without substantial documentation would suggest to me that the efficiency claims are not meant to be taken seriously.

This case exemplifies what I understand to be a common phenomenon. The efficiency evidence that parties present to the agencies is less credible than one might expect. I realize there might be a chicken-and-egg problem here. Devoting resources to an efficiency claim would be pointless if the claims are not going to be taken seriously. Indeed, the DOJ/FTC Horizontal Merger Guidelines might be used to support the proposition that we do not treat efficiencies seriously. True, the beginning of the efficiency section sounds inviting. It says, "[T]he primary benefit of mergers to the economy is their potential to generate … efficiencies." The remainder of the section, including but not limited to the choice of the word "cognizable," can be read to have a much more skeptical tone. That is not how I read it. I suspect that the efficiencies section reads as it does because many before me have been asking the same question and are similarly perplexed at why merging parties cannot put forward more credible efficiency claims than they typically do.

Perhaps there is a good answer to the question. To the extent, however, that parties are not putting effort into efficiency claims because of concerns that they will be summarily dismissed, they should know that the Bureau of Economics will evaluate efficiency claims seriously. I also hope that in our research efforts, we will have the opportunity to consider past cases in which mergers generated efficiencies and to review how those efficiencies were treated in merger review. I am, of course, aware of the risk of selection bias in the cases we look at, but I would be interested to hear suggestions about either individual cases or sets of cases involving a single industry that we might look at.

Question Number 2: Why do we seem so reluctant to bring coordinated effects cases?

This question is largely rhetorical. Coordinated effects cases can be hard to win. My primary interest in asking the question is that I wonder what the appropriate legal standard is for a successful coordinated effects case and what, as a matter of economics, it should be. We know that, in a relevant market protected by entry barriers, competitors have a strong incentive to coordinate on prices. We also know that individual firms have an incentive to cut prices from collusive levels. As an empirical matter, we know that firms sometim

In merger review, two types of errors are possible. We can allow an anticompetitive merger to go through or we can block one that is procompetitive. As a matter of economics, how to tradeoff these two risks depends on the cost of each type of error.

The potential cost of preventing a merger that is not anticompetitive is foregone efficiencies. How large are these likely to be? We would, of course, expect them to vary from merger to merger. If, however, we are unable to assess efficiencies on a case-by-case basis, then I see no alternative to treating the cost of a "false block" as being the average improvement in efficiency, an approach I refer to as the "standard deduction" approach to merger efficiencies. One possible basis for an estimate is Lichtenberg and Siegel's study of productivity improvements after changes in ownership. In a very large sampp

Again, my thanks to the Economics Committee for providing this forum. I am happy to answer questions and I look forward to receiving answers to the questions I have posed.

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