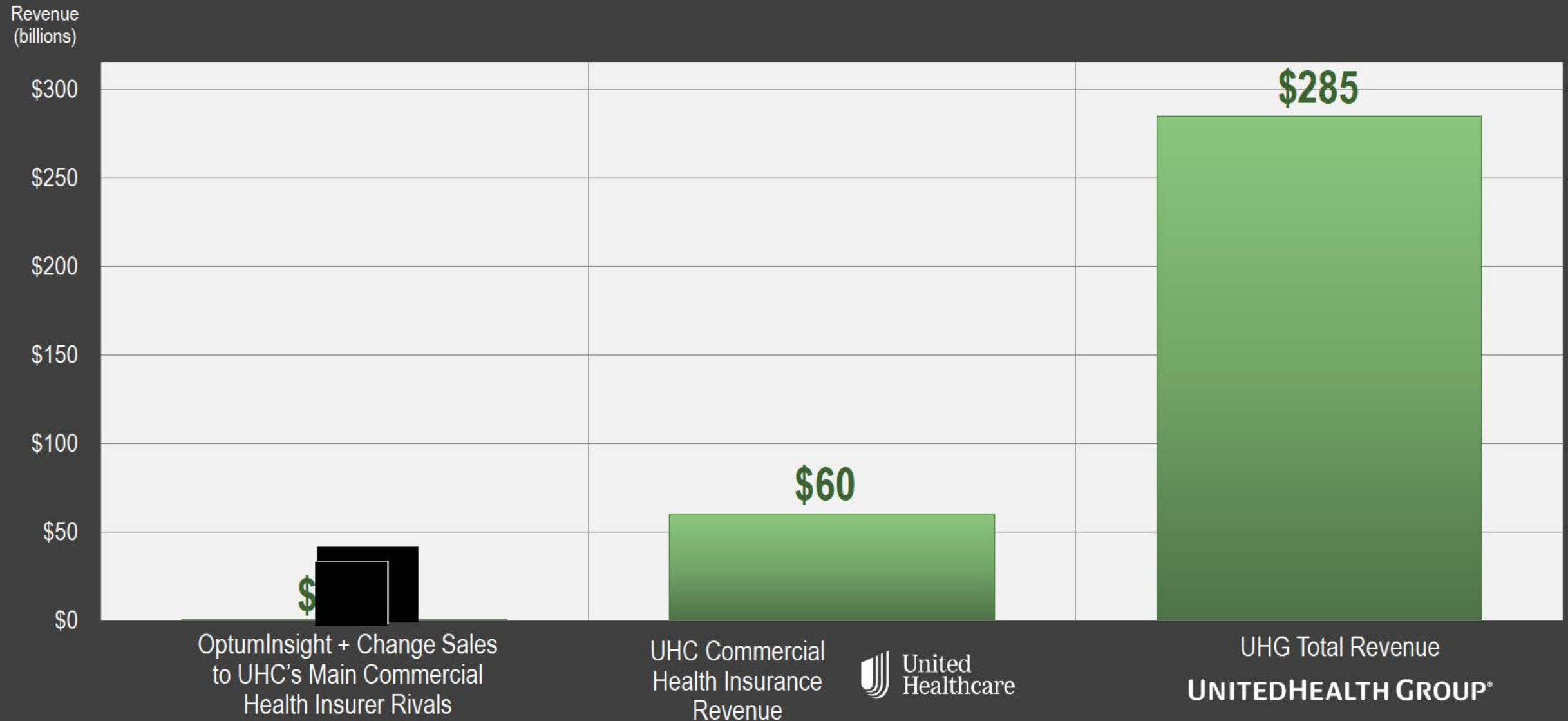
Harms competition in insurance markets by giving United access and rights, through Change, to rivals' competitively sensitive information and data

Fallout to Other Business Lines Will Not Constrain United

- No deal documents support harm to Optum
- The U Factor already exists
- Payers that stay with United assume the risk
- Payers that leave are not a meaningful loss for United

Payers Are Unlikely to Switch Based on CSI Use

Sales to Main Rival Health Insurers Are Minimal at an Enterprise Level



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Horizontal Harm Establishes a Prima Facie Case

Vertical Harm

- From Use of Competitively Sensitive Information Establishes a Prima Facie Case
 - From Raising Rivals' Costs Establishes a Prima Facie Case
-

Purported Efficiencies Do Not Justify
The Proposed Transaction



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Certainty Is Not Required



United States v. Phila. Nat'l Bank,
374 U.S. 321, 362 (1963) (internal citation omitted)

The goal of Section 7 is to “arrest anticompetitive tendencies in their ‘**incipiency**.’”



Brown Shoe Co. v. United States,
370 U.S. 294, 323 (1962)

“Congress used the words ‘may be substantially to lessen competition’ [], to indicate that its concern was with **probabilities, not certainties**.’”



United States v. H&R Block, Inc.,
833 F. Supp. 2d 36, 49 (D.D.C. 2011) (citation omitted)

“To establish a Section 7 violation, [P]laintiff[s] must show that a pending acquisition is **reasonably likely** to cause anticompetitive effects.’”

Doubts Are to Be Resolved Against the Transaction



FTC v. Elders Grain, Inc.,

868 F.2d 901, 906 (7th Cir. 1989) (Posner, J.) (citing *United States v. Phila. Nat'l Bank*, 374 U.S. 321, 362–63 (1963))

“Section 7 forbids mergers and other acquisitions the effect of which ‘may’ be to lessen competition substantially. A certainty, even a high probability, need not be shown. Of course the word ‘may’ should not be taken literally, for if it were, every acquisition would be unlawful. ***But the statute requires a prediction, and doubts are to be resolved against the transaction.***”

Market Shares Alone Establish A Prima Facie Case



United States v. Phila. Nat'l Bank,
374 U.S. 321, 364 (1963)

“Without attempting to specify the smallest market share which would still be considered to threaten undue concentration, ***we are clear that 30% presents that threat.***”



United States v. Aetna Inc.,
240 F. Supp. 3d 1, 42 (D.D.C. 2017) (internal quotation and citation omitted)

“Sufficiently large HHI figures establish the [Government’s] prima facie case that a merger is anti-competitive ***If a merger would produce a highly concentrated market*** [a market with an HHI over 2,500] ***and involve an increase in the HHI of more than 200 points, then it will be presumed to be likely to enhance market power.***”

Defendants Bear Burden of Rebutting Prima Facie Case

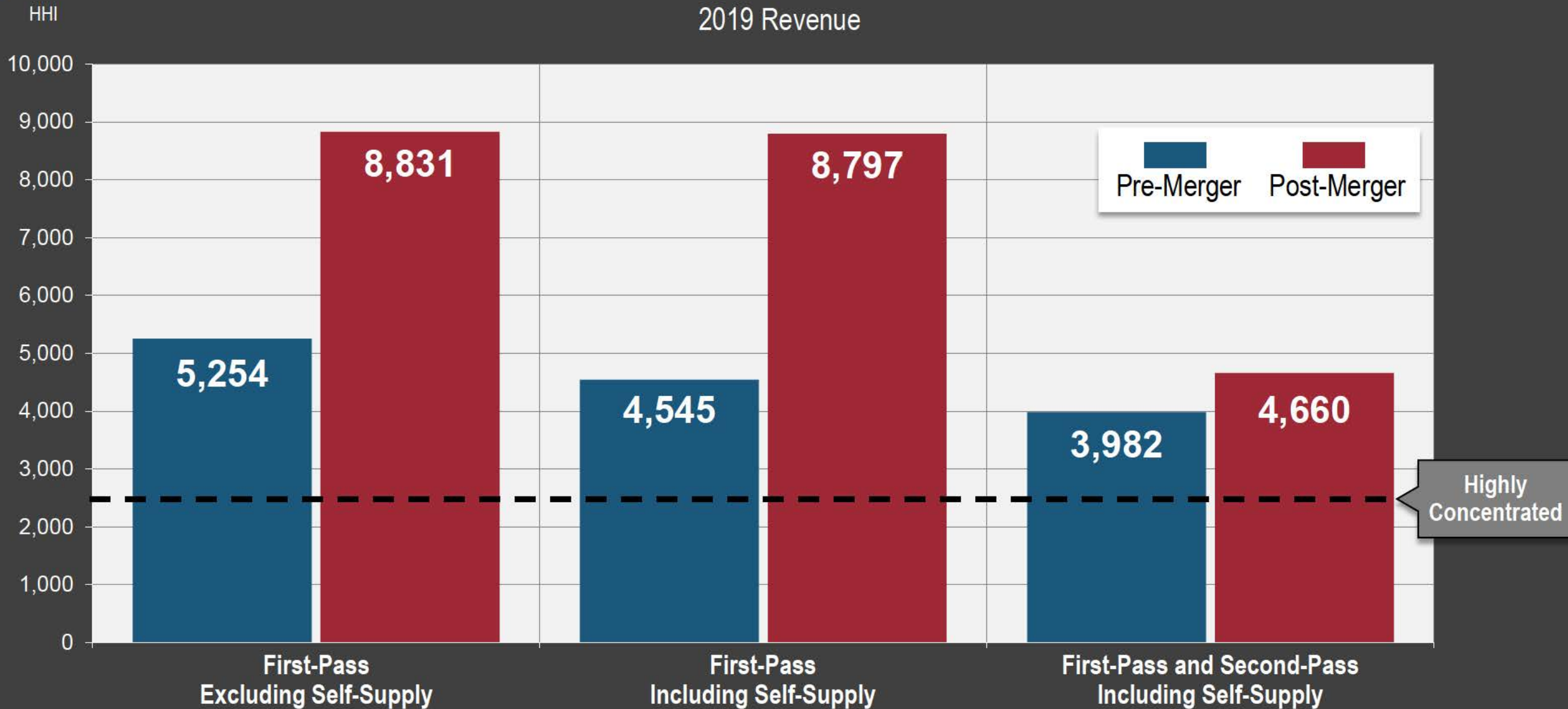


United States v. Baker Hughes Inc.,
908 F.2d 981, 991 (D.C. Cir. 1990) (Thomas, J.)

“The ***more compelling*** the prima facie case,
the more evidence the defendant must
present to rebut it successfully.”

First-Pass Claims Editing Solutions Market Shares

First-Pass Claims Editing Solutions: HHI Before and After Merger



Change and Optum Compete Head to Head

UNITEDHEALTH GROUP®
Optum

June 25, 2019

“McKesson [**Change**] is our **big competitor** for this product. We have been approving 20%-25% discounts consistently when [Change] is in the mix.”

Aug. 9, 2019

“[W]e gave them **a sweetheart deal to win them away** from McKesson [Change]. . .”

Aug. 28, 2020

“McKesson [Change], knowing they were at risk of losing the business, **cut their price by 50% to try to save it but we still won!**”

Sept. 2020

Change is the “**#1 competitor for first pass**” claims editing

CHANGE
HEALTHCARE

Sept. 23, 2019

“We are facing an **extremely competitive situation from OPTUM.**”

Sept. 27, 2019

“We are **competing with Optum** in all these deals.”

Dec. 26, 2019

“We faced **intense competition from OPTUM.**”

Apr. 10, 2020

“[W]e have **competitive cost pressure due to Optum . . .**”

Horizontal Harm Establishes a Prima Facie Case

Defendants Have Not Rebutted the Plaintiffs' Prima Facie Horizontal Case

Vertical Harm

- From Use of Competitively Sensitive Information Establishes a Prima Facie Case
- From Raising Rivals' Costs Establishes a Prima Facie Case

Purported Efficiencies Do Not Justify The Proposed Transaction

Divestitures Must Promote Competitive Markets



United States v. Aetna Inc.,

240 F. Supp. 3d 1, 60 (D.D.C. 2017); *id.* (alteration in original) (citation and internal quotation omitted)

“ [Defendants have the burden to show] that a proposed divestiture would **‘restore [the] competition’ lost** by the merger. . . . **Defendants** in a merger challenge **bear the burden of producing evidence tending to rebut** the government’s prima facie case.”

To do so, defendants must prove that the divestiture will “replac[e] the **competitive intensity** lost as a result of the merger.”

(quoting *FTC v. Sysco Corp.*, 113 F. Supp. 3d 1, 72 (D.D.C. 2015)) (alteration in original) (citation omitted)

Proposed Divestiture Does Not Maintain Current Competitive Intensity



Only ClaimsXten is proposed to be divested

TPG Is Disadvantaged From the Outset



Carolyn Wukitch
Change Healthcare
ClaimsXten
Manager



- Q. Okay. The situation will be a little different in competition, though, after the merger, right?
- A. Than it is today, yes.
- Q. And before the divestiture, they couldn't say, We have a more comprehensive set of solutions than Change, right?
- A. The portfolios are similar, so, yes.
- Q. **But post divestiture, they will be able to truthfully say, We have a more comprehensive set of solutions than TPG?**
- A. **In payment accuracy, yes.**

Proposed Divestiture Does Not Maintain Current Competitive Intensity



Only ClaimsXten is proposed to be divested



Optum will face less pressure to compete on price



Not all necessary employees are going to TPG



TPG's purchase price for ClaimsXten is not indicative of success



TPG is already considering its exit

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Purported Efficiencies Do Not Justify The Proposed Transaction

Vertical Mergers Evaluated By Same Standard Under Section 7



FTC v. Procter & Gamble Co.,
386 U.S. 568, 577 (1967)

“All mergers . . . must be **tested by the same standard**, whether they are classified as horizontal, vertical [or] conglomerate.”



United States v. AT&T, Inc.,
916 F.3d 1029, 1045 (D.C. Cir. 2019)

“Vertical mergers can create harms beyond higher prices for consumers, including decreased product quality and **reduced innovation**.”

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Purported Efficiencies Do Not Justify The Proposed Transaction

Using Sensitive Business Information May Harm Competition



U.S. Dep't of Justice & FTC, Vertical Merger Guidelines (2020)

available at <https://www.justice.gov/atr/page/file/1290686/download> (Vertical Merger Guidelines) at 4(b)

“In a vertical merger, the transaction may give the combined firm access to and control of sensitive business information about its . . . rivals that was unavailable to it before the merger. . . . In some circumstances, the merged firm can use access to a rival’s competitively sensitive information to moderate its competitive response[s] For example, ***it may preempt or react quickly to a rival’s procompetitive business actions.*** Under such conditions, ***rivals may see less competitive value in taking procompetitive actions.***”

CSI: Change's Data Use Rights Alter United's Ability and Incentives

- **The merger provides United the ability to use rivals' data to the benefit of the enterprise**
- The merger gives United incentives to use rivals' data to the benefit of the enterprise

United Considered Change's Claims Data Rights as Additive



May 2020

- ❑ **Multipayer Claims Data.** Cambridge manages the highest volume of claims among EDI players and has penetration across medical, dental, and pharmacy networks. Cambridge is particularly broad and deep in the areas of commercial claims, dental claims, eligibility and patient statements. **Multipayer claims data would be additive to the datasets of Optum which are primarily comprised of UHC claims.** The addition of Cambridge data could result in tactical savings for certain Optum entities that purchase multipayer claims data; however, more strategic uses of such data should be thoroughly considered. *See potential use cases herein.*

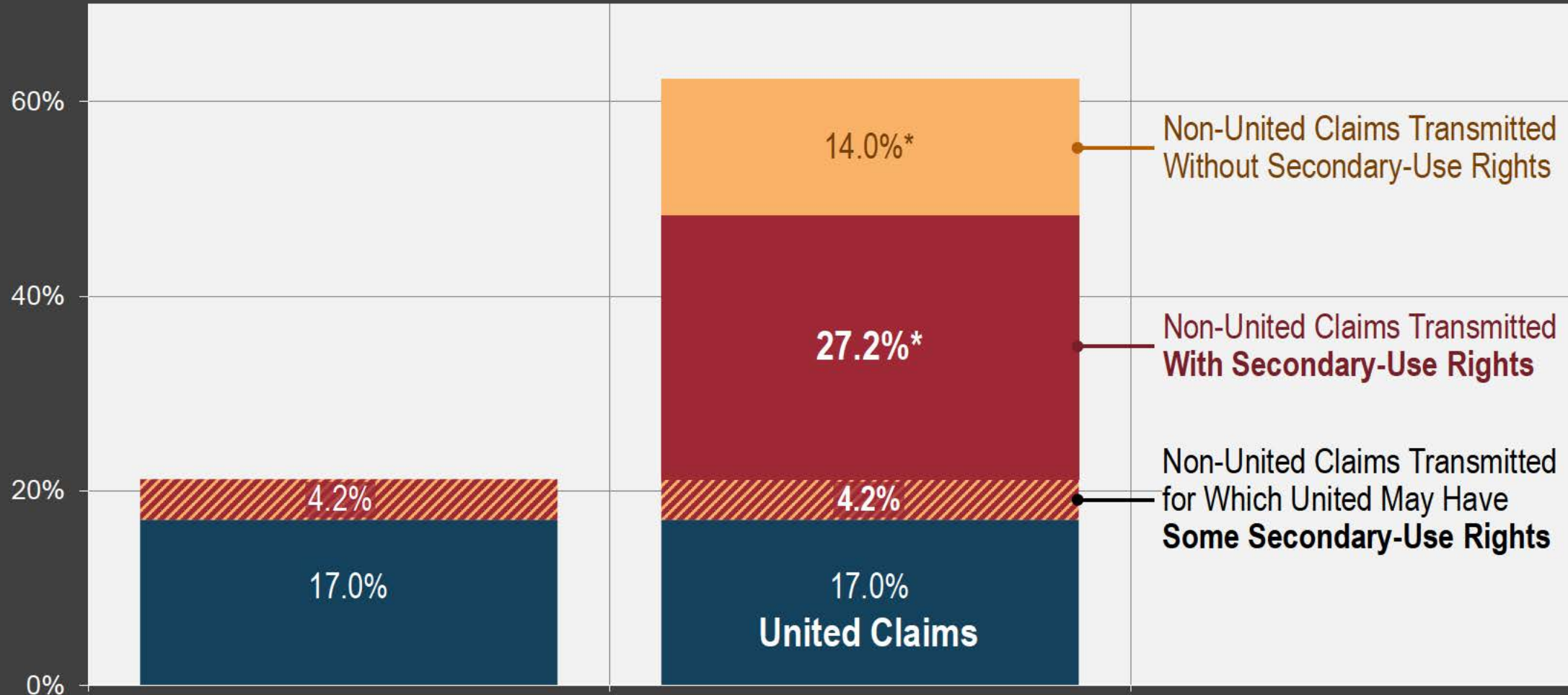
United Would Gain Substantial Secondary-Use Rights

Based on 2019 Commercial Claim Counts Transmitted through United or Change EDI Clearinghouses

% of all
Healthcare
Claims

Pre-Merger

Post-Merger



*Based on estimate that Change has secondary-use rights for 60% of claims. See PX027 ("Project Cambridge Key Due Diligence Considerations") at -9715.

Change Has Broad Secondary Use Rights



Tim Suther
Senior VP and GM
of Data Solutions



Q. And the first category you identified is **unfettered rights**; correct?

A. Yes, which is our **standard data rights language**.

Standard Data Rights Clause in our BAA

- 2.3 Data Aggregation. Change Healthcare may Use PHI to provide Data Aggregation services for the Health Care Operations of the Customer as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- 2.4 De-identified Data. Change Healthcare may de-identify PHI in accordance with 45 C.F.R. § 164.514(b) and may Use or Disclose such de-identified data unless prohibited by applicable law.



April 2019



CSI: Change's Data Use Rights Alter United's Ability and Incentives

- The merger provides United the ability to use rivals' data to the benefit of the enterprise
- The merger gives United incentives to use rivals' data to the benefit of the enterprise

Multiple Use Cases for Change's Data



January 2020

What's in it for UHC?

- Improved provider experience/economics (e.g., fast track prior auth, straight through adjudication, greater patient retention, less bad-debt, etc.)
- Admin cost reduction with less manual intervention
- Enhanced member experience (e.g., more accurate understanding of OOP expenses, improve POS payment options, etc.)

Insights to optimize benefit design Utilize transactions intelligence (i.e. clinical utilization) from multiple providers / payers to optimize benefit design



April 2020

Opportunity Name	Data custodian	Path to secure needed data rights	HEPA Considerations	Provider/Payer/Patient contractual/consent Considerations	Business abrasion, publicity considerations	Estimated long range value
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Improved medical policy and benefit design

Optum

Likely competitive concerns raised by Cambridge customers.

Price transparency

Likely need to closely assess antitrust concerns on use/sharing of pricing information

Interoperability placeholder (Stacy)

Likely competitive concerns raised by Cambridge customers

former
can share

Interoperability placeholder (Stacy)

Payer and provider sensitivity and

contracting. Likely need to closely assess antitrust concerns on use/sharing of pricing information.

not data even with appropriate permissions, consider where Covered Entity customers may have similar revenue based relationships to disclose data.

UHC Has Incentive to Use Claims Data to Avoid Insuring “Bad Risk” Groups



**Thomas
Gehlbach**

Former Chief
Underwriting Officer



Q. Bad risk means a group that has sicker members with higher medical costs than another group with healthier members?

A. That's how it's usually utilized, **yes**.

Q. And if UnitedHealthcare takes on **too much bad risk** relative to its competitors, then its **medical costs go up**?

A. Yes.

* * *

Q. Yes. In underwriting for large groups, **UnitedHealthcare wants to avoid winning a greater share of bad risk** than its competitors?

A. **Yes; that would be our desire, yes.**

Health Insurers Compete On Many Facets

Use Cases for Change's Deidentified Claims Data



Utilization management practices



Provider pricing and reimbursement



Provider network design



Claims adjudication policies



Underwriting

Custom Claims Edits Differentiate Payers to Employers



Lynn Garbee

Former
Managing Director,
Provider Enterprise
Strategy



- Q. And during your nine years with Cigna, did Cigna ever allow Change Healthcare to share Cigna's custom edits with any other healthcare customers?**
- A. No.**
- Q. Why not?**
- A. We put a lot of time and effort, like I just described, in creating them. We wouldn't want other payers to be piggybacking over us – piggybacking on us for all of the work that we had just done. We feel like it's something that differentiates us in how we sell to our clients.**

Post-Merger Rivals Will Have Less Incentive to Innovate



**Dr. Gautam
Gowrisankaran**

Professor of
Economics
Columbia University

Q. And how do lower returns for United's health insurer rivals affect incentives to innovate?

A. Well, the idea is that if United's rivals understand that United would be likely to be able to copy their innovations . . .

United would be likely to be able to copy their innovations . . .

[I]f United's rivals understand this, then they understand that the returns to their investments are lower . . .

[T]hese competitors are going to be incentivized to invest less. . . .

[T]hese competitors are less likely to put a downward pressure on price . . .

[U]ltimately, that's going to mean that employers are going to be paying more for health insurance on a quality-adjusted price basis. . . .

basis.

Defendants Arguments About Data Sidestep The Key Issues



Data use, consistent with United's own policies, can harm competition; no misuse required



Payers can comply with HIPAA and still use data, including payer information, in a variety of ways – HIPAA is a floor

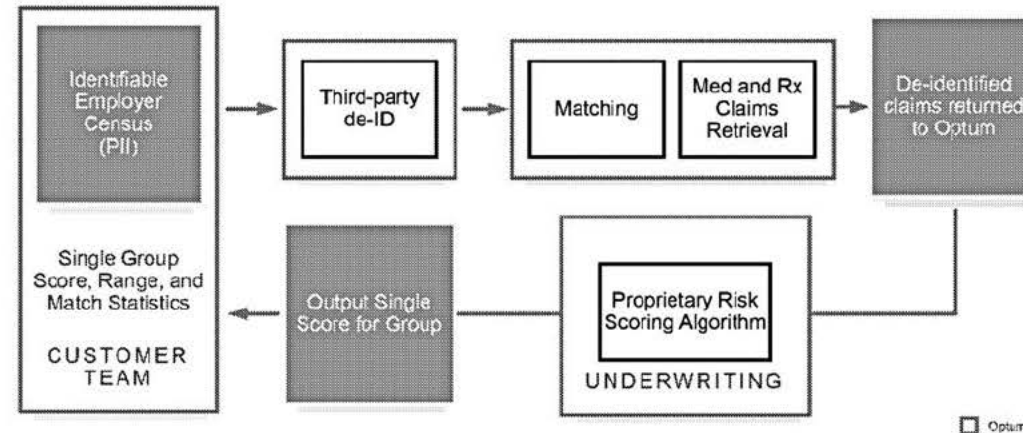
United Uses HIPAA-Compliant Data Today

Claims Data Inform Underwriting

Introducing Group Risk Analytics: Secure, simple, streamlined

Our Optum solution uses **de-identified third-party data** and proprietary risk scoring to enable payers to better assess the risk of prospective employer group customers.

- Leverages Optum industry-leading Symmetry Risk Engine predictive models
- Fully HIPAA-compliant
- Returns results and analysis in minutes
- Calibrates results based on renewal underwriting manuals and formulas
- Provides the variance of a group's risk score to better inform pricing decisions
- Detailed operational reporting



Optum



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7

UHG-2R-0000062425

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Claims data is used by United for underwriting today



The richness, scope, and scale of Change's data sets it apart from other data sources that are available

Defendants' Reliance on Commercial Data Sources is Misplaced

Data Limitations Reduce the Value of the Data for Use Cases

 Utilization Management	 Provider Reimbursement	 Provider Network Design	 Claims Adjudication	 Underwriting
<ul style="list-style-type: none">• No payer ID• No prior authorization information	<ul style="list-style-type: none">• No payer ID• Tokenized provider information	<ul style="list-style-type: none">• No payer ID• Tokenized provider information	<ul style="list-style-type: none">• No payer ID• No claims life cycle information	<ul style="list-style-type: none">• No employer ID• No payer ID• Cannot be linked to other datasets

United's Data Strategy

Addressing highlighted challenges will lead to impact

Define governance standards for which data is shareable across businesses and with external partners

Potential Impact

Integrate shareable, linked data from across businesses (CM)

Acquisition & Integration

Duplication & Inefficiency

- TN: claims, clinical (incl. existing OPA data), payments data
- Enrich datasets to enable linking of unique member / patient
- Streamline EHR contracting, intake, and use agreements for bringing in EHR data in scalable ways (TN)
- Integrate Change data assets to provide knock-on value
 - CM: Clinical, consumer, claims data
 - TN: EMR data connections / Interqual
- Secure additional data use rights for commercial purposes (CM / TN)
- Coordinate internal processes to reduce duplication and inefficiency (CM / TN)

- Increase speed to market and to scale for new products
- Establish proof of concept to strengthen business cases
- Reduce abrasion / Increase adoption
- Enhance productivity of member-facing teams
- Improve management of total cost of care

Differentiate offerings in the market

Maximize value of acquired data

CM = Care Mgmt.
TN = Transparent Network

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14

UHG-LIT-00645092

UHG Data Strategy
November 2021

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Horizontal Harm Establishes a Prima Facie Case

Defendants Have Not Rebutted the Plaintiffs' Prima Facie Horizontal Case

Vertical Harm

- **From Use of Competitively Sensitive Information Establishes a Prima Facie Case**
- From Raising Rivals' Costs Establishes a Prima Facie Case

Defendants Have Not Rebutted the Plaintiffs' Prima Facie Case:

- *Firewall Is Insufficient*
- *Customer "Commitments" Are Insufficient*

Purported Efficiencies Do Not Justify The Proposed Transaction

United's Proposed Firewall Does Not Resolve Competitive Concerns



Permits disclosure and use of data for any purpose under applicable law or agreements with the external customer



Permits exceptions to the firewall

Firewall Policy Does Not Prevent Use of Data



Andrew Witty
CEO

Q. But **there's not a flat-out no in the document**, the May 12 policy, that says that there will be no exception for the use of CSI information and sharing that with UnitedHealthcare, for example?

A. **Correct.** And there have been many examples where, for example, anonymized data is extremely helpful to create new products, insights, or service for patients and companies.

United's Proposed Firewall Does Not Resolve Competitive Concerns



Permits disclosure and use of data for any purpose under applicable law or agreements with the external customer



Permits exceptions to the firewall



Permits modification and changes to policy going forward

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Customer “Commitments” Do Not Resolve Competitive Concerns



The “commitment” does not apply to all payers competing in markets harmed by proposed merger



The “commitment” terms are vague, lack audit rights, are time-limited, and apply only to existing customers



The “commitments” do not prohibit United’s use consistent with the terms of the firewall

“Commitments” Cannot Offset Anticompetitive Harm



United States v. H&R Block, Inc.,
833 F. Supp. 2d 36, 82 (D.D.C. 2011)

“While the Court has no reason to doubt that defendants would honor their promise [of a three-year price guarantee], **this type of guarantee cannot rebut a likelihood of anticompetitive effects** in this case.”



FTC v. Cardinal Health, Inc.,
12 F. Supp. 2d 34, 64-65 (D.D.C. 1998)

“This Court does not doubt that the Defendants would honor their promises” not to raise prices, but “**Defendants’ guarantees alone cannot cure the likely anti-competitive effects** of the mergers.”

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Raising Rivals' Costs May Harm Competition



U.S. Dep't of Justice & FTC, Vertical Merger Guidelines (2020)

available at <https://www.justice.gov/atr/page/file/1290686/download> (Vertical Merger Guidelines) at 4(a)

“A vertical merger may diminish competition by allowing the merged firm to profitably use its control of the related product to weaken or remove the competitive constraint from one or more of its actual or potential rivals in the relevant market. For example, ***a merger may increase the vertically integrated firm's incentive or ability to raise its rivals' costs by increasing the price or lowering the quality of the related product.***”



Brown Shoe Co. v. United States,

370 U.S. 294, 324 (1962) (internal citation and quotation omitted)

“The primary vice of a vertical merger . . . is that . . . the arrangement may act as ***a clog on competition***, which ***deprives . . . rivals of a fair opportunity to compete.***”

Change Has All The Core Building Blocks

Cambridge's capabilities are broadly complementary to OI's and could help bridge gaps. Further, it's recent investments in an integrated transaction platform with embedded intelligence and big data could help OI make the most of its available capability

- Core building blocks of a frictionless platform
- RCM software platform spanning e2e functions
- Intelligent transaction network and clearinghouse
- Platform for value added data/analytics services
- Payment integrity and Fraud Waste Abuse solutions
- B2B payments
- C2B payment solutions
- Tech-enabled SaaS Operations
- Provider network and contract intelligence

Core building blocks of a frictionless platform

- RCM software platform spanning e2e functions
- Intelligent transaction network and clearinghouse
- Platform for value added data/analytics services
- Payment integrity and Fraud Waste Abuse solutions

Cambridge

- ✓ Technology platform and solutions to support 90% of core RCM functions
- ✓ Industry leading clearinghouse/EDI network with nearly 50% market share
- ✓ Broad range of provider and Payer 'intelligence' offerings built off the clearing network
- ✓ ClaimsExten and InvestiClaim offerings span complete PI value chain

Collectively, Cambridge and OI could occupy a central place in the healthcare ecosystem with the ability to drive scale efficiencies in the near term and materially disrupt the current transaction model in the longer term i.e. from claims based to intelligent settle-and-clear to API/cloud-based peer to peer eventually

Raise Rivals' Costs

Change's Real-Time Settlement

March 2021

CHANGE
HEALTHCARE

The goal is to deliver a real-time settlement experience and 50% lower administrative costs

Change Healthcare Real-Time Claim Settlement

Providers

Payers

Today's Market Standard

- Providers get paid ~40 days after delivering service. Spend 4-6%² of collections in SW & service costs
- Payers get poor quality claims & clinical data for payments & risk adjustment. Spend 8-10%¹ in admin costs

for \$1B in claims

\$40-60M

\$80-100M

- Generate & Certify Claims
- Real-time payment via Payer or Financial Institution
- Claims certificate validated
- Real-time Adjudication
- Clinical data received

Outcomes

- Efficiency:** Reduction in administrative costs. **↓50%**
- Revenue Acceleration:** Reduction in payment days **40 → 1**
- Clinical data:** Integrated with claims **Every claim**

TAM \$20B

End-to-end Real-time Processing for all claims at 50% penetration (2% from payers; 2% from providers; \$1 Tr in claims)

Sources: (1) AHIP, 'Where does your Healthcare Dollar Go?', 2018; Individual Payer Interviews; (2) TES customer analytics

PROPRIETARY & CONFIDENTIAL

Now Speaking:
Shiv Gopalkrishnan

CHANGE
HEALTHCARE

PX541 at 61.

58

Change Has Unique Data, Data Rights, and Connections



Erin Schmuker
Transparent
Network Vice
President



- Q.** Today, acquiring Change's EDI connectivity is, you believe, the best way to drive claims editing content into the provider workflow?
- A.** Well, so there's a lot of connectivity into provider workflow. What we've been focusing on is using Change's. So, if we weren't able to use that, we would have to look at another method. They're not the only people with connections. But we would need those connections, that's correct.
- Q.** **But you aren't aware, sitting here today, of any alternative acquisition targets or partners who could achieve the same result as Change, correct?**
- A.** **That's correct.**

Raise Rivals' Costs

Change Was Innovating Real Time Settlement

March 2021

February 2022

Our “North Star” is to shorten the end-to-end revenue cycle

Multiple projects are aimed at developing several new capabilities with customers and partners

	Pre-encounter	Post-encounter	Patient Billing
Key Capabilities:	<ul style="list-style-type: none"> ePrior Auth Transparency Eligibility 	<ul style="list-style-type: none"> Coding Claim Submission Adjudication Payer Payment 	<ul style="list-style-type: none"> Provider network contracting Patient financing Patient billing
CHC Projects:	<ul style="list-style-type: none"> Point of Care Analytics (POCA) Shop, Book & Pay 	<div> <ul style="list-style-type: none"> Real-Time Settlement (payers) National Payments Connector (NPe) <p>Today's discussion focus</p> </div>	<ul style="list-style-type: none"> Complete pay (consumer / patient payments) Health plan payments

PROPRIETARY & CONFIDENTIAL

Now Speaking: Dr. John

HIGHLY CONFIDENTIAL

100/169

CHNG-009578601

As I mentioned, we are exploring Real-Time Settlement for healthcare claims/billing/payment. I am not sure if there is anything your technology can add to our plans there, but given you asked if there were any truly disruptive areas we are working in, this is one.

PX541 at 59; PX544 at 1.

60

Abandoning Competitive Endeavors Does Not Prevent Antitrust Scrutiny



United States v. Aetna Inc.,
240 F. Supp. 3d 1, 76 (D.D.C. 2017) (internal citation omitted)

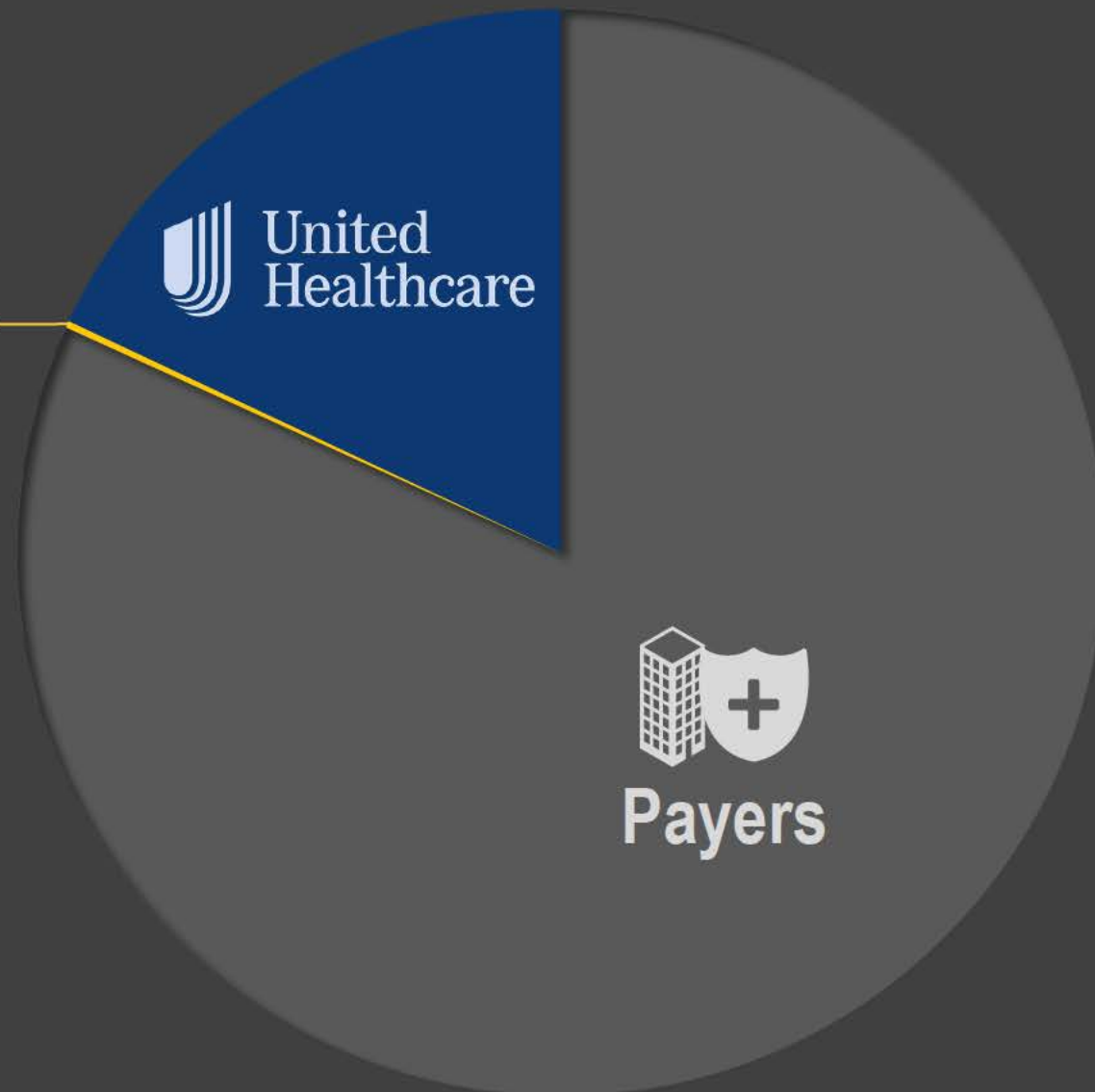
“While there can be no substantial lessening of competition if there is no pre-existing competition to begin with, ***the case law does not support defendants’ approach of viewing competition as an on-off switch where a merging party can simply switch it off entirely by withdrawing*** from a market (potentially temporarily). . . . [C]ourts routinely view competitors that may have one foot in and one foot out of the market as actual competitors, and evaluate the anticompetitive effects of a merger using the standard tools of antitrust analysis.”

Raise
Rivals' Costs

United Has the Financial Incentive to Harm Its Rivals

Vertical Math

United Would Need to Gain
0.2% Market Share
to Make Foreclosure of the
Transparent Network Profitable



Defendants' Arguments Sidestep The Key Issues

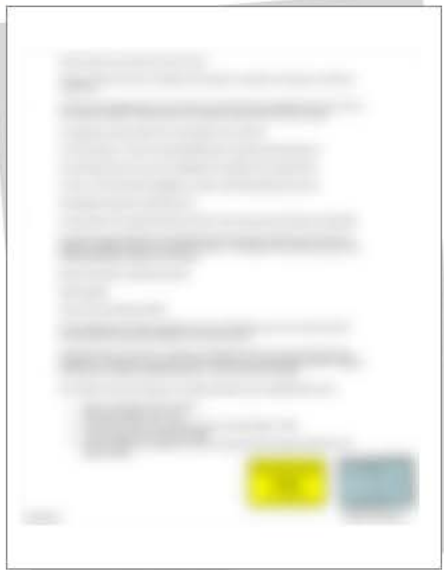


RTS and Transparent Network are examples of how United seeks sole utility of innovations that Change's unique assets enable



United can provide perpetual exclusivity for UHC even with multi-payer strategy

Portfolio Optimization Was Exclusive to United

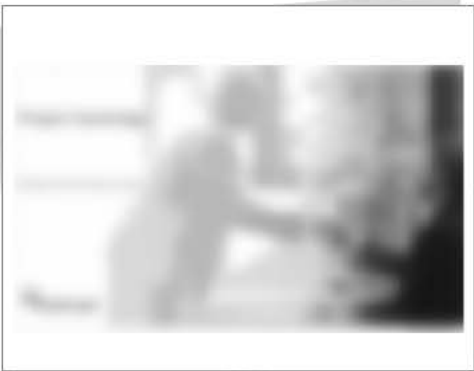


May 2021

This is the most exciting project I've worked on in quite some time.

This is ahead of the market – **exclusive** to us for now

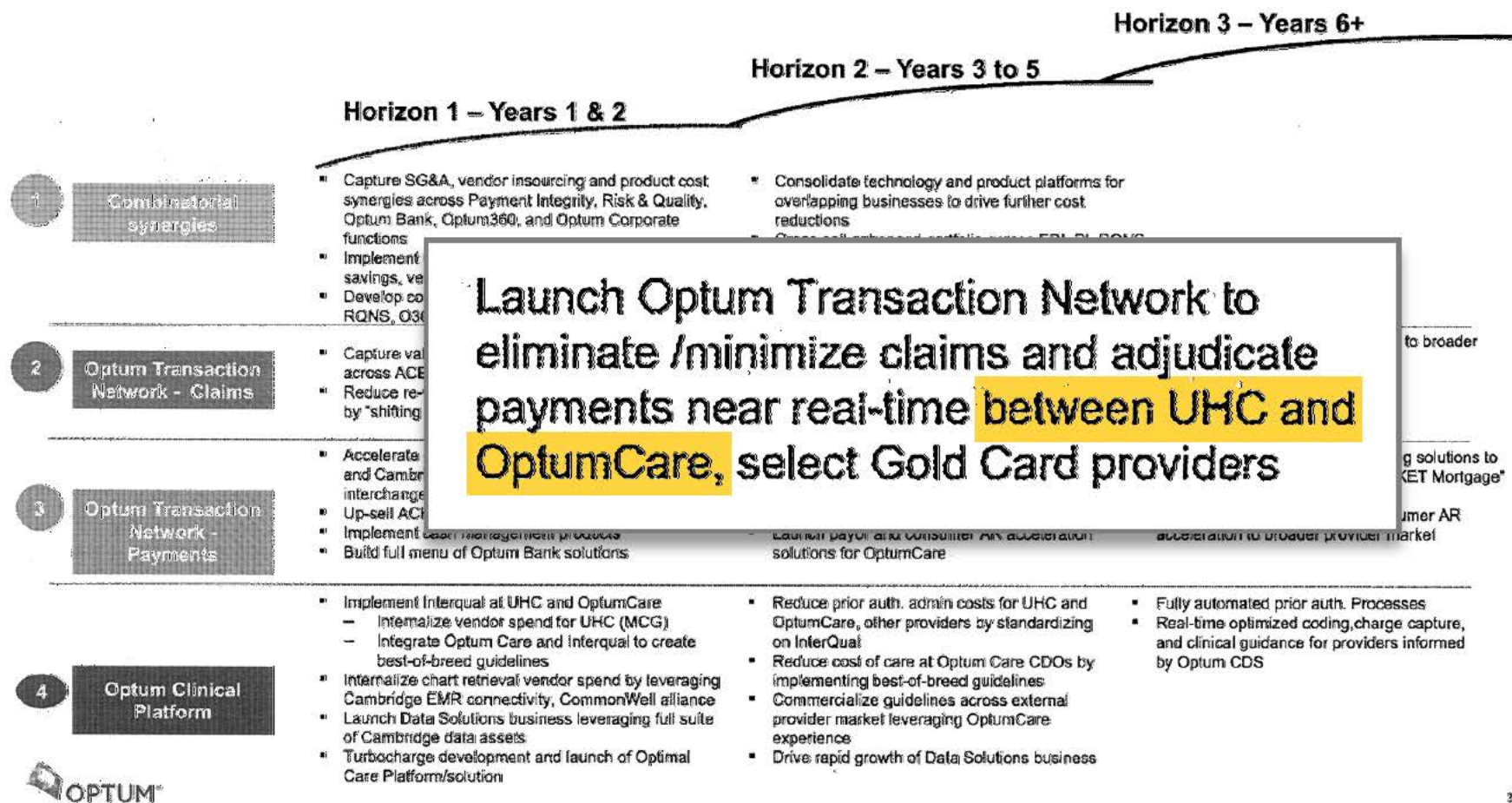
United Planned On Exclusive Access to the Transparent Network



February 2020

Optum

Synergy Opportunities from Cambridge



UHG-2R-0003656311

Horizontal Harm Establishes a Prima Facie Case

Defendants Have Not Rebutted the Plaintiffs' Prima Facie Horizontal Case

Vertical Harm

- From Use of Competitively Sensitive Information Establishes a Prima Facie Case
- **From Raising Rivals' Costs Establishes a Prima Facie Case**

Defendants Have Not Rebutted the Plaintiffs' Prima Facie Case:

- *Firewall Is Insufficient*
- *Customer "Commitments" Are Insufficient*

Defendants Have Not Rebutted the Plaintiffs' Prima Facie Case

Purported Efficiencies Do Not Justify The Proposed Transaction

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Purported Efficiencies Do Not Justify The Proposed Transaction

Defendants' Purported Efficiency Defense Fails



United States v. Anthem, Inc.,

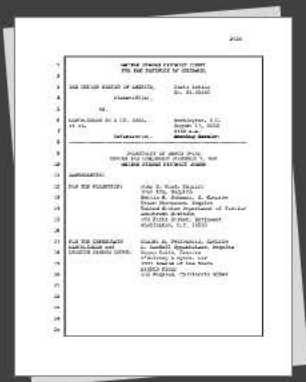
855 F.3d 345, 353 (D.C. Cir. 2017) (citation omitted)

“Despite, however, widespread acceptance of the potential benefit of efficiencies as an economic matter, see, e.g., Guidelines § 10, **it is not at all clear that they offer a viable legal defense** to illegality under Section 7.”



United States v. Bertelsmann, et al.,

Case No. 1:21-cv-02886, 8/17/2022 AM at Tr. 2755:11-18



“Where efficiencies are not independently verifiable and verified, no court in this jurisdiction has ever given any weight to such efficiencies evidence. See *H&R Block*, 833 F.Supp. 2d 36, D.D.C. 2011; *United States v. Aetna*, 240 F.Supp. 3d, D.D.C. 2017; *FTC v. Sysco Corporation*, 113 F.Supp. 3d, 1, D.D.C. 2015; *FTC v. Wilhelmsen Holding, ASA*, 341 F.Supp. 3d 27, D.D.C. 2018; *FTC v. Staples*, 970 F.Supp 1066, D.D.C. 1997.”

Defendants Did Not Meet Their Burden on Efficiencies



**Professor Kevin
Murphy**
University of
Chicago

Q. And nowhere in your report do you quantify this claimed efficiency in a numerical sense, correct?

A. No. I do more to try to explain why these types of efficiencies would be merger specific, and that there are things that you could do better within the firm, in some cases, than you could outside the firm.

Q. So, you make a prediction, but then you don't estimate the dollar value associated with that prediction; is that fair?

A. Yeah. I don't think I have the tool to do that or the data to do that.

Proposed Merger Harms Competition in Three Ways



Harms competition in insurance markets by giving United access and rights, through Change, to rivals' competitively sensitive information and data



Harms competition in insurance markets by giving United control of Change's EDI clearinghouse, giving United the ability and incentive to raise rivals' costs by denying rivals access to innovations



Harms competition for first pass claims editing, a critical input for health insurers

Clayton Act



15 U.S.C. § 18

Section 7 of the Clayton Act prohibits acquisitions “where in any line of commerce . . . in any section of the country, the effect of such acquisition *may* be substantially to lessen competition, or to tend to create a monopoly.”

