



## Antitrust M&A Snapshot

### United States: July – December 2017 Update

Although delays in antitrust appointments continued throughout the second half of 2017, the Federal Trade Commission (FTC) and Department of Justice (DOJ) continued to actively investigate and challenge mergers and acquisitions. Notably, the DOJ challenged the vertical AT&T/Time Warner transaction, the first vertical merger the DOJ has tried since the 1970s. The end of 2017 showed a trend where the FTC and DOJ are focusing on structural remedies rather than behavioral remedies. Additionally, at the end of 2017, the FTC and DOJ challenged several consummated transactions, as well as transactions that were not reportable under the Hart-Scott-Rodino Antitrust Improvements Act.

### EU: July – December 2017 Update

After two concentrations within the agrochemicals sector in the second quarter of 2017 — Dow/DuPont and ChemChina/Syngenta — the European Commission continued to see megamergers notifications in the agrochemical sector in the second half of 2017. The fourth quarter of 2017 saw the second Commission merger decision challenged successfully this year and the fourth case of annulment of a clearance decision since the implementation of the EU Merger Regulation.

## Snapshot of Events (Legislation/Agency Remarks/Speeches/News, etc.)

### United States

- **Seats at the FTC Remain Unfilled Despite Continued Progress in the Appointment of New Antitrust Leadership**

After a long wait, on September 27, the Senate confirmed Makan Delrahim, President Trump's nominee to head DOJ's antitrust division. The DOJ has also named several deputies to serve under Delrahim: Andrew Finch, Bernard Nigro, Luke Froeb, Donald Kempf and Roger Alford. These positions are not subject to Senate confirmation.

President Trump nominated four Commissioners for the FTC, including Joseph Simons to lead the FTC as Chairman. Joe Simons is an experienced antitrust attorney who was previously Director of the FTC's Bureau of Competition. He has mainstream Republican views. Until the new Commissioners are confirmed, there must presently be unanimity between the two Commissioners for the FTC to take action.

- **FTC Warns That It May Challenge Vertical Mergers**

Acting Bureau of Competition Director, Bruce Hoffman, gave remarks at the Global Antitrust Enforcement Symposium on September 13, 2017. He said that the FTC would be ready to challenge vertical mergers if there were competition issues to resolve. He added that the FTC may impose structural remedies in vertical mergers where it views the remedy as necessary to prevent competitive harm.

- **Senator Amy Klobuchar (D-Minn) Introduces New Legislation to Curtail Market Concentration and Enhance Antitrust Scrutiny of Mergers and Acquisitions**

On September 14, 2017, two bills were introduced by Senator Amy Klobuchar to the Senate: the Consolidation Prevention and Competition Promotion Act (CPCPA) and the Merger Enforcement Improvement Act (MEIA). Both bills are part of the Senate Democrats' "A Better Deal" antitrust agenda. The CPCPA would impose extra scrutiny on so-called "mega deals" by shifting the burden of proof from antitrust enforcers to the companies. It would also update the Clayton Act to refer to "monopsonies" in addition to "monopolies." The MEIA would increase the resources allocated to antitrust enforcers, both in terms of substantive information and financial terms.

- **DOJ To Focus on Structural Remedies**

Assistant Attorney General Makan Delrahim gave remarks at the American Bar Association Section of Antitrust Law's Fall Forum on November 16, 2017. He announced that DOJ would seek to reduce the number of long-term consent decrees and focus on structural remedies instead of behavioral remedies.

- **Senator Elizabeth Warren (D-Mass) Criticizes Recent Antitrust Enforcement**

In a speech at the Open Markets Institute on December 6, 2017, Senator Elizabeth Warren advocated steps to improve antitrust enforcement. On mergers, she stated that increased enforcement is needed not just for horizontal mergers between direct competitors, but also for vertical mergers.

## European Union

- **Application of EU Merger Control Clarified: Non-Full Function Existing Joint Ventures Fall outside the Scope of EU Merger Control**

On September 7, 2017, the European Court of Justice decided that, where joint control is acquired over a new or existing undertaking (or parts of an undertaking), that transaction can only fall within the scope of the EU Merger Regulation where the resulting entity will be ‘full-function.’

- **Marine Harvest Gun Jumping Fine Upheld by the General Court**

On October 26, the General Court confirmed the €20 million fine imposed by the Commission on Norwegian salmon farmer Marine Harvest in 2014 for allegedly implementing its acquisition of salmon producer Morpol ASA before notifying and receiving clearance from the Commission.

While Marine Harvest had been in contact with the Commission since December 2012, it only formally notified the acquisition of Morpol ASA on 9 August 2013. The Commission held, and the General Court agreed, that the company’s merger filing obligation was triggered several months earlier, when Marine Harvest acquired a 48.5 percent controlling shareholding in Morpol ASA in December 2012.

- **EC Is Ramping Up Enforcement: Conditional Merger Clearances Doubled during Margrethe Vestager’s First Three Years**

Since the start of Vestager’s tenure on November 1, 2014, the Commission cleared a total of 70 deals subject to commitments, whereas between February 2010 and February 2013 — Joaquin Almunia’s first three years in the Commission — 34 deals were approved conditionally. Vestager sought remedies in 6.8 percent of cases, while Almunia only required them in 3.9 percent.

In 2014–2017, 55 conditional clearances were granted in Phase I, while 15 were Phase II cases. Between 2010 and 2013 there were 25 Phase I conditional clearances and 9 Phase II, according to data from the EC’s merger database.

## Significant Trials

PARTIES	AGENCY	COURT	MARKETS / STRUCTURE (AS AGENCY ALLEGED)	MAJOR ISSUES	OBSERVATIONS
<b>United States</b>					
Sanford Health / Mid-Dakota Clinic, PC	FTC	US District Court for the District of North Dakota	Four physician specialty markets: adult primary care, pediatric, OB/GYN, and general surgery	Does the acquisition of this physician group by the Sanford Health system result in anticompetitive effects in the markets identified?	The FTC, along with the North Dakota Attorney General, filed a complaint to block the proposed acquisition of Mid-Dakota Clinic by Sanford Health. The FTC alleges anticompetitive effects in four separate physician specialty markets in the Bismarck-Mandan, North Dakota area: adult primary care; pediatric; OB/GYN; and general surgery. The FTC alleges that in all four specialties, Sanford and MDC are the two largest providers of those services; in general surgery, the FTC alleges that the parties are the only providers. The District Court granted the FTC's and the North Dakota Attorney General's motion for preliminary injunction. The parties filed a notice of appeal.
AT&T / Time Warner	DOJ	US District Court for the District of Columbia	Programming and video and media distribution	Will the acquisition of Time Warner by AT&T result in the incentive and ability for the combined entity to charge more for Time Warner's networks?	On November 20, 2017, DOJ filed a complaint to block the proposed acquisition of Time Warner by AT&T, a vertical merger. According to the DOJ, the combined entity would force its rivals to pay high amounts of money for the right to distribute Time Warner's networks and would use its power to slow the industry's transition to new video distribution models. Trial is scheduled to begin March 19, 2018.
Tronox Limited / Cristal USA	FTC	Federal Trade Commission	Titanium dioxide manufactured through the chloride process	Will the acquisition of Cristal by Tronox increase Tronox's incentive and ability to curtail output?	On December 5, 2017, the FTC issued an administrative complaint charging that Tronox Limited's proposed acquisition of competitor Cristal, for \$1.67 billion and a 24 percent stake in the combined entity, would significantly reduce competition in the North American market for chloride process titanium dioxide. The FTC alleges that the transaction would combine two of the three largest producers of titanium dioxide. The FTC also alleges that the transaction would increase the risk of coordinated action among the remaining competitors. Tronox alleges that because the FTC has not filed in federal court, the FTC is trying to delay the pending acquisition until its purchase agreement expires in May. Tronox filed suit against the FTC in the United States District Court for Northern Mississippi, seeking a declaratory judgment.
Parker Hannifin / Clarcor Inc. Corp.	DOJ	US District Court for the District of Delaware	Aviation fuel filtration products	Will the acquisition of Clarcor by Parker Hannifin enable the new entity to raise prices?	On September 26, 2017, DOJ filed a complaint claiming that the deal would harm competition in the development, manufacture and sale of aviation fuel filtration systems. DOJ alleged that the merger combined the only two domestic manufacturers of aviation fuel filtration systems and filter elements, effectively creating a monopoly in the United States.

PARTIES	AGENCY	COURT	MARKETS / STRUCTURE (AS AGENCY ALLEGED)	MAJOR ISSUES	OBSERVATIONS
					<p>The parties and DOJ settled after Parker Hannifin agreed to divest its aviation fuel filtration business to clear its acquisition of Clarcor. Under the terms of the settlement, Parker Hannifin will retain the rest of Clarcor's businesses.</p> <p>When DOJ sued, the acquisition had been closed since the end of February 2017, after the HSR waiting period expired in mid-January without DOJ issuing a second request.</p>
TransDigm Group Incorporated / SCHROTH Safety Products GmbH and SCHROTH Safety Products LLC	DOJ	US District Court for the District of Columbia	Restraint systems used on commercial planes  Two to one	Did the acquisition of SCHROTH by TransDigm eliminate TransDigm's only meaningful competitor?	<p>TransDigm was required to divest the entire SCHROTH business. DOJ alleged that SCHROTH was TransDigm's only meaningful competitor on the market for restraint systems used on commercial planes and that before the merger, SCHROTH had started to challenge TransDigm and to invest significantly in research and development. DOJ alleged that the merger would lead to higher prices and reduced innovation.</p> <p>When DOJ sued, the acquisition had been closed since February 2017. Due to its structure, the deal was not reportable under the HSR Rules.</p>

## Consent Orders/Approvals

BUYER	TARGET	INDUSTRY / STRUCTURE (AS AGENCY ALLEGED)	SIGNING TO CONSENT	AGENCY	DETAILS <sup>1</sup>	BUYER UPFRONT
<b>United States</b>						
Amazon.com, Inc.	Whole Foods Market Inc.	Retail, Grocery/Supermarkets	N/A	FTC	In late August 2017, the FTC cleared the acquisition of Whole Foods Market by Amazon.com without a Second Request. The FTC Bureau Director issued a short closing statement, which is unusual. The issuance of the closing statement may reflect the controversy over the transaction in the public.	N/A

<sup>1</sup> The information in this column summarizes the government's allegations. McDermott Will & Emery LLP offers no independent view on these allegations.

BUYER	TARGET	INDUSTRY / STRUCTURE (AS AGENCY ALLEGED)	SIGNING TO CONSENT	AGENCY	DETAILS <sup>1</sup>	BUYER UPFRONT
Mars, Incorporated	VCA Inc.	Specialty and emergency veterinary services  Combined entity would be only provider in some markets and one of few alternatives in other markets	8 months	FTC	The FTC required divestiture of 12 veterinary clinics by Mars as part of the \$9.1 billion acquisition of pet care company VCA. Mars is required to divest each of the 12 clinics to one of three divestiture buyers: National Veterinary Associates, Pathway Partners Vet Management Company and PetVet Care Centers.  The FTC considered that the acquisition would lead to higher prices for pet owners and lower quality in specialty and emergency veterinary services. The FTC also alleged that entry on the relevant market was difficult, as opening a specialty or emergency veterinary practice came with some specific challenges, such as the requirement to recruit specialized veterinarians.	Yes
Broadcom Limited	Brocade Communications Systems Inc.	Fibre channel switches  Duopoly between Brocade and Cisco.	9.5 months	FTC	The FTC approved a final order under which Broadcom is required to implement firewalls to prevent the communication of Cisco's (Brocade's major competitor) competitively sensitive information outside of a group of selected Broadcom employees. The FTC alleged that Broadcom's access to sensitive information concerning both competitors could enable the parties to restrain competition or slow innovation on the market. This consent order is notable in that it imposes behavioral remedies and not structural remedies.	N/A

BUYER	TARGET	INDUSTRY / STRUCTURE (AS AGENCY ALLEGED)	SIGNING TO CONSENT	AGENCY	DETAILS <sup>1</sup>	BUYER UPFRONT
Integra LifeSciences Holdings Corporation	Codman Neuro division from Johnson & Johnson	<p>Five neurosurgical medical device product lines</p> <p>Three to two in most markets</p>	7 months	FTC	<p>The FTC required that the parties divest to Natus Medical Incorporated:</p> <ul style="list-style-type: none"> <li>• Integra's intracranial pressure monitoring systems (the parties' combined market share in the US would be 94% and only fringe competitors would remain);</li> <li>• Integra's fixed pressure valve shunt systems (the number of competitors would be reduced from three to two);</li> <li>• Codman's cerebrospinal fluid collection systems (the parties would combine for 71% and the number of competitors would be reduced from three to two);</li> <li>• Codman's non-antimicrobial external ventricular drainage catheters (the number of competitors would be reduced from three to two); and</li> <li>• Codman's dural grafts (the parties' combined market share in the US would be 75% and the number of competitors would be reduced from four to three).</li> <li>• In addition, the parties were required to divest Integra's manufacturing facility in San Diego and supply Natus with cranial access kits until Natus could secure its own supply source.</li> </ul>	Yes

BUYER	TARGET	INDUSTRY / STRUCTURE (AS AGENCY ALLEGED)	SIGNING TO CONSENT	AGENCY	DETAILS <sup>1</sup>	BUYER UPFRONT
Showa Denko K.K.	SGL Carbon SE	Graphite electrodes Three to two	11 months	DOJ	<p>DOJ required that Showa Denko divest SGL's entire US graphite electrodes business, including its manufacturing facilities, to Tokai Carbon Co., Ltd. in order to be able to acquire SGL's global graphite electrodes business.</p> <p>DOJ considered that Showa Denko and SGL Carbon were two of the only three firms to operate manufacturing facilities in North America and that local presence was important in the relevant market. DOJ said that the merger would lead to higher prices and a lower quality of service and delivery.</p>	Yes
Abbott Laboratories	Alere Inc.	Medical testing devices Only significant competitors on two relevant markets	6 months	FTC	<p>In order to approve the \$8.3 billion transaction, the FTC required that the parties divest: (1) Alere's blood gas testing system to Siemens Aktiengesellschaft and (2) Alere's cardiac marker testing system to Quidel Corporation.</p> <p>The parties must also divest Alere's two Ottawa, Canada facilities to Siemens, and Alere's San Diego, California facility to Quidel.</p> <p>The FTC considered that the companies were the only significant competitors in those two relevant markets and that the merger would lead to higher prices and lower levels of innovation.</p>	Yes



BUYER	TARGET	INDUSTRY / STRUCTURE (AS AGENCY ALLEGED)	SIGNING TO CONSENT	AGENCY	DETAILS <sup>1</sup>	BUYER UPFRONT
Entercom Communications Corp.	CBS Radio (of CBS Corp.)	Local radio broadcasting	9.5 months	DOJ	<p>To clear the merger, DOJ required that Entercom divest 13 radio stations in Boston, San Francisco, and Sacramento to proceed with the acquisition of CBS. Entercom will swap stations with iHeartRadio and Beasley Broadcast Group.</p> <p>The DOJ alleged that the two companies were close substitutes and vigorous head-to-head competitors. They were considered as two of a limited number of station groups that have a large and diverse listenership and that enable radio advertisers to meet their goals. DOJ thus concluded that the merger would lead to higher prices for advertisers. DOJ also said that entry on the market would not be timely because of the lack of available spectrum.</p>	Yes
Alimentation Couche-Tard Inc.	Holiday Companies	<p>Retail sale of gasoline and diesel</p> <p>Three to two in five local markets and four to three in five other local markets</p>	5 months	FTC	<p>The FTC accepted a consent order in which ACT agreed to divest certain of its subsidiary's and Holiday's retail fuel outlets to remedy concern in ten local geographic markets in Wisconsin and Minnesota.</p> <p>The FTC said that the merger would have led to the reduction of the number of competitors from three to two in five local markets and four to three in five other local markets. The FTC also alleged that there were significant entry barriers, including the obligation to obtain necessary permits and approvals to open a new retail fuel outlet.</p>	No
Alimentation Couche-Tard Inc.	Jet-Pep, Inc.	Retail sale of gasoline and diesel	4 months	FTC	<p>The FTC accepted a consent order in which ACT agreed to divest three fuel stations in Alabama to remedy antitrust concerns.</p> <p>The FTC alleged that the merger would have reduced the number of significant competitors to three in three local markets. The FTC alleged that the transaction would have led to higher prices and increased the likelihood of coordination among the remaining firms.</p>	No

BUYER	TARGET	INDUSTRY / STRUCTURE (AS AGENCY ALLEGED)	SIGNING TO CONSENT	AGENCY	DETAILS <sup>1</sup>	BUYER UPFRONT
Red Ventures	Bankrate	Third-party paid senior living facilities referral services	4 months	FTC	The FTC alleged that Bankrate is the second largest third-party paid referral service for senior living facilities, and that Red Ventures' two largest private equity shareholders jointly own the largest player in the market, APFM. The FTC further alleged that Bankrate and APFM were each other's closest competitors. The consent order requires firewalls and that the parties divest Bankrate's business along with the provision of transition services to the acquirer.	No
Potash Corporation of Saskatchewan Inc.	Agrium, Inc.	<p>North American market for superphosphoric acid (SPA); and the market for "65-67% concentration nitric acid" sold to customers near and to the east of the parties' nitric acid plants in Ohio</p> <p>Three to two for SPA market</p> <p>The parties are the primary suppliers for "65-67% concentration nitric acid" near and to the east of the parties' nitric acid plants in Ohio</p>	15 months	FTC	The FTC alleged that the proposed transaction would negatively impact competition by eliminating head-to-head competition between the parties, enhance the combined firm's ability and incentive to increase SPA prices, and increase the likelihood of coordination between competitors in the market. Canadian fertilizer and chemical companies Potash Corporation of Saskatchewan Inc. and Agrium Inc. agreed to divest two US production facilities.	Yes

## Abandoned Transactions

BUYER	TARGET	INDUSTRY	AGENCY	DETAILS <sup>2</sup>
<b>United States</b>				
Walgreens Boots Alliance, Inc.	Rite Aid Corp.	Retail pharmacy stores	FTC	The FTC threatened to block Walgreens' proposed complete acquisition of Rite Aid. The parties revised their initial proposed deal to substantially reduce the number of acquired stores in order to resolve the FTC's concerns. The new proposed transaction required antitrust clearance too. The HSR waiting period expired in September (although Commissioner McSweeney dissented) and Walgreens will thus purchase 1,932 stores, three distribution centers and related inventory from Rite Aid for a price of \$4.375 billion.

## Significant Clearance Decisions

BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
<b>European Union</b>						
PSA Peugeot Citroen	Opel	Passenger vehicles and light commercial vehicles	4.5 weeks	EC	The Commission found that the combined market shares of the firms were relatively small in all the relevant markets and that the merged entity would still face strong competition from manufacturers such as Renault, Volkswagen, Daimler, Ford, Fiat and various Asian competitors.  With regard to the wholesale and retail distribution markets, the Commission found the deal would not have a negative impact as both PSA and Opel use different distribution channels and there are independent distributors, importers and retailers in operation.	N/A
Dupont	FMC	Health & Nutrition	7 weeks	EC	The Commission conditionally approved FMC's proposed acquisition of parts of DuPont's crop protection business and	No

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BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
FMC	DuPont	Crop Protection	7 weeks	EC	<p>DuPont's acquisition of FMC's Health and Nutrition business. Both transactions are related to the Dow/DuPont merger divestment commitments.</p> <ul style="list-style-type: none"> <li>• Clearance of FMC's acquisition of parts of DuPont's crop protection business is conditional on the divestment of FMC's sulfonylurea and florasulam businesses in the European Economic Area (EEA).</li> <li>• Clearance of DuPont's acquisition of FMC's Health &amp; Nutrition business is conditional upon the divestment of DuPont's global alginates business.</li> </ul> <p>With regard to FMC's acquisition of parts of DuPont's crop protection business, the Commission had concerns that the transaction, as originally notified, would have allowed FMC to unilaterally raise prices in a number of national markets in the EEA by eliminating a close competitor (DuPont). This would have been the case for products to control broadleaf weeds once crop seedlings have emerged (post-emergence control) in cereals. The commitments offered by FMC address these concerns.</p> <p>With regard to DuPont's acquisition of FMC's Health &amp; Nutrition business, the Commission had concerns that the transaction, as originally notified, would have strengthened FMC's dominant position on alginates for use as pharmaceutical excipients and would have significantly reduced competition for food applications by eliminating an important competitor (FMC) in the EEA market. The commitments offered by DuPont address these concerns.</p>	
Thermo Fisher	Patheon	Contract development and manufacturing of pharmaceuticals	4.5 weeks	EC	<p>The Commission concluded that the proposed acquisition would raise no competition concerns. The companies' activities do not overlap.</p> <p>Patheon (Netherlands) offers contract development and manufacturing of pharmaceuticals to biopharma customers worldwide. Thermo Fisher Scientific (U.S) is a manufacturer and supplier of laboratory equipment, analytical instruments, diagnostics and other related products or services.</p> <p>Although Patheon is a buyer in several markets where Thermo Fisher Scientific (US) is active as a seller, these</p>	N/A

BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
					vertical relationships do not lead to competition concerns because of the limited size of Patheon and the significant number of alternative suppliers that are active on the relevant markets, which will remain post-transaction.	
Banco Santander	Banco Popular	Financial institutions	3.5 weeks	EC	<p>The Commission cleared the deal unconditionally, saying that it did not raise competitive concerns</p> <p>The Commission investigated the transaction's impact on the markets for retail and corporate banking, leasing, factoring and the provision of ATM services in the Portuguese and Spanish national and regional markets.</p> <p>Its investigation concluded that the transaction would not raise competition concerns. The parties' combined market shares are generally limited (below 25%) and strong competitors will remain in all affected markets.</p>	N/A
PSA Peugeot Citroen BNP Paribas	GM Financial Europe	Car financing	4.5 weeks	EC	<p>The Commission approved the acquisition of General Motors Europe's financial subsidiary, specialized in providing loans for cars, by PSA and BNP Paribas.</p> <p>The Commission concluded that the parties to the transaction have limited market shares and face a significant number of competitors.</p> <p>The joint venture will provide car financing, such as loans and leases, to support the development of the Opel/Vauxhall brands.</p>	N/A
Lactalis	Omira	Dairy products	4.5 weeks	EC	<p>The Commission approved the indirect acquisition of German-based company Omira by Group Lactalis, French dairy-product maker.</p> <p>The companies overlap on the market for the supply of raw milk in France and on the market for long-life dairy products in Italy and Slovenia.</p> <p>The Commission found that the transaction would not give rise to any competition issues because of the small increment brought about by the transaction and the presence of many other competitors on the market.</p>	N/A

BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
Selecta	Pelican Rouge	Vending services	7 weeks	EC	<p>The Commission cleared the acquisition of vending services provider Pelican Rouge of the Netherlands by Selecta of Switzerland.</p> <p>Both companies are active in the vending services market in the EEA. The Commission examined the effects of the proposed transaction in the vending services market and its sub-segments at national level where the activities of Pelican Rouge and Selecta overlap—in Belgium, Finland, France, Ireland, the Netherlands, Spain, Norway and the UK.</p> <p>The Commission concluded that the proposed transaction would not lead to serious doubts in the market for vending services, including any potential segmentation, in any of these countries with the exception of Finland.</p> <p>In Finland, according to the Commission's analysis, anti-competitive effects would likely arise in the market for full vending services (including the segment for hot beverages provided by full services providers) and in the overall market for vending services due to the parties' high combined market share.</p> <p>The clearance was conditional on the divestiture by Selecta of all vending service activities in Finland.</p>	No
RHI	Magnesita Refratários	Refractory products	8 weeks	EC	<p>The Commission approved the acquisition of Magnesita Refratários by RHI. The decision was conditional on the divestment of the two companies' overlapping businesses in relation to specific refractory product markets in the EEA.</p> <p>RHI (Austria) and Magnesita (Brazil) are both manufacturers of refractory products in the EEA. The Commission found that refractory products have different properties and applications, and can be distinguished according to shape (shaped or unshaped), main component (dolomite- or magnesite-based) and thermal treatment (fired or unfired).</p> <p>The Commission was concerned that the acquisition would reduce competition, with possible price increases for shaped and unshaped dolomite-based refractory products. The Commission also raised competition concerns for shaped unfired magnesite-based refractories</p> <p>To address these competition concerns, RHI offered to divest</p>	Yes

BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
					<p>the following activities:</p> <ul style="list-style-type: none"> <li>All of Magnesita's activities for unfired magnesite-based refractory products in the European Economic Area (EEA)</li> <li>All of RHI's dolomite activities in the EEA.</li> </ul>	
Lufthansa	Luftfahrtgesellschaft Walter GmbH	Airline services	7.5 weeks	EC	<p>The Commission approved Lufthansa's proposed acquisition of certain Air Berlin assets, through the entity Luftfahrtgesellschaft Walter GmbH (LGW). The decision is conditional on Lufthansa's compliance with commitments to avoid competition issues. Lufthansa agreed to reduce the number of slots it would acquire at Dusseldorf airport which would ensure the impact of the deal on competition to be "limited".</p> <p>Lufthansa had originally intended to take over the Air Berlin subsidiary Niki as well, but retracted its offer in light of the resistance shown by Commission.</p>	N/A
Safran	Zodiac Aerospace	Aerospace equipment	4.5 weeks	EC	<p>The Commission unconditionally approved the acquisition of Zodiac Aerospace by Safran as the transaction did not raise any competition concerns in the relevant market.</p> <p>The Commission investigated the market for supply of aircraft electrical systems but found no concerns because the increase in market shares resulting from the merger would be very limited and the merged entity would continue to face strong competition from other established suppliers.</p>	N/A

BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
Avantor	VWR	Pharmaceuticals	5 weeks	EC	<p>The Commission approved the acquisition of VWR Corp. by Avantor Inc.</p> <p>VWR is a global distributor of laboratory chemicals and provider of related services to laboratories and other customers from the production and research sector. It also sells chemicals under its own private labels. Avantor is a global supplier of branded chemicals and other ultra-high purity materials for the life-sciences and high-tech industry.</p> <p>The Commission concluded that the acquisition would raise no competition concerns because overlaps between the companies' activities were limited and their products were not competing closely. The Commission also carefully analyzed the vertical relations created by the merger and concluded that these would not lead to competition concerns notably because alternative manufacturers and distributors remaining on the market would not be affected by the merger.</p>	N/A
Cosco Shipping Holding	Orient Overseas (International)	Container shipping and terminal services	5.5 weeks	EC	<p>The Commission approved the acquisition of Orient Overseas (International) (OOIL) by COSCO Shipping Holding (COSCO).</p> <p>OOIL operates in container liner shipping, logistics services and provision of container terminal services, while COSCO is mainly active in container shipping and container terminal services.</p> <p>The Commission found that the combined market share of COSCO and OOIL and their consortia partners would be particularly significant on the Northern Europe-North America trade route but given the presence of "significant competitors" and the fact that the firms "do not appear to be close competitors" as well as COSCO's marginal position on the Northern Europe-North America trade route, the Commission found that the transaction did not give rise to any competition concerns.</p>	N/A
CVC Group	TEVA's International Women's Health Business	Pharmaceuticals	5 weeks		<p>The Commission approved the acquisition of the International Women's Health Business of Teva by the CVC Group.</p> <p>The International Women's Health Business of Teva includes the production and supply of women's health pharmaceutical products worldwide, with the exception of</p>	N/A



BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
					<p>the US. The CVC Group is active in the management and provision of advice to investment funds and platforms.</p> <p>The Commission found that the proposed transaction would not raise any competition concerns given the moderate overlaps between the activities of the International Women's Health Business and the two portfolio companies controlled by CVC. In particular, for risenedronic acid, a drug used to treat osteoporosis, the Commission noted that generics suppliers have market shares significantly higher than the increments brought about by the transaction.</p>	
CVC and Blackstone	Paysafe	Online payments	4.5 weeks	EC	<p>The Commission approved the joint takeover of UK online payments firm Paysafe by CVC and Blackstone.</p> <p>The Commission found that the transaction would not raise any competition concerns because there are only minor horizontal overlaps or vertical relationships between Paysafe and companies owned by CVC.</p>	N/A
Atlantia	Abertis Infraestructuras	Toll motorway operations	4 weeks	EC	<p>The Commission approved the acquisition of Abertis Infraestructuras by Atlantia.</p> <p>The Commission found that the transaction would not raise competition concerns due to the presence of other significant competitors on the relevant market, the limited geographic overlaps between the parties' motorway networks, and the fact that the market for toll motorway concessions is a highly regulated market.</p>	N/A
Scott Safety	3M	Respiratory protection	4 weeks	EC	<p>The Commission approved the acquisition of Scott Safety by 3M Company, both of the US. Scott Safety manufactures personal protective equipment designed to protect users from injuries or illnesses resulting from contact with radiological, chemical, physical, mechanical, electrical, or other hazards. 3M Company is a diversified technology company active in several business areas, including personal protective equipment.</p> <p>The Commission found that the merging parties' activities overlap in the supply of respiratory protection, in particular powered and non-powered reusable respirators, constant flow airline systems, hearing protection and head, eye and face protection but that the transaction would not raise competition concerns because the parties' combined market positions are moderate in the European Economic</p>	N/A

BUYER	TARGET	INDUSTRY	NOTIFICATION TO CLEARANCE	AGENCY	DETAILS <sup>3</sup>	BUYER UPFRONT
					Area, and a number of strong players are present in all relevant countries.	

### Significant Selected Ongoing Public Investigations<sup>4</sup>

BUYER	TARGET	INDUSTRY	ANNOUNCED	AGENCY	STATUS
<b>United States</b>					
Bayer AG	Monsanto Company	Agriculture products	Sept. 14, 2016	DOJ	The \$66 billion Bayer / Monsanto deal continued to move forward. The DOJ issued a second request in February 2017. On October 13, 2017, Bayer announced an agreement in which BASF will acquire some of Bayer's crop science assets, including its global glufosinate-ammonium business and its field crop seeds businesses. Third parties are currently bidding for remedy assets which would enable the companies to secure competition clearance of their deal. A decision from the DOJ is expected in the first quarter of 2018.
Essilor International SA (merger)	Luxottica Group SpA (merger)	Eye care	Jan. 16, 2017	FTC	On July 24, 2017, Essilor and Luxottica said they received a second request from the FTC.
Sinclair Broadcast Group Inc.	Tribune Media Co.	Media	May 8, 2017	DOJ	Both companies received second requests from DOJ on August 2, 2017. The deal will also have to comply with the Federal Communications Commission's ownership requirements. Several lawsuits have been filed alleging the merger would lead to the creation of a monopoly in local television markets. Sinclair is reportedly close to a deal with the DOJ to sell some television stations in order to secure merger clearance.

<sup>4</sup> This is a subset of the ongoing merger investigations, but is intended to provide a snapshot of some of the major matters in which the agencies are engaged.

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