

M&A, Antitrust and Competition

Economic Thinking and Unique Insight

Our economics team brings unique insights and advanced analytics from extensive experience on M&A transactions and competition issues across healthcare and non-healthcare industries contributing expert solutions to complex investigatory, transaction, regulatory and litigation matters. Our economic analyses, supported by economic and industry research and advanced modeling using public and proprietary data sources inform expert testimony and presentations in U.S. and internationally on a wide variety of issues.



Antitrust and Competition Expertise

FTI Consulting's Center for Healthcare Economics and Policy (Center)'s economic experts include PhD economists with extensive antitrust and competition experience. Supported by right-sized teams, Center economists provide expert analysis and testimony in a wide variety of matters in the U.S. and internationally. We regularly assist law firms and clients with economic analyses in antitrust or regulatory investigations on mergers, business practices, contracting, and pricing. We are expert in evaluating price gouging or predatory pricing allegations including relevant market studies, exclusionary conduct and claims of coordination among firms. We examine price and other effects, including estimated lost profits or damages from elevated prices or output restrictions. Our extensive U.S. antitrust and competition practice involves expert testimony before state and federal agencies, guidance on competitive impact of transactions, privileged consulting and litigation. Our international practice covers expert testimony, complex merger and economic analyses in many jurisdictions.



Benefits of Transformational Change and Consulting for Health Systems and Payors

Our extensive M&A and competition experience provides a sound foundation for broader work assisting clients across the healthcare spectrum. Our work encompasses economic evaluation of transformational changes in infrastructure, capacity and location of care, new care and payment models, integration, and cross-sector transactions.

These are grounded in modeling and experience from competition work and from our comprehensive hospital risk and impact modeling that provides insights into likely impact of industry conditions or policy changes on healthcare delivery and access. We increasingly are called upon by health system clients for "compliance" projects including market assessments and proactive evaluation of potential transactions for competitive risk and pro-competitive benefit to assist clients seeking to optimize health systems with limited resources. Our strategic and transformational change consulting assists clients to evaluate realignment, investments, and outcomes (quality and efficiency) to demonstrate value and access.



Economic Research, Healthcare and Industry Trends, and Modeling

The Center's M&A, antitrust, and competition work is supported by our continued commitment to keeping up with and contributing to industry and economic research and advanced economic modeling. The Center team applies state-of-the-art modeling (consumer discrete choice, microsimulation and econometric pricing analyses) to complex merger situations including tiered and narrow networks or with larger health systems and smaller community hospitals. Our experts publish extensively including in peer-reviewed literature on mergers, healthcare transformation, integrated and new care models and participate actively in professional associations.



Regulatory Contexts: CON, DON, COPA, Market Inquiries

Some healthcare transactions involve more extensive review due to regulatory or legislative standards. These include Certificate of Need (CON) or Determination of Need (DON) regulations requiring state pre-approval of transactions or investments. Economic analyses and expert work play an important role in CON review before state agencies including assessing competition issues, pro-competitive benefits, and support for need for transaction or investments. In CONs, Center experts have developed economic analyses on expected benefits and potential risks; CON matters include some without competition issues such as a CON project involving a proton beam center. Center experts have been involved in DON reviews which may require independent cost analysis (ICA) and expert assessment of the current and predicted future impact of major investments in facilities or technologies on costs, access, and patient needs. Our experts have advised state regulators on a transaction of insurer and health system, and ongoing review of competition and performance.

Certificate of Public Advantage (COPA) merger reviews are more extensive since approved transactions are granted antitrust immunity. State Attorneys General, Departments of Health, and federal antitrust agencies are involved in the competition review many industry and market participants. These involve review of competition issues, pro-competitive or consumer benefits, and support for need for transaction or investments. Our economic experts were involved in two-state COPA proceedings to form Ballad Health.

Federal and international agencies periodically conduct more extensive industry or “market inquiries” into competition sectors such as healthcare; these cover evaluation of market conditions, market power, pricing, entry, and capacity across all sectors (hospitals, physicians, insurers, government, consumers) to evaluate current or new policy and enforcement goals. Our economists have contributed to these, including recently in South Africa Competition Commission’s wide-ranging and multi-year Health Market Inquiry (HMI), with economic analyses on a wide array of issues.



Economic Analyses of M&A: U.S and International

The Center team has unsurpassed expertise in analyzing and articulating the competitive effects and consumer benefits of mergers and transactions, including health system and insurance M&A. Our experience spans the healthcare and life sciences industries - hospitals, physician and outpatient services (e.g., Ambulatory Surgery Centers (ASCs), medical device and equipment, and pharmaceuticals. Our experts work on all phases of M&A for clients and state and federal agencies from pre-merger strategic analysis to integration, including matters with conditional approval or ongoing regulatory review. Increased federal and state scrutiny of horizontal mergers and concerns about healthcare consolidation and “vertical” transactions involving insurers or physicians with health systems requires comprehensive analyses and economic evaluation of the potential risks and benefits of affiliations. Our experience includes extensive economic research on healthcare trends, merger effects, and transformative changes such as integrated delivery networks (IDNs).

Our work includes comprehensive assessments of market definition, efficiencies, empirical analyses and market conditions affecting entry and relies on extensive public and proprietary data and state-of-the-art modeling. These enable us to provide clients and agencies with comprehensive insights into the competitive benefits and effects of proposed and actual transactions. Increasingly, competition and M&A work is international and multi-jurisdictional in scope. We have experience in developing cogent economic analyses of markets, market conditions, and competitors using common economic frameworks and nuanced country-specific reviews.

MARGARET GUERIN-CALVERT

Senior Managing Director
+1 202.589.3451
margaret.guerin-calvert@fticonsulting.com

SUSAN MANNING, PhD

Senior Managing Director
+1 202.589.3458
susan.manning@fticonsulting.com

BRYAN PERRY, PhD

Senior Managing Director
+1 510.304.3090
bryan.perry@fticonsulting.com

OMUR CELMANBET, PhD

Senior Managing Director
+1 202.346.8803
omur.celmanbet@fticonsulting.com

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