

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC

Achieving this purpose could also have the important effect of restoring the
consensus on merger enforcement that has existed for the past several decades,
that merger retrospectives can play a critical role in making the Commission's
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In addition, merger retrospective studies can be an important asset in persuading courts to block anticompetitive mergers. There are two ways that merger retrospectives can assist merger challenges. First, merger retrospectives can help validate prospective merger review tools. Testing the efficacy of these tools can demonstrate to the courts that these tools are effective at identifying anticompetitive mergers. Second, retrospective studies can provide an empirical basis for a merger challenge. For example, these studies can help to persuade a court that a merger is anticompetitive by showing that similar mergers in the past resulted in anticompetitive outcomes.

I see merger retrospectives as critical to ensuring the success of our merger enforcement program. Consistent with our tradition of self-examination, the FTC h34 0 Td [(e1D)-4 (aS. (s) 6o(o)-4 (u)-4

There is also a practical challenge in performing a large number of merger retrospective studies that may be needed to understand fully the effects of our merger enforcement policies. Merger retrospective studies are time consuming. They require significant resources and data. So we need to understand how best to allocate our available resources in this area. In particular, we should consider whether and how the Commission can work with outside researchers on retrospective studies.

Today's hearing will address many of these issues. The hearing will feature four panels addressing distinct sets of questions.

The first panel will focus on what have we learned from existing merger retrospectives. This panel will address questions of what are the requirements of successful retrospective studies, which industries are good candidates for such studies, and what types of questions may be effectively answered with merger retrospective studies.

The second panel will focus on the use of merger retrospectives in prospective merger analysis. This panel will discuss how we can use merger retrospective studies to test the efficacy of economic tools used to forecast merger outcomes. The panel will examine what has already been done to test our economic tools and also discuss potential approaches for further testing of these tools. In addition, the panel will discuss how merger retrospective studies could use both quantitative and qualitative analyses in studying merger effects.

The third panel will address the question of how the findings from merger retrospectives should influence merger policy. It will also discuss how retrospective studies should influence the case law.

And, finally, the fourth panel will focus on what should the FTC's retrospectives program be over the next decade.

