Prepared Statement of
the Federal Trade Commission

Before the
United States Senate
Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights

"Oversight of the Enforcement of the Antitrust Laws"

Washington, D.C.
April 16, 2013

Chairman Klobuchar, Ranking Member Lee, and Members of the Subcommittee, thank you for the opportunity to appear before you today. I am Edith Ramirez, Chairwoman of the Federal Trade Commission, and I am pleased to testify on behalf of the Commission and discuss some of our current competition enforcement activities.[1]

As the members of this Subcommittee know, competitive markets are the foundation of our economy, and effective antitrust enforcement is essential for those markets to function well. Vigorous competition promotes economic growth and overall consumer welfare by keeping prices competitive, expanding output and the variety of choices available, and promoting innovation.

I. The FTC's Competition Enforcement Work

The Commission seeks to promote and protect competition through an evidenced-based, balanced approach to law enforcement. The FTC has jurisdiction over a wide swath of the economy and focuses its enforcement efforts on sectors that most directly affect consumers, such as health care, technology, and energy. The FTC continues to examine potentially anticompetitive mergers and conduct that are likely to harm competition and consumers, and takes action where appropriate.

One of the agency's principal responsibilities is to prevent mergers that may substantially lessen competition. Pre-merger filings under the Hart-Scott-Rodino Act continue to recover from recessionary levels—indeed, FY 2012 saw twice as many filings as FY 2009.[2] Agency staff reviews the filings, and a small number of the proposed mergers require additional investigation

[1] This written statement represents the views of the Federal Trade Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or of any other Commissioner. Commissioner Wright has voted to issue this Statement but takes no position with respect to enforcement actions or other matters that occurred prior to his tenure as Commissioner.

[2] In FY 2012, there were 1,400 adjusted transactions reported to the Agencies (transactions in which a second request could have been issued). Comparatively, in FY 2009 there were 684 such transactions.

to determine whether they are likely to violate Clayton Act Section 7. During FY 2012, the Commission challenged 25 mergers after the evidence showed that they would likely be anticompetitive.[3] In the current fiscal year, the Commission has challenged 11 mergers,[4] including two actions where the Commission sought a preliminary injunction in federal court to prevent consummation of the mergers.[5]

The FTC has also made significant progress in its ongoing efforts[6] to review and update rules, regulations, and guidelines periodically so that they remain current, effective, and not unduly burdensome. For instance, the Commission has revised its rules governing administrative litigation to hold respondents, complaint counsel, the administrative law judge, and the Commission to aggressive timelines for discovery, motions practice, trial, and adjudication.[7] The result is a faster-paced administrative process, one comparable to or even faster than federal court timelines for similar actions.[8]

---

[3] Seven proposed mergers were abandoned or restructured after FTC staff raised competitive concerns; fifteen were resolved by entry of Commission consent orders; and in three, the FTC filed complaints to stop the mergers pending a full administrative trial. See case summaries in the FTC's Competition Enforcement Database, *available at* http://www.ftc.gov/bc/caselist/merger/total/2012.pdf.

[4] See cases listed at http://www.ftc.gov/bc/caselist/merger/total/2013.pdf; several are discussed in more detail *infra.*

[5] Press Release, FTC and Pennsylvania Attorney General Challenge Reading Health System's Proposed Acquisition of Surgical Institute of Reading (Nov. 16, 2012), *available at* http://ftc.gov/opa/2012/11/reading.shtm; Press Release, FTC Issues Complaint Seeking to Block Integrated Device Technology, Inc.'s Proposed $330 Million Acquisition of PLX Technology, Inc. (Dec. 18, 2012), *available at* http://www.ftc.gov/opa/2012/12/idtplx.shtm.

[6] *See, e.g.*, Prepared Statement on The FTC's Regulatory Reform Program: Twenty Years of Systematic Retrospective Rule Reviews & New Prospective Initiatives to Increase Public Participation and Reduce Burdens on Business Before the House Committee on Energy and Commerce Subcommittee on Oversight and Investigations, 112th Congress (July 7, 2011), *available at* http://www.ftc.gov/os/testimony/110707regreview.pdf.

[7] Press Release, FTC Issues Final Rules Amending Parts 3 and 4 of the Agency's Rules of Practice (Apr. 27, 2009), *available at* http://www.ftc.gov/opa/2009/04/part3.shtm. In August 2011, the Commission made additional changes relating to discovery, the labeling and admissibility of certain evidence, and deadlines for oral arguments. Press Release, FTC Modifies Part 3 of Agency's Rules of Practice (Aug. 12, 2011), *available at* http://www.ftc.gov/opa/2011/08/part3.shtm.

[8] For example, after the Commission voted unanimously on January 6, 2011, to challenge a hospital merger in Toledo, Ohio, FTC lawyers filed an administrative complaint and, with the Ohio Attorney General, a motion for a preliminary injunction in federal court in Ohio. After a two-day trial, the federal judge issued a preliminary injunction on March 29 preventing further integration. Meanwhile, both FTC complaint counsel and the respondents prepared for a full administrative trial that began on May 31, 2011. After 30 days of testimony and motions, including 81 witnesses and over 2,700 exhibits, the ALJ heard closing arguments on September 29. Overall, within

This testimony highlights these and other key Commission efforts to promote competition in crucial health care, technology, and energy markets.

A. Promoting Competition in Health Care Markets

The rising cost of health care is a serious concern for most Americans. Health care consolidation can threaten to undermine efforts to control these costs, and it is critical that the Commission act to preserve and promote competition in health care markets. Competition encourages market participants to deliver cost-effective, high-quality care and to pursue innovation to further these goals.[9]

1. Stopping Anticompetitive Health Care Mergers

A number of FTC merger enforcement actions in the past several years have involved companies in health care markets: hospitals, pharmacies, medical device and pharmaceutical manufacturers, and other market participants.

In particular, the Commission has redoubled its efforts to prevent hospital mergers that may leave insufficient local options for in-patient hospital services, leading to higher prices for health care. In the last two years, the Commission has successfully prevented anticompetitive

---

nine months, FTC staff prosecuted both a preliminary injunction action and a trial on the merits, which is a timeframe comparable to a fast-track litigation in federal district court.

[9] For a complete list of FTC enforcement actions relating to health care, see Overview of FTC Antitrust Actions in Health Care Services and Products, *available at* http://www.ftc.gov/bc/healthcare/antitrust/hcupdate.pdf and Overview of FTC Antitrust Actions in Pharmaceutical Services and Products, *available at* http://www.ftc.gov/bc/healthcare/antitrust/rxupdate.pdf.

hospital mergers in Toledo, Ohio,[10] and Rockford, Illinois,[11] as well as allegedly anticompetitive mergers involving other types of health care facilities.[12]

Additionally, in February, the Supreme Court unanimously ruled in favor of the Commission, reviving the Commission's challenge to a hospital merger resulting in an alleged monopoly for inpatient services in the Albany, Georgia area.[13] In so ruling, the Court accepted the Commission's argument that the state action doctrine did not exempt the acquisition from antitrust scrutiny. It held that the Georgia legislature did not articulate a clear policy that hospital authorities could eliminate competition through a hospital merger by merely conferring general corporate powers on the local hospital authority. The administrative hearing will commence this summer.[14]

In addition to mergers between competing hospitals, the Commission is also increasingly concerned about the effect of combinations involving other health care providers. Much like hospitals mergers, these transactions can lead to higher health care costs. In March 2013, the Commission, along with the Idaho Attorney General, filed suit to prevent Idaho's dominant hospital system from raising health care costs through its acquisition of the state's largest multi-

[10] Press Release, Citing Likely Anticompetitive Effects, FTC Requires ProMedica Health System to Divest St. Luke's Hospital in Toledo, Ohio, Area (Mar. 28, 2012), *available at* http://www.ftc.gov/opa/2012/03/promedica.shtm. An appeal of the Commission's order is pending before the Sixth Circuit. *ProMedica Health Sys., Inc. v. FTC*, No. 12-3583 (6th Cir. appeal docketed May 18, 2012).

[11] Press Release, OSF Healthcare System Abandons Plan to Buy Rockford in Light of FTC Lawsuit; FTC Dismisses its Complaint Seeking to Block the Transaction (Apr. 13, 2012), *available at* http://www.ftc.gov/opa/2012/04/rockford2.shtm.

[12] For instance, the Commission took action to remedy the alleged anticompetitive effects of a merger of a hospital and a surgery center in Reading, Pennsylvania, Press Release, FTC and Pennsylvania Attorney General Challenge Reading Health System's Proposed Acquisition of Surgical Institute of Reading (Nov. 16, 2012), *available at* http://www.ftc.gov/opa/2012/11/reading.shtm., and required a divestiture in a merger of facilities providing inpatient psychiatric services. Press Release, FTC Puts Conditions on UHS's Proposed Acquisition of Ascend Health Corporation (Oct. 5, 2012), *available at* http://www.ftc.gov/opa/2012/10/uhs.shtm. The Commission also prevented the merger of two long-term care pharmacies that provide medications to skilled nursing homes. *See* Press Release, Omnicare Abandons Plan to Buy Rival Pharmacy in Light of FTC Lawsuit; FTC Votes to Dismiss its Complaint Seeking to Block the Transaction (Feb. 23, 2012), *available at* http://www.ftc.gov/opa/2012/02/omnicare.shtm.

[13] *FTC v. Phoebe Putney Health Sys. Inc.*, 133 S. Ct. 1003 (2013).

[14] *Phoebe Putney Health Sys. Inc.*, Docket No. 9348 (April 3, 2013) (order denying Respondents' motion to reschedule hearing date), *available at* http://www.ftc.gov/os/adjpro/d9348/130403phoebeorder.pdf.

specialty physician group.[15] While the Commission has concerns about consolidation among health care providers, we will not stand in the way of legitimate provider collaboration that will reduce costs and improve the quality of care.

The Commission also continues to review mergers between pharmaceutical manufacturers to prevent transactions or combinations that may allow companies to exercise market power by raising prices on needed medications. For instance, in the last two years, the Commission required divestitures to remedy competitive concerns stemming from eight proposed mergers between drug makers, preserving competition in the sale of over 40 drugs.[16]

2. Combatting Efforts to Stifle Generic Competition

A top priority for the Commission over the past decade has been ending anticompetitive "pay-for-delay" agreements: settlements of patent litigation in which a branded pharmaceutical manufacturer pays the generic manufacturer to keep its competing product off the market for a certain time. We of course are aware of Chairman Klobuchar, Senator Grassley and others' bill to address pay-for-delay agreements and appreciate your efforts in this important area. These agreements enable branded manufacturers to buy more protection from competition than the assertion of their patent rights alone provide. The agreements profit both the branded

[15] Press Release, FTC and Idaho Attorney General Challenge St. Luke's Health System's Acquisition of Saltzer Medical Group as Anticompetitive (Mar. 12, 2013), *available at* http://www.ftc.gov/opa/2013/03/stluke.shtm. Additionally, in December 2012, the FTC finalized a consent decree with the largest hospital system in Reno, Nevada, designed to restore competition to the market for cardiology services there following Renown's acquisition of two local cardiology groups allegedly threatened competition in that market. Press Release, FTC Order Will Restore Competition for Adult Cardiology Services in Reno, Nevada (Aug. 6, 2012), *available at* http://www.ftc.gov/opa/2012/08/renownhealth.shtm.

[16] *Watson Pharms.*, Docket No. C-4373 (Dec. 14, 2012) (consent order), *available* at http://www.ftc.gov/os/caselist/1210132/index.shtm; *Novartis AG*, Docket No. C-4364 (Sept. 5, 2012) (consent order), *available* at http://www.ftc.gov/os/caselist/1210144/index.shtm*; Valeant Pharm. Int'l, Inc.*, Docket No. C-4342 (Feb. 22, 2012) (consent order), *available* at http://www.ftc.gov/opa/2012/02/valeant.shtm; *Teva Pharm., Inc.*, Docket No. C-4335 (July 2, 2012) (consent order), *available at* http://www.ftc.gov/os/caselist/1110166/index.shtm; *Hikma Pharms.*, Docket No. C-4320 (June 7, 2011) (consent order), *available at* http://www.ftc.gov/os/caselist/1110051/index.shtm; *Grifols S.A.*, Docket No. C-4322 (July 22, 2011) (consent order), *available at* http://www.ftc.gov/os/caselist/1010153/index.shtm; *Perrigo Co.*, Docket No. C-4329 (June 26, 2012) (consent order), *available at* http://www.ftc.gov/os/caselist/1110083/index.shtm.

manufacturers, who continue to charge monopoly prices, and the generic manufacturers, who receive substantial compensation for agreeing not to compete.

These agreements, however, impose substantial costs on consumers, businesses, and taxpayers—as much as $3.5 billion each year according to FTC economists[17]—and their numbers are growing. According to our most recent data, in FY 2012, the number of potentially anticompetitive patent dispute settlements between branded and generic drug companies increased significantly compared with FY 2011, jumping from 28 to 40.[18] Overall, the FY 2012 agreements covered 31 different brand-name pharmaceutical products with combined annual U.S. sales of more than $8.3 billion.

On March 25, 2013, the Supreme Court heard arguments in *FTC v. Actavis, Inc.*,[19] a Commission appeal of the Eleventh Circuit's dismissal of a challenge to an alleged "pay-for-delay" agreement involving the testosterone-replacement drug AndroGel. The Eleventh Circuit's decision followed a string of decisions from the courts of appeals largely insulating these agreements from antitrust scrutiny, a trend broken last year by the Third Circuit's ruling in the *In re K-Dur* litigation, which found the agreements presumptively unlawful.[20] We are hopeful for a favorable decision from the Supreme Court that stops these anticompetitive settlements.[21]

---

[17] Fed. Trade Comm'n, Pay For Delay: How Drug Company Pay-Offs Cost Consumers Billions (Jan. 2010), *available at* http://www.ftc.gov/os/2010/01/100112payfordelayrpt.pdf.

[18] Press Release, FTC Study: In FY 2012, Branded Drug Firms Significantly Increased the Use of Potential Pay-for-Delay Settlements to Keep Generic Competitors off the Market (Jan. 17, 2013), *available at* http://www.ftc.gov/opa/2013/01/mmarpt.shtm.

[19] *FTC v. Actavis, Inc.*, 2013 U.S. LEXIS 9415, *cert. granted*, 133 S. Ct. 787 (U.S. Dec. 7, 2012) (No. 12-146). When the Supreme Court granted certiorari, the case name was *Federal Trade Commission v. Watson Pharmaceuticals, Inc.* On January 24, 2013, Watson notified the Supreme Court that the company had changed its name to "Actavis, Inc.," which resulted in the Supreme Court modifying the name of the case.

[20] 686 F.3d 197 (3d Cir. 2012).

[21] A large number of amici, including the American Medical Association, 118 law, economics, and business professors, and 36 states plus the District of Columbia and the Commonwealth of Puerto Rico, supported our position.

In addition to our pay-for-delay efforts, the Commission continues to monitor other strategies adopted by branded pharmaceutical companies that may be designed to delay or prevent generic entry. For example, we recently filed amicus briefs in private antitrust litigations involving two of these strategies. One involved the potentially anticompetitive abuses of safety protocols known as Risk Evaluation and Mitigation Strategies ("REMS") to prevent a generic from being able to access samples of brand products to begin the bioequivalence testing process required by the Hatch-Waxman Act.[22] The other involves product hopping, which occurs when brand companies, facing a threat of generic competition, make minor non-therapeutic changes to their products.[23] While these changes may offer little or no benefit to patients, they may enable the brand to preserve its monopoly by preventing generic substitution at the pharmacy level, which is a key to competition in the pharmaceutical industry.

B. Antitrust Oversight in Technology Markets

The Commission also takes a balanced and fact-based approach to enforcement in fast-paced technology markets. In some cases, the evidence supports a finding of competitive harm that requires Commission action. The Commission recently challenged a proposed merger between Integrated Device Technology, Inc. and PLX Technology, Inc. Both companies make Peripheral Component Interconnect Express ("PCIe") switches, complex integrated circuits used to transmit data between processor chips and various endpoints in computer systems, such as

[22] Fed. Trade Comm'n, Brief as Amicus Curiae, *Actelion Pharms. Ltd.,v. Apotex Inc.*, No. 12-05743 (D.N.J. Mar. 11, 2013).
[23] Fed. Trade Comm'n, Brief as Amicus Curiae, *Mylan Pharms., Inc. v. Warner Chilcott Pub. Ltd. Co.*, No. 12-3824 (E.D. Pa. Nov. 21, 2012).

memory or graphics cards. There was substantial evidence of intense head-to-head competition on both price and innovation and a post-merger market share of over 80 percent in that matter.[24]

At other times, the evidence supports a more cautious approach. For instance, the Commission voted unanimously to close its investigation into allegations that Google harmed competition by unfairly preferencing its own content on the Google search results page and selectively demoting its competitors' content, a practice some refer to as "search bias." The Commission concluded that challenging Google's product design decisions would require the Commission or a court to second-guess Google's product design in the face of plausible procompetitive justifications, where the evidence reasonably could be viewed as showing that Google's design decisions improved the overall quality of Google search results. Based on this evidence, the Commission did not have reason to believe that Google's business practices were, on balance, demonstrably anticompetitive. Google did agree to make changes to certain other business practices that some members of the Commission found objectionable.[25]

The Commission also took action to stop Google's alleged misuse of standard essential patents ("SEPs"). Specifically, the Commission alleged that Google violated commitments made to several standard setting organizations to license patents essential to implementing several technology standards on fair, reasonable and non-discriminatory terms ("FRAND") to any interested manufacturer. The SEPs at issue were originally held by Motorola Mobility ("MMI") and covered technologies essential to interoperability standards used in a range of popular

[24] Press Release, FTC Issues Complaint Seeking to Block Integrated Device Technology, Inc.'s Proposed $330 Million Acquisition of PLX Technology, Inc. (Dec. 18, 2012), *available at* http://www.ftc.gov/opa/2012/12/idtplx.shtm. The parties abandoned the deal soon after the Commission filed suit.

[25] Google agreed to remove restrictions on the use of its online search advertising platform, AdWords, that may have made it more difficult for advertisers to coordinate online advertising campaigns across multiple platforms. Google also agreed to give websites the ability to "opt out" of display on Google vertical properties. *See* Letter from David Drummond, Senior Vice President and Chief Legal Officer, Google, Inc., to Chairman Jon Leibowitz, Fed. Trade Comm'n (Dec. 27, 2012), *available at* http://www.ftc.gov/os/2013/01/130103googleletterchairmanleibowitz.pdf.

devices such as smartphones, tablets, and gaming consoles. MMI, and then Google (after it acquired the MMI patent portfolio), allegedly refused to license the SEPs to willing licensees on FRAND terms, after manufacturers had developed standard compliant products in reliance on those commitments. In its administrative complaint, the Commission charged that Google engaged in unfair methods of competition and unfair acts and practices in violation of Section 5 of the Federal Trade Commission Act by seeking injunctions on SEPs for which FRAND promises had been made, thus threatening to harm the standard-setting process, impair competition in the markets for products using those patents, and ultimately, raise prices to consumers. To settle those charges, Google has agreed not to seek an injunction for infringement of its SEPs unless and until it has followed the process outlined in the Commission's proposed order, a process that encourages negotiation with potential licensees over disputed terms or ruling by a neutral third party.[26]

The proposed order in the Google-MMI decision is the most recent action[27] in more than two decades of Commission work involving complex issues at the intersection of antitrust and intellectual property law, issues pertaining to innovation, standard-setting, and patents. For instance, in 2003 and 2007, the Commission issued reports on competition and patent law,[28] and

[26] Commissioner Ohlhausen voted against the proposed consent agreement in Google/MMI and issued a dissenting statement, which is available at http://www.ftc.gov/os/caselist/1210120/130103googlemotorolaohlhausenstmt.pdf.
[27] In a proposed order in November 2012, the Commission required largely similar commitments regarding SEPs from Robert Bosch GmbH. In order to proceed with its acquisition of SPX Service Solutions, Bosch agreed to sell its automotive air conditioner repair equipment business and to abandon SPX's claims to injunctive relief after SPX reneged on FRAND commitments involving SEPs for its equipment. Press Release, FTC Order Restores Competition in U.S. Market for Equipment Used to Recharge Vehicle Air Conditioning Systems (Nov. 26, 2012), *available at* http://www.ftc.gov/opa/2012/11/bosch.shtm. Commissioner Ohlhausen voted against the proposed consent agreement in *Bosch* and issued a separate statement, which is available at http://www.ftc.gov/os/caselist/1210081/121126boschohlhausenstatement.pdf.
[28] Fed. Trade Comm'n and Dep't of Justice, Antitrust Enforcement and Intellectual Property Rights: Promoting Innovation and Competition (2007), *available at* http://www.ftc.gov/reports/innovation/P040101PromotingInnovationandCompetitionrpt0704.pdf; Fed. Trade Comm'n, To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy (2003), *available at* http://www.ftc.gov/os/2003/10/innovationrpt.pdf.

in 2011, we issued another significant patent study, focusing on notice and remedies.[29] That same year we held a workshop to learn more about licensing in the standard-setting context and how standard-setting organizations and their members have dealt with the risk of patent hold-up.[30] Last December, the FTC and DOJ held a joint workshop to discuss the activities of patent assertion entities.[31] In addition to this policy work, the Commission has brought several cases involving anticompetitive conduct by technology companies for undermining the standard-setting process.[32]

The Commission will continue to foster an ongoing dialogue with stakeholders in this important area, and bring enforcement actions when necessary to prevent the distortion of the standard-setting process, which is so critical to the development of new products that benefit consumers and drive the American economy.

C. Preserving Competition in Energy Markets

Few issues are more important to consumers and businesses alike than the prices they pay for gasoline to run their vehicles and energy to heat and light their homes and businesses. Accordingly, the FTC works to maintain competition in energy industries, invoking all the powers at its disposal—including monitoring industry activities, investigating possible antitrust violations, prosecuting cases, and conducting studies—to protect consumers from anticompetitive conduct in the industry.

Mergers can significantly affect competition in energy markets, and the Commission's review of proposed mergers is essential to preserving competition in these markets. The FTC

[29] Fed. Trade Comm'n, The Evolving IP Marketplace: Aligning Patent Notice and Remedies with Competition (2011), *available at* http://www.ftc.gov/os/2011/03/110307patentreport.pdf.
[30] Fed. Trade Comm'n Workshop, Tools to Prevent Patent "Hold-Up" (June 21, 2011); materials available at http://www.ftc.gov/opp/workshops/standards/index.shtml.
[31] The workshop materials are available at http://www.ftc.gov/opp/workshops/pae/.
[32] *Dell Computer Corp.*, 121 F.T.C. 616 (1996); *Union Oil Co. of Cal.*, 140 F.T.C. 123 (2005); *Rambus Inc.*, 2007 F.T.C. LEXIS 13 (2007); *Negotiated Data Solutions, LLC*, 2008 F.T.C. LEXIS 120 (2008).

devotes significant resources to reviewing proposed mergers and acquisitions involving petroleum and other energy products, and to taking action where appropriate. As a recent example, last year the FTC required Kinder Morgan, Inc., one of the largest U.S. transporters of natural gas and other energy products, to sell three natural gas pipelines and two gas processing plants and associated storage capacity in the Rocky Mountain region to settle the Commission's charges that the acquisition likely would have been anticompetitive.[33] In another 2012 action, the FTC issued a consent order requiring that AmeriGas L.P. amend its proposed acquisition of Energy Transfer Partners' Heritage Propane business. AmeriGas and Heritage are two of the nation's largest propane distributors, and the FTC charged that the acquisition would reduce competition and raise prices in the market for propane exchange cylinders that consumers use to fuel barbeque grills and patio heaters.[34]

The Commission also participates in the Oil and Gas Price Fraud Working Group created by the Attorney General to monitor oil and gas markets for potential violations of criminal or civil laws.

Additionally, the FTC continues to monitor daily retail and wholesale prices of gasoline and diesel fuel in 20 wholesale regions and approximately 360 retail areas across the United States. This daily monitoring serves as an early-warning system to alert our experts to unusual pricing activity, and helps the agency identify appropriate targets for further investigation of potentially anticompetitive conduct.[35] We also use the data generated by the monitoring project

[33] Press Release, FTC Requires Kinder Morgan to Sell Rocky Mountain Pipelines as a Condition of Acquiring El Paso Corporation (May 1, 2012), *available at* http://www.ftc.gov/opa/2012/05/elpaso.shtm.
[34] Press Release, FTC Puts Conditions on AmeriGas's Proposed Acquisition of Rival Propane Distributor Heritage Propane (Jan. 11, 2012), *available at* http://www.ftc.gov/opa/2012/01/amerigas.shtm.
[35] *See* Gasoline and Diesel Price Monitoring, *available at* http://www.ftc.gov/ftc/oilgas/gas_price.htm.

in conducting periodic studies of the factors that influence the prices that consumers pay for gasoline.[36]

II. Cooperation with Other Antitrust Enforcers

Over the years, the Commission has fostered partnerships with other antitrust enforcers, most notably, the Antitrust Division of the Department of Justice. Recent joint efforts resulted in the publication of two significant policy statements—the revised Horizontal Merger Guidelines and the Antitrust Enforcement Policy Statement Regarding Accountable Care Organizations—that enhance the consistency, clarity, and transparency of U.S. antitrust policy and enforcement. Additionally, the agencies recently co-hosted two workshops: one exploring the antitrust implications of most-favored-nation clauses[37] and, as mentioned above, another exploring the impact of patent assertion entities. The Commission understands the special obligation of the law enforcement agencies to speak with one voice whenever possible in important areas of U.S. antitrust policy, and to work in tandem to promote the interests of American consumers.[38]

It is also crucial for the U.S. antitrust agencies to cooperate with our counterparts worldwide to ensure that competition laws functions coherently and effectively now that antitrust enforcement has gone global, with well over 120 jurisdictions enforcing a variety of competition laws. The FTC has developed strong bilateral relationships with many of our sister agencies and works with its foreign counterparts in multilateral fora to promote cooperation and convergence

[36] A 2011 report by the staff of the Commission's Bureau of Economics concludes that while a broad range of factors influence the price of gasoline, worldwide crude oil prices continue to be the main driver of what Americans pay at the pump. *See* Press Release, FTC Issues New Report on Gasoline Prices and the Petroleum Industry (Sept.1, 2011), *available at* http://www.ftc.gov/opa/2011/09/gasprices.shtm.

[37] Press Release, FTC and Department of Justice to Hold Workshop on "Most-Favored-Nation" Clauses (Aug. 17, 2012), *available at* http://www.ftc.gov/opa/2012/08/mfn.shtm.

[38] The FTC also routinely coordinates on law enforcement efforts with state attorneys general. For example, last month, the FTC and Idaho Attorney General jointly investigated and sued to block an Idaho hospital from acquiring the state's largest multi-specialty physician practice group. *See* Press Release, FTC and Idaho Attorney General Challenge St. Luke's Health System's Acquisition of Saltzer Medical Group as Anticompetitive (Mar. 12, 2013), *available at* http://www.ftc.gov/opa/2013/03/stluke.shtm.

toward sound competition policy. The past few years have seen some important milestones for international cooperation. For example, the FTC and DOJ entered into a Memorandum of Understanding ("MOU") with the three Chinese antitrust agencies aimed at promoting greater communication and cooperation,[39] and signed a similar MOU with antitrust enforcers in India last fall.[40] In addition, at the recent annual bilateral consultations with the European Commission's Directorate General for Competition ("DG COMP"),[41] the FTC, DOJ, and EC issued revised Best Practices on Cooperation in Merger Investigations.[42] In a world where commerce knows no borders, international cooperation has proven to be a critical component of effective antitrust enforcement.

Through these and other activities, the FTC is well-positioned to combat harmful conduct and mergers and encourage policies at home and abroad that support competitive markets.

Conclusion

Thank you for this opportunity to share highlights of the Commission's recent work to promote competition and protect consumers. The Commission looks forward to continuing to work with the Subcommittee to ensure that our antitrust laws and policies are sound and that they benefit consumers without unduly burdening businesses.

[39] Press Release, Federal Trade Commission and Department of Justice Sign Antitrust Memorandum of Understanding With Chinese Antitrust Agencies (July 27, 2011), *available at* http://www.ftc.gov/opa/2007/06/chinamou.shtm.
[40] Press Release, FTC and DOJ Sign Memorandum of Understanding With Indian Competition Authorities (Sept. 27, 2012), *available at* http://www.ftc.gov/opa/2012/09/indiamou.shtm.
[41] The European Commission, together with the national competition authorities, enforces EU competition rules. Within the Commission, DG-Comp is primarily responsible for investigation and enforcement of these rules. http://ec.europa.eu/dgs/competition/index_en.htm.
[42] Press Release, United States and European Union Antitrust Agencies Issue Revised Best Practices for Coordinating Merger Reviews (Oct. 14, 2011), *available at* http://www.ftc.gov/opa/2011/10/eumerger.shtm.