GLOBAL COMPETITION REVIEW

The Guide to Merger Remedies

Editors
Ronan P Harty and Nathan Kiratzis

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This article was first published in August 2018
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GLOBAL COMPETITION REVIEW

Published in the United Kingdom
by Global Competition Review

Law Business Research Ltd
87 Lancaster Road, London, W11 1QQ, UK

www.globalcompetitionreview.com

First edition

ISBN 978-1-78915-105-3

Printed in Great Britain by
Encompass Print Solutions, Derbyshire
Tel: 0844 2480 112

Acknowledgements

The publisher acknowledges and thanks the following contributors for their learned assistance throughout the preparation of this book:

ANDERSON MŌRI & TOMOTSUNE

AXINN

BROAD & BRIGHT LAW FIRM

CLEARY GOTTLIEB STEEN & HAMILTON LLP

COMPASS LEXECON

CRAVATH, SWAINE & MOORE LLP

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Part I

Overarching Principles and Considerations

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Economic Analysis of Merger Remedies

Mary Coleman and David Weiskopf[1]

Introduction

Merger remedies may be offered by the merging parties or demanded by antitrust enforcers in cases in which a merger promises benefits to consumers but also risks harm to competition in one or more markets. Blocking such a merger certainly prevents the competitive harm from occurring, but it also denies the consumer benefits that would otherwise flow from the combination of assets. Remedies that reliably target the source of competitive harm allow society to reap the benefits of efficiency-enhancing mergers that would, in the absence of remedies, raise competitive concerns. In this chapter, we consider economic issues that arise in developing merger remedies.

We distinguish between current antitrust enforcement agency practice regarding merger remedies and how agencies should, from an economic perspective, develop remedies. As we discuss in detail below, when crafting merger remedies, antitrust enforcers strive to restore competition to pre-merger levels. From an economic perspective, however, the enforcer's goal should be to maximise the merger's net benefits – i.e., the sum of consumer benefits less harms. Thus, the economic approach to remedies would explicitly consider a remedy's ability not only to restore pre-merger competitive conditions but also to preserve consumer benefits from the merger. Using an approach based on maximising net benefits, the enforcement agency and merging parties might reject a remedy that would achieve the goal of restoring pre-merger competition in favour of one that allowed efficiencies to be realised and thus resulted in greater net benefits, even if it did not restore pre-merger competition fully. In practice, however, antitrust enforcement agencies typically judge a remedy's effectiveness at restoring competition rather than maximising net benefits.

1 Mary Coleman and David Weiskopf are executive vice presidents at Compass Lexecon. The authors would like to acknowledge the very helpful edits and comments provided by their colleagues Mark Israel and Theresa Sullivan.

Self-enforcing and non-self enforcing remedies

A merger remedy is more likely to be effective if it does not require ongoing enforcement by the antitrust authorities. Self-enforcing remedies, also referred to as structural remedies, are those that do not require ongoing enforcement and thus are typically preferred by antitrust enforcers. Self-enforcing remedies often involve the sale of physical assets or the sale or licensing of intellectual property (IP) rights by the merging firms to strengthen existing competitors or create new competitors.

Non-self enforcing remedies, also referred to as behavioural or conduct remedies, require ongoing monitoring and involve constraints on post-merger conduct by the merged firm. Examples include firewall and non-discrimination provisions. Antitrust enforcers may be willing to consider behavioural remedies if structural remedies are not practical or would also eliminate significant competitive benefits from the transaction as whole. For example, the remedies policy guide issued by the Antitrust Division of the US Department of Justice (DOJ) in 2011 expresses openness towards a variety of remedies, noting that both structural and conduct remedies may be usefully employed, depending on the particular circumstances of the proposed merger.[2] Similarly, guidance issued by the Federal Trade Commission (FTC) in 2012 also indicates a willingness to consider non-structural remedies in some circumstances.[3]

Self-enforcing remedies are typically preferred

It is straightforward to demonstrate why antitrust authorities prefer self-enforcing remedies. Consider a merger that provides an incentive for the merged firm to raise price.[4] Now consider two remedies that promise to restore the pre-merger competitive outcome. The first remedy changes the merged firm's incentives so that it no longer would be profitable for it to raise prices. The second remedy involves a promise or commitment by the merged firm not to raise prices, even though it still has the incentive to do so post-merger. The first remedy changes the merged firm's incentives and, if properly crafted, would be self-enforcing and not require ongoing governmental oversight; the pre-merger competitive outcome is restored by changing the firm's incentives and then relying on the competitive forces of the market to enforce competitive behaviour. The second remedy does not change incentives but rather requires the firm to act against its self-interest; such a remedy requires an effective commitment mechanism, such as ongoing monitoring and the assessment of penalties if the firm does not fulfil its commitment. Antitrust enforcers typically prefer the first remedy to the second remedy because reliance on market forces to discipline firm behaviour is viewed as being more effective and less costly. Antitrust enforcers may be willing to accept commitments from firms not to engage in anticompetitive behaviour, however, if the terms of such commitments are readily (and cheaply) monitored, there is a punishment

2 Antitrust Division Policy Guide to Merger Remedies, US Department of Justice, Antitrust Division, June 2011 (the DOJ 2011 Policy Guide), p. 4.

3 Negotiating Merger Remedies, Statement of the Bureau of Competition of the Federal Trade Commission, January 2012 (the FTC 2012 Remedies Guide), p. 5.

4 Although we use the example of a price increase as a competitive harm, mergers may provide incentives for other types of harm, such as degrading quality.

mechanism for violating them, and a self-enforcing remedy is not feasible or there is some benefit from not requiring a self-enforcing remedy.

Structural remedies are generally self-enforcing because they focus on replicating (or moving toward) pre-merger incentives and rely on market forces, whereas behavioural remedies generally require monitoring to enforce, which may be costly and imperfect.[5] As an example of how a structural remedy works, consider a horizontal merger between two firms that manufacture differentiated products that raises competitive concerns. If the products of the two firms are close competitors, then neither firm has an incentive to raise prices pre-merger, in part because it would expect to lose a significant amount of sales to the competing firm. Post-merger, however, the merged firm's incentives are different. Raising the price of one of the products no longer results in the diversion of sales to a different company; instead, a significant amount of that diversion is internalised in the merged firm. Thus, post-merger, the merged firm would have the unilateral incentive to raise the post-merger price of one (or both) products because it would face a significantly smaller amount of lost sales than it would have pre-merger.

How can this undesirable outcome be eliminated by a remedy? A remedy that divests one of the competing products to an independent buyer counteracts the post-merger economic incentive of the merged firm to raise the post-merger price on the other product because there is no longer internalisation of diversion. To be effective, such a divestiture relies on the independent buyer to 'step into the shoes' of the divesting firm and act on its incentives to maximise its own profit. Because it relies on firms' desires to maximise their profits, a divestiture remedy is self-enforcing and does not require ongoing monitoring.

Alternatively, a behavioural remedy in this situation could allow the merged firm to continue to sell both competing products but commit to not raising prices. Such a behavioural remedy does not alter the merged firm's profit-maximising incentives; rather, it seeks to prevent the merged firm from acting on those incentives in ways that could harm

5 See, e.g., J Kwoka, 'Merger Remedies: An Incentives/Constraints Framework', *The Antitrust Bulletin*, Vol 62(2), 2017, p. 369 ('divestiture works not simply because it holds the number of suppliers constant, but because it maintains strong incentives for independent competitive behavior and sharp boundaries between firms . . . the standard economic model predicts that market forces will yield the same competitive outcome and will do so without the need for further intervention by the competition agency. No continuing oversight is necessary to realize the desired competitive result, any more than it was in the premerger industry.'), pp. 371–2 ('An effective conduct remedy requires several things . . . it must provide for some enforcement mechanism involving monitoring and administration to ensure effectiveness.'); J Kwoka and D Moss, 'Behavioral Merger Remedies: Evaluation and Implications for Antitrust Enforcement,' The American Antitrust Institute, 2012, pp. 5, 6 ('once created, the divested entity will act as an independent firm, seeking to maximize profit by engaging in the same competitive actions as other firms in the market. Moreover, once such a new firm is created, there typically is no on-going oversight or other action required of the competition authority, and no constraints or reporting requirements on the firm . . . behavioral rules usually must be supplemented with close and ongoing oversight of the merged firm's actual conduct, typically relying upon a monitor with authority to require reports and perhaps to intervene in the decision-making of the merged firm.'); and T Hoehn, 'Structure Versus Conduct – A Comparison of the National Merger Remedies Practice in Seven European Countries,' *Int J of the Economics of Business*, Vol 17, No. 1, February 2010, p. 13 ('. . . access remedies tend to require some form of monitoring and regulatory mechanisms that are similar to the compliance monitoring of behavioural remedies.').

competition.[6] Such a remedy is unlikely to be attractive to antitrust enforcers, however, because it would require ongoing monitoring by the enforcement agency, which would generally be costly and difficult.[7] A commitment never to raise prices would not be sustainable as there are legitimate reasons to raise prices even in the absence of the merger, such as increased costs, increased demand or quality improvements. Not only would it be difficult for the enforcement agencies to assess whether a proposed price increase is justified, but the merged firm would object to the loss of flexibility to react to competitive pressures if pre-approval of price changes was required. Such a behavioural remedy is thus unlikely to be practical or acceptable and, in fact, may be harmful to competition by preventing the merged firm from responding to marketplace forces.

Horizontal versus vertical mergers

Whether a self-enforcing remedy or a non-self enforcing remedy may be effective and acceptable depends most obviously on whether the merger is mostly horizontal or mostly vertical. In the case of a horizontal merger (where the merging firms compete in one or more lines of business), the competitive concern is the creation or enhancement of market power from combining assets that, absent the merger, would be used to compete. Such market power may be used to raise prices or otherwise harm consumers. In addressing potential harm from a horizontal merger, antitrust agencies typically require self-enforcing, structural remedies where the merging firms are required to divest assets needed to recreate competition lost through the merger.[8] For example, the divestment of a manufacturing facility and associated business assets to a smaller competitor or a firm not already present in the relevant market may allow that competitor to replace the competition lost because of the merger and to act (together with other competitors) as an effective check on the merged firm. In some cases, there may also be behavioural commitments along with a structural component to the remedy.[9]

In the case of a vertical merger (where the merging firms do not compete but instead have an upstream/downstream or supplier/buyer vertical relationship), behavioural remedies may be more appropriate and desirable.[10] In such mergers, it is well recognised that there are efficiencies from the elimination of double marginalisation, the elimination

6 See, J Kwoka, 'Merger Remedies: An Incentives/Constraints Framework', *The Antitrust Bulletin*, Vol 62(2), 2017, p. 369 ('Conduct remedies permit the merger to take place, but then subject the firm to conditions intended to prohibit specified anticompetitive conduct or to require continuation of specified conduct necessary to preserve rivals. Importantly, these conditions do not alter in any way the merged firm's incentives to maximize profit by engaging in competitively problematic behavior. Rather, they operate in an entirely different manner, essentially seeking to prevent the firm from acting on those unchanged incentives.').

7 The merging firms may also object to such a remedy because of onerous monitoring requirements and the restriction on the firm's flexibility in setting its prices and responding to market conditions.

8 'Antitrust Division Issues Updated Merger Remedies Guide', DOJ press release accompanying the DOJ 2011 Policy Guide (hereinafter, 'Press Release with DOJ 2011 Policy Guide'); FTC 2012 Remedies Guide, p. 5; OECD Policy Roundtables: Remedies in Merger Cases 2011, pp. 222–223 (the OECD Roundtable).

9 Press Release with DOJ 2011 Policy Guide.

10 DOJ 2011 Policy Guide, p. 5; FTC 2012 Remedies Guide, p. 5; OECD Roundtable, pp. 223–224. Some mergers have both horizontal and vertical features and potentially raise the competitive concerns of both types of mergers.

of transactions costs between the upstream and downstream firms, and, more generally, improved coordination on the production and sale of complementary products.[11] At the same time, a vertical merger that involves particularly important assets may raise competitive concerns that the combined firm will foreclose (or significantly raise the cost of) rivals' access to either the upstream or downstream product. A structural remedy that involves divestment of the upstream or downstream product of concern would eliminate the competitive concern but also eliminate the efficiencies from the vertical combination. In such a case, if there were a less extensive remedy that could maintain efficiencies while making competitive harm less likely, this would likely improve net consumer benefits relative to the divestment.

In theory, a relatively simple behavioural commitment by the merged firm to continue to supply rivals would make competitive harm less likely while retaining the potential gains from vertical integration by removing double marginalisation or other benefits of improved coordination. However, while they are in theory easy to monitor, in practice such commitments can still raise issues. For example, a commitment to supply rivals still requires an understanding of what price rivals will pay. In addition, circumstances may change that would result in a legitimate reason for the supply relationship to end, but the remedy may not be flexible enough to allow that outcome. In some cases, such concerns may be dealt with by use of an arbitration provision, allowing a neutral third party to assess whether post-merger behaviour is consistent with pre-merger incentives. However, recent statements by Makan Delrahim, the Assistant Attorney General for the Antitrust Division of the DOJ, have expressed concerns with non-structural remedies even in vertical matters.[12] Whether the commitments, even if imperfect, are preferable to blocking the transaction depends on the potential costs from the commitments relative to efficiencies that can be achieved from allowing the transaction to proceed.

Economic issues to consider when analysing whether a proposed self-enforcing remedy restores competition in theory and practice

According to the 2011 DOJ Policy Guide, an appropriate merger remedy protects competition: 'The Division's central goal is preserving competition, not determining outcomes or picking winners and losers.'[13] Noting that remedy assessment is a fact-intensive exercise,

11 See, e.g., Dennis Carlton and Jeffrey Perloff (2005), *Modern Industrial Organization*, 4th ed., p. 5.

12 'Assistant Attorney General Makan Delrahim Delivers Keynote Address at American Bar Association's Antitrust Fall Forum,' 16 November 2017, available at www.justice.gov/opa/speech/assistant-attorney-general-makan-delrahim-delivers-keynote-address-american-bar, site visited 12 February 2018 ('Like any regulatory scheme, behavioral remedies require centralized decisions instead of a free market process. They also set static rules devoid of the dynamic realities of the market. With limited information, how can antitrust lawyers hope to write rules that distort competitive incentives just enough to undo the damage done by a merger, for years to come? I don't think I'm smart enough to do that. Behavioral remedies often require companies to make daily decisions contrary to their profit-maximizing incentives, and they demand ongoing monitoring and enforcement to do that effectively. It is the wolf of regulation dressed in the sheep's clothing of a behavioral decree. And like most regulation, it can be overly intrusive and unduly burdensome for both businesses and government.').

13 DOJ 2011 Policy Guide, p. 3. As explained by the DOJ, attempts to protect individual competitors ultimately can harm competition by suppressing firms' incentives to compete.

the DOJ Policy Guide instructs that remedies should be evaluated with a 'careful application of legal and economic principles to the particular facts of a specific case'[14] and there should be a clear, logical link between the remedy and the alleged harm that the proposed merger would impose.[15] The 2012 FTC Remedies Guide and OECD Roundtable express similar ideas.[16]

What, if any, remedy will work in both theory and practice depends, of course, on the nature of the industry at issue and the specific competitive concern. In this section, we focus on whether the remedy is likely to restore competition to pre-merger levels – as we discuss in the next section, a remedy that does not perfectly restore competition to pre-merger levels may still be preferred to blocking the transaction as it would allow the efficiencies associated with the transaction to be realised as long as the remedy is likely to result in net benefits. In this section, we discuss several economic considerations in evaluating whether a potential self-enforcing remedy is likely to restore competition to its pre-merger level, namely:

- What is the nature of competition pre-merger?
- What is the alleged competitive harm, how significant is this harm likely to be, and how long will it last?
- How will potential remedies restore competition in theory, and if there are multiple potential remedies, how do they compare?
- Are there impediments to implementing the potential remedies?

With many structural remedies, the goal of the enforcement agency is often to recreate the competitor lost from the merger. In certain situations, this should be easy: if the product/geography at issue is a stand-alone business that has little reliance on the rest of the company (other than potentially sharing corporate resources), divesting that complete business to another firm (which can also offer corporate resources) is likely to restore competition as it was prior to the divestiture.[17]

In many cases, however, determining the appropriate remedy can be more complex as there are often many components to the production, marketing and sale of products. Moreover, the production, sales and marketing of one product can be related to other products. That is, the presence of scope economies may influence the likelihood that the remedy will be effective. Scope economies refer to the reduced marginal or incremental cost of production from increasing the breadth of products produced or distributed. The importance of scope economies for a particular merger may influence whether divesting more (or less) of an existing business will be sufficient to preserve competition prior to the merger. In an industry where offering a 'full line' of products is important to be an effective competitor, the agencies may seek a divestiture that includes more than the existing business encompassing the products in the relevant markets at issue in order to ensure that

14 DOJ 2011 Policy Guide, p. 2.

15 DOJ 2011 Policy Guide, p. 4.

16 FTC 2012 Remedies Guide, p. 1; OECD Roundtable, p. 222.

17 FTC 2012 Remedies Guide, p. 5; DOJ 2011 Policy Guide, pp. 8–9.

the purchaser has a sufficient range of products to compete.[18] The FTC's recent retrospective study of merger remedies found several instances in which purchasers of divested assets faced limitations in their ability to compete because of the narrow scope of the asset package.[19] Thus what is included in a divestiture remedy and who is the buyer are important considerations.

What is included in the remedy

We consider two examples to show what issues may arise when determining what should be included in remedies.

Example 1: Retail mergers

Consider a merger of two retailers that raises competitive concerns regarding a limited number of stores within a subset of geographies impacted by the merger. The seemingly obvious solution to these competitive concerns would be to divest the stores of one or the other of the parties in each location to a third-party buyer and thus restore competition. However, this raises several potential issues as to whether the new buyer is likely to be an effective competitor. For example:

- Can the store location be readily transferred – do the parties own the location or is it leased and, if leased, what is the length of the lease and is it transferable?
- Will the buyer be able to obtain products to sell at the retail store at costs similar to those enjoyed by the current owner?
- Does the new buyer want or need access to the brand name of the previous retailer?

Example 2: Intermediate manufactured goods

Now consider a merger of two manufacturers of an intermediate good that is used in the manufacture of other items. Assume that the merging parties are two of a small number of suppliers of the intermediate good. Again, the 'easy' remedy would be to divest one of the merging parties' manufacturing facilities associated with the intermediate good. However, this solution may also raise other issues. For example:

- Is the intermediate good made in a stand-alone factory or is it part of a factory that produces more goods than just the good at issue? If so, is there a practical way to divide up the assets?
- Does the buyer have sufficient skill and knowledge to run the manufacturing facility effectively?
- How is the product sold and marketed? What assets are required for sales and marketing? What customer relationships and contracts exist? Are contracts transferable?
- Is there a brand name? Will it be transferred?

18 DOJ 2011 Policy Guide, p. 10 ('Where divestiture of an existing business entity is insufficient to resolve the competitive issues raised by the proposed merger, additional assets from the merging firms will need to be included in the divestiture package. For example, in some industries, it is difficult to compete without offering a "full line" of products. In such cases, the Division may seek to include a full line of products in the divestiture package, even when its antitrust concern relates to only a subset of those products.').

19 The FTC's Merger Remedies 2006–2012: A Report of the Bureaus of Competition and Economics, January 2017, p. 23.

Who is the buyer?

Another key consideration is the identity and characteristics of the buyer, as we briefly touched on above. A divestiture to a buyer that is already a significant competitor in the relevant market may not solve the competitive concerns engendered by the merger. If the buyer is not already a competitor in the relevant market, however, then there may be concerns about whether the buyer will be effective at restoring the lost competition. Buyers who already participate in the relevant market but who are small and not already a significant competitive constraint on the merged firm may be acceptable. This is because such a buyer is not already an important competitive factor in the industry but may be able to use the assets more effectively to become a strong competitor than an outside buyer could.

In addition, the identity of the buyer may impact what should be included in the divestiture package. For example, in a retail context, a buyer who already has retail outlets in other geographies may not need a brand name or, if the geographies are nearby, may not require distribution centres. This may also mean that the buyer already has the requisite scale to be effective. Similarly, in the manufacturing context, the buyer may already have production facilities that are well suited to make the product at issue or may only require a subset of assets to begin production. All of this suggests knowing the identity and capabilities of the buyer is important to crafting the appropriate divestiture package. As a result, the enforcement agencies frequently require that a buyer be identified before the divestiture package is finalised.

Another economic issue arises to the extent the merging parties have an incentive to propose marginally acceptable, 'weak' buyers to undermine the antitrust enforcement agency's attempt to restore pre-merger competition. The economics underlying this concern is straightforward. To the extent the proposed buyer is a weak competitor, a weaker post-merger competitor replaces a stronger pre-merger competitor. Competition overall is therefore softened, to the benefit of the merging parties and other competitors in the relevant antitrust market, and to the detriment of competition and consumers. According to studies of merger remedies conducted by the FTC, merging parties have been less likely in recent years to propose marginally acceptable buyers.[20]

Trade-offs between restoring competition and preserving efficiencies

If one focused solely on the competitive concerns related to a transaction, the goal of the merger remedy is to restore the market to the level of competition prior to the merger – i.e., remove the risk of harm to competition from the market as much as possible. The least risky way to achieve this outcome would be to block the transaction entirely. However, such an approach would negate any potential benefits from the transaction.

20 The FTC's Merger Remedies 2006–2012: A Report of the Bureaus of Competition and Economics, January 2017, p. 24 ('The 1999 Divestiture Study revealed that respondents sometimes proposed marginally acceptable buyers unlikely to offer robust competition. This study shows that respondents are now proposing stronger buyers that, in most cases, fully satisfy the Commission's criteria. Overall, respondents proposed buyers that were familiar with the market, dealt with many of the same customers and suppliers, had developed thoughtful business plans with realistic financial expectations and sufficient backing, and were well received by market participants.').

From an economic perspective, developing a remedy should require careful balancing between removing the competitive harm from the transaction while at the same time maintaining potential benefits of the transaction. How this balance should be made depends on: (1) how certain and large is the potential competitive harm from the transaction; (2) how certain and large are potential benefits from the transaction inside and outside the relevant markets; and (3) what remedies are available, how readily they address the competitive harm and how they impact the potential benefits from a transaction. As we discussed above, antitrust enforcers typically focus on whether the proposed remedy removes the competitive harm as completely as possible from areas affected by the transaction, frequently because the benefits from the transaction outside of these areas, particularly for consumers, are less well defined. However, their willingness to consider remedies at all – and in some cases more creative remedies – implicitly recognises that there is a downside to blocking a transaction or always requiring the most risk-free remedy. We believe that from an economic perspective the effect of a proposed remedy on efficiencies, whether within the product markets at issue or outside of them, should be given more explicit consideration by antitrust enforcers.

Consider the potential for efficiencies specific to the products at issue. If an antitrust agency chooses to challenge a merger then it must believe there will be a net competitive harm in the market at issue, accounting for the potential efficiencies; that is, the expected competitive harm is larger than the expected competitive gains from efficiencies in the market at issue. This result could occur because of the relative sizes of the estimated gains and losses or because the harm is judged to be less speculative than the gains. If the benefits from efficiencies are sizeable and relatively likely – even if smaller than the expected harm from the transaction – consumers may benefit if a remedy could be crafted that maintained the gains while lowering the size of the potential harm, even if the harm is not reduced to zero.

As discussed above, it is well recognised that vertical mergers are likely to generate efficiencies. Moreover, the theory of harm from vertical mergers is not based on removal of direct competition between the merging parties but rather on potential incentives to harm rivals through foreclosure or raising rivals' costs that may result in softened upstream or downstream competition. From an economic perspective, this suggests that even a remedy that does not eliminate entirely the potential for competitive harm or requires ongoing monitoring may be preferable to blocking the transaction (or requiring divestiture of the upstream or downstream product if the merger involves more than just the products of concern), which eliminates the efficiencies of the transaction. For example, in the *Comcast/NBC-Universal* merger, the DOJ consent order included a provision whereby Comcast/NBC-Universal agreed to offer online video programming distributors NBC-Universal programming on 'economically equivalent' terms to those offered to traditional video distributors (with the possibility of arbitration if the parties failed to reach an agreement).[21]

Now consider efficiencies outside the markets at issue. In some cases, crafting the remedy may have an impact on efficiencies that can be generated from other areas. For example, if the products at issue are produced in plants that make other products, then a remedy for the products at issue that divests the entire plant and all of the associated businesses

21 J Kwoka, 'Merger Remedies: An Incentives/Constraints Framework', *The Antitrust Bulletin*, Vol 62(2), 2017, p. 371.

could result in lost efficiencies for the divested business other than the products at issue. If so, consumers could be worse off than with a more limited remedy, even if that remedy created some risk of lessened competition in the markets at issue. An alternative remedy, for instance, might involve the buyer leasing space, machinery and other infrastructure from the merged firm. While this might raise competitive concerns as to whether the merged firm could act strategically to undermine the buyer or increase the risk of coordination between the buyer and the merged firm, taking this risk may be justified if it could preserve sizeable efficiencies in other product areas.[22] Importantly, such an approach would require the antitrust agencies and the parties to develop an in-depth understanding of efficiencies outside of the areas at issue and how those efficiencies are impacted by a proposed remedy.

22 See, e.g., DOJ 2011 Policy Guide, p. 4 acknowledging this concern ('Effective remedies preserve the efficiencies created by a merger, to the extent possible, without compromising the benefits that result from maintaining competitive markets.').

Appendix 1

About the Authors

Mary T Coleman
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Dr Mary Coleman is an executive vice president at Compass Lexecon. Dr Coleman's consulting practice specialises in the competitive analysis of mergers and acquisitions and joint ventures, and antitrust litigation, including class action certification issues. She has experience with a wide range of industries, including consumer products, retailing, distribution, food packaging, petroleum and natural gas, chemicals, coatings, industrial gases, concrete and cement, defence industries, telecommunication, publishing, newspapers, agricultural products, paper products, payment systems, pharmaceuticals, hospitals, physicians, medical devices, healthcare, and computer hardware and software. She has made presentations before US and foreign antitrust authorities and submitted expert testimony in federal court. Dr Coleman previously served as the deputy director for antitrust in the Bureau of Economics of the Federal Trade Commission from 2001 to 2004.

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Successfully remedying the potential anticompetitive effects of a merger can be more of an art than a science. Not only is every deal specific, but, as noted by Ronan Harty in his introduction, every remedy contains an element of 'crystal ball-gazing'; enforcers need to look into the future and successfully predict outcomes.

As such, practical guidance for both practitioners and regulators in navigating this challenging environment is critical. *The Guide to Merger Remedies* – published by Global Competition Review – is unique in providing this detailed guidance and analysis. It examines remedies throughout their life cycle: from the fundamental principles; to the remedies available; through how remedies are structured and implemented; and including how enforcers ensure compliance. Insights from around the world, ranging from Brazil to China, supplement the global analysis to inform the reality of multi-jurisdictional deals.

Drawing on the wisdom and expertise of 47 distinguished practitioners from 18 firms, the Guide draws together unparalleled proficiency in the field and provides essential guidance for all competition professionals.

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ISBN 978-1-78915-105-3