



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

November 3, 2023

The Honorable Thomas P. Tiffany
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Tiffany:

Thank you for your letter seeking information about the Federal Trade Commission's merger enforcement program. I take seriously the responsibility of Congress to provide effective oversight over federal agencies on behalf of the American people, and I welcome the opportunity to engage with Members of Congress about the FTC's efforts to protect our citizens from illegal mergers and excessive consolidation.

I am fully committed to ensuring that the Commission vigorously enforces the statutes it is charged with administering, including through blocking unlawful mergers and acquisitions. Ensuring that our approach to merger enforcement is rigorous and keeping pace with new market realities is a top priority, and policing conduct in digital markets is a key area of inquiry, given the high stakes for the American public.

As part of that effort, the FTC worked for over a year with the Antitrust Division of the Department of Justice to revise our merger guidelines, which we published in draft form in July 2023. The draft Merger Guidelines are deeply rooted in the text of our statutes, in controlling law and precedent, and in Congress's deep commitment to robust enforcement. Anchoring our reform efforts in these core principles will bring antitrust more squarely within the rule of law. Faithfully enforcing the antitrust laws will necessarily involve taking action against dominant firms, some of which are among the wealthiest and most powerful companies in the world. These companies are often able to marshal enormous resources to try to dissuade enforcers and defend FTC charges in administrative and judicial proceedings. But upholding the rule of law requires that we administer our statutes without fear or favor.

Since I joined the FTC as Chair in June 2021, the Commission has taken action against at least 38 mergers. In ten of them, the Commission authorized staff to file an administrative complaint or seek a preliminary injunction in federal court to stop the merger pending the administrative trial on the merits.¹ In five of these mergers, the parties abandoned their merger plans after the Commission issued its complaint.² In one, the parties significantly altered their deal and sold off assets to maintain competitive markets in response to Commission litigation.³ In another, the parties agreed to a consent order prohibiting them from engaging in the conduct alleged in the Commission's complaint and requiring them to submit to rigorous monitoring.⁴ Another 14 of the 38 mergers were abandoned during the FTC's investigation,⁵ for a total of 19 abandoned mergers during my tenure. In the remaining 14 mergers, the Commission ordered

divestitures to prevent the mergers from resulting in harm, protecting competition in a wide range of markets such as gasoline, dialysis clinics, pharmaceuticals, medical devices, veterinary services, and farm stores.⁶ A comprehensive chart detailing the Commission's merger enforcement actions from June 2021 to the present is appended to this letter as Appendix A.

By any measure, the FTC has been extremely successful with its merger enforcement program under my leadership, actively investigating illegal mergers and taking action to stop them before they can cause widespread harm to the consumers, small businesses, workers, and other market participants who count on us to enforce the antitrust laws as Congress intended. I am extremely proud of the FTC competition staff who work tirelessly to stop further consolidation that robs our economy of its dynamism and growth.

Market participants acknowledge that the FTC's work is deterring unlawful deals. For example, the head of mergers and acquisitions at Goldman Sachs recently stated, "We used to think of antitrust and the regulatory paradigm toward the middle or end of the deal. But now it's completely front-ended, and certain deals just can't get done."⁷ And as a prominent investor noted:

There's been a sea change in the regulatory environment over the past two and a half years since the Biden administration took office. We've moved from a relatively loose environment in terms of competition policy or antitrust—at least in the United States—to the most challenging one or tightest one that I can remember seeing. The new regulatory team—Lina Khan at the FTC, Jonathan Kanter at the Justice Department, and to some extent (until recently) Tim Wu at the White House—already have succeeded in dissuading a series of business combinations which would have gone ahead in a different environment. So they've already been successful that way. Those which have been shelved because of this new environment aren't visible—no one can see them or count them up—but I can assure you that there are a lot of them.⁸

As a law enforcer, I believe that firms should first assess whether a deal would violate the antitrust laws before pursuing it. The fact that the FTC's work is driving this type of deterrence is a real mark of success.

By choosing to focus on only a handful of cases, your letter paints an inaccurate picture of the FTC's merger enforcement program. As you detail in your letter, in the past year, a federal court denied an FTC motion for a preliminary injunction in two merger challenges, Meta/Within and Microsoft/Activision. While the Commission determined not to continue to prosecute its complaint against Meta/Within,⁹ we are actively pursuing an appeal of the court's ruling in Microsoft/Activision before the Ninth Circuit to reverse significant errors in the district court's opinion. The outcome of this litigation has not yet been determined because the appeal is still pending.

A complete assessment of the FTC's success in stopping harmful mergers reveals that of the 38 mergers challenged during my tenure as Chair, 19 were abandoned, another 14 were settled with divestitures, and two are pending a final outcome.¹⁰

That leaves just one loss, Meta/Within. While I was disappointed by the outcome, I believe the Commission has a statutory obligation to bring law enforcement actions to halt unlawful mergers. And while the court ultimately did not grant a preliminary injunction, the court's opinion affirmed the validity of potential competition theories of harm, confirmed that antitrust law has an important role to play even in nascent markets with new entry, and relied on time-tested principles of market definition to find a market for virtual reality fitness apps. With these rulings, the court laid out a roadmap for future merger cases alleging digital markets or concerns related to the elimination of potential competition.

In fact, our enforcement record reveals that the Commission has been pursuing strong cases, well within established precedent and with solid facts and compelling economic analysis. In 19 instances, the merging companies made their own calculations about litigation risk and determined that they should abandon their plans rather than risk ending up in the same place after a lengthy and costly litigation. In another 14, the companies offered to significantly alter their deals and sell off assets to maintain a competitive market. They did not do so because they wanted to give the FTC a 'win;' they did so after their own assessment of the likelihood that the Commission would succeed in blocking their merger.

These cases are not just wins for the agency; each of them is a win for the American public. Not only do they prevent illegal mergers from happening or causing widespread harm to the American public, abandoned mergers and settled cases save millions in tax dollars that would otherwise be spent achieving the same outcome. From the Commission's perspective, those saved dollars—and years—can be deployed to other competition enforcement matters, including investigating other potentially problematic mergers. We must marshal our scarce resources to their best use in order to be good stewards of the money we are given by Congress to safeguard competition and prevent further consolidation. Just as important, an abandoned merger or settled deal protects those who would have otherwise suffered the harmful consequences of an illegal merger.

You also seek information related to two administrative cases, Altria/Juul and Illumina/Grail. Both of these matters were voted out on a unanimous basis by the Commission before I joined the FTC: specifically, all three sitting Republican Commissioners and two Democratic Commissioners voted to issue the complaint in Altria/Juul in April 2020, and the two sitting Republican Commissioners and two Democratic Commissioners supported the complaint in Illumina/Grail.

In Illumina/Grail, the Commission ruled—in a unanimous decision—that Illumina's \$7.1 billion vertical acquisition of Grail is likely to substantially lessen competition in the U.S. market for research, development, and commercialization of multi-cancer early detection tests.¹¹ As is their right, the companies have appealed the Commission's decision and order to a federal appellate court, and the Commission has stayed its order until the Fifth Circuit has resolved the appeal.¹²

In Altria/Juul, while the matter was on appeal to the Commission, the parties decided to terminate their relationship and noncompete agreement related to Altria's 2018 investment in Juul Labs, Inc. In addition, since the complaint had been filed, there had been significant changes

in the regulatory environment as well as the market positions of Altria and JUUL. These significant market developments both completely unwound the transaction that was at the heart of the Commission's complaint and lessened the concerns that had animated its filing in April 2020. On March 21, 2023, Altria moved to have the Commission take official notice of the unwinding of the initial deal as well as to withdraw the case from adjudication.¹³ The Commission took official notice of the unwinding of the transaction and related agreement with Juul and granted Altria's motion to withdraw the case from adjudication.¹⁴ On June 20, 2023, the Commission dismissed its complaint, finding both changed facts outlined above and the public interest in conserving scarce agency resources counseled against continuing the litigation.¹⁵ With the complaint dismissed, the case is over because the parties have terminated the conduct that was the primary basis for the complaint.

Effective and efficient merger enforcement is more than just a numbers game. In the same way that a prosecutor who racks up high numbers by going after numerous low-level mobsters may be less effective than a prosecutor who successfully captures the boss, the efficacy of antitrust enforcement cannot be captured solely through numbers. But when discussing the FTC's merger enforcement efforts, it is important to start the conversation from a fair accounting of the FTC's accomplishments. I am committed to continuing this vital work for the American people and to vigorously enforcing our merger laws for their benefit.

With regard to your specific requests:

1. The amount of funds spent on litigation in each of the aforementioned cases. (Microsoft/Activision; Meta/Within; Altria/Juul; Illumina/Grail; Amgen/Horizon)

See Answers to Questions 2 and 3 below.

2. The amount of staff hours spent on the aforementioned cases.

The FTC does not maintain records on the number of hours staff works on each matter, including litigations.

To provide some perspective, the Commission manages its limited resources by assigning staff on a priority basis, often moving staff off other work or investigations to work on litigation. Litigation matters are among the highest priority work we have, given that we have an obligation to the court to prosecute a case with dispatch. FTC staff often work on multiple matters at the same time, especially senior-level managers. Sometimes, members of the litigation team have been part of the team investigating the merger, working for many months on the same matter, while others join the litigation team closer to the time the Commission authorizes the litigation.

The number of staff assigned to a litigation at the time of filing a complaint is reflected in the pleadings, though it can vary significantly over the life cycle of an investigation. For instance, the FTC's federal court complaints list FTC attorneys as counsel of record in each proceeding: 20 in Microsoft/Activision;¹⁶ 14 in Meta/Within;¹⁷ 22 in Illumina/Grail;¹⁸ and 19 in Amgen/Horizon.¹⁹ In each of these cases, the team investigating the original transaction was generally smaller than the team ultimately assigned to litigate. In these four cases, the

Commission also initiated administrative litigation, and each FTC attorney appearing before the Administrative Law Judge files an appearance in the specific proceeding. According to the docket in each of these matters, 16 FTC attorneys filed a notice of appearance in Microsoft/Activision;²⁰ 13 in Meta/Within;²¹ 11 in Illumina/Grail;²² and three in Amgen/Horizon.²³ For these dual track cases, it is often the same attorneys who are assigned to work on both the federal court and administrative proceedings. In Altria/Juul, which was an administrative proceeding without a related federal court injunction action, 16 FTC attorneys filed a notice of appearance, although some later withdrew from the litigation team.²⁴ For administrative proceedings, the FTC’s Administrative Law Judge and his staff also spend time on litigation matters, working some portion of their time on each case that is pending during the same period of time.

In addition to competition lawyers, our competition enforcement work, including litigation, is supported by many other lawyers, paralegals, economists, technologists, and other support staff throughout the agency. As reflected in the most recent Congressional Budget Justification, the FTC has 265 Full Time Equivalents (FTE) devoted to Merger and Joint Venture Enforcement,²⁵ but an additional 176 FTE support that work. These staff work throughout the agency, and some of them, for instance in the Office of General Counsel, directly support our competition litigation. Some portion of these staff members’ time would be attributable to casework, including litigation, but the FTC does not maintain the data necessary to do that on a case-specific basis. In most if not all of our litigation matters, the FTC is outspent and outnumbered by the defendants.

3. A list of outside experts, including their affiliate organizations, in each of the aforementioned cases and the amount paid to each expert and their affiliate organizations.

As required by law, the FTC posts each of its contracts for outside services on [usaspending.gov](https://www.usaspending.gov). The following chart contains contract information related to each case, as well as the contract amount allowed under the contract, the expert and their employer. For the two cases that are still pending (Microsoft/Activision; Illumina/Grail), the contracts are open and more money could be paid out under the contract.

Matter	USASpending.gov Contract Link(s)	Expert Name/Firm	Potential Award Amount*	Outlaid Amount*
Microsoft/Activision	29FTC122C0062 (economic expert)	Robin Lee/Bates White, LLC	\$3,425,000	\$2,757,241
	29FTC123C0037 (survey expert)	Rebecca Kirk Fair/Analysis Group Inc.	\$1,204,985	\$224,886
Meta/Within	29FTC122C0048 (economic expert)	Hal Singer/Christina Caffara/Keystone Strategy LLC	\$2,457,479	\$2,457,479
Altria/Juul	29FTC120C0026 (economic expert)	Dov Rothman/Analysis Group Inc.	\$1,799,985	\$1,799,985

Matter	USASpending.gov Contract Link(s)	Expert Name/Firm	Potential Award Amount*	Outlaid Amount*
Illumina/Grail	29FTC121C0017 (economic expert)	Fiona Scott Morton/CRA International, Inc.	\$1,343,876	\$1,343,876
	29FTC121C0024 (efficiencies expert)	Dov Rothman/Analysis Group Inc.	\$609,498	\$609,498
	29FTC121C0026 (regulatory expert)	Amol Navathe/Analysis Group Inc.	\$243,365	\$243,365
Amgen/Horizon	29FTC123C0040 (economic expert)	David Sibley/Coherent Economics LLC	\$2,036,235	\$770,822
	29FTC123C0041 (industry expert)	Aaron Kesselheim	\$246,000	\$--
	29FTC123C0057 (medical expert)	Herbert S. B. Baraf	\$234,000	\$30,200
	29FTC123C0058 (medical expert)	Kimberly Cockerham/Cockerham Eye Consultants, Professional Corporation	\$204,000	\$20,000
	29FTC123C0063 (industry expert)	Surya Singh/Singh Healthcare Advisors LLC	\$242,000	\$--

*from [USASpending.gov](#) (as of 11/3/2023)

These figures are generally in line with the amounts paid toward expert expenses in the Commission's most recent unsuccessful merger challenges.

Matter	USASpending.gov Contract Link(s)	Expert Name/Firm	Potential Award Amount*	Outlaid Amount*
Jefferson/Einstein (2020)	29FTC119C0080 (Economic Expert)	Loren Smith/Compass Lexecon LLC	\$2,948,334	\$2,820,703
	29FTC119C0203 (Efficiencies Expert)	Christine Hammer/Cornerstone Research INC	\$2,151,986	\$2,151,986
Evonik/Peroxychem (2019)	29FTC119C0079 (Economic Expert)	Dov Rothman/Analysis Group INC	\$1,260,186	\$1,168,627
Steris/Synergy (2015)	FTC15H5065 (Economic Expert)	Gary Roberts/CRA International, Inc.	\$1,501,065	\$1,501,065

*from [USASpending.gov](#) (as of 11/3/2023)

4. The amount of funds spent on outside counsel, if any, in each of the aforementioned cases.

The FTC did not contract for any outside legal services in any of the five cases.

**5. All recommendation memorandum prepared by FTC staff that discuss each of the
aforementioned cases.**

Staff recommendations are nonpublic and protected by the deliberative process privilege.

Sincerely,

A handwritten signature in black ink that reads "Lina Khan". The signature is written in a cursive, flowing style.

Lina M. Khan
Chair
Federal Trade Commission

¹ Press Release, Fed. Trade Comm'n, FTC Sues to Block IQVIA's Acquisition of Propel Media to Prevent Increased Concentration in Health Care Programmatic Advertising (July 17, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/07/ftc-sues-block-ivias-acquisition-propel-media-prevent-increased-concentration-health-care>; Press Release, Fed. Trade Comm'n, FTC Sues to Block Biopharmaceutical Giant Amgen from Acquisition That Would Entrench Monopoly Drugs Used to Treat Two Serious Illnesses (May 16, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-sues-block-biopharmaceutical-giant-amgen-acquisition-would-entrench-monopoly-drugs-used-treat>; Press Release, Fed. Trade Comm'n, FTC Acts to Block Deal Combining the Two Top Mortgage Loan Technology Providers (Mar. 9, 2023) <https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-acts-block-deal-combining-two-top-mortgage-loan-technology-providers>; Press Release, Fed. Trade Comm'n, FTC Seeks to Block Microsoft Corp.'s Acquisition of Activision Blizzard, Inc. (Dec. 8, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/12/ftc-seeks-block-microsoft-corps-acquisition-activision-blizzard-inc>; Press Release, Fed. Trade Comm'n, FTC Seeks to Block Virtual Reality Giant Meta's Acquisition of Popular App Creator Within (July 27, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/07/ftc-seeks-block-virtual-reality-giant-metas-acquisition-popular-app-creator-within>; Press Release, Fed. Trade Comm'n, FTC Sues to Block Merger Between Utah Healthcare Rivals HCA Healthcare and Steward Health Care System (June 2, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-sues-block-merger-between-utah-healthcare-rivals-hca-healthcare-steward-health-care-system>; Press Release, Fed. Trade Comm'n, FTC Sues to Block Merger Between New Jersey Healthcare Rivals RWJBarnabas Health and Saint Peter's Healthcare System (June 2, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-sues-block-merger-between-new-jersey-healthcare-rivals-rwjbarnabas-health-saint-peters>; Press Release, Fed. Trade Comm'n, FTC and Rhode Island Attorney General Step in to Block Merger of Rhode Island's Two Largest Healthcare Providers (Feb. 17, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/02/ftc-rhode-island-attorney-general-step-block-merger-rhode-islands-two-largest-healthcare-providers>; Press Release, Fed. Trade Comm'n, FTC Sues to Block Lockheed Martin Corporation's Vertical Acquisition of Aerojet Rocketdyne Holdings Inc. (Feb. 15, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/01/ftc-sues-block-lockheed-martin-corporations-44-billion-vertical-acquisition-aerojet-rocketdyne>; Press Release, Fed. Trade Comm'n, FTC Sues to Block \$40 Billion Semiconductor Chip Merger (Dec. 2, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/12/ftc-sues-block-40-billion-semiconductor-chip-merger>.

² Press Release, Fed. Trade Comm'n, Statement Regarding Termination of Nvidia Corp.'s Attempted Acquisition of Arm Ltd. (Feb. 14, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/02/statement-regarding-termination-nvidia-corps-attempted-acquisition-arm-ltd>; Press Release, Fed. Trade Comm'n, Statement Regarding Termination of Lockheed Martin Corporation's Attempted Acquisition of Aerojet Rocketdyne Holdings Inc. (Feb. 15, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/02/statement-regarding-termination-lockheed-martin-corporations-attempted-acquisition-aerojet>; Press Release, Fed. Trade Comm'n, Statement Regarding Termination of Attempted Merger of Rhode Island's Two Largest Healthcare Providers (Mar. 2, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/03/statement-regarding-termination-attempted-merger-rhode-islands-two-largest-healthcare-providers>; Press Release, Fed. Trade Comm'n, Federal Trade Commission Opposition to Transaction Leads New Jersey Healthcare Rivals RWJBarnabas Health and Saint Peter's Healthcare System to Abandon Proposed Merger (June 14, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/federal-trade-commission-opposition-transaction-leads-new-jersey-healthcare-rivals-rwjbarnabas>; Press Release, Fed. Trade Comm'n, Statement of Bureau of Competition Director Holly Vedova Regarding the Decision of Utah Healthcare Competitors HCA Healthcare and Steward Health Care System to Abandon Their Proposed Merger (June 16, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/statement-bureau-competition-director-holly-vedova-regarding-decision-utah-healthcare-competitors>.

³ Press Release, Fed. Trade Comm'n, FTC Secures Settlement with ICE and Black Knight Resolving Antitrust Concerns in Mortgage Technology Deal (Aug. 31, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/08/ftc-secures-settlement-ice-black-knight-resolving-antitrust-concerns-mortgage-technology-deal>.

⁴ Press Release, Fed. Trade Comm'n, Biopharmaceutical Giant Amgen to Settle FTC and State Challenges to its Horizon Therapeutics Acquisition (Sep. 1, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/09/biopharmaceutical-giant-amgen-settle-ftc-state-challenges-its-horizon-therapeutics-acquisition>.

⁵ When the parties publicly announce that they are calling off their transaction, the Commission may issue a statement to that effect. Press Release, Fed. Trade Comm'n, Statement Regarding Berkshire Hathaway Energy's

Termination of Acquisition of Dominion Energy, Inc.’s Questar Pipeline in Central Utah (July 13, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/07/statement-regarding-berkshire-hathaway-energys-termination-acquisition-dominion-energy-incs-questar>; Press Release, Fed. Trade Comm’n, Expected Federal Trade Commission Opposition to Transaction Leads Great Outdoors Group, LLC and Rival Sportsman’s Warehouse Holdings, Inc. to Abandon Plans for Proposed Merger (Dec. 3, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/12/expected-federal-trade-commission-opposition-transaction-leads-great-outdoors-group-llc-rival>; Press Release, Clean Harbors, Inc., Clean Harbors and Vertex Energy Mutually Agree to Terminate Planned Acquisition of Used Motor Oil Collection and Re-Refining Assets (Jan. 25, 2022), <https://ir.cleanharbors.com/news-releases/news-release-details/clean-harbors-and-vertex-energy-mutually-agree-terminate-planned>; Press Release, Fed. Trade Comm’n, Statement of Elizabeth Wilkins, Director of the FTC’s Office of Policy Planning, on the Decision of SUNY Upstate Medical University and Crouse Health System, Inc. to Drop Their Proposed Merger (Feb. 16, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/02/statement-elizabeth-wilkins-director-ftcs-office-policy-planning-decision-suny-upstate-medical>; Press Release (Feb. 16, 2023), <https://www.infineum.com/en-gb/news/acquisition-terminated/>; Press Release, Fed. Trade Comm’n, Statement Regarding the Termination of CalPortland Company’s Attempted Acquisition of Assets Owned by Rival Cement Producer Martin Marietta Materials, Inc. (Apr. 28, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/statement-regarding-termination-calportland-companys-attempted-acquisition-assets-owned-rival-cement>; Press Release, Fed. Trade Comm’n, Statement Regarding the Termination of Boston Scientific Corporation’s Attempted Acquisition of a Majority Stake in M.I. Tech Co., Ltd. (May 24, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/statement-regarding-termination-boston-scientific-corporations-attempted-acquisition-mi-tech>; Press Release, Fed. Trade Comm’n, Statement Regarding Termination of CooperCompanies’ Attempted Acquisition of Cook Medical’s Reproductive Health Business (Aug. 1, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/08/statement-regarding-termination-coopercompanies-attempted-acquisition-cook-medicals-reproductive>. For other transactions in which the parties do not publicly disclose their plans, the disclosure prohibitions of the Hart-Scott-Rodino Act prevent the Commission from making public any information related to investigations arising from a premerger notification filing except as relevant to an administrative or judicial action or proceeding. 15 U.S.C. § 18a(h).

⁶ Press Release, Fed. Trade Comm’n, FTC Imposes Strict Limits on DaVita, Inc.’s Future Mergers Following Proposed Acquisition of Utah Dialysis Clinics (Oct. 25, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-imposes-strict-limits-davita-incs-future-mergers-following-proposed-acquisition-utah-dialysis>; Press Release, Fed. Trade Comm’n, FTC Requires Northeast Supermarkets Price Chopper and Tops Market Corp. to Sell 12 Stores as a Condition of Merger (Nov. 9, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/11/ftc-requires-northeast-supermarkets-price-chopper-tops-market-corp-sell-12-stores-condition-merger>; Press Release, Fed. Trade Comm’n, FTC Requires Generic Drug Marketers ANI Pharmaceuticals, Inc. and Novitium Pharma LLC to Divest Rights and Assets to Two Generic Products as a Condition of Merger (Nov. 10, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/11/ftc-requires-generic-drug-marketers-ani-pharmaceuticals-inc-novitium-pharma-llc-divest-rights-assets>; Press Release, Fed. Trade Comm’n, FTC Order Protects Retail Fuel Customers Following Global Partner LP’s Acquisition of Wheels (Dec. 20, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/12/ftc-order-protects-retail-fuel-customers-following-global-partners-lps-acquisition-wheels>; Press Release, Fed. Trade Comm’n, FTC Requires ENCAP to Sell Off EP Energy Corp.’s Entire Utah Oil Business amid Concerns that Deal Would Increase Pain at the Pump (Mar. 25, 2022), <https://www.ftc.gov/news-events/news/press-releases/2021/12/ftc-order-protects-retail-fuel-customers-following-global-partners-lps-acquisition-wheels>; Press Release, Fed. Trade Comm’n, Federal Trade Commission Preserves Competition for Development and Marketing of Steroid Injectable Drug (Apr. 19, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/04/federal-trade-commission-preserves-competition-development-marketing-steroid-injectable-drug>; Press Release, Fed. Trade Comm’n, FTC Requires Prince and Ferro to Sell Off Three Facilities amid Concerns that Deal would Increase Concentration in North American Market for Procelain Enamel Frit (Apr. 21, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/04/ftc-requires-prince-ferro-sell-three-facilities-amid-concerns-deal-would-increase-concentration>; Press Release, Fed. Trade Comm’n, FTC Acts to Protect Patients Who Rely on Medical Instruments Used in Sinus Procedures (May 10, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/05/ftc-acts-protect-patients-who-rely-medical-instruments-used-sinus-procedures>; Press Release, Fed. Trade Comm’n, FTC Acts to Protect South Carolina and Alabama Markets from Anticompetitive Gasoline Terminal Deal (June 2, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-acts-protect-south-carolina-alabama-markets-anticompetitive-gasoline>

terminal-deal; Press Release, Fed. Trade Comm'n, FTC Acts to Protect Pet Owners from Private Equity Firm's Anticompetitive Acquisition of Veterinary Services Clinics (June 13, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-acts-protect-pet-owners-private-equity-firms-anticompetitive-acquisition-veterinary-services>; Press Release, Fed. Trade Comm'n, FTC Acts to Restore Competitive Markets for Gasoline and Diesel in Michigan and Ohio (Jun. 14, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-acts-restore-competitive-markets-gasoline-diesel-michigan-ohio>; Press Release, Fed. Trade Comm'n, FTC Takes Second Action Against JAB Consumer Partners to Protect Pet Owners from Private Equity Firm's Rollup of Veterinary Services Clinics (June 29, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-takes-second-action-against-jab-consumer-partners-protect-pet-owners-private-equity-firms-rollup-of-veterinary-services-clinics>; Press Release, Fed. Trade Comm'n, FTC Approves Consent Order Addressing Concerns Over Tractor Supply's Acquisition of Orscheln Farm and Home (Oct. 11, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/10/ftc-approves-consent-order-addressing-concerns-over-tractor-supplys-acquisition-orscheln-farm-home>.

⁷ Remarks of Avinash Mehrotra on CNBC, *Client Sentiment and Recent M&A Data Give Us Optimism in Deal Activity, Says Goldman's Mehrotra* (Sept. 13, 2023), <https://www.cnbc.com/video/2023/09/13/client-sentiment-and-recent-ma-data-give-us-optimism-in-deal-activity-says-goldmans-mehrotra.html>.

⁸ Remarks of Roger Altman on CNBC, *There's Been a Sea Change in the M&A Regulatory Environment, Says Evercore Founder Roger Altman* (Mar. 6, 2023) <https://www.cnbc.com/video/2023/03/06/theres-been-a-sea-change-in-the-ma-regulatory-environment-says-evercore-founder-roger-altman.html>.

⁹ See Order Returning Matter to Adjudication and Dismissing Complaint, *In re Meta Platforms, Inc.*, Docket No. 9411 (Feb. 24, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/d09411commorderdismisscomplaint.pdf.

¹⁰ In addition to Microsoft/Activision, the other pending matters are ICE/Black Knight, Amgen/Horizon, and IQVIA/Propel Media.

¹¹ See Opinion of the Commission, *In re Illumina, Inc.*, Docket No. 9401 (Mar. 31, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/d09401commissionfinalopinion.pdf.

¹² See Decision and Order Granting Respondents' Application for a Stay Pending Judicial Review, *In re Illumina, Inc.*, Docket No. 9401 (Apr. 24, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/d09401commissionordergrantingstay.pdf.

¹³ Respondents' Motion to Withdraw Matter from Adjudication to Discuss Settlement, *In re Altria Group, Inc.*, Docket No. 9393 (Mar. 21, 2023), <https://www.ftc.gov/legal-library/browse/cases-proceedings/191-0075-altria-groupjuul-labs-matter>.

¹⁴ *Id.*, Order Taking Official Notice and Withdrawing Proceeding from Adjudication (May 4, 2023).

¹⁵ *Id.*, Order to Return Case to Adjudication, Vacate Initial Decision, and Dismiss Complaint (June 20, 2023).

¹⁶ See Complaint for a Temporary Restraining Order and Preliminary Injunction, *FTC v. Microsoft Corp.*, No. 3:23-cv-02880 (N.D. Cal. 2023), <https://www.cand.uscourts.gov/wp-content/uploads/cases-of-interest/FTC-v-Microsoft/FTCComplaint.pdf>.

¹⁷ See Complaint for a Temporary Restraining Order and Preliminary Injunction, *FTC v. Meta Platforms, Inc.*, No. 3:22-cv-04325 (N.D. Cal. 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/221%200040%20Meta%20Within%20TRO%20Complaint.pdf.

¹⁸ See Complaint, *FTC v. Illumina Inc.*, No. 3:21-cv-00800 (D.D.C. 2021), <https://www.ftc.gov/system/files/documents/cases/illuminagrailfedctcomplaint.pdf>. This case was subsequently transferred to the Southern District of California, and the court dismissed the complaint without prejudice on June 1, 2021. *FTC v. Illumina Inc.*, No. 3:21-cv-00800 (S.D. Cal. 2021), <https://www.ftc.gov/system/files/documents/cases/illuminagrailjudgmentdismissal.pdf>.

¹⁹ See Complaint, *FTC v. Amgen, Inc.*, No. 23-cv-3053 (N.D. Ill. 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2310037amgenhorizoncomplainttropi.pdf.

²⁰ See *In re Microsoft/Activision Blizzard*, Docket No. 9412 (F.T.C. 2023), <https://www.ftc.gov/legal-library/browse/cases-proceedings/2210077-microsoftactivision-blizzard-matter>.

²¹ See *In re Meta/Zuckerberg/Within*, Docket No. 9411 (F.T.C. 2023), <https://www.ftc.gov/legal-library/browse/cases-proceedings/221-0040-metazuckerbergwithin-matter>.

²² See *In re Illumina, Inc., and GRAIL, Inc.*, Docket No. 9401 (F.T.C. 2023), <https://www.ftc.gov/legal-library/browse/cases-proceedings/201-0144-illumina-inc-grail-inc-matter>.

²³ See *In re Amgen, Inc. and Horizon Therapeutics plc*, Docket No. 9414 (F.T.C. 2023), <https://www.ftc.gov/legal-library/browse/cases-proceedings/231-0037-amgen-inc-horizon-therapeutics-plc-matter>.

²⁴ See *In re Altria Group/JUUL Labs*, Docket No. 9393 (F.T.C. 2022), <https://www.ftc.gov/legal-library/browse/cases-proceedings/191-0075-altria-groupjuul-labs-matter>.

²⁵ See FED. TRADE COMM'N, FTC CONGRESSIONAL BUDGET JUSTIFICATION FISCAL YEAR 2024 at 55, https://www.ftc.gov/system/files/ftc_gov/pdf/p859900fy24cbj.pdf.