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**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE**

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TABLE OF CONTENTS

1. Introduction..... 3
1.1 Senior DOJ and FTC staff..... 3

1. Introduction

1. This report describes federal antitrust developments in the United States for the period of October 1, 2010 through September 30, 2011 (“FY 2011”). It summarizes the competition enforcement and policy activities of both the Antitrust Division (“Division”) of the U.S. Department of Justice (“Department” or “DOJ”) and the Federal Trade Commission (“Commission” or “FTC”). The two agencies are collectively referred to throughout this report as the “Antitrust Agencies” or “Agencies.” For additional information on the Agencies’ activities during FY 2011, *see* the *FTC in 2011* annual report, available at <http://www.ftc.gov/os/2011/04/2011ChairmansReport.pdf>, and the DOJ 2011 Newsletter, available at <http://www.justice.gov/atr/public/division-update/2011/index.html>.

1.1 Senior DOJ and FTC staff

2. DOJ Assistant Attorney General (“AAG”) Christine Varney resigned on August 6, 2011, and Deputy Assistant Attorney General (“DAAG”) for Civil Enforcement Sharis A. Pozen was appointed Acting AAG upon her departure. Acting AAG Pozen resigned on April 27, 2012; DAAG Joseph F. Wayland became Acting AAG on her departure. Katherine B. Forrest became DAAG for Criminal and Civil Operations in October 2011, and Deputy Assistant Attorney General Scott Morton became DAAG for Economic Analysis in May 2011. In December 2011, Leslie C. Overton was appointed DAAG for Civil Enforcement.

3. In September 2011, FTC Commissioner William Kovacic’s term expired. On March 3, 2011, President Obama announced the nomination of Chairman Jon Leibowitz for a second term as FTC Commissioner. His nomination was confirmed by the Senate on March 29, 2012. President Obama nominated Maureen Ohlhausen as Commissioner on August 1, 2012.

DAF/COMP/AR(2012)23

creation in 1976 (*see*

11. During FY 2011, the FTC staff opened 23 non-merger initial phase investigations. The Commission brought one non-merger enforcement action, which was resolved by consent order. The challenged practice involved price fixing by a physician's association.

12. The Commission filed *amicus curiae* briefs in two cases (one before the U.S. Court of Appeals for the Third Circuit and one before the U.S. District Court for the Northern District of Ohio). The FTC provided one advisory letter and submitted 16 advocacy filings.

3.1.2 DOJ

13. At the end of FY 2011, the Division employed 729 persons: 344 attorneys, 52 economists, 152 paralegals, and 181 other professional staff. For FY 2011, the Division received an appropriation of \$162.8 million.

14. During FY 2011, the Division opened 142 investigations and filed 108 civil and criminal cases in federal district court. In FY 2011, the Division was party to three antitrust cases decided by the federal courts of appeals.

15. During FY 2011, the Division filed 90 criminal cases, in which it charged a total of 27 corporations and 82 individuals. Eleven corporate defendants and 25 individuals were assessed fines totaling \$382 million and 21 individuals were sentenced to a total of 10,544 days of incarceration; another 12 individuals were sentenced to spend a total of 2,075 days in some form of alternative confinement.

16. The Division investigated 90 mergers and challenged 13 of them in court; seven transactions were restructured or abandoned prior to the filing of a complaint as a result of an announcement by the Division that it would otherwise challenge the transaction. In addition, the Division screened a total of 428 bank mergers. The Division opened 107 civil investigations (merger and non-merger), and issued 476 civil investigative demands (a form of compulsory process). The Division filed five non-merger civil complaints. Also during FY 2011, the Division issued one business review letter.

3.2 Antitrust Cases in the Courts

3.2.1 United States Supreme Court

17. The Supreme Court did not decide any antitrust cases during FY 2011.

3.2.2 U.S. Court of Appeals Cases

18. On April 6, 2011 the U.S. Court of Appeals for the Sixth Circuit upheld the FTC's ruling in the RealComp II matter. In November 2009, the FTC issued an opinion finding that RealComp, a Michigan-based realtors' group, violated Section 5 of the FTC Act by restricting the ability of member real estate agents to offer consumers lower-priced alternatives to traditional real estate services. RealComp refused to transmit discount real estate listings to its own and other publicly-available websites and excluded such listings from the default searches within its own database. The FTC found that these policies restricted access to these listings and harmed competition. RealComp filed a petition for appellate review of an FTC order on December 31, 2011. The appellate court upheld the Commission's ruling. See <http://www.ca6.uscourts.gov/opinions.pdf/11a0084p-06.pdf>.

19. In *In re Grand Jury Subpoenas Served on White & Case, LLP*, 627 F.3d 1143 (9th Cir. 2010), *cert. denied*

The law firms moved to quash the subpoenas on the ground that the documents were subject to a protective order in a private case. The court of appeals held that the subpoenas should be enforced. The established rule, the court explained, is that “a grand jury subpoena takes precedence over a civil protective order.” This case was somewhat unusual in that “[b]y a chance of litigation, the documents have been moved from outside the grasp of the grand jury to within its grasp.” Nonetheless, “[n]o authority forbids the government from closing its grip on what lies within the jurisdiction of the grand jury.”

20. In other court of appeals cases, the United States defended convictions and sentences based on established principles of criminal antitrust law, procedure, and evidence.

3.3 *Statistics on Private and Government Cases Filed*

21. According to the 2011 Annual Report of the Director of the Administrative Office of the U.S. Courts, 475 new civil antitrust actions, both government and private, were filed in the federal district courts in FY 2011. See page 126 of the report, available at <http://www.uscourts.gov/uscourts/Statistics/JudicialBusiness/2011/JudicialBusiness2011.pdf>.

3.4 *Significant Enforcement Actions*

3.4.1 *DOJ Criminal Enforcement*

22. The Division filed 90 criminal cases in FY 2011, more than it has filed in nearly 25 years. The Division brought cases in a range of important industries, including auto parts, municipal bonds, real estate foreclosures, and freight forwarding. The criminal program for the fifth consecutive year exceeded \$500 million for criminal fines obtained. Prior to 1994, the largest corporate fine ever imposed for a single Sherman Act violation was \$2.85 million in 1972, a Sherman Act violation in 1972. In 2011, the largest Sherman Act violation was \$1.3 million in 2011.

agencies in protecting American Recovery and Reinvestment Act (“ARRA”) funds from fraudulent activity. In its role as co-chair of the Task Force’s Recovery Act, Procurement and Grant Fraud Working Group, the Division has conducted training on antitrust awareness and collusion detection for more than 25,000 individuals in 20 federal agencies, 36 states and two U.S. territories receiving ARRA funds.

26. **Auto Parts.** The auto parts investigation is the largest criminal investigation the Division has ever pursued, in terms of both its scope and the potential volume of commerce affected by the alleged illegal conduct. As of March 2012, the ongoing cartel investigation of price fixing and bid rigging in the automobile parts industry has yielded charges against three companies and seven individuals and nearly \$750 million in criminal fines. Two of the executives charged have agreed to serve two years in prison – the longest prison term imposed on a non-U.S. national voluntarily submitting to U.S. jurisdiction for an antitrust violation.

27. The following corporate fines have been obtained in the auto parts investigation since 2009.

rates, the collusion taking place at public auctions at courthouses and municipal buildings in the U.S. is artificially driving down foreclosed home prices and enriching the colluding real estate speculators at the expense of homeowners, municipalities, and lending institutions. The impact of these collusive schemes is far-reaching because they negatively affect home prices in the neighborhoods where the foreclosed properties are located. Similar collusive conduct has been detected among bidders for public tax liens. See http://www.justice.gov/atr/public/press_releases/2012/280487.htm.

30. **Freight Forwarding.** Freight forwarders manage the domestic and international delivery of cargo for customers by receiving, packaging, preparing, and warehousing cargo freight, arranging for cargo shipment through transportation providers such as air carriers, preparing shipment documentation, and providing related ancillary services. The Division's investigation into the freight forwarding industry uncovered multiple conspiracies to fix and impose certain freight forwarding service fees, including fuel surcharges and various security fees, charged to customers for services provided in connection with freight forwarding shipments of cargo by air. As of March 2012, criminal fines of nearly \$100 million have been obtained and 13 companies have been charged in the Division's investigation of price-fixing conspiracies in the freight forwarding industry. The following corporate fines were imposed during FY 2011:

Vantec Corporation, \$3.3 million

Nissin Corporation, \$2.6 million

Nishi-Nippon Railroad Co. Ltd., \$4.7 million

Nippon Express Co. Ltd., \$21.1 million

Kintetsu World Express Inc., \$10.5 million

Hankyu Hanshin Express Co. Ltd., \$4.5 million

MOL Logistics (Japan) Co. Ltd., \$1.8 million

31. *U.S. v. AU Optronics Corporation, et al.* On March 13, 2012, following an eight-week trial, a federal jury in the Northern District of California returned guilty verdicts against AU Optronics ("AUO"), a Taiwan manufacturer of thin film transistor liquid crystal display ("TFT-LCD") panels, its American

3.4.2. DOJ Civil Non-Merger Enforcement

32. **United Regional Health Care System.** In *U.S. et al. v. United Regional Health Care System*, the Division challenged the use of exclusionary contracts by United Regional Health Care System of Wichita Falls, Texas (“United Regional”), alleging that United Regional used these contracts to maintain its monopoly in the provision of hospital services. The Division, along with the Texas attorney general, filed a civil antitrust lawsuit on February 25, 2011. According to the complaint, United Regional was by far the largest hospital in Wichita Falls, with approximately a 90 percent market share for inpatient hospital services sold to commercial health insurers in the Wichita Falls region. It was also the region’s only provider of certain essential services, such as cardiac surgery, obstetrics, and h0014 th-level trauma care. The complaint alleged that in direct response to a competitive threat from other local health-care providers, United Regional required most health insurers to enter into contracts that effectively prohibited them from contracting with its competitors. In particular, these contracts required insurers to pay significantly higher prices if they contracted with a nearby competing facility. As a result, almost all health insurers serving Wichita Falls entered into exclusionary contracts with United Regional. To resolve these competitive concerns, the Division simultaneously filed a proposed settlement. The settlement prohibits United Regional from using agreements that improperly inhibit insurers from contracting with its competitors. In particular, United Regional is prohibited from conditioning its prices on whether insurers contract with other health-care providers. United Regional is also prohibited from taking any retaliatory actions against an insurer that enters into an agreement with a rival provider. The court approved the settlement on September 29, 2011. See http://www.justice.gov/atr/public/press_releases/2011/267648.htm.

33. **Lucasfilm.** In *U.S. v. Lucasfilm Ltd.*, the Division challenged an agreement between Lucasfilm Ltd. and Pixar Animation Studios (“Pixar”) that prohibited the companies from “cold calling” each other’s employees and required a notification when one made an offer of employment to an employee of the other. In addition, the agreement proscribed a company from making a counteroffer with compensation above its own initial offer. According to the complaint, filed on December 21, 2010, the companies’ actions reduced their ability to compete for digital animation workers and interfered with the proper functioning of the price-setting mechanism that otherwise would have prevailed in competition for employees. To resolve these competitive concerns, the Division filed a proposed settlement simultaneously with the complaint.

35. **Visa/Mastercard/Amex.** In *U.S. et al v. American Express Company, et al.*, the Division challenged the rules that American Express, Mastercard, and Visa had in place that prevent merchants from offering consumer discounts, rewards, and information about card costs. According to the complaint, filed on October 4, 2010, this practice prohibits merchants from encouraging consumers to use lower-cost payment methods, resulting in an increase in the merchants' cost of doing business, and ultimately forcing

concerning the acquisition. The Supreme Court granted the request for *certiorari* on June 25, 2012. See <http://www.ftc.gov/os/adjpro/d9348/index.shtm>.

50. **ProMedica / St. Luke's Hospital.** The FTC challenged ProMedica's consummated acquisition of rival St. Luke's Hospital in the Toledo, Ohio area. The FTC's administrative complaint alleged that the deal would reduce competition and allow ProMedica to raise prices for general acute-care and inpatient obstetrical services, which would significantly harm patients and employers and employees in the Toledo area. FTC staff also filed a separate complaint in federal district court seeking an order requiring ProMedica to preserve St. Luke's as a separate, independent competitor during the FTC's administrative proceeding and any subsequent appeals. The action in federal district court was brought jointly with the Attorney General of the State of Ohio. On March 29, 2011 the District Court granted the request for a preliminary injunction. In an Initial Decision issued December 5, 2011, the FTC's administrative law judge ("ALJ") found that ProMedica's acquisition of St. Luke's eliminated competition between the two firms and reduced the number of competing hospitals from four to three. Accordingly, the ALJ ordered ProMedica to divest St. Luke's to an FTC-approved buyer. In its March 2012 Opinion, the Commission affirmed the ALJ's decision on liability, but defined the market somewhat differently. The Commission concluded that the combination of the two hospital providers would be likely to substantially lessen competition in a separate market consisting of inpatient obstetrical services sold to commercial health plans. ProMedica has appealed the Commission's decision to the 6th Circuit Court of Appeals where the case is pending. For more information see <http://www.ftc.gov/os/adjpro/d9346/index.shtm>

psychiatric services in three local markets in the U.S. The FTC order settling the matter required Universal Health to divest 15 psychiatric facilities to address the Commission's concern. *See* <http://www.ftc.gov/os/caselist/1010142/index.shtm>.

54. **Simon Property Group / Prime Outlets.** Simon Property Group, Inc. settled Commission charges that its proposed acquisition of Prime Outlets Acquisition Company LLC would lessen competition in retail space at outlet centers. As part of its order settling the matter, the Commission required Simon Property to divest property and modify tenant leases to preserve outlet center competition in parts of the country. In addition, Simon agreed to remove territorial restrictions for tenants with stores in its outlet malls serving the Chicago and Orlando markets. *See* <http://www.ftc.gov/os/caselist/1010061/index.shtm>.

4.2.2 *DOJ Merger Challenges and Cases*

55.

rivals than a stand-alone NBCU. To resolve these competitive concerns, the Division filed a proposed settlement simultaneously with the complaint that allows the joint venture to proceed conditioned on the parties' agreement to license programming of Comcast's cable television services to online competitors, to subject themselves to anti-retaliation provisions, and to adhere to Open Internet requirements. The Division and Federal Communications Commission cooperated closely on this matter. See http://www.justice.gov/atr/public/press_releases/2011/266149.htm.

58. **Dean Foods.** In April 2009, Dean Foods Co. ("Dean Foods") acquired the Consumer Products Division of Foremost Farms USA Cooperative ("Foremost Farms"), which included its dairy processing plants in Waukesha and De Pere, Wisconsin. After investigating this acquisition, the Division and state attorneys general from Illinois, Michigan, and Wisconsin filed a lawsuit on January 22, 2010, alleging that Dean Foods' acquisition would eliminate substantial competition between the two companies in the sale of milk to schools, grocery stores, convenience stores, and other retailers. The Division filed a proposed settlement on March 29, 2011, requiring Dean Foods to divest a significant milk processing plant in Waukesha and related assets. The proposed settlement also required that Dean Foods notify the Division before it makes any future acquisition of milk processing plants when the purchase price is more than \$3 million. Given Dean Foods' size, location, and distribution network, the Division determined that the divestiture of the Waukesha dairy plant addressed its competitive concerns. The court approved the settlement on November 21, 2011. See http://www.justice.gov/atr/public/press_releases/2011/269072.htm.

59. **CPTN / Novell.** CPTN Holdings LLC ("CPTN"), a holding company owned in equal measure by Microsoft Inc., Oracle Corp., Apple Inc. and EMC Corp., sought to acquire approximately 882 patents and patent applications in a two-stage transaction in conjunction with Novell Inc.'s ("Novell") planned merger with Attachmate Corporation. In the first phase, CPTN would acquire certain patents and applications from Novell. In the second phase, the patents would be allocated and distributed to each of the four owners through a serpentine draft. On April 20, 2011, the Division announced that while it had concluded that the proposed deal would potentially jeopardize competition, especially the ability of open source software such as Linux to continue to innovate and compete in various product categories, revisions by CPTN and its owners to their formation agreements, including Microsoft's decision to sell any patents it acquired from Novell back to Attachmate, EMC's agreement to not acquire certain specified patents, and all the acquirers' willingness to take the patents subject to GPLv.2, an open source license, were deemed to alleviate that concern. Although the Division allowed the first phase of the transaction to proceed, it continued to investigate the subsequent distribution of the Novell patents to the CPTN owners. During the course of its investigation, the Division cooperated closely with Germany's Federal Cartel Office, aided by waivers from the parties. See http://www.justice.gov/atr/public/press_releases/2011/270086.htm.

60. **Google / ITA.** In *U.S. v. Google, et al.*

61. **Verifone / Hypercom.** In *U.S. v. Verifone Systems Inc., et al.*, the Division challenged the acquisition of Hypercom Corp. (“Hypercom”) by Verifone Systems Inc. (“Verifone”). The complaint, filed on May 12, 2011, alleged that the proposed transaction would eliminate important competition in the sale of point-of-sale (“POS”) terminals. According to the complaint, the parties’ proposed divestiture to the only other significant provider of POS terminals, Ingenico, would not remedy competitive concerns since VeriFone and Hypercom control more than 60 percent of the U.S. market for POS terminals. As a result, on May 20, 2011, VeriFone and Hypercom abandoned the proposed divestiture to Ingenico and entered into settlement negotiations with the Division to find an alternative buyer. The Division filed a proposed settlement on August 4, 2011. The settlement required Verifone to divest Hypercom’s U.S. POS terminals business to an entity sponsored by Gores Group LLC (“Gores”), a private equity fund. This divestiture would include physical assets, personnel, intellectual property rights, transitional support, and all other assets necessary for Gores to become a viable competitor in the industry. See http://www.justice.gov/atr/public/press_releases/2011/273602.htm.

62. **H&R Block / TaxAct.** In *U.S. v. H&R Block, Inc.*, the Division challenged the acquisition of TaxACT by H&R Block Inc. According to the complaint, filed on May 23, 2011, the proposed transaction would likely have substantially lessened competition in the growing U.S. market for digital do-it-yourself tax preparation products, leading to increased prices and reduced innovation and quality. At the time, three companies accounted for 90 percent of all sales of digital do-it-yourself tax preparation products, and the proposed acquisition would have combined H&R Block and TaxACT, respectively the second- and third-largest providers of these products. As the first company to offer all taxpayers the ability to prepare and electronically file their federal individual tax returns for free directly from its website, TaxACT has been an aggressive competitor in the market. Over the years, it has consistently offered high quality products to

origins, aims, and major characteristics of competition policy, market definition, and market power (see <http://www.internationalcompetitionnetwork.org/working-groups/vicechair/outreach/icncurriculum.aspx>). As chair of the Merger Working Group's Notification and Procedures subgroup, the Commission led projects such as a program on promoting implementation of its Recommended Practices on merger notification and review procedures.

74. DOJ, as co-chair of the Merger Working Group (MWG) with the Irish and Italian Competition Authorities, led a series of teleseminars on the role of economics in competition investigations, in preparation for work in FY 2012 on revising economics chapters of the ICN Investigative Techniques Handbook. As co-chair (with the Brazilian authorities) of Subgroup 1 of the Cartel Working Group, the Division led a series of teleseminars on a wide range of cartel enforcement topics, including leniency programs. DOJ also began preliminary work, with the Turkish Competition Authority, on preparing an ICN-wide project on international enforcement cooperation, which would be initiated in FY 2012. This project will proceed in parallel with the long-term cooperation project undertaken by the OECD's Competition Committee, and will begin with a joint survey submitted to members of both organizations.

5.2 *Outreach*

75. In FY 2011, the Agencies continued to provide technical assistance on competition law and policy matters to their international counterparts. The FTC's international technical assistance antitrust program conducted 25 foreign technical missions in 20 countries. As part of U.S. efforts to assist China in implementing its antitrust law, senior FTC and DOJ officials and staff held discussions with the Chinese antitrust agencies in the United States and China. The Agencies' staffs, together with U.S. judges, also led a workshop on antitrust litigation issues for more than 15 judges from China's Supreme People's Court and lower courts. The Agencies are also working with India's Competition Commission as it begins to implement its 2002 Competition Act and new merger regime. The Agencies' training missions included programs in Colombia, Dominican Republic, Egypt, El Salvador, Hungary, Kenya, Morocco, Singapore, Tanzania, Thailand, Turkey, and Vietnam.

76. As part of its ongoing effort to build effective relationships, the FTC provides opportunities for staff from foreign agencies to spend several months working directly with FTC staff on investigations, subject to appropriate confidentiality protections. The FTC's International Fellows and SAFE WEB Interns program is based on a statute that also enables the FTC to send staff members to work in foreign competition agencies. In FY 2011, the FTC hosted 11 International Fellows and Interns from countries such as Australia, Brazil, Canada, China, India, Mexico, Turkey, the UK, and Vietnam. These included the chief economist of the U.K. Competition Commission, who spent a one-year fellowship to serve as Deputy Director of the FTC's Bureau of Economics. It also included short-term SAFE WEB Internships for two senior managers of the Competition Commission of India. In FY 2011, the FTC

6. Regulatory and Trade Policy Matters

6.1 Regulatory Policies

6.1.1 DOJ Activities: Federal and State Regulatory Matters

78. On May 18, 2011, the Division responded to a letter from a State Representative in Tennessee, and urged the Tennessee legislature to adopt a proposed amendment that would repeal the state's antitrust exemption for public hospitals. A 2005 opinion of the U.S. Court of Appeals for the Sixth Circuit held that the exemption covered a wide range of potentially anticompetitive actions, including exclusive contracts with health insurers. The Division's letter concluded that repealing the state action exemption would likely promote competition and benefit consumers. *See*

ability to fill prescriptions at pharmacies of their choice, it would impede a fundamental element of consumer choice: healthy competition between retail and mail order pharmacies, which constrains costs and maximizes access to prescription drugs. See <http://www.ftc.gov/opa/2011/08/prescriptiondrug.shtm>.

82. **Health Care.** On June 8, 2011, in response to a request from Connecticut state legislators Eric D. Coleman, John A. Kissel, Gerald Fox III, and John W. Hetherington, FTC staff filed a comment stating

new wholesaler to buy the distribution rights from the former wholesaler unless the acquiring firm can prove that it has good cause under Massachusetts law for terminating the existing wholesale agreement. The FTC staff concluded that the Bill appears to provide no countervailing consumer benefits that might justify such competitive restrictions, and urged that the Massachusetts legislature not pass the Bill. *See* <http://www.ftc.gov/opa/2011/05/maltbeverages.shtm>.

86. **Health Care, Health Professions.** On May 11, 2011, in response to a request from Texas State Senators Rodney Ellis and Royce West, FTC staff submitted a comment stating that Texas health care consumers would benefit from proposals in the Texas State Legislature that would allow Advanced Practice Registered Nurses (“APRNs”) to practice to the full extent of their education and training. The FTC staff noted that Texas Senate Bills would eliminate unnecessary physician supervision and delegation requirements imposed on APRNs, allowing them to make diagnoses and to prescribe and order prescription drugs and medical devices. This likely would result in lower health care costs, greater access to care, and

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such as wind farms, solar cells, and solar thermal installations – into the nation’s electric power grid. The FTC staff suggested ways to integrate such alternative sources into the grid more efficiently, to improve the reliability of electric service, and to foster innovation that can lower the costs of meeting environmental policy goals. The FTC staff urged FERC to explain more thoroughly how alternative energy sources can supply generation reserves on their own, arguing that such a discussion will support competition in the supply of those reserves. FTC staff urged FERC to protect against proposals that would discriminate against alternative energy providers when allocating regulation service costs. Such discriminatory allocations, the comment stated, could raise rivals’ costs and lessen competition in the industry. See <http://www.ftc.gov/opa/2011/03/ferc.shtm>.

90. **Optometry.** On January 13, 2011, FTC staff sent comments to the North Carolina Board of Opticians explaining that the Board’s proposal to restrict the sale of contact lenses, eyeglasses, and other optical goods in the state is likely to raise costs to consumers unnecessarily. The comments also state that the proposal appears to conflict with the federal Fairness to Contact Lens Consumers Act and the FTC’s Contact Lens and Eyeglass Rules, both of which protect consumers’ ability to promptly access their prescriptions at no charge to encourage comparison shopping for eyeglasses or contact lenses. The staff noted that several provisions of the proposed rule raised competitive concerns, including sections that

DAF/COMP/AR(2012)23

Notice of Technical Conference regarding demand response compensation in organized wholesale energy markets. The comment highlighted that there is no need for a proposed FERC net benefits test so long as

variety of industry stakeholders, including health care providers and insurers, as well as academics, health policy, and economic experts, and representatives of the Agencies. More information on these workshops is available at <http://www.ftc.gov/opp/workshops/aco/index.shtml> and <http://www.ftc.gov/opp/workshops/aco2/index.shtml>.

7.1.2 *Studies and Reports*

98. **Gasoline Price Changes and the Petroleum Industry: An Update.** In September 2011, the FTC's Bureau of Economics issued a staff report that examined trends in the petroleum industry and how they affected gasoline prices between 2005 and early 2011. The report concludes that although a broad range of factors influence the price of gasoline, worldwide crude oil prices continue to be the main driver of what consumers pay for gas. The report updates FTC work on gasoline price factors and on mergers, structural changes, and antitrust enforcement in the petroleum industry. It also reviews and comments on

7.1.3 *Bureau of Economics Working Papers*

101. The FTC's Bureau of Economics issued the following working papers during FY 2011. The papers are available at <http://www.ftc.gov/be/econwork.shtm>.

Dan Hanner, Daniel Hosken, Luke Olson, Loren Smith, *Dynamics in a Mature Industry: Entry, Exit, and Growth of Big-Box Grocery Retailers*, September 2011

David J. Balan, Patrick S. Romano, *A Retrospective Analysis of the Clinical Quality Effects of the Acquisition of Highland Park Hospital by Evanston Northwestern Healthcare*, November 2010

Patrick DeGraba, *Naked Exclusion by a Dominant Supplier: Exclusive Contracting and Loyalty Discounts*, November 2010

7.2 DOJ Conferences, Reports, and Economic Working Papers

7.2.1 *Department of Justice Economic Analysis Group Discussion Papers*

102. The DOJ Economic Analysis Group issued the following papers during FY 2011. The papers are available at http://www.usdoj.gov/atr/public/eag/discussion_papers.htm.

Russell Pittman, *Blame the Switchman? Russian Railways Restructuring After Ten Years*, February 2011

Thomas D. Jeitschko and Byung-Cheol Kim, *Signaling, Learning and Screening Prior to Trial: Informational Implications of Preliminary Injunctions*, February 2011

William Gillespie and Oliver M. Richard, *Antitrust Immunity and International Airline Alliances*, February 2011

APPENDICES

Department of Justice: Fiscal Year 2011 FTE¹ and Actual Resources by Enforcement Activity

	FTE	Amount (\$ in thousands)
Criminal Enforcement	304	\$66,632
Civil Enforcement	456	\$99,948
Total	760	\$166,580

Federal Trade Commission: Fiscal Year 2011 Competition Mission
FTE and Dollars by Program by Bureau/Office

	FTE	Amount (\$ in thousands)
Total Maintain Competition	521.8	\$117,734.3
Mission		
<i>Bureau of Competition</i>	283.3	48,866.2
<i>Bureau of Economics</i>	75.2	12,458.8
<i>Regional Offices</i>	24.4	4,394.5
<i>Mission Support</i>	138.9	52,014.8
Premerger Notification	31.5	4,885.7
<i>Bureau of Competition</i>	31.2	4,837.4
<i>Bureau of Economics</i>	0.0	0.0
<i>Regional Offices</i>	0.3	48.3
Merger & Joint Venture Enforcement	181.9	31,912.0
<i>Bureau of Competition</i>	130.6	23,481.5
<i>Bureau of Economics</i>	39.2	6,373.5
<i>Regional Offices</i>	12.1	2,057.0
Merger & Joint Venture Compliance	3.1	481.2
<i>Bureau of Competition</i>	3.0	465.1
<i>Bureau of Economics</i>	0.0	0.0
<i>Regional Offices</i>	0.1	16.1
Nonmerger Enforcement	137.6	22,527.5
<i>Bureau of Competition</i>	104.8	16,870.5
<i>Bureau of Economics</i>	21.8	3,625.5
<i>Regional Offices</i>	11.0	2,031.5
Nonmerger Compliance	0.8	124.0
<i>Bureau of Competition</i>	0.8	124.0
<i>Bureau of Economics</i>	0.0	0.0
<i>Regional Offices</i>	---	---
Antitrust Policy Analysis	8.9	1,449.9
<i>Bureau of Competition</i>	---	---
<i>Bureau of Economics</i>	8.9	1,449.9
<i>Regional Offices</i>	---	---
Other Direct	19.1	4,339.2
<i>Bureau of Competition</i>	12.9	3,087.7
<i>Bureau of Economics</i>	5.3	1,009.9
<i>Regional Offices</i>	0.9	241.6
Support	138.9	\$52,014.8

¹ An "FTE" or "full time equivalent" amounts to one employee working full time for a full year. Because the number of employees fluctuates throughout the year through hiring, attrition, and varying schedules, an agency typically has more employees than FTEs (e.g., two employees working 20 hours per week for one full year equals one FTE).