

Unclassified

English - Or. English

15 June 2025

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

Assessing the Impact of Competition Authorities' Activities – Note by the United States

16 June 2025

This document reproduces a written contribution from the United States submitted for Item 4 of the 79th meeting of Working Party 2 on 16 June 2025.

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JT03568193

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1. Introduction

1. The Federal Trade Commission (“FTC”) and the Antitrust Division of the U.S. Department of Justice (“Division”) (collectively, the “Agencies”) offer this joint submission in response to Working Party No. 2’s consideration of a specific type of analysis that many competition authorities perform to increase transparency and accountability to the public: estimating the total savings for consumers resulting from their competition enforcement actions. This type of analysis is often referred to as an “impact assessment.” In this paper, the Agencies describe why they perform impact assessments, the intended audience, the limitations of this type of analysis, and, finally, the particular methodology that they use.

2. At the outset, the Agencies note that their impact assessments focus only on a narrow subset of the benefits for American consumers resulting from antitrust enforcement: price increases avoided by successfully challenging a merger and price decreases expected to result from successfully challenging cartels and monopolization, both measured for a set period of time.¹ As discussed below, the Agencies’ impact assessments do not capture many other benefits of enforcement, such as more durable price benefits and increased or more rapid innovation, higher quality, better service, or the deterrence of other anticompetitive mergers or business conduct, and potential benefits in additional product or geographic markets beyond the markets upon which an enforcement action focused. These other benefits are not typically captured because the Agencies employ methodologies that were designed to focus on price effects.

3. The narrow focus of the Agencies’ impact assessments is different from the broad lens used by the Agencies to examine the potential effects of anticompetitive mergers or business conduct when making enforcement decisions. Firms can compete along many price and non-price attributes, including innovation, and the Agencies take a careful, fact-based approach to assessing potential competitive impacts, focusing on the particular economic characteristics and dynamics of the affected markets. Moreover, for too long, the Agencies have ignored the potential for mergers or other business arrangements to harm workers. Consistent with U.S. antitrust law, the Agencies have adjusted their approach to take account of potential impacts on many types of market participants, knowing that Americans lose out when markets become more consolidated and less competitive. For example, in addition to assessing price and output effects, the Agencies also evaluate how the merger or business conduct being investigated or challenged may affect quality, service, and innovation, each of which can be an important dimension of non-price competition.²

¹ Challenged matters include successfully litigated cases, consent agreements, and mergers that were restructured or abandoned as a result of an investigation. The Agencies have included abandonments in the face of threatened enforcement in their impact assessments for many years across administrations of both parties. Recognizing that some ambiguity may be unavoidable, the Agencies strive to include only those abandonments that were clearly the result of the Agencies’ scrutiny revealing competitive concerns.

² *Nat’l Soc’y of Prof’l Eng’rs v. United States*, 435 U.S. 679, 695 (1978) (citing *Standard Oil Co. v. FTC*, 340 U.S. 231, 248 (1951)) (“The Sherman Act reflects a legislative judgment that ultimately competition will produce not only lower prices, but also better goods and services. ‘The heart of our national economic policy long has been faith in the value of competition.’ . . . The assumption that competition is the best method of allocating resources in a free market recognizes that all elements

4. The Agencies also engage in non-enforcement work (e.g., submitting advocacy arguing against an anticompetitive regulation being considered by a state or other government agency). Quantification of the consumer savings from these efforts is difficult; of course, unnecessary and overbroad regulations impose significant costs throughout the economy. In response to President Trump’s Executive Order on Reducing Anti-Competitive Regulatory Barriers,³ the Agencies have launched a public inquiry into the impact of federal regulations on competition, with the goal of identifying and reducing anticompetitive regulatory barriers.⁴ This effort intends to eliminate anticompetitive U.S. regulations that reduce competition, entrepreneurship, and innovation and to generate benefits for American consumers.

2. The Purpose of Impact Assessments

5. The Agencies perform impact assessments, which is one metric that they use to measure the value of their enforcement efforts, to provide a degree of transparency and accountability to the President, Congress, and, ultimately, the American people.⁵

6. As they have for many years,⁶ the Agencies report the total amount of consumer savings expected to result from their antitrust enforcement actions in annual performance reports and budget requests submitted to Congress.⁷ By publishing these metrics, the Agencies increase transparency about the overall impact and value of their work. In this

of a bargain—quality, service, safety, and durability—and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers.”); see also *Nat’l Collegiate Athletic Ass’n v. Bd. of Regents of Univ. of Okla.*, 468 U.S. 85, 104 n.27 (1984) (quoting *N. Pac. Ry. Co. v. United States*, 356 U.S. 1, 4-5 (1958)) (The Sherman Act “rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress . . .”).

³ Exec. Order No. 14,267, 90 Fed. Reg. 15,629 (Apr. 9, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/reducing-anti-competitive-regulatory-barriers/>.

⁴ Press Release, Fed. Trade Comm’n, FTC Launches Public Inquiry into Anti-Competitive Regulations (Apr. 14, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/04/ftc-launches-public-inquiry-anti-competitiveregulations>; Press Release, Dept. of Justice, “Justice Department Launches Anticompetitive Regulations Task Force (Mar. 27, 2025), <https://www.justice.gov/opa/pr/justice-department-launches-anticompetitive-regulations-task-force>.

⁵ While the Agencies also engage in non-enforcement work (e.g., submitting advocacy arguing against an anticompetitive regulation being considered by a state or other government agency), quantification of the consumer savings due to the Agencies’ efforts is difficult, for instance, because of uncertainty about how much influence these efforts had on the eventual outcome.

⁶ The FTC has conducted impact assessments since at least 1999. See FED. TRADE COMM’N, FISCAL YEAR 2003 CONGRESSIONAL JUSTIFICATION: BUDGET SUMMARY, at 12, https://www.ftc.gov/sites/default/files/documents/reports_annual/fy-2003-congressional-justification-budget-summary/budgetsummary03_1.pdf.

⁷ See, e.g., Fed. Trade Comm’n, Annual Performance Report For Fiscal Year 2023 and Annual Performance Plan For Fiscal Years 2024-2025, at 50, https://www.ftc.gov/system/files/ftc_gov/pdf/FY-2023-Annual-Performance-Report-and-FY-2024-25-Plan.pdf (metric 2.1.1); Antitrust Division Congressional Submission FY 2023 Performance Budget, <https://www.justice.gov/file/1217041/dl?inline> (Table B, Performance and Resource Table).

way, these and other metrics can be used by the President, Congress, and the American public to hold the Agencies accountable for taking actions that promote American prosperity.

7. The Agencies calculate consumer savings on an annual basis.⁸ Consumer savings is the estimated amount of money that the Agencies' competition enforcement actions against potentially anticompetitive mergers and business conduct saved consumers.

8. While there is a lag between the time of an enforcement action and when the Agencies publish estimated savings resulting from those actions, Americans need not wait for those numbers to see that the Agencies are bringing and winning enforcement actions that benefit them. Over the past 12 months, the Agencies have successfully obtained two historic and high-profile monopolization judgments,⁹ blocked two mergers,¹⁰ and filed lawsuits to block another four mergers.¹¹ The FTC also recently proposed a divestiture order which, if finalized by the Commission after a public comment period, would preserve competition across several software tool markets that are critical for the design of semiconductors and light simulation devices.¹² The Division also filed a proposed consent decree which, if approved by the court, would allow a merger to move forward in a way

⁸ FTC Annual Performance Reports and Congressional Budget Justifications showing the total amount of consumer savings resulting from enforcement actions are available at: <https://www.ftc.gov/about-ftc/budget-strategy/budget-performance-financial-reporting>. As a competition and consumer protection agency, the FTC separately reports the amount of money returned to consumers through enforcement of consumer protection laws. For example, in 2024, the FTC returned \$337.3 million to consumers who were defrauded. Press Release, Fed. Trade Comm'n, *New Report Shows FTC Returned \$337.3 Million to Consumers in 2024* (Mar. 14, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/03/new-report-shows-ftc-returned-3373-million-consumers-2024> (stating that "the Federal Trade Commission sent \$337.3 million in refunds to consumers in 2024"). This level of consumer redress is equivalent to nearly two-thirds of the FTC's annual budget for that fiscal year.

⁹ *United States v. Google LLC*, 747 F. Supp. 3d 1 (D.D.C. 2024) (general search engines); *United States v. Google LLC*, No. 23-cv-108, 2025 WL 1132012 (E.D. Va. Apr. 17, 2025) (digital advertising).

¹⁰ *FTC v. Kroger Co.*, No. 24-cv-00347, 2024 WL 5053016 (D. Or. Dec. 10, 2024); *FTC v. Tapestry, Inc.*, 755 F. Supp. 3d 386 (S.D.N.Y. 2024).

¹¹ Press Release, Fed. Trade Comm'n, *FTC Challenges Medical Device Coatings Deal* (Mar. 6, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/03/ftc-challenges-medical-device-coatings-deal> (medical device coatings); Press Release, U.S. Dep't of Justice, *Justice Department Sues to Block Hewlett Packard Enterprise's Proposed \$14 Billion Acquisition of Rival Wireless Networking Technology Provider Juniper Networks* (Jan. 30, 2025), <https://www.justice.gov/opa/pr/justice-department-sues-block-hewlett-packard-enterprises-proposed-14-billion-acquisition> (enterprise-grade wireless local area network solutions); Press Release, U.S. Dep't of Justice, *Justice Department Sues to Block Global Business Travel Group's Proposed Acquisition of CWT Holdings* (Jan. 10, 2025), <https://www.justice.gov/archives/opa/pr/justice-department-sues-block-global-business-travel-groups-proposed-acquisition-cwt> (travel management); Press Release, U.S. Dep't of Justice, *Justice Department Sues to Block UnitedHealth Group's Acquisition of Home Health and Hospice Provider Amedisys* (Nov. 12, 2024), <https://www.justice.gov/archives/opa/pr/justice-department-sues-block-unitedhealth-groups-acquisition-home-health-and-hospice> (home health and hospice services).

¹² Press Release, Fed. Trade Comm'n, *FTC to Require Synopsys and Ansys to Divest Assets to Proceed with Merger* (May 28, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/05/ftc-require-synopsys-ansys-divest-assets-proceed-merger>.

that resolves the Division's competitive concerns.¹³ Further, several proposed mergers were abandoned in the face of significant competition concerns identified during investigations by the Agencies. Finally, the Division recently obtained a criminal conviction in a case involving wage fixing that suppressed wages for home healthcare nurses and a prison sentence and \$2 million fine for an individual's conduct in a long-running and violent conspiracy to monopolize the transgrante forwarding agency industry in the Texas, border region.¹⁴ The Agencies' actions involved mergers and business conduct in a wide range of industries—including grocery stores, fashion, healthcare, and technology—that Americans rely on for everyday essentials and life-saving devices. These and other pending matters should ensure that Americans continue benefitting from fierce competition that results in lower prices, higher quality, superior service, and more rapid innovation. The FTC's successful action to block the mega-merger between grocery store operators Kroger and Albertsons, for example, saved Americans \$1.9 billion annually, mainly through lower food prices.¹⁵ Investments in competition enforcement will continue yielding outsized returns for each dollar invested,¹⁶ strengthening the economy and making Americans more prosperous.

3. Agencies' Methodology

9. The Agencies use similar methodologies for estimating the value of consumer savings that result from their enforcement actions. Importantly, the methodologies are

¹³ Press Release, *Justice Department Requires Keysight to Divest Assets to Proceed with Spirent Acquisition* (June 2, 2025), <https://www.justice.gov/opa/pr/justice-department-requires-keysight-divest-assets-proceed-spirent-acquisition> (high-speed ethernet testing, network security testing, and RF channel emulation).

¹⁴ Press Release, U.S. Dep't of Justice, *Jury Convicts Home Health Agency Executive of Fixing Wages and Fraudulently Concealing Criminal Investigation* (Apr. 14, 2025), <https://www.justice.gov/opa/pr/jury-convicts-home-health-agency-executive-fixing-wages-and-fraudulently-concealing-criminal>; Press release, *Texas Man Sentenced to 11 Years in Prison and Ordered to Pay \$2M Fine for Conspiring to Monopolize International Transit Industry, Fix Prices, Extort \$9.5M, and Launder Money* (June 11, 2025), <https://www.justice.gov/opa/pr/texas-man-sentenced-11-years-prison-and-ordered-pay-2m-fine-conspiring-monopolize>.

¹⁵ *The U.S. Federal Trade Commission: Oversight Hearing Before the Subcomm. on Fin. Servs. & Gen. Gov't of the H. Comm. on Appropriations*, 119th Cong., at 3 (May 15, 2025), <https://docs.house.gov/meetings/AP/AP23/20250515/118225/HHRG-119-AP23-Wstate-FergusonA-20250515.pdf> (written testimony of the Federal Trade Commission) [hereinafter *FTC Oversight Written Testimony*].

¹⁶ See, e.g., *The U.S. Federal Trade Commission: Oversight Hearing Before the Subcomm. on Fin. Servs. & Gen. Gov't of the H. Comm. on Appropriations*, 119th Cong. (May 15, 2025), <https://www.youtube.com/watch?v=0NZxkvYaVuk> (testimony of Andrew Ferguson, Chairman, Fed. Trade Comm'n in response to questioning from Rep. Hoyer, Md.) ("The levels that this committee chooses to fund us, we will maximize the American taxpayers' return on investment. We consistently send back to the Treasury and to consumers billions of dollars, either in the form of lower prices or recovered unjust enrichment from fraud."). The FTC's budget request typically assumes offsetting collections from Hart-Scott-Rodino filing fees and Do Not Call fees under the current fee structure, thereby reducing FTC reliance on the general fund appropriation. In fiscal year 2025, Congress appropriated the FTC \$425.7 million, of which \$138.7 million, or 33 percent will come from the general fund. *FTC Oversight Written Testimony*, *supra* note 15, at 2.

straightforward and rely on readily available and reliable data, enabling enforcement staff to perform estimates quickly and without diverting significant resources from case work.¹⁷

10. As a general matter, the Agencies use case-specific information, when available, to determine consumer savings. For instance, expert analysis of harm developed during investigations or litigation are often included in the Agencies' estimates of total consumer savings. In the absence of case-specific information—due, for instance, to insufficient data—the Agencies rely on a formula based on the volume of commerce in the relevant market and conservative assumptions about the price effect relating to the challenged merger or conduct and the duration of that price effect.

11. Although each Agency uses slightly different assumptions, as described in detail below, the Agencies' chosen methodology is intended to avoid overestimating consumer savings by using several conservative assumptions. First, the Agencies often rely on assumed price effects that are lower than the price effects that they have estimated in many prior enforcement actions.¹⁸ Further, the assumed price effect is consistent with or more conservative than OECD guidance on the topic and the assumptions used by other competition authorities.¹⁹ For example, while the OECD recommends assuming a 5% price effect in monopolization cases, both Agencies use a lower, more conservative assumed price increase of 1%.²⁰ Second, the assumed duration of the price effect is also consistent with or more conservative than OECD guidance and the practices of other authorities. Whereas the OECD recommends a three-year period for cartels and monopolization cases, the Agencies use one year.²¹ For mergers, the FTC matches the OECD's recommendation of a two-year period, while the Division uses one year.²²

12. While the Agencies do their best to provide reasonable, if conservative, estimates of consumer savings, the exercise is, by nature, also underinclusive, as they do not account

¹⁷ In the Agencies' view, impact assessments should continue to be a straightforward exercise. First, the main purpose of impact assessments is to provide the public with an easily understood measure of the value of antitrust enforcement. Second, updating the methodology by, for example, expanding its scope to include non-price dimensions of competition may, at some point, begin to resemble the Agencies' approaches to individual enforcement matters, which could create substantial litigation risks for the Agencies. To the extent that the Competition Committee seeks to develop methodologies for measuring non-price effects, the Agencies believe that such a discussion is better suited to a roundtable on strengthening approaches to enforcement.

¹⁸ See, e.g., *Tapestry*, 755 F. Supp. 3d at 493 (“Dr. Smith’s UPP analysis indicates that after the merger Tapestry could raise prices on Coach, Kate Spade, and Michael Kors handbags by an average of 18 percent in his baseline case, or 13.1 percent in his more conservative sensitivity case.”; “Dr. Smith’s merger simulation indicated an average price increase of approximately 17 percent following the merger . . . which could take the form of either a higher-priced or lower-quality handbag.”); *Kroger*, 2024 WL 5053016, at *19 (summarizing the FTC’s expert’s conclusion that “the merger is likely to result in a price increase for the focal store in each market unless the merger were to reduce marginal costs by more than five percent”).

¹⁹ OECD, Working Party No. 2 on Competition and Regulation, *Assessing the Impact of Competition Authorities’ Activities – Background Note*, Figs. A A.1, A.3 & A.5 (2025), <https://doi.org/10.1787/eaafdba8-en> (comparing the assumed price effect for merger, cartel, and monopolization cases used by various competition authorities, but note that, for mergers, the FTC assumes a 3% price effect, not 1%).

²⁰ *Id.* Fig. A A.5.

²¹ *Id.* Fig. A A.2 & A A.6.

²² *Id.* Fig. A A.4.

for certain benefits, such as non-price and indirect benefits to consumers, businesses, or workers, that result from Agency enforcement actions. For example, although competition often affects quality, service, or innovation, the Agencies focus their impact assessment on consumer cost savings, that is, measurable price effects, because non-price dimensions of competition can be difficult to quantify in a readily reportable number.²³ Additionally, while the Agencies' enforcement actions likely deter at least some other anticompetitive mergers and business conduct,²⁴ resulting in further savings for consumers, the Agencies do not attempt to account for this deterrent effect because it is also difficult to measure.²⁵ In light of these unmeasured benefits, the Agencies likely underestimate the consumer savings generated from their enforcement actions. Only an ex-post analysis could measure the actual realized impact of the Agencies' enforcement actions.

3.1. Federal Trade Commission

13. The FTC's consumer saving metric, "total consumer savings and other measurable benefits generated by antitrust enforcement," is an intentionally conservative estimate of the amount of money that the FTC saved consumers by acting against potentially anticompetitive mergers and business conduct.²⁶ The amount reported is a five-year rolling average (i.e., the average of the current year and four prior year totals). As an initial matter, the FTC estimates the savings expected to result from an enforcement action only upon a final resolution of the matter. Since fiscal year 2022, the FTC has reported a single metric

²³ OECD, *Non-Price Effects of Mergers – Note by the United States*, at ¶ 10, 2018, https://www.ftc.gov/system/files/attachments/us-submissions-oecd-2010-present-other-international-competition-fora/non-price_effects_united_states.pdf ("Because non-price effects tend to be non-quantitative in nature, the Agencies rely less on formal empirical models and more on qualitative evidence to assess the non-price effects of a merger.") (internal citations omitted); see also OECD, *Roundtable on the Role and Measurement of Quality in Competition Analysis – Note by the United States*, at ¶ 23, 2013, <https://www.ftc.gov/system/files/attachments/us-submissions-oecd-2010-present-other-international-competition-fora/1306qualityanalysis.pdf> ("Fortunately, certain aspects of clinical quality, at least in hospitals, lend themselves to measurement in a way that other kinds of quality often do not. In general, the development of quantitative metrics for measuring different aspects of hospital quality (e.g., mortality, complications) is now a well-developed discipline.").

²⁴ OECD, *Assessing and Communicating the Benefits of Competition Interventions – Note by the United States*, at ¶ 2, 2023, [https://one.oecd.org/document/DAF/COMP/WP2/WD\(2023\)15/en/pdf](https://one.oecd.org/document/DAF/COMP/WP2/WD(2023)15/en/pdf) ("The Agencies' publicization of their enforcement activities and clear messaging about prevailing legal standards in guidance documents also ensure that market participants are sufficiently deterred from violating the antitrust laws."); *id.* ¶ 9 ("Lack of quantification of this effect by no means diminishes the vast importance of this effect and its ability to incentivize firms to obey the competition laws."); see also Memorandum from Chairman Andrew N. Ferguson to FTC Staff, at 2 (Feb. 18, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-memo-re-merger-guidelines.pdf ("If merger guidelines change with every new administration, they will become largely worthless to businesses and the courts. No business can plan for the future on the basis of guidelines they know are one election away from rescission, and no court will rely on guidance that is so obviously partisan.").

²⁵ OECD, *Assessing and Communicating the Benefits of Competition Interventions – Note by the United States*, at ¶ 9, 2023, [https://one.oecd.org/document/DAF/COMP/WP2/WD\(2023\)15/en/pdf](https://one.oecd.org/document/DAF/COMP/WP2/WD(2023)15/en/pdf).

²⁶ FED. TRADE COMM'N, ANNUAL PERFORMANCE REPORT FOR FISCAL YEAR 2023 AND ANNUAL PERFORMANCE PLAN FOR FISCAL YEARS 2024-2025, at 61 (2024), https://www.ftc.gov/system/files/ftc_gov/pdf/FY-2023-Annual-Performance-Report-and-FY-2024-25-Plan.pdf.

that includes savings generated from merger and non-merger enforcement actions.²⁷ Although the FTC no longer reports separate metrics for merger and non-merger actions, the underlying methodology used for calculating the savings from these types of matters has remained unchanged since at least fiscal year 2014.

14. The FTC estimates savings from merger enforcement actions by using case-specific information, when available, or using a formula of three percent of the volume of commerce in the relevant product and geographic market for two years.²⁸ In fiscal year 2014, the FTC increased the assumed price effect from one percent to three percent. The FTC made this change following Working Party No. 2's 2012-2014 review of impact assessments and the resulting OECD guidance on assessing the expected impact of competition authorities' activities.²⁹

15. As for non-merger enforcement actions, such as horizontal agreements and monopolization cases, the FTC estimates savings by using case-specific information, when available, or using a formula of one percent of the volume of commerce in the relevant product and geographic market for one year. The FTC has used this methodology since before fiscal year 2014.³⁰

3.2. Antitrust Division

16. The Division's consumer saving metric, "dollar value of savings to U.S. consumers," is an intentionally conservative estimate of certain quantitative benefits that can be tied directly to enforcement actions resolved during the fiscal year. The Division typically reports two annual consumer savings metrics: a total for all civil cases and a total for all criminal cases.

17. The Division estimates savings from enforcement actions by using case specific information, when available, or by multiplying affected commerce by an assumed percentage price effect (for example, 1% effect in civil non-merger cases and 10% effect in criminal cases). The annual average of the combined consumer savings metrics for the most recent 5 years reported in the Division's FY 2022 Congressional Budget Submission

²⁷ The FTC combined the estimates of consumer savings from merger and non-merger enforcement into a single metric in fiscal year 2022 because the savings from non-merger enforcement were highly variable, as these types of cases can last multiple years.

²⁸ FED. TRADE COMM'N, FEDERAL TRADE COMMISSION DATA QUALITY APPENDIX, at 28 (Apr. 4, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/data-quality-appendix-040424.pdf.

²⁹ OECD, *Guide for Helping Competition Authorities Assess the Expected Impact of Their Activities*, 2014, <https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/evaluation-of-competition-interventions/Guide-competition-impact-assessmentENG.pdf>.

³⁰ Compare FED. TRADE COMM'N, 2009-2014 PERFORMANCE DATA QUALITY APPENDIX, at 7 (2015), <https://www.ftc.gov/system/files/documents/reports/2009-2014-performance-data-quality-appendix/dqafy09-14.pdf> (explaining that Performance Measure 2.1.5, which estimates the consumer savings resulting from non-merger actions, is calculated by "taking one percent of the volume of commerce in the affected market(s) for one year"), with FED. TRADE COMM'N, FY 2018-2022 PERFORMANCE DATA QUALITY APPENDIX, at 27 (Oct. 22, 2019), https://www.ftc.gov/system/files/documents/reports/2018-2022-performance-data-quality-appendix/ftc_performance_data_quality_appendix_fy2018-2022_10-22-19.pdf (explaining that Performance Goal 2.1.4, which estimates consumer savings resulting from non-merger actions, is calculated by "us[ing] a formula of one percent of the volume of commerce of the relevant geographic/product market(s) for one year").

was \$1.9 billion.³¹ All Division consumer savings calculations are for a one year period. If the Division instead applied a two year period, as in the description of the FTC's methodology above, then the comparable 5 year average would be roughly \$3.8 billion.

18. Many criminal enforcement actions involve defendants who conspired with other defendants that have already been prosecuted. In such cases, the Division takes efforts to avoid double-counting savings across the multiple defendants common to a particular conspiracy. The consumer savings estimates exclude other quantifiable benefits of the Division's enforcement actions like the dollar volume of criminal fines that the Division received.

³¹ See FY 2022 ATR Congressional Submission which reported annual consumer savings estimates as recently as FY 2020. https://www.justice.gov/d9/pages/attachments/2021/05/26/atr_narrative_fy_22_cj_05.20.21_final_omb_cleared.pdf.