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Vertical Merger Enforcement Actions: 1994–July 2018

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We have revised our earlier listing of vertical merger enforcement actions by the Department of Justice and Federal Trade Commission since 1994. This revised listing includes 58 vertical matters beginning in 1994 through July 2018. It includes challenges and certain proposed transactions that were abandoned in the face of Agency concerns. This listing can be treated as an Appendix to Steven C. Salop and Daniel P. Culley, *Revising the Vertical Merger Guidelines: Policy Issues and an Interim Guide for Practitioners,* 4 JOURNAL OF ANTITRUST ENFORCEMENT 1 *(2016)*.

Year	Case	Description	Vertical Theory of Harm	Remedy
2018	*United States v. CRH plc*[1]	CRH proposed to acquire the Pounding Mill Quarry Corporation. Together, CRH and Pounding Mill owned nearly all the aggregates quarries suitable for highway construction in West Virginia. In addition, CRH was one of only two suppliers of asphalt concrete, to which aggregates are an input, in West Virginia. The other producer of asphalt concrete sourced its aggregates from Pounding Mill. The DOJ alleged that the merger would give CRH the incentive to raise the price of or deny access to aggregates for that asphalt concrete competitor.	Input foreclosure	Consent Decree required CRH to divest one of Pounding Mill's quarries.
	In re Northrop Grumman Corporation[2]	Northrop Grumman proposed to acquire Orbital ATK. Northrop Grumman was one of four competitors capable of supplying the US government with missile systems. Orbital ATK was the premier supplier or solid rocket motors, which are a component of missile systems. The FTC alleged that the merger would have given Northrop Grumman the incentive to raise the price of or deny access to Orbital's solid rock motors to other missile system competitors.	Input foreclosure	Consent Decree required Northrop Grumman to separate its solid rocket motor business from the rest of the company with a firewall and for the Department of Defense to appoint a compliance officer to oversee the decree.
	United States v. Bayer AG[3]	Bayer proposed to acquire Monsanto. Monsanto has a dominant position in the seed market and Bayer has a	Input foreclosure	Consent Decree required Bayer to divest its canola, soybean, and

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		dominant position in the seed treatments market, which is a key input for genetically modified seeds. The DOJ alleged that the merger would give Bayer an incentive to charge a higher price for seed treatments to Monsanto's rivals.		vegetable seed business and certain seed treatments. It must also divest certain intellectual property and research capabilities.
2017	*United States v. AT&T Inc.*[4]	AT&T proposed to acquire Time Warner for $85 billion. AT&T is the largest distributor of subscription television, through its subsidiary DirecTV. Time Warner owns several TV networks such as TNT, TBS, CNN, and HBO. The DOJ alleged that the merger would give AT&T an incentive to coordinate with Comcast to charge other distributors more to provide Time Warner channels, because in the event that bargaining failed some customers of other distributors would switch to DirecTV. The DOJ alleged that the market was conducive to coordination because both Comcast and AT&T-Time Warner want to slow the growing popularity of multichannel online video services.	Unilateral and coordinated input foreclosure	Following a loss at trial, the court's final judgment approved the merger without any restrictions.
	In re Broadcom Ltd.[5]	Broadcom proposed to acquire Brocade Communication Systems. Brocade manufactures fibre switches. Brocade and Cisco are the only two competitors in the worldwide market for fibre switches. Broadcom supplies both companies with application specific integrated circuits to	Misuse of competitors' sensitive information	Consent Decree required Broadcom to implement firewalls preventing flow of Cisco's confidential information to Brocade.

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		make these switches. The FTC alleged that the merger would give Broadcom the ability to share Cisco's confidential information with Brocade to preempt Cisco's competitive moves and thus raise the prices for fibre channel switches.		
	United States v. Danone S.A.[6]	Danone proposed to acquire WhiteWave. Danone is a leading manufacturer of organic yogurt through its Stonyfield brand. WhiteWave is a manufacturer of fluid organic milk. Prior to this merger, Danone developed a close relationship to CROPP, another manufacturer of fluid organic milk, under which CROPP provided Danone with 90% of its fluid organic milk needs. CROPP also licensed Danone's Stonyfield brand to sell fluid organic milk. The DOJ alleged that the merger and the close relationship between CROPP and Danone would give CROPP and WhiteWave an incentive to coordinate and exchange confidential information to raise the price of fluid organic milk because CROPP could not easily sever its Supply and License Agreements with Danone.	Buy-side coordination through information exchange	Consent Decree required Danone to divest its Stonyfield brand to a competitor approved by the United States because this severed the Supply and License Agreements between Danone and CROPP.
2016	*United States v. Lam Research Corp.*[7]	Lam Research Corp. is a provider of "etch, deposition, and clean" tools and process technology used for the fabrication of semiconductors. KLA-Tencor is a supplier of metrology and inspection equipment for semiconductors.	Input foreclosure	Transaction abandoned.

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		KLA-Tencor's technology is used to review the semiconductor to ensure it is not defective, while Lam's technology helps create the semiconductor. Lam proposed to acquire KLA-Tencor for $10.6 billion. The DOJ alleged that Lam's control of KLA-Tenor would allow Lam to foreclose its fabrication competitors by reducing timely access to KLA-Tencor inspection equipment and related critical services for the production of semiconductors.		
	United States v. Anheuser-Busch InBev (SABMiller)[8]	Anheuser-Busch (ABI) proposed to acquire SABMiller for $107 billion. ABI owns and operates more than 40 major beer brands in the United States; SABMiller, through MillerCoors, owns and operates 12 breweries in the United States, and also has more than 40 major beer brands. As a result of the acquisition, ABI would gain a majority interest in MillerCoors. The DOJ alleged that the merger would increase ABI's "incentive and ability to disadvantage its remaining rivals by limiting or impeding the distribution of their beers[.]"	Input foreclosure	While the concern was primarily horizontal (and the Consent decree requires ABI to divest SABMiller's entire U.S. business, including ownership interest in MillerCoors), there was also a vertical element. The Consent Decree) prohibits ABI from "instituting and continuing practices and programs that limit the ability and incentives of independent beer distributors to sell and promote the beers of ABI's rivals." These practices typically include incentives for distributors to sell exclusively or near exclusively ABI beers.
	United States v. AMC	AMC Entertainment Holdings proposed to acquire Carmike Cinemas. Both are significant competitors in the exhibition of first-run commercial movies in fifteen local	Customer foreclosure; misuse of	Consent decree required AMC to divest from movie theaters in overlapping local markets, and to

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	Entertainment Holdings Inc. [9]	markets in the United States. AMC is also a founding member of National CineMedia – a pre-show services provider – while Carmike is one of the largest investors in NCM's competitor, Screenvision. The DOJ alleged that the new AMC would reduce Carmicke's incentive to purchase from Screenvision, "resulting in less aggressive competition [between Screenvision and NCM] to gain exhibitors and advertisers at the expense of the other."	competitors' sensitive information	sell off most of its holdings, relinquish all governance rights in NCM, and transfer 24 theatres to the Screenvision network. AMC is also required to establish firewalls to ensure that it does not obtain NCM's, Screenvision's, or other movie exhibitors' sensitive information.
2015	*In re Par Petroleum Corporation and Mid Pac Petroleum LLC.*[10]	Par Petroleum Corporation ("Par"), a diversified energy company that owned the Kapolei refinery on Oahu and wholesale and retail distribution assets in Hawaii, proposed to acquire the Koko'oha subsidiary of Mid Pac Petroleum LLC, a bulk supplier and distributor of petroleum products in Hawaii. The FTC alleged that the acquisition would give Par an incentive to deny Koko'oha's petroleum storage space rights at the Barbers Point Terminal to Par's competitor, Aloha, reducing Aloha's ability to credibly threaten to import refined petroleum.	Input foreclosure	Consent Decree required Par to terminate its rights at the Barbers Point Terminal, other than for a limited number of tanker trucks.

	Comcast Co., Time Warner Cable Inc.[11]	Comcast, the largest video and wired broadband internet-access provider in the United States, proposed to acquire Time Warner Cable, the fourth largest video and third largest wired broadband internet-access provider in the United States, for approximately $45.2 billion. The DOJ cited concerns that the merger "would make Comcast an unavoidable gatekeeper for internet-based services [including those that compete with Comcast and Time Warner Cable services] that rely on a broadband connect to reach consumers." Comcast, having obtained sole ownership of NBCUniversal in 2013, would also be incentivized to foreclose internet and broadband access to NBC competitors, as well as deny carriage of NBC competitors.	Input and customer foreclosure	Transaction abandoned.
2014	*In re Nielsen Holdings N.V.*[12]	Nielsen Holdings N.V., a leading global media measurement and research company that provided television, online, mobile, and cross-platform measurement services, proposed to acquire Arbitron Inc., a media measurement and research company specializing in radio data. The FTC alleged that the merger eliminated potential competition in the "future market" of hybrid, cross-platform media data, because the two companies were in the best position to develop these new these new services.	Merging firms as potential entrants; merging firms as entry facilitators	Consent Decree required Nielsen (1) to divest Arbitron's in-development cross-platform audience measurement business; and (2) to perpetually license current and the next eight years of data from Arbitron's measurement panel to the buyer.

2013	*In re General Electric Co.*[13]	General Electric Co. ("GE") proposed to acquire the aviation business of Avio S.p.A., which designed and manufactured component parts for aircraft engines, including parts used in Pratt & Whitney's engine for the Airbus A320neo. Through a joint venture, GE manufactured the only other competing engine option for the A320neo. The FTC alleged that GE could disrupt the design and certification of the Avio-supplied parts for the Pratt & Whitney engine to favor the competitive position of GE's own engine.	Input foreclosure	Consent Decree incorporated portions of the original contract between Avio and Pratt & Whitney regarding the agreement to develop the engine components and restricted GE from interfering with the Avio team working on the project.
2012	*United States v. United Technologies Corp.*[14]	UTC, which manufactured aircraft turbine engines, proposed to acquire Goodrich Corporation ("Goodrich"), which manufactured electronic control systems ("ECS") for aircraft turbine engines through a joint venture with Rolls-Royce, and held the exclusive rights to supply components to that joint venture. The DOJ alleged that the merger would give UTC an incentive and ability to withhold ECSs from or to increase the cost of components for ECSs to Rolls-Royce, with which UTC competed to supply aircraft turbine engines. Additionally, the DOJ alleged that UTC could gain access to competitively sensitive information about Rolls-Royce's aircraft turbine engines through the information necessary to manufacture ECSs for those engines. Finally, the DOJ alleged similar concerns with respect to competition in small aircraft turbine engines, for which Goodrich supplied UTC's competitors with ECSs. The DOJ also alleged horizontal theories of harm in other markets.	Input foreclosure; misuse of competitors' sensitive information	Final Judgment required UTC to divest to Rolls-Royce all of Goodrich's shares in its ECS joint venture, and to provide Rolls-Royce an option to acquire Goodrich assets related to the aftermarket for the joint venture's ECS products. The Final Judgment also required UTC to provide various supply and transition services agreements to the acquirers of the assets being divested.

2011	*United States v. Comcast Corp.*[15]	Comcast Corp., General Electric Co. ("GE"), NBC, and Navy, LLC formed a joint venture of broadcast and cable network assets. Comcast, the largest cable provider, would have majority control of the JV containing NBC's popular video programming. The DOJ and FCC alleged the combined entity could withhold or raise the price of NBC content to Comcast's rival multichannel video programming distributors ("MPVDs") or online video programming distributors ("OVDs") to reduce their ability to compete with Comcast, as Comcast had done in the past with its RSN network. Additionally, Comcast could refuse to carry competitor channels of NBC to reduce their ability to compete against NBC. The DOJ rejected claims that the transaction would eliminate double marginalization as not, or at least not entirely, merger specific because the industry had already successfully done so through contracts with non-linear pricing.	Input and Customer foreclosure	Final Judgment required the JV (1) to license its broadcast, cable, and film content to OVDs on terms comparable to those on which it licensed to MVPDs and to those the OVD received from a competitor of the JV; (2) to relinquish its voting rights in the Hulu joint venture (an OVD); (3) to not use certain restrictive license terms with OVDs; (4) to not unreasonably discriminate in the transmission of lawful content through its internet service, including by exempting its own services from data caps; and (5) to supply MVPDs with the JV's programming content and submit to binding arbitration over the license terms.
	United States v. GrafTech International Ltd[16]	GrafTech International Ltd., a manufacturer of graphite electrodes, proposed to acquire Seadrift Coke L.P., a manufacturer of petroleum needle coke, a key input in the graphite electrodes. The DOJ alleged it would provide Seadrift with direct access to competitors' pricing and product information through GrafTech's supply agreements and most–favored-nation provisions with Seadrift's competitors, particularly Conoco Phillips Co., ultimately facilitating the collusive exchange of information.	Collusive information exchanges	Final Judgment required the combined entity (1) to amend its supply agreement to competitor Conoco to remove ongoing audit rights, sharing of confidential information, and MFN pricing; (2) to not enter into similar terms with Conoco for ten years; and (3) to firewall personnel deciding Seadrift's pricing and production from Conoco's competitively sensitive information.

	United States v. Google Inc.[17]	Google Inc. proposed to acquire ITA Software Inc., the developer and licenser of QPX software, which was used by airlines, travel agents, and online travel intermediaries ("OTIs") to provide customized flight searches. Google intended to offer an online travel search that would compete with OTIs, many of which used QPX. The DOJ alleged that Google could deny OTIs access to or raise their price for QPX software. Additionally, the DOJ alleged that Google could gain access to competitively sensitive information from OTIs, such as tuning parameters and plans for new services.	Input foreclosure; misuse of competitors' sensitive information	Final Judgment required Google (1) to honor existing QPX licenses; (2) to renew existing licenses under similar terms and conditions; (3) to offer licenses to other online travel intermediaries on reasonable, non-discriminatory terms and submit to binding arbitration over those terms; (4) to devote substantially the same amount of resources to R&D for QPX as ITA did before the merger; (5) to not use certain restrictive terms in its agreements with airlines and OTIs; and (6) to firewall OTIs' competitively sensitive information from personnel involved in Google's travel search service.
2010	*In re Coca- Cola Co.*[18]	The Coca-Cola Co. ("Coke") proposed to acquire its largest bottler, Coca-Cola Enterprises ("CCE"), and an exclusive license to bottle and distribute all Dr. Pepper Snapple Group ("Dr Pepper") brands that CCE formerly distributed. The FTC alleged that to carry out distribution activities, Coke would have access to Dr Pepper's commercially sensitive information and could misuse that information to exclude competitors or to facilitate collusion.	Misuse of competitors' sensitive information; collusive information exchange	Consent Decree limited access to Dr Pepper's commercially sensitive information to Coke employees who perform traditional bottler functions.

	In re PepsiCo, Inc.[19]	PepsiCo, Inc. proposed to acquire two of its bottler/distributor companies and an exclusive license from Dr. Pepper Snapple Group ("Dr Pepper") to bottle, distribute and sell brands in certain territories that these two companies formerly sold. The FTC alleged that to carry out distribution activities, Pepsi would have access to Dr Pepper's commercially sensitive information and could misuse that information to exclude competitors or to facilitate collusion.	Misuse of competitors' sensitive information; collusive information exchange	Consent Decree limited access to Dr Pepper's commercially sensitive information to Pepsi employees who perform traditional bottler functions.
	United States v. Ticketmaster Entm't, Inc.[20]	Ticketmaster Entertainment, Inc., the largest U.S. primary ticketing company, proposed to merge with Live Nation, Inc., the largest concert promoter in the U.S. and the owner of multiple concert venues. Before the merger, Live Nation had licensed primary-ticketing technology from CTS Eventim AG ("CTS") and secured contracts with venues representing 15% of major concert venue capacity. The DOJ alleged a horizontal loss of competition and potential competition for primary ticketing services and vertical theories that the merger would eliminate Live Nation and Ticketmaster as facilitators of entry into one another's primary markets and that the merger would allow Live Nation and Ticketmaster to exclude competitors by bundling primary ticketing services with access to artists promoted by Live Nation. The DOJ rejected claims that the merger would eliminate double marginalization as not merger specific, because the firms were already in the process of becoming vertically integrated themselves.	Merging firms as potential entrants; merging firms as entry facilitators; complement -ary product foreclosure	The DOJ required Ticketmaster (1) to license its platform software used to sell tickets to Anschutz Entertainment Group, Inc. ("AEG") and give AEG the option to acquire a copy of the source code after four years; (2) to not ticket AEG venues after four years to incent AEG to take that option; and (3) to divest its Paciolan "self-ticketing" platform to Comcast-Spectator, L.P.

2008	*In re Fresenius Medical Care AG & Co KGaA*[21]	Fresenius Medical Care Ag & Co. KGaA, a provider of dialysis services and owner of dialysis clinics, proposed to acquire an exclusive sublicense from Daiichi Sankyo Company to manufacture and supply Venofer, an iron deficiency treatment for dialysis patients, to independent outpatient dialysis clinics in the U.S. The FTC alleged that Fresenius could inflate its Medicare reimbursements by increasing the prices it charged in its own clinics. Revisions to Medicare reimbursement regulations taking effect in 2012 would eliminate this distortion.	Evasion of regulation	Consent Decree required Fresenius to report an intra-company transfer price below the level set by the FTC, which was derived from current market prices, until the revised regulations took effect.
2007	*United States v. Monsanto Co.*[22]	Monsanto Co., a leading provider of in-cottonseed traits, proposed to acquire Delta and Pine Land Co. ("DPL"), a large supplier of "traited cottonseed" that worked with biotech companies to develop cotton seed traits. Monsanto and DPL originally partnered to develop the most commonly used "traited cottonseed," with Monsanto developing the traits and DPL manufacturing the seeds and paying a license fee to Monsanto. Before the merger, DPL had begun an effort to replace Monsanto traits in DPL cottonseed with similar traits developed by competitors of Monsanto. Monsanto had in turn begun an effort to manufacture cottenseeds by acquiring Stoneville Pedigree Seed Company ("Stoneville"), a competitor of DPL. The DOJ challenged the merger, alleging a horizontal loss of competition between DPL and Stoneville and a vertical theory that DPL would refuse to partner with other developers of cottonseed traits that would compete against Monsanto's traits.	Merging firms as entry facilitators; customer foreclosure	Final Judgment required the merged entity to divest certain promising cottonseed development lines, trait technology, and forty DPL cottonseed breeding lines, and to modify Monsanto's seed company licenses.

	In re Lockheed Martin Corp.[23]	Boeing Corp., a global aerospace company and supplier to the Department of Defense, and Lockheed Martin Corp., the largest defense contractor in the U.S., were competing providers of medium-to-heavy ("MTH") launch services and of space vehicles. They proposed to form a joint venture to consolidate their government launch-service and space- vehicle businesses. The FTC alleged that the JV could refuse to provide launch services to competing space vehicle providers, in particular for packaged price procurement of the two services known as "delivery in orbit." Additionally, the FTC alleged that the companies might share confidential information obtained through launch vehicle services with their respective space vehicle businesses, and vice-versa. The FTC also alleged that the transaction would lead to a horizontal loss of competition between the merging firms' MTH launch services and space vehicles, but accepted the Department of Defense's finding that the increased launch reliability would outweigh these effects.	Input foreclosure; misuse of competitors' sensitive information	Consent Decree required (1) the JV to cooperate on equal terms with all providers of government space vehicles; (2) Boeing and Lockheed to equally consider the JV's launch service competitors in government delivery in orbit procurement; and (3) the JV, Boeing, and Lockheed to establish firewalls to prevent access to one another's or third firms' confidential information.
2003	*United States v. Northrop Grumman Corp.*[24]	Northrop Grumman Corp., one of two suppliers of certain payloads for reconnaissance satellite programs, proposed to acquire TRW, Inc., a company with the ability to act as a prime contractor on reconnaissance satellite programs that use these products. The DOJ alleged the company could deny competitors access to its prime contractor or payload capabilities. Additionally, it would provide the entity access to proprietary information of rival prime and payload suppliers contracting with Northrop.	Complemen -tary products foreclosure; misuse of competitors' sensitive information	Final Judgment required Northrop (1) to select payloads on a non-discriminatory basis when it had already been selected as the prime contractor; and (2) to offer its payloads to all competing prime contractors on a non-discriminatory basis when it was competing to be the prime contractor.

2002	*In re Cytyc Corp.*[25]	Cytyc Corp., a manufacturer of liquid-based pap smear tests for cervical cancer, proposed to acquire Digene Corp., the only seller of a DNA-based test for human papillomavirus ("HPV"). Doctors conducted HPV tests from the sample obtained by the liquid-based pap smear. The FTC alleged that Cytyc could foreclose its pap smear competitors by limiting access to Digene's HPV test. The FTC also alleged that the merger would eliminate Digene's incentive to continue pursuing FDA approval for its HPV test to be used as a primary cervical cancer screen in place of liquid-based pap smears.	Input foreclosure; merging firms as potential entrants	Transaction abandoned.
2001	*United States v. Premdor Inc.*[26]	Premdor Inc., the largest global manufacturer of interior molded doors and a small producer of molded door skins, proposed to acquire Masonite Corp., a manufacturer of molded door skins and fiberboard, the primary input for molded door skins. Premdor had recently entered the production of molded door skins and, although it was relatively small, had used its potential to expand to negotiate discounts from Masonite. The DOJ alleged a horizontal loss of competition in the sale of molded door skins and vertical theories that the elimination of the threat of Premdor's expansion in molded door skins allowed enhanced coordination upstream and downstream and that the merger would lead to lower costs and greater cost symmetry between the merged firm and another vertically integrated firm, making collusion more likely.	Merging firms as potential entrants; elimination of disruptive buyer; collusive information exchange; using lower costs to facilitate consensus or to increase the ability to punish defectors	Final Judgment required Premdor to divest its Towanda facility, which engaged in the production of molded door skins, creating a new upstream competitor.

	In re Entergy Corporation and Entergy-Koch, LP[27]	Entergy Corporation, a generator, transmitter, and distributor of electricity, proposed to form a joint venture with Entergy- Koch, LP with Koch Industries, Inc., which owned an electricity derivatives trading company and the Gulf South pipeline. The JV would combine Entergy's subsidiary that markets electricity and gas with Koch Industries' electricity derivatives trading company and the Gulf South pipeline. The FTC alleged that, as a result of Entergy's exclusive legal right to sell electricity in Louisiana and Mississippi and recover 100% of the costs from those states' electricity producers and the acquisition, Entergy would have the incentive to purchase gas transportation services from the Gulf South pipeline at an inflated price.	Evasion of regulation	Consent Decree required Entergy to establish a competitive bidding process for its sourcing of gas transportation services.
2000	*In re Ceridian Corp.*[28]	Ceridian Corp., a provider of fleet-card services to over-the- road trucking companies, acquired Trendar Corp, a provider of fuel purchase desk automation systems used to process fleet card transactions. The FTC alleged that Ceridian could deny rival fleet-card services access to Trendar's system or grant access to them only on discriminatory terms. The FTC also alleged that Ceridian could deny rival fuel purchase desk automation systems the ability to process Ceridian cards. (The FTC learned of the non-reportable acquisition of Trendar during Ceridian's 1998 acquisition of a competing provider of fleet card services, which the FTC also challenged.)	Merging firms as entry facilitators; input foreclosure; customer foreclosure	Consent Order required Ceridian (1) to provide ten-year licenses to Trendar fuel purchase desk automation systems to rival fleet-card providers; (2) to pay for a third-party software developer of the Commission's choice to implement interoperability between Trendar's system and rival fleet-card providers' networks; and (3) to provide ten-year licenses to rival fuel purchaser desk automation system suppliers to process Ceridian's fleet cards on the same terms as Trendar systems were able to process Ceridian fleet cards.

	In re America Online, Inc.[29]	America Online, Inc. ("AOL"), a global narrowband and broadband internet service provider ("ISP"), proposed to merge with Time Warner Inc., a cable television distributor and broadband ISP. Before the merger, AOL had recently launched AOL TV, a first-generation interactive television ("ITV") service delivered through local cable providers. The FTC alleged a horizontal loss of competition between AOL and Time Warner in broadband internet access and vertical theories that the combined firm would have the ability and incentive to block or deter rival ITV providers from competing with AOL TV through its cable system. Additionally, the FTC was concerned that the merged entity would foreclose competing ISPs from providing cable broadband ISP service on Time Warner's cable system.	Input foreclosure; customer foreclosure	Consent Decree required the merged firm (1) to not make AOL broadband available in a cable service area until Earthlink, a competitor, was able to offer cable internet service in that area; (2) to enter agreements to carry two other non-affiliated cable ISPs in that area within 90 days of offering AOL broadband service; (3) to not interfere the ability of a subscriber to access competing ITV services; and (4) to charge a comparable price for AOL DSL service in Time Warner Service areas as outside those areas.
	In re Boeing Company[30]	Boeing Company, a supplier of launch vehicles and a contractor bidding for a certain classified Department of Defense classified program, proposed to acquire certain space-related assets of General Motors Corporation, including satellite production and a systems engineering and technical assistance ("SETA") for a certain classified Department of Defense program. The FTC alleged that Boeing would (1) use its position as the SETA contractor for the classified program to favor its own bid or to obtain competitively sensitive information about competitors' bids; (2) access rival satellite producers' competitively sensitive information through its launch vehicle business; (3) access rival launch vehicle providers' competitively sensitive information through its satellite business; and (4) withhold satellite interface information necessary to use Boeing's satellites with competing launch vehicles.	Customer foreclosure; complementary products foreclosure; misuse of competitors' sensitive information	Consent Decree required Boeing (1) to firewall competitively sensitive information of rival bidders it received in its capacity as a SETA contractor; (2) to provider certain documentation and transition services to the Department of Defense to enable it to transition SETA for the program away from Boeing; (3) to firewall competitively sensitive information of satellite rivals' obtained through Boeing's launch services; and (4) to provide certain interface information for its satellites to rival launch services providers.

	United States v. Enova Corp.[31]	Enova Corp., an electric utility provider in San Diego, and Pacific Enterprises, a major provider of natural gas transportation services to gas-fired plants and of natural gas storage in California, proposed to merge. The DOJ alleged that the Pacific would have the ability and incentive following the merger to deny access to or raise the price of its natural gas transportation services for rival electricity producers. California regulations establishing marginal-unit pricing for all electricity would magnify this effect.	Input foreclosure	Final Judgment required the merged firm to divest all low-cost gas generators that would likely provide the firm with the incentive to raise electricity prices. It allowed Enova to keep higher-cost generators because these would be active insufficiently frequently for a downstream increase in price to outweigh an upstream loss of sales.
1999	*In re Barnes & Noble, Inc. and Ingram Book Group*[32]	Barnes and Noble, Inc. ("B&N"), a book retailer, proposed to merge with Ingram Book Group, a book wholesaler. Before the transaction, B&N had announced publicly that it considered providing wholesale services to retailers. The FTC alleged a horizontal loss of potential competition in book wholesaling and vertical theory that B&N could restrict access or raise prices of books to competing retailers. The FTC also alleged that B&N would could gain access to rivals' competitively sensitive information through Ingram which could allow it to preempt rivals' competitive efforts.	Input foreclosure; elimination of potential competition; misuse of competitors' sensitive information	Transaction abandoned.

	In re Provident Companies[33]	Provident Companies, Inc. and UNUM Corporation, both providers of insurance for individual disability policies, proposed to merge. It was common practice in the industry for insurers to supply one another with actuarial data through an industry association to assist in determining the risk of individuals for particular injuries. The FTC alleged that the combined firm would no longer have the incentive to provide this data to rivals, as it would have sufficient scale that the competitive harm to rivals would outweigh the reduction in its own ability to assess its insureds' risk.	Input foreclosure	Consent Decree required the merged firm to provide its actuarial data to rivals through an industry association for 20 years.
	In re Merck & Co, Inc.[34]	Merck & Co., a pharmaceutical manufacturer, acquired Medco Manage Care, L.L.C. in 1993, a provider of pharmacy benefit management ("PBM") services. The FTC alleged that Merck could (1) foreclose rival pharmaceutical manufacturers from Medco's drug formulary; (2) Merck would have access to competitors' proprietary information through the PBM services; and (3) Medco would be eliminated as an independent, disruptive negotiator with pharmaceutical companies.	Customer foreclosure; misuse of competitors' sensitive information; collusive information exchange; elimination of a disruptive buyer.	Consent Decree required Merck: (1) to establish an independent Pharmacy and Therapeutics committee to determine which drugs would qualify for an "open formulary" it was required to maintain; (2) to accept all discounts offered by other drug manufacturers on the open formulary and reflect those discounts in their products' ranking on the open formulary; and (3) to firewall from Merck and Medco the competitively sensitive information of the other's rivals.

	In re CMS Energy Corporation[35]	CMS Energy Corporation ("CMS"), which owned a combination electric and gas utility serving broad sections of Michigan, proposed to acquire the Panhandle Eastern and Trunkline pipelines from Duke Energy. Before the merger, CMS had natural gas interconnections with other rival pipelines. The FTC alleged that CMS would have an incentive to close its interconnection or reduce its interconnection capacity available to other pipelines, increasing demand on the Panhandle Eastern and Trunkline pipelines and enabling them to raise their rates.	Input foreclosure	Consent Decree required CMS (1) to maintain a designated level of interconnection capacity based on historical usage levels; and (2) offer shippers the ability to break contracts and interconnect with another pipeline or to tap CMS's own account to supply gas if the available interconnection capacity is less than actual capacity.
	United States v. SBC Comm'ns Inc.[36]	SBC Communications, Inc. ("SBC"), a provider of local exchange, long distance, and wireless mobile telephone services, proposed to acquire Ameritech Corporation, a provider of wireless mobile telephone services. Before the merger, Ameritech had planned to enter the provision of local exchange and long distance services in a bundle with Ameritech's wireless service in St. Louis. The DOJ alleged that, as a result of the acquisition, Ameritech would no longer have the incentive to offer a bundle of Ameritech's wireless services with the local exchange and long-distance services in competition with SBC. The DOJ also alleged a horizontal loss of competition in markets where both SBC and Ameritech provided wireless service.	Merging firms as potential entrants; complementary product foreclosure	Final Judgment required SBC to divest its cellular business and all assets involved in its planned entry into St. Louis, as well as assets to eliminate the horizontal overlaps.
	In re Dominion Resources, Inc.[37]	Dominion Resources, Inc., an electricity provider, proposed to acquire Consolidated Natural Gas Co., a distributor of natural gas, one of the fuels used to generate electricity. The FTC alleged that Dominion could use its control over the available source of natural gas and transportation capacity in the area to limit or deter independent producers from generating electricity.	Merging firms as entry facilitators; input foreclosure	Consent Decree required the divestiture of Consolidated subsidiary, Virginia Natural Gas, Inc., which provided gas distribution services.

1998	*United States v. Lockheed Martin Corp.*[38]	Lockheed Martin Corp. and Northrop Grumman Corp., both integrated defense contractors, proposed to merge. The DOJ alleged that the acquisition would give Lockheed control over all of Northrop's military platforms, prime contracts, and capabilities in critical systems and subsystems, providing it with the incentive to refuse to sell, sell inferior quality, or sell on unfavorable terms these systems to its integrated electronics system competitors, and that Northrop's systems engineering and technical assistance services contracts would give Lockheed access to competitors' sensitive information. The DOJ also alleged horizontal theories of harm in other markets.	Input foreclosure; misuse of competitors' sensitive information	Transaction abandoned.
	In re PacificCorp[39]	PacifiCorp, a provider of retail electricity in seven states and of wholesale electricity in others, proposed to acquire The Energy Group PLC ("TEG"), which owned Peabody Coal Company, a coal-mine operator. TEG supplied coal to the Navajo and Mojave Generating Stations, which competed with PacifiCorp's generating assets in the Western Systems Coordinating Council, an electricity pool. The FTC alleged that PacifiCorp would have an incentive (1) to manipulate the costs of its coal to affect the contract prices to Navajo and Mojave Generating Stations and refrain from offering them discounts if the coal price were to fall or if its mines were to have excess capacity; and (2) to access competitively sensitive information about the costs of competitors using its coal.	Input foreclosure; misuse of competitors' sensitive information	Consent Decree required PacifiCorp to divest Peabody Western Coal Company, the subsidiary owning the mines that supplied competitors. The transaction was abandoned for unrelated reasons.

	United States v. Primestar, Inc.[40]	Primestar, Inc., an investment entity controlled by five cable companies, proposed to acquire the satellite assets of MCI Communications Corp., The News Corporation Limited, and K. Rupert Murdoch, which included the only orbital slot from which direct-broadcast service ("DBS") video programming could be offered. The DOJ alleged that the acquisition would allow the cable companies to deny the orbital slot to their DBS competitors, preserving their cable monopolies.	Input foreclosure	Transaction abandoned.
	In re TRW Inc.[41]	TRW Inc. and BDM International Inc. proposed to merge. TRW was part of a joint venture competing for the Ballistic Missile Defense Organization's Lead Systems Integrator ("LSI") contract while BDM was the sole supplier of systems engineering and technical assistance ("SETA") services for the program. The FTC alleged that the acquisition would enable TRW to access its competitors' competitively sensitive bidding information and that TRW's SETA role would allow it to favor its own bids through the setting of procurement rules and evaluation of bids.	Customer foreclosure; misuse of competitors' sensitive information	Consent Decree required TRW to divest BDM's contract with the Ballistic Missile Defense Organization for SETA services and all related assets.
	In re Shell Oil Co.[42]	Shell Oil Co. and Texaco, Inc. proposed to form a joint venture combining their various gasoline, fuel, and pipeline assets. Shell and another company made the majority of asphalt used in Northern California, and both bought the undiluted heavy crude used to make the asphalt from Texaco's pipeline. The FTC alleged that the JV could raise the cost of crude for Shell's competitor, leading to an increase in the price for asphalt. The FTC also alleged numerous horizontal theories of harm in other markets.	Input foreclosure	Consent Decree required the JV to enter into a ten-year supply agreement with Shell's competitor for crude and to divest assets to remedy the horizontal overlaps.

1997	*In re Cadence Design Systems, Inc.*[43]	Cadence Design Systems, Inc. ("Cadence"), a leading supplier of integrated circuit layout environments, proposed to acquire Cooper & Chryan Technology, Inc. ("CCT"), a supplier of integrated circuit routing tools. The FTC alleged that the merger would reduce Cadence's incentives to permit competing suppliers of routing tools to access its layout environments on the same terms as it allowed developers of tools which did not compete with CCT's.	Input foreclosure	Consent Decree required Cadence to allow developers competing with CCT to participate in its software interface programs on the same terms as developers whose tools did not compete with CCT's.
	In re Time Warner, Inc.[44]	Time Warner, Inc. ("TW"), a leading provider of cable program networks and cable multi-video program distributor ("MVPD"), proposed to acquire Turner Broadcasting System, Inc. ("Turner"), which owned several popular cable networks. The FTC alleged that TW would refuse to carry competitors of Turner's CNN Network, such as Fox News or MSNBC, and would raise the price of TW and Turner cable programming to rival MVPDs.	Input foreclosure; customer foreclosure	Consent Decree required TW (1) to not bundle its own programming with Turner programming; (2) to offer Turner programming to rival MVPDs at its pre-merger price; and (3) to carry at least one rival network to CNN on TW's cable systems.

	In re Boeing Company[45]	Boeing Company, a manufacturer of high-altitude endurance unmanned aerial vehicles, proposed to acquire the Aerospace and Defense Business of Rockwell International Corporation, which provided wing components to a rival manufacturer of high-altitude endurance unmanned aerial vehicles. The FTC alleged that the acquisition would allow Boeing (1) to deny access to or degrade the quality of the wings provided to the rival manufacturer of high-altitude endurance unmanned aerial vehicles; and (2) to access competitively sensitive information about the rival manufacturer of high-altitude endurance unmanned aerial vehicles.	Input foreclosure; misuse of competitors' sensitive information	Consent Decree required Boeing (1) to offer the rival manufacturer of high- altitude endurance unmanned aerial vehicles the ability to change to a different supplier of wing components and deliver the assets necessary to do so; and (2) to firewall the competitively sensitive information of the rival manufacturer of high-altitude endurance unmanned aerial vehicles obtained through supply of wing components.
1996	*In re Lockheed Martin Corporation*[46]	Lockheed Martin Corporation, one of the largest defense and space contractors in the U.S., proposed to acquire Loral Corporation, another defense and space contractor. The proposed acquisition affected several markets. Loral Corporation was the FAA's systems engineering and technical services ("SETA") contractor, a position in which it developed procurement specifications for the agency and assessed bids. Lockheed participated in many of the procurement auctions for which Loral was the SETA contractor. The FTC alleged that the acquisition would give Lockheed access to competitively sensitive information about competing bidders, as well as allow Lockheed to tailor procurement specifications or skew bid evaluations to raise its rivals' costs. Loral was a supplier of critical components for tactical fighter aircraft. Lockheed was a manufacturer of tactical	Input foreclosure; misuse of competitors' sensitive information; collusive information exchange	Consent Decree required Lockheed Martin (1) to divest Loral's SETA contract; (2) to firewall competitively sensitive information about tactical fighter manufacturers using Loral components; (3) to firewall competitively sensitive information about unmanned aerial vehicle manufacturers using Loral integrated communications systems; (4) to limit its ownership interest in Loral Space to 20%; (5) to not provide any personnel, information, or facilities to Loral Space under the technical services agreement; and (6) to not share board members or officers with Loral Space and not

		fighter aircraft. The FTC alleged that the acquisition would give Lockheed access to competitively sensitive information about its competitors who used Loral's components. Loral was a supplier of integrated communications systems for unmanned aerial vehicles. Lockheed was a manufacturer of unmanned aerial vehicles. The FTC alleged that the acquisition would give Lockheed access to competitively sensitive information about its competitors who used Loral's integrated communications' systems. As part of the acquisition, Loral's space and telecommunications business would be transferred to a new entity (Loral Space) in which Lockheed Martin would obtain a 20% convertible preferred equity interest, and under which Lockheed Martin would provide technical services including R&D to Loral Space. The FTC also alleged a horizontal loss of competition between Lockheed Martin and Loral Space in commercial low-Earth orbit and geosynchronous orbit satellites, both from enhanced coordination and unilateral effects from the partial ownership interest.		compensate any Lockheed Martin officer or board member based on the profits of Loral Space.

	United States v. The Thomson Corp.[47]	Thomson Corp., the world's largest publisher of information for professional markets, proposed to acquire West Publishing Co., the largest publisher of legal research materials in the U.S. Thomson licensed primary and secondary law materials as well as additional services (such as an electronic citator) to West's primary competitor in comprehensive online legal research services, Lexis-Nexis. The DOJ alleged that the acquisition would increase Thomson's incentive and ability to increase the prices of, reduce the quality of, or refuse access to Thomson materials it provides to Lexis-Nexis. The DOJ also alleged horizontal theories of harm in certain enhanced primary law products and secondary law materials.	Input foreclosure	Final Judgment required Thomson to divest the electronic citator it provided to Lexis and to extend terms of existing database licenses to Lexis and to divest assets to remedy the horizontal overlaps.
	In re Raytheon Company[48]	Raytheon Company, a prime contractor bidding for the U.S. Navy's Submarine High Data Rate Satellite Communications Terminal, proposed to acquire Chrysler Technologies Holding, Inc. ("CTH"), a provider of antenna and terminal controls that were an input into Submarine High Data Rate Satellite Communications Terminals. Before the merger, CTH had joined the bidding team for GTE Corporation, a prime contractor competing with Raytheon. The FTC alleged that the acquisition would allow Raytheon and GTE to use CTH as a vehicle to exchange competitively sensitive information.	Collusive information exchange	Consent Decree required Raytheon to firewall Raytheon's and GTE's competitively sensitive information from being exchanged through CTH.

	In re Hughes Danbury Optical Systems, Inc.[49]	Hughes Danbury Optical Systems ("HDOS"), a producer of adaptive optics systems, proposed to acquire Itek Optical Systems Division of Litton Industries, Inc., a producer of deformable mirrors. There were two teams developing the adaptive optics system, which required deformable mirrors, for the U.S. Air Force's Airborne Laser ("ABL") program; HDOS was part of the "Rockwell team" while Itek was part of the "Boeing team." Xinetics Inc., another producer of deformable mirrors, had an exclusive contract with HDOS. The FTC alleged that HDOS could (1) foreclose the Boeing team from access to Itek or Xinetics deformable mirrors; and (2) gain access to competitively sensitive information of the Boeing team through Itek.	Input foreclosure; misuse of competitors' sensitive information	Consent Decree required HDOS (1) to not enforce the exclusivity provisions with Xinetics Inc. for the ABL program; and (2) to firewall competitively sensitive information Itek received as a member of the Boeing team.
1995	*In re Silicon Graphics, Inc.*[50]	Silicon Graphics, Inc. ("SGI"), a supplier of entertainment graphics workstations, proposed to acquire Alias Research Inc. ("Alias"). and Wavefront Technology Inc. ("Wavefront"), two developers of entertainment graphics software. The FTC alleged that the new entity could foreclose rival workstation producers from accessing critical entertainment graphics software and could foreclose competing entertainment graphics companies from developing software compatible with SGI's workstations. Additionally, Silicon could access competitively sensitive information related to other workstation producers through their use of Alias or Wavefront entertainment graphics software.	Complementary products foreclosure; misuse of competitors' sensitive information	Consent Decree required SGI (1) to enter an agreement with a rival workstation provider to port Alias's and Wavefront's entertainment graphics software to the rivals' systems; (2) to maintain an open architecture for SGI systems and publish SGI systems' application programming interfaces; and (3) to maintain a software development program for rivals of Alias and Wavefront with similar terms to those used for other development programs.

	In re Alliant Techsystems Inc.[51]	Alliant Techsystems Inc. ("Alliant"), a manufacturer of ammunition and munitions, proposed to acquire Hercules Incorporated's aerospace division, a supplier of propellant used in large caliber ammunition. The FTC alleged that Alliant would gain access to competitors' confidential information regarding munitions through its role as a supplier of propellant.	Misuse of competitors' sensitive information; collusive information exchange	Consent Decree required Alliant to firewall competitively sensitive information gained through Alliant's capacity as a propellant provider.
	United States v. Sprint Corp.[52]	Sprint Corp., France Telecom ("FT"), and Deutsche Telekom ("DT") proposed to form a joint venture for international telecommunication services. Additionally, FT and DT agreed to acquire 20% of voting equity in Sprint. The DOJ alleged that the JV could: (1) restrict competitors from accessing French and German public switched networks, infrastructure, and public data networks controlled by FT and DT; (2) deny operating agreements for a correspondent system in France and Germany to competitors of the JV, which were necessary for telecommunications traffic; and (3) obtain confidential information from other U.S. carriers through the Sprint ownership and JV participation.	Input foreclosure; misuse of competitors' sensitive information; collusive information exchange	Final Judgment required (1) FT and DT to make services available to competitors of the JV on a non-discriminatory basis; (2) Sprint to forego providing correspondent telecommunication services with France or Germany unless another provider has an operating agreement; (3) Sprint to disclose certain information about its agreements with DT and FT; and (4) FT and DT to firewall Sprint and the JV from competitively sensitive information of Sprint's rivals. The Final Judgment also imposed certain additional restrictions until facilities-based competition with FT and DT were legalized in their home countries.

	In re Eli Lilly & Co., Inc.[53]	Eli Lilly and Co., a manufacturer of pharmaceuticals, proposed to acquire McKesson, Inc., which through its PCS Health Systems, Inc. ("PCS") subsidiary provided pharmacy benefit management ("PBM") services. As part of its PBM services, PCS maintained a drug formulary, which included several of Eli's Lilly's drugs. The FTC alleged that (1) competing manufacturer's drugs would likely be foreclosed from the PCS formulary; (2) Eli Lilly would have access to competitors' proprietary information through the PBM services; and (3) PCS would be eliminated as an independent negotiator of pharmaceutical prices.	Customer foreclosure; misuse of competitors' sensitive information; collusive information exchange; elimination of disruptive buyer.	Consent Decree required Eli Lilly (1) to maintain an open formulary implemented by an independent committee and to reflect all discounts and rebates offered by other drug manufacturers on the open formulary; (2) to firewall Lilly's competitively sensitive information from being released to Lilly competitors through PCS; (3) to firewall PCS's confidential information from being released to PCS competitors through Lilly.
	In re Lockheed Corp. and Martin Marietta Corp.[54]	Lockheed Corp., a manufacturer of military aircraft, and Martin Marietta Corp., a supplier of an infrared navigation and targeting system ("LANTIRN") for military aircraft, proposed to merge. The FTC alleged that (1) the company could modify Martin Marietta's LANTIRN systems to raise the costs of competing military aircraft; and (2) Lockheed's military aircraft division could access rival military aircraft manufacturers' sensitive information shared with Martin Marietta to use its LANTIRN system. The FTC also alleged horizontal losses of competition in the development of expendable launch vehicles, in satellites for use in space- based early warning systems, and in certain sensors.	Input foreclosure; misuse of competitors' sensitive information	Consent Decree required the merged firm (1) to not modify the LANTIRN system in a way that discriminated against rival aircraft manufacturers unless necessary; (2) to firewall competitively sensitive information from military aircraft competitors obtained by Martin Marietta as part of their use of the LANTIRN system; and (3) to refrain from enforcing certain teaming agreements to remove the horizontal overlaps.

1994	*In re Martin Marietta Corp.*[55]	Martin Marietta Corp., a manufacturer of satellites, proposed to acquire General Dynamics Corp.'s Space Systems Division, which produced expendable launch vehicles. The FTC alleged that Martin Marietta could access confidential information of competing satellite suppliers through its role as a provider of expendable launch vehicles.	Misuse of competitors' sensitive information	Consent Decree required Martin Marietta to firewall competitively sensitive information of rival satellite producers obtained in its role as a provider of expendable launch vehicles.
	United States v. AT&T[56]	AT&T Corp., the largest U.S. long distance telephone company and a provider of cellular infrastructure equipment, proposed to acquire McCaw Cellular Communications, the largest cellular carrier. The DOJ alleged that (1) AT&T would limit access to or raise the price of its cellular infrastructure equipment to networks competing with McCaw's; (2) McCaw could gain access to its competitors' competitively sensitive information through their use of AT&T equipment; (3) AT&T could gain access to its competitors' competitively sensitive information through McCaw's use of their equipment; and (4) McCaw could steer its customers to using AT&T's interexchange services, eliminating competition between AT&T and rival interexchange service providers.	Input foreclosure; customer foreclosure; misuse of competitors' sensitive information	Final Judgment required AT&T (1) to provide equal access to interexchange competitors of AT&T; (2) to firewall competitively sensitive information McCaw obtained from competing cellular infrastructure equipment providers; (3) to firewall competitively sensitive information AT&T obtain from competing cellular carriers; and (4) to continue to deal with cellular infrastructure equipment customers on current terms and on terms equal to those provided to McCaw.

	United States v. MCI Commc'ns Corp.[57]	British Telecommunications plc. ("BT") proposed to acquire 20% interest in MCI Communications Corp. and to form a joint venture for global telecommunication services. Global telecommunications services were provided on a "correspondent" basis, in which providers completed each other's traffic. The DOJ alleged that: (1) BT could use pricing or contract terms to favor MCI for international correspondence services; (2) MCI could gain access to competitors' competitively sensitive information through their relationships with BT; and (3) BT could send all or most of its international switch traffic to MCI.	Input foreclosure; customer foreclosure; misuse of competitors' sensitive information; collusive information exchange	Final Judgment required BT (1) to follow transparency and disclosure requirements for telecommunication services between BT and MCI; and (2) to firewall competitively sensitive information from MCI's competitors obtained through BT's correspondent services.
	United States v. Tele-Commc'ns Inc.[58]	Tele-Communications, Inc. ("TCI") and Liberty Media Corp. ("Liberty"), both large cable multichannel subscription television distributors ("MSTDs") that had interests in video programming networks, proposed to merge. Before the merger, the firms had substantial cross-ownership and cooperated closely. The DOJ alleged that, although their cross-ownership and differing service areas had already eliminated horizontal competition, the merger would (1) give each company the incentive to deny or make more expensive to rival video programming networks carriage on their cable systems; and (2) give each company the incentive to deny or make more expensive to rival MSTDs the programming from their video programming networks.	Input foreclosure; customer foreclosure	Final Judgment required the merged firm (1) to not discriminate in providing carriage on its cable systems to rival video programming networks, where the effect would be to unreasonably restrain competition; and (2) to not discriminate in providing its video programming services to rival MSTDs, where the effect would be to unreasonably restrain competition.

[1] United States v. CRH plc, No. 1:18-cv-01473 (D.D.C. 2018), *available at* https://www.justice.gov/atr/case/us-v-crh-plc-et-al.
[2] In re Northrop Grumman Corporation, No. 181-005 (F.T.C. June 5, 2018), *available at* https://www.ftc.gov/enforcement/cases-proceedings/181-0005-c-4652/northrop-grumman-orbital-atk.
[3] United States v. Bayer AG, No. 1:18-cv-01241 (D.D.C. 2016), *available at* https://www.justice.gov/atr/case/us-v-bayer-ag-and-monsanto-company.
[4] United States v. AT&T Inc., No. 1:17-cv-02511 (D.D.C. 2017), *available at* https://www.justice.gov/atr/case/us-v-att-inc-directv-group-holdings-llc-and-time-warner-inc.
[5] In re Broadcom Ltd., No. 171-0027 (F.T.C. July 3, 2017), *available at* https://www.ftc.gov/enforcement/cases-proceedings/171-0027/broadcom-limitedbrocade-communications-systems.
[6] United States v. Danone S.A., No. 1:17-cv-00592 (D.D.C. 2017), *available at* https://www.justice.gov/atr/case/us-v-danone-sa-and-whitewave-foods-company.
[7] Lam Research Corp Press Release (D.O.J. Oct. 5, 2016) available at https://www.justice.gov/opa/pr/lam-research-corp-and-kla-tencor-corp-abandon-merger-plans
[8] United States v. Anheuser-Busch Inbev, No. 1:16-cv-01483 (D.D.C. 2016) available at https://www.justice.gov/atr/case/us-v-anheuser-busch-inbev-sanv-and-sabmiller-plc
[9] United States v. AMC Entertainment holdings, inc. No. 1:16-cv-02475 (D.D.C. 2016) *available at* https://www.justice.gov/atr/case/us-v-amc-entertainment-holdings-inc-and-carmike-cinemas-inc.
[10] In re Par Petroleum Corporation and Mid Pac Petroleum LLC, No. 141-0171 (F.T.C. May 15, 2015), *available at* https://www.ftc.gov/enforcement/cases-proceedings/141-0171/par-petroleummid-pac-petroleum-matter.
[11] Comcast Corp. Press Release (D.O.J.) April 24, 2015 available at https://www.justice.gov/opa/pr/comcast-corporation-abandons-proposed-acquisition-time-warner-cable-after-justice-department.
[12] In re Nielsen Holdings N.V., No. 131-0058 (F.T.C. Sept. 20, 2013), *available at* http://www.ftc.gov/enforcement/cases-proceedings/131-0058/nielsen-holdings-nv-arbitron-inc-matter.
[13] In re General Electric Company, No. 131-0069 (F.T.C. July 19, 2013), *available at* http://www.ftc.gov/enforcement/cases-proceedings/131-0069/general-electric-company-matter.
[14] United States v. United Technologies Corporation, No. 1:12-cv-01230 (D.D.C. July 26, 2012), *available at* http://www.justice.gov/atr/case/us-v-united-technologies-corp-and-goodrich-corp.
[15] United States v. Comcast Corp., No. 1:11-cv-00106, (D.D.C. Jan 18, 2011), *available at* http://www.justice.gov/atr/cases/comcast.html.
[16] United States v. GrafTech International Ltd., No. 1:10-cv-02039 (D.D.C. November 29, 2010), *available at* http://www.justice.gov/atr/cases/graftech.html.
[17] United States v. Google Inc., No. 1:11-cv-00688 (D.D.C. Apr. 8, 2011), *available at* http://www.justice.gov/atr/cases/google.html.
[18] In re Coca-Cola Company, No. 101-0107 (F.T.C. Sept. 27, 2010), *available at* http://www.ftc.gov/enforcement/cases-proceedings/101-0107/coca-cola-company-matter.
[19] In re PepsiCo, Inc., No. 091-0133 (F.T.C. Feb, 26, 2010), *available at* http://www.ftc.gov/enforcement/cases-proceedings/091-0133/pepsico-inc-matter.
[20] United States v. Ticketmaster Entertainment, Inc., No. 1:10-cv-00139 (D.D.C. Jan. 25, 2010), *available at* http://www.justice.gov/atr/cases/ticket.htm.
[21] In re Fresenius Medical Care AG & Co. KGaA, No. 081-0146 (F.T.C. Sept. 15, 2008), *available at* http://www.ftc.gov/enforcement/cases-proceedings/081-0146/fresenius-medical-care-ag-co-kgaa-et-al-matter.
[22] United States v. Monsanto Co., No. 1:07-cv-00992 (D.D.C. May 31, 2007), *available at* http://www.justice.gov/atr/cases/monsanto.htm.
[23] In re Lockheed Martin Corp., FTC Docket No. 051-0165 (Oct 3. 2006), *available at* http://www.ftc.gov/enforcement/cases-proceedings/0510165/lockheed-martin-corporation-boeing-company-united-launch.

[24] United States v. Northrop Grumman Corp., No. 1:02CV02432 (D.D.C. Dec. 23, 2002), *available at* http://www.justice.gov/atr/cases/northrop.htm.
[25] Cytyc and Digene abandoned the transaction in response to FTC scrutiny. Press Release, Fed. Trade Comm'n, FTC Seeks to Block Cytyc Corp's Acquisition of Digene Corp. (June 24, 2002), http://www.ftc.gov/news-events/press-releases/2002/06/ftc-seeks-block-cytyc-corps-acquisition-digene-corp.
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[27] In re Entergy Corporation and Entergy-Koch, LP, No. C-3998 (F.T.C. Feb. 23, 2001), *available at* http://www.ftc.gov/enforcement/cases-proceedings/0010172/entergy-corporation-entergy-koch-lp.
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[29] In re America Online, Inc., No. C-3989 (F.T.C. Dec. 14, 2000), *available at* http://www.ftc.gov/enforcement/cases-proceedings/0010105/america-online-inc-time-warner-inc.
[30] In re Boeing Company, No. C-3992 (F.T.C. Sept. 27, 2000), *available at* http://www.ftc.gov/enforcement/cases-proceedings/0010092/boeing-company.
[31] United States v. Enova Corp., 107 F. Supp. 2d 10 (D.D.C. Jun. 8, 1998), *available at* http://www.justice.gov/atr/cases/indx47.htm.
[32] The firms abandoned the transaction in response to FTC scrutiny. *See* Sheila F. Anthony, "Vertical Issues: The Federal View," (Mar. 9, 2000) (discussing Barnes & Noble/Ingram proposed merger), http://www.ftc.gov/public-statements/2000/03/vertical-issues-federal-view. *See also* Press Release, Fed. Trade Comm'n, FTC Testifies Before House Judiciary Committee on Commission's Antitrust Enforcement Activities (Apr. 12, 2000), http://www.ftc.gov/news-events/press-releases/2000/04/ftc-testifies-house-judiciary-committee-commissions-antitrust.
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[34] In re Merck & Co., FTC Docket No. 9510097 (Aug 27, 1998), *available at* http://www.ftc.gov/enforcement/cases-proceedings/9510097/merck-co-inc-merck-medco-managed-care-llc
[35] In re CMS Energy Corporation, No. C-3877 (F.T.C. Mar. 19, 1999), *available at* http://www.ftc.gov/enforcement/cases-proceedings/9910046/cms-energy-corporation.
[36] United States v. SBC Comm'ns Inc., No. 99-0715 (D.D.C. Mar. 23, 1999), http://www.justice.gov/atr/cases/indx123.htm.
[37] In re Dominion Resources, Inc. and Consolidated Natural Gas Company, No. C-3901 (F.T.C. Nov. 5, 1999), *available at* http://www.ftc.gov/enforcement/cases-proceedings/9910244/dominion-resources-inc-consolidated-natural-gas-company.
[38] The firms abandoned the transaction after the DOJ filed a complaint. *See* Antitrust Division FY 2001 Budget Request, Hearing Before the Subcomm. on Antitrust, Business Rights and Competition of the S. Comm. on the Judiciary (Mar. 22, 200) (statement of Joel I. Klein, Asst. Attorney Gen.), *available at* http://www.justice.gov/atr/public/testimony/4381.htm. *See also* United States v. Lockheed Martin Corp., No. 98-CV-00731 (D.D.C. Mar. 23, 1998), *available at* http://www.justice.gov/atr/cases/indx27.htm.
[39] In re PacifiCorp, No. 971001 (F.T.C. Feb. 18, 1998), *available at* http://www.ftc.gov/enforcement/cases-proceedings/9710091/pacificorp-energy-group-plc-peabody-holding-company-inc. The transaction was abandoned for unrelated reasons. Press Release, Fed. Trade Comm'n, FTC Withdraws Proposed Consent Agreement, Closes Pacificorp Investigation (Jul. 2, 1998), http://www.ftc.gov/news-events/press-releases/1998/07/ftc-withdraws-proposed-consent-agreement-closes-pacificorp.
[40] The firms abandoned the transaction after the DOJ filed suit, at an early stage in the litigation. *See* U.S. Dep't of Just. & Fed. Trade Comm'n, Annual Report to Congress Pursuant to Subsection (j) of Section 7A of the Clayton Act Hart-Scott-Rodino Antitrust Improvements Act of 1976 (Feb. 1999), http://www.ftc.gov/reports/21st-report-fy-1998. *See also* United States v. Primestar, Inc., No. 1:98CV01193 (D.D.C. Jun. 29, 1998), *available at* http://www.justice.gov/atr/cases/indx41.htm.
[41] In re TRW, Inc., No. C-3790 (F.T.C. Dec. 24, 1997), *available at* http://www.ftc.gov/enforcement/cases-proceedings/9810081/trw-inc.

[42] In re Shell Oil Company and Texaco Inc., No. C-3803 (F.T.C. Dec. 19, 1997), *available at* http://www.ftc.gov/enforcement/cases-proceedings/971-0026/shell-oil-company-texaco-inc.
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[45] In re Boeing Company, No. C-3723 (F.T.C. Dec. 5, 1996), http://www.ftc.gov/enforcement/cases-proceedings/9710006/boeing-company-matter.
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