GLOBAL COMPETITION REVIEW

The Guide to Merger Remedies

Editors
Ronan P Harty and Nathan Kiratzis

GCR
GLOBAL COMPETITION REVIEW

The Guide to Merger Remedies

Editors

Ronan P Harty and Nathan Kiratzis

GCR
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

1

Key Principles of Merger Remedies

Ilene Knable Gotts[1]

Most transactions are not anticompetitive and many benefit consumers. Competition laws are designed to address those transactions that are likely to substantially lessen competition in a relevant market. Such harm can result either from a firm's acquisition of market power or the increasing likelihood of anticompetitive coordination. In some jurisdictions, the competition law mandate specifies a broader 'public interest standard' or other social policies, such as 'black empowerment'.

In some jurisdictions, such as that of the European Commission, the competition authorities' decision not to approve the transaction effectively kills the transaction. In other jurisdictions, such as the United States[2] and Canada, the competition authority must challenge the transaction in a court to block its consummation, and the judge ultimately decides the legality of the transaction. In both types of jurisdiction transaction parties will frequently try to resolve the concerns of a competition authority by offering potential remedies and, if accepted by the competition authority, entering into a consent decree.

Core universal goal: preserving competition

The universal goal of remedies is preserving competition that would otherwise be lost because of the transaction, while permitting, if possible, the realisation of efficiencies and other benefits.[3] As expressed in the US Department of Justice's 17 June 2011 Merger Remedies Guide (the DOJ Guide):

1 Ilene Knable Gotts is a partner at Wachtell, Lipton, Rosen & Katz.

2 At the federal level, the two antitrust agencies are the US Department of Justice's Antitrust Division and the Federal Trade Commission.

3 International Competition Network, ICN Merger Working Group, Merger Remedies Guide (2016), available at www.internationalcompetitionnetwork.org/uploads/library/doc1082.pdf (the ICN Merger Remedies Guide).

> *The touchstone principle . . . in analyzing remedies is that a successful merger remedy must effectively preserve competition in the relevant market. . . . In horizontal merger matters, structural remedies often effectively preserve competition, including when used in conjunction with certain conduct provisions. Structural remedies may be appropriate in vertical merger matters as well, but conduct remedies often can effectively address anticompetitive issues raised by vertical mergers. In all cases, the key is finding a remedy that works, thereby effectively preserving competition in order to promote innovation and consumer welfare.*[4]

The underlying principles to be considered are: (1) the need for a tailored remedy; (2) duration; (3) practicality; and (4) risk.

Need for a tailored remedy

The starting point for each competition authority is the determination of the nature and scope of potential competitive harm within the jurisdiction before requiring or agreeing to propose remedies.[5] Next, to be effective, the remedy must be tailored to the harm. As indicated in the DOJ Guide:

> *there should be a close, logical nexus between the proposed remedy and the alleged violation – and the remedy should fit the violation and flow from the theory or theories of competitive harm. Effective remedies preserve the efficiencies created by a merger, to the extent possible, without compromising the benefits that result from maintaining competitive markets.*[6]

The DOJ Guide expressly states that the goal is not to determine outcomes or pick winners or losers, and decree provisions should not protect or favour particular competitors, for instance, by removing the incentive for individual firms to compete. The remedy should also give due consideration to how the remedy changes the competitive dynamics of the market and the incentives of the merged firm post-remedy.[7]

Duration

A remedy should seek to address the competitive harm over its expected duration.[8] Most transactions that raise competition concerns involve firms that are actual or potential competitors (i.e., 'horizontal merger' concerns), whose potential would permanently change the market structure. Therefore, as discussed in greater detail in other chapters of this book, the most common remedy is to prevent common control over some or all of the overlapping assets through a divestiture of the overlapping assets. Precedent during the Obama

---

4 US Dep't of Justice, Antitrust Division, Policy Guide to Merger Remedies, at 1–2 (June 2011), available at www.justice.gov/opa/pr/antitrust-division-issues-updated-merger-remedies-guide. The DOJ Guide indicates that the phrase 'preserving competition' includes the concept of restoring competition or enhancing consumer welfare, depending on the specific transaction. In consummated mergers, the remedy focus will be on effectively restoring competition in the relevant market, including possibly completely unwinding the transaction.

5 ICN Merger Remedies Guide p. 2.

6 DOJ Guide p. 4.

7 Id. p. 5.

8 Id.

administration included the US agencies imposing a variety of behavioural conditions to support a structural divestiture to resolve horizontal merger concerns. Transition services arrangements and supply arrangements have become more routinely included beyond the pharmaceutical industry, where they had already been the norm.[9] Mandatory licensing provisions may also alleviate competitive concerns by enabling competitors access to a key input;[10] some of the consents, however, include not only a licence for technology, but the right to purchase the technology or to transfer the licence to a third party later.[11] In addition, non-discrimination provisions have been included to incorporate the concepts of equal access, equal effort and equal terms. Transactions involving vertically aligned businesses can also raise concerns to the extent that the transaction will create changed incentives and enhance the ability of the merged firm to impair the competitive process. The remedy in such situations aims to counteract these changed incentives or to eliminate the merged firm's ability to act on them.[12] These conduct provisions are imposed for a set number of years – typically two to five, except for licensing, which may be a perpetual grant.

The Trump administration – especially its Antitrust Division – has expressed concerns over the use of conduct remedies, preferring the benefit of an upfront structural remedy. This is discussed further in the next section. One of the aspects of behavioural remedies recently criticised is determining their expiration.

Practicality

As indicated in the ICN Merger Remedies Guide, a 'remedy should be capable of being implemented, monitored, and enforced bearing in mind the need for detecting non-compliance and the resources involved in the enforcement of the remedy'.[13] Competition authorities are reticent to adopt regulatory-like remedies (e.g., price controls) that require monitoring of internal company conduct and may not easily ensure compliance. In addition, undertakings typically contain provisions that permit for modification in the event of changed circumstances. The ongoing oversight (compliance reporting)

9 See, e.g., Press Release, US Dep't of Justice, Justice Department Requires Divestitures in Order for Regal Beloit Corporation to Proceed with Its Acquisition of A.O. Smith Corporation's Electric Motor Business (17 August 2011), available at www.justice.gov/opa/pr/2011/August/11-at-1056.html; Hold Separate Stipulation and Order, *United States v. Bemis Co Inc*, No. 1:10-cv-00295 (DDC 24 February 2010), available at www.justice.gov/atr/cases/f255700/255715.htm.

10 See, e.g., Press Release, US Dep't of Justice, Justice Department Requires Google Inc to Develop and License Travel Software in Order to Proceed with Its Acquisition of ITA Software Inc (8 April 2011), available at www.justice.gov/opa/pr/2011/April/11-at-445.html; Press Release, US Dep't of Justice, Justice Department Allows Comcast-NBCU Joint Venture to Proceed with Conditions (18 January 2011), available at www.justice.gov/opa/pr/2011/January/11-at-061.html.

11 See, e.g., Proposed Final Judgment, US Dep't of Justice, *United States v. Cameron Int'l Corp*, No. 1:09-cv-02165 (DDC 17 November 2009), available at www.justice.gov/atr/cases/f252000/252080.htm.

12 See, e.g., Competitive Impact Statement, *United States v. Comcast Corp*, 1:11-cv-00106 (DDC 2011), available at www.justice.gov/atr/cases/f266100/266158.pdf; Competitive Impact Statement, *United States v. Google Inc*, 1:11-cv-00688 (DDC 2011), available at www.justice.gov/atr/case-document/file/497671/download; Competitive Impact Statement, *United States v. Ticketmaster Entm't Inc*, 1:10-cv-00139 (DDC 2010), available at www.justice.gov/atr/case-document/file/513376/download; Competitive Impact Statement, *United States v. Charter Commc'ns Inc*, 1:16-cv-00759 (DDC 2016), available at www.justice.gov/atr/file/850161/download.

13 ICN Merger Remedies Guide p. 4.

functions will also be considered. A monitor, paid for by the merged firm, may be used in some situations.

Conduct remedies have primarily been used to resolve concerns in vertical mergers, but such remedies are not always accepted by the DOJ. For instance, during the Obama administration, Deputy Assistant Attorney General Jon Sallet indicated:

> *In vertical transactions, observers sometimes assume that conduct remedies will always be available and sufficient. But that is not the current practice of the Division – if it ever was. . . . Some vertical transactions may present sufficiently serious risks of foreclosing rivals' access to critical inputs or customers, or otherwise threaten competitive harm, that they require some form of structural relief or even require that the transaction be blocked.*[14]

The Trump administration leadership at the Antitrust Division has indicated that, although it is not saying it will never accept behavioural remedies, the standard for proving that the remedy will cure the anticompetitive harm is high. Rather, the DOJ will typically require structural relief rather than behavioural remedies to remedy antitrust concerns. In a keynote speech at the ABA Fall Forum on 16 November 2017, Assistant Attorney General Makan Delrahim explained that behavioural remedies are 'fundamentally regulatory, imposing ongoing government oversight on what should preferably be a free market'.[15] Such regulatory schemes 'require centralized decisions instead of a free market process. They also set static rules devoid of the dynamic realities of the market.'[16] In addition, such remedies are challenging to enforce, presuming 'that the Justice Department should serve as a roving ombudsman of the affairs of business; even if we wanted to do that, we often don't have the skills or the tools to do so effectively.'[17]

It is unclear to what extent the FTC will diverge from the DOJ by accepting conduct remedies in the future.[18] Acting FTC Competition Bureau Director Bruce Hoffman indicated recently: '[T]he FTC prefers structural remedies to structural problems, even with vertical mergers.'[19] But, at the same time, the FTC recognises that:

---

14 Jon Sallet, Deputy Assistant Attorney General of the Antitrust Division, Remarks at the American Bar Association Fall Forum, The Interesting Case of the Vertical Merger (17 November 2016), available at www.justice.gov/opa/speech/deputy-assistant-attorney-general-jon-sallet-antitrust-division-delivers-remarks-american.

15 Makan Delrahim, Assistant Attorney General of the Antitrust Division, 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. See also Improving the Antitrust Consensus, Remarks of Assistant Attorney General Makan Delrahim Delivered at the New York State Bar Association (25 January 2018), available at www.justice.gov/opa/speech/remarks-assistant-attorney-general-makan-delrahim-delivered-new-york-state-bar.

16 Id.

17 Id.

18 Bruce Hoffman, Acting Director, Bureau of Competition, Remarks at Credit Suisse 2018 Washington Perspectives Conference, Vertical Merger Enforcement at the FTC (10 January 2018), available at www.ftc.gov/system/files/documents/public_statements/1304213/hoffman_vertical_merger_speech_final.pdf.

19 Id. at 7. The DOJ unsuccessfully challenged the combination of AT&T Inc and Time Warner Inc, seeking structural rather than behavioural remedies. See memorandum decision, *US v. AT&T Inc*, No. 17-2511 (RJL) (DDC 12 June 2018).

> *in some cases . . . a behavioral or conduct remedy can prevent competitive harm while allowing the benefits of integration . . . if the FTC looks closely at a vertical merger that raises the concerns . . ., no one should be surprised if the FTC requires structural relief. . . . If that can't be achieved without sacrificing the efficiencies that motivate the merger, then* [it] *can look at conduct remedies. If those won't work – or will be too difficult and problematic . . . to be confident that they will work without an excessive commitment of FTC resources where* [it is] *effectively turned into a regulator – then there should be no surprise if* [the FTC were to] *seek to block the merger.*[20]

Risk

Inherent in any remedy is the potential risk that the competition authority's goal of preserving competition will not be achieved. The three most common risks are: (1) a package or composition risk; (2) a purchaser risk; and (3) implementation risks. The extent to which a particular jurisdiction will knowingly tolerate risk varies depending on the specific laws and policies of that jurisdiction, including the extent to which the authority has the power to remedy failings after entering into the consent and the transaction's closing.

Package and composition risks

This risk factor relates to the adequacy of the business or assets to be divested in a structural remedy, as well as the efficacy of the conditions and prohibitions prescribed in a behavioural remedy. In January 2017, the FTC issued its latest merger retrospective study.[21] The study reviewed 89 merger orders entered into between 2006 and 2012. The FTC concluded that, although the FTC's merger remedy practices are generally effective, certain areas needed to be adjusted.

First, the study found that divestiture buyers of a more limited package of assets were deemed not to succeed at times, even when the buyer was identified upfront. The FTC indicated that, in future, parties can expect that proposals to divest selected assets will undergo more detailed scrutiny and the Commission will accept a proposal of less than the entire ongoing business only if the parties and the divestiture buyer demonstrate that divesting the more limited asset package is likely to maintain or restore competition. An example cited is that ongoing business divestiture is infeasible. In addition, the Commission indicated that it may require divestiture of assets (including manufacturing facilities) related to additional complementary products, the use of brand or trade names, or other affirmative conduct obligations, including facilitating the transfer of customers, to ensure the buyer's viability.

Second, the study indicated that divestiture buyers have sometimes had unforeseen complexities in transferring critical back-office functions and need more time to transition these services. The FTC indicates that it is important that the divestiture buyer is able to conduct due diligence to understand what back-office support services it needs and that it will undertake additional scrutiny in this area. In addition, the FTC takes the position

---

20 Id. at 8-9.

21 Fed Trade Comm'n, The FTC's Merger Remedies 2006–2012 (January 2017), available at www.ftc.gov/system/files/documents/reports/ftcs-merger-remedies-2006-2012-report-bureaus-competition-economics/p143100_ftc_merger_remedies_2006-2012.pdf.

that critical back-office functions on a transitional basis must be supplied to the divestiture buyer at no more than the parties' cost.

In the past few years, the US agencies have more frequently required divestitures to include out-of-market assets (i.e., a divestiture package that goes beyond the assets in the relevant market) to ensure that the divestiture buyer has adequate assets to be effective.[22] The same is true in consummated merger challenges. In both *Chicago Bridge*[23] and *Polypore*,[24] the FTC required the parties to include assets outside of the market to restore competition within the relevant market and to provide the divestiture buyer with the ability to compete. In addition, in *Valeant*,[25] the FTC required Valeant not only to divest the entire hard contact lens business it had acquired from Paragon Holdings in 2015, but also the assets it had later acquired that the FTC deemed necessary to ensure that the divested business would continue to have access to the disks that are made into the finished contact lenses.

In certain industries, the package risk includes the potential that the assets will deteriorate significantly prior to divestiture (or even following divestiture if the divestiture buyer is unable to stave off such deterioration). Two 'failed' FTC divestitures illustrate this risk. First, in 2015, the FTC approved the divestiture of 146 supermarkets to Haggen Holdings LLC (Haggen) to resolve concerns about Albertsons' acquisition of Safeway.[26] On 14 August 2015, Haggen announced that it would close 27 acquired stores and, on 8 September 2015, it filed for Chapter 11 bankruptcy to permit it to reorganise with only its core profitable stores. On 24 September 2015, Haggen announced that it would exit from California, Arizona and Nevada, and continued to operate only 37 stores in those states. Haggen, Cerberus International and Safeway petitioned the FTC on 23 September 2015, seeking approval on an expedited basis of a modification of the consent to permit Albertsons to rehire Haggen employees who were otherwise being terminated by Haggen, without violating the consent order.[27] The FTC had no choice but to grant this request.

22 For a discussion of remedies, including out-of-market assets from the FTC's perspective, see Dan Ducore, Fed Trade Comm'n, Bureau of Competition, Divestitures may include assets outside the market (24 April 2015), available at www.ftc.gov/news-events/blogs/competition-matters/2015/04/divestitures-may-include-assets-outside-market.

23 FTC Opinion, *In the Matter of Chicago Bridge & Iron Company*, FTC Docket No. 9300 (6 January 2005), available at www.ftc.gov/sites/default/files/documents/cases/2005/01/050106opionpublicrecordversion9300_0.pdf.

24 FTC Opinion, *In the Matter of Polypore International Inc*, FTC Docket No. 9327 (13 December 2010), available at www.ftc.gov/sites/default/files/documents/cases/2010/12/101213polyporeopinion.pdf?utm_source=govdelivery.

25 Agreement Containing Consent Order, *Valeant Pharmaceuticals Int'l Inc*, FTC File Nos. 151-0236 and 161-0028 (7 November 2016), available at www.ftc.gov/system/files/documents/cases/161107_paragon_pelican_agreement_2.pdf.

26 Press Release, Fed Trade Comm'n, FTC Requires Albertsons and Safeway to Sell 168 Stores as a Condition of Merger (27 January 2015), available at www.ftc.gov/news-events/press-releases/2015/01/ftc-requires-albertsons-safeway-sell-168-stores-condition-merger.

27 Application for Approval of Waiver Agreement to the Haggen Divestiture Agreement, *In re Cerberus Inst'l Partners V LP*, No. C-4504, Fed Trade Comm'n (23 September 2015), available at www.ftc.gov/system/files/documents/cases/150925cerberusapplication.pdf.

Third, the divestiture buyer in the *Dollar Tree/Family Dollar*[28] transaction had mixed success in the stores it acquired. Of course, the divestiture occurred in a very challenging retail industry environment generally.

Purchaser risk

The identity of the divestiture buyer may, on rare occasions, potentially contribute to the divestiture's lack of success. The FTC's November 2012 order approving the divestiture of Hertz's Advantage low-cost rental business and rights to operate 29 Dollar Thrifty airport locations to Simply Wheelz – a subsidiary of Franchise Services of North America, which at that time operated U-Save Car Rental – may be such a case.[29] Four months after the FTC issued its final order, Simply Wheelz filed for bankruptcy, reportedly in part owing to Hertz's exercise of its right to terminate its fleet-leasing arrangement with Advantage, since Advantage owed Hertz in excess of US$39 million. Both US agencies often require the parties to identify an acceptable upfront buyer before accepting divestiture packages. The upfront buyer requirement is justified by the agencies as being necessary to ensure that the divestiture will be effective in maintaining competition at the same level as it had been pre-transaction. The transaction parties, however, can face substantial delay from the process: the need to identify a divestiture buyer, negotiate a divestiture agreement, and have that buyer and the divestiture package vetted by the agencies before the main transaction is permitted to proceed can literally add months to the merger review process.

The factors considered by competition authorities when approving a divestiture buyer that can mitigate purchaser risk are: (1) the financial capability to purchase the divested business and make necessary investments, and commitment to remain in the market; (2) the managerial expertise to run the business; and (3) the operational capacity and resources to run the divested business, particularly if the divestiture consists of less than a stand-alone business.

Implementation risk

Competition authorities consider the risk of potential failure either because of the merged firm's conduct or other market factors, and the potential for circumvention. For post-closing divestitures, hold-separate or asset preservation agreements can help to prevent interim competitive harm to the divestiture assets. In addition, to reduce implementation risk, undertakings frequently provide that the competition authority may require the divestiture to occur 'at no minimum price' after the initial time period for a merged firm-driven sale has passed and the divestiture process has been relinquished to a divestiture trustee. Use of a monitor with industry experience can mitigate some of the implementation concerns in a transaction involving ongoing behavioural provisions.

---

28 Press Release, Fed Trade Comm'n, FTC Requires Dollar Tree and Family Dollar to Divest 330 Stores as Condition of Merger (2 July 2015), available at www.ftc.gov/news-events/press-releases/2015/07/ftc-requires-dollar-tree-family-dollar-divest-330-stores.

29 Press Release, Fed Trade Comm'n, FTC Requires Divestitures for Hertz's Proposed $2.3 Billion Acquisition of Dollar Thrifty to Preserve Competition in Airport Car Rental Markets (15 November 2012), available at www.ftc.gov/news-events/press-releases/2012/11/ftc-requires-divestitures-hertzs-proposed-23-billion-acquisition.

Remedies in a global competition setting

Increasingly for multi-jurisdictional transactions, competition authorities have cooperated during the investigation stage and, on some occasions, at the remedies stage. The ICN Merger Remedies Guide indicates that each competition authority should exercise its independent judgement in reaching its decision regarding the need for a remedy.[30] Nevertheless, in many investigations, coordination among competition authorities may avoid conflicting remedies (i.e., when one or more authority enters into separate remedy orders) or, in some cases, even the need for a particular jurisdiction to enter into a remedy itself because of the actions taken by another jurisdiction.[31] Such coordination and cooperation is particularly needed when the authority reaches the conclusion that an effective remedy should include assets outside of its jurisdiction.

By way of example, in *Holcim/Lafarge*,[32] the FTC conditioned clearance on the divestiture of plants and terminals, including a terminal in Alberta, Canada and a cement plant in Ontario, Canada. Canadian assets that are named in the FTC consent decree were included by the FTC as necessary to remedy competitive concerns in northern US markets. The Canadian consent – entered into the same day – provides mirror provisions.

Similarly, in *ZF Friedrichshafen AG/TRW Automotive Holdings Corp*,[33] the FTC conditioned approval of a US$12.4 billion merger that would create the world's second-largest auto parts supplier with the divestiture of TRW's linkage and suspension business in North America and Europe, even though only suppliers that have production facilities in the United States, Canada and Mexico were deemed eligible to compete for US business.[34] The FTC's order followed the EC's clearance, which was subject to Friedrichshafen's commitment to divest TRW's chassis components businesses in the European Economic Area.

In addition, in *NXP Semiconductors*, the parties agreed to divest all NXP assets that are used primarily for manufacturing, research and development of RF power amplifiers, including a manufacturing facility in the Philippines, a building in the Netherlands to house management and some testing labs, as well as all patents and technologies used exclusively or predominantly for the RF power amplifier business, based on the finding that the market for RF power amplifiers is worldwide. The FTC worked with the staff of antitrust

30 ICN Merger Remedies Guide at p. 3.

31 Press Release, US Dep't of Justice, Justice Department Will Not Challenge Cisco's Acquisition of Tandberg (29 March 2010), available at www.justice.gov/opa/pr/justice-department-will-not-challenge-cisco-s-acquisition-tandberg; Melissa Lipman, FTC Approves Novartis' $16B GSK Oncology Buy With Fixes, Law360 (23 February 2015), available at www.law360.com/articles/624083/ftc-approves-novartis-16b-gsk-oncology-buy-with-fixes.

32 Press Release, Fed Trade Comm'n, FTC Requires Cement Manufacturers Holcim and Lafarge to Divest Assets as a Condition of Merger (4 May 2015), available at www.ftc.gov/news-events/press-releases/2015/05/ftc-requires-cement-manufacturers-holcim-lafarge-divest-assets.

33 Press Release, Fed Trade Comm'n, FTC Puts Conditions on Merger of Auto Parts Suppliers ZF Friedrichshafen AG and TRW Automotive Holdings Corp (5 May 2015), available at www.ftc.gov/news-events/press-releases/2015/05/ftc-puts-conditions-merger-auto-parts-suppliers-zf.

34 As noted in the Director's Report, Spring 2016, the EU had determined as well that the merger would reduce competition in the chassis components for cars and trucks market. The broader divestiture resolved concerns in both jurisdictions. Deborah L Feinstein, Bureau of Competition, Director's Report, Spring 2016, available at www.ftc.gov/system/files/documents/public_statements/944113/feinstein_-_spring_update_april_2016.pdf.

agencies in the EU, Japan and South Korea on all aspects of the analysis, including potential remedies, in order to reach compatible approaches on an international scale. The proposed revisions to the Antitrust Guidelines for International Enforcement and Cooperation recognises these factors when it indicates that the agencies will seek a remedy that involves conduct or assets outside the United States if it deems that doing so is necessary to ensure the remedy's effectiveness and is consistent with the agency's international comity analysis.

Appendix 1

About the Authors

Ilene Knable Gotts
Wachtell, Lipton, Rosen & Katz

Ilene Knable Gotts is a partner in the New York City law firm of Wachtell, Lipton, Rosen & Katz, where she focuses on antitrust matters. Mrs Gotts is regularly recognised as one of the world's top antitrust lawyers, including being recognised for over the past decade in *Who's Who Legal* as one of the top 15 global competition lawyers and, in the most recent edition, as the top Thought Leader in North America, in the first-tier ranking of *Chambers USA* and in the 'leading individuals' ranking of *PLC Which Lawyer? Yearbook*, being named an 'All Star' by BTI Consulting Group because of her level of dedication and commitment to exceptional client service, and having been selected as the 'Antitrust Lawyer of the Year' for 2016 by the Wall Street Journal's 'Best Lawyer' survey. Mrs Gotts is a member of the American Bar Association's Board of Governors, serving on the Executive Committee and as the chair of the Finance Committee. She previously served as chair of the ABA's Section of Antitrust Law as well as in a variety of leadership positions in the Section for over two decades, including as the International Officer. From 2006 to 2007, Mrs Gotts was chair of the New York State Bar Association's Antitrust Section. An active member of the International Bar Association's Antitrust Committee, she is currently the North American Representative Officer. She is currently a member of the American Law Institute. Mrs Gotts is a frequent guest speaker, has had over 200 articles published on antitrust-related topics and has been the editor of the ABA's Merger Review Process handbook editions published over the past 20 years. She is currently on the advisory boards of MLex and GCR. Mrs Gotts is a member of the Lincoln Center Counsels' Council.

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
United States
Tel: +1 212 403 1247
Fax: +1 212 403 2247
ikgotts@wlrk.com
www.wlrk.com

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.

Visit globalcompetitionreview.com
Follow @gcr_alerts on Twitter
Find us on LinkedIn

ISBN 978-1-78915-105-3