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What were your thoughts on merger enforcement when you came in as a Commissioner in April 2010?

I came to the Commission with a significant amount of antitrust experience in conduct matters, but less experience with mergers so I started at the agency with a special interest in the Commission's merger work. The importance of this work cannot be overstated. The agency's expertise and focus on mergers in key sectors, such as healthcare and technology, has a very real impact on the everyday lives of consumers.

Taking healthcare as an example, the data shows that annual healthcare costs for consumers are approximately 18% of total GDP. Merger activity has been increasing among healthcare providers, and evidence shows that growing consolidation can lead to higher prices without corresponding improvements in the quality of care. Against this backdrop, it is vitally important that the Commission continue to investigate and, where appropriate, challenge hospital deals and other transactions in healthcare markets to protect competition.

High-technology markets are also playing an increasingly important role in consumers' lives and raise some of the more novel and challenging questions for antitrust enforcement policy. *Google/A* was my first matter at the Commission, and it was a good introduction to the challenge of antitrust enforcement in dynamic markets. Apple's 11th hour announcement that it was entering the relevant market proved to be a game changer. I was involved in litigation in technology markets in private practice, so I came to the agency with an understanding of the complex issues regarding innovation, standards, and IP rights that dominate the competitive landscape in this area. I expect we will continue to face new and difficult enforcement and policy questions in this sector.

Can you give us some insight into how the FTC and DOJ divide the high tech space both for mergers and non-merger investigations? The FTC challenged Rambus and has investigated other activities in this deal, whereas the DOJ recently investigated some high-profile patent acquisitions by Google, Apple, and others.

As in other areas, the agencies need to coordinate who will review matters that fall into the high-tech arena. Both the Commission and the Antitrust Division have expertise in the area, and we have a clearance process in place to determine which agency is best situated to investigate a particular matter. Although the clearance process is an area where the agencies could sometimes do better, we collaborate closely with our colleagues at the Antitrust Division, and, from my perspective, the process generally works well.

To what extent have the revised Horizontal Merger Guidelines that were adopted in August 2010 influenced FTC enforcement actions? Does the complaint challenging Graco's proposed acquisition of ITW suggest that the FTC is embracing a framework that is more in line with the revised Merger Guidelines?

The revised Guidelines reflect the way the Commission has analyzed mergers for some time, rather than a change in enforcement policy. But they do show how merger review has evolved in the last two decades as a result of the agencies' enforcement experience and advances in economic thinking. For example, we have learned that in some cases, particularly those involving highly differentiated products or consummated mergers, an upfront focus on market definition may not be the best way to shed light on the competitive effects of a merger. And the goal in merger review, of course, is to assess likely competitive effects. This understanding is now reflected in the Guidelines.

I think the *G / I* case is a good example of the more subtle effect I expect the revised Guidelines will have. In the *G / I* complaint, we alleged a combination between the two dominant suppliers of industrial liquid finishing equipment. The evidence indicated that the parties were head-to-head competitors in markets that included a very large number of highly differentiated products. Under those circumstances, the level of pre-acquisition competition between the merging parties is often more probative of post-acquisition effects than market shares, and those facts would have

arguments of the parties and FTC staff go past each other. So my second piece of advice is that parties should do their best to address the concerns that have been raised by staff about a transaction, rather than just telling me they are wrong without meaningfully explaining why. And where disagreement centers on a factual issue, it is often more useful to hear directly from the business people rather than the lawyers. Finally, I place a high value on candor and credibility. Parties sometimes make a mistake when they overstate the strength of their position on a particular point. There is value in acknowledging a weakness and then explaining why it should not be dispositive of the Commission's position.

You wrote the Commission's opinion upholding an ALJ ruling that Polypore's consummated acquisition of Microporous substantially lessened competition in markets involving battery separators. Was there something interesting to you about that case that made you want to write the opinion?

The Commissioners take turns writing opinions. I was next in line in the rotation when the *P* case came up for review. One interesting aspect of r

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prove challenging to conduct. I would certainly like to see more in the way of retrospectives, if they can be done effectively within our resource constraints.

What have you enjoyed most about your time as a FTC Commissioner?

Many before me have said that being a Commissioner at the FTC has been the best job they ever had. I certainly feel that way. It's an honor to be here doing my best to protect the interests of consumers. The fact that I am doing this with terrific colleagues at an agency that has such a rich history and is tackling some of the most important and cutting edge issues of today is more than I could have ever hoped for.