



Merger Simulation

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FTC



Introduction

- The usual disclaimers apply:
 - Do not speak for the Commission
 - One staff attorney's perspective
- Summary:
 - Merger simulation & the legal process
 - Merger PI litigation
 - FTC deliberative process
 - FTC Part III
 - Conclusion: cut the cloth to fit the process



Merger PI

- Know your audience:
 - Not specialists
 - Timing pressure(s)
 - Risk averse
- Conclusion:
 - KISS (Keep it Simple Stupid)
 - Develop 4-5 sticky facts



FTC Process

- Deliberative process/prosecutorial discretion:
 - Assume robust data (IRI/Nielsen)
 - Assume a timing agreement
- FTC Part III:
 - Expert body open to novel approaches?
 - Proposal to expedite Part III for merger cases
 - Friendlier forum for merger simulation?

Conclusion

- Cut the cloth to fit the process
- Merger Simulation has a time and a place
 - Deliberative Process
 - Part III at the FTC
- Thank you