

ABA Section of Antitrust Law, *The Merger Review Process: A Step-by-Step Guide to U.S. and Foreign Merger Review* (3d ed. 2006); ABA Section of Antitrust Law, *Premerger Coordination: The Emerging Law of Gun Jumping and Information Exchange* (2006); *Joint Ventures: Antitrust Analysis of Collaborations Among Competitors* (2006).

The Antitrust Section of the American Bar Association has published in 2006, among many other offerings, three highly practical and useful volumes that together provide an integrated analysis of the U.S. antitrust law, guidelines, and policy governing most aspects of mergers, acquisitions, and joint ventures.

The new third edition of *The Merger Review Process* is an updated and expanded version of the excellent prior editions and covers the U.S. antitrust risks of all stages of a transaction from planning to clearance. The first half of the book covers in treatise format the antitrust clearance process for a merger or acquisition under federal and state antitrust law with an emphasis on the federal antitrust review. After a brief background chapter laying out the relevant statutes, the enforcement agencies, the review process, and the confidentiality considerations, the handbook devotes detailed separate chapters to the antitrust issues in the negotiation of the transaction and the preparation of the Hart-Scott-Rodino premerger notification; the initial waiting period; responding to a second request; dealing with the agencies after a second request; differences in the process for a non-reportable transaction; third-party involvement in the merger investigation; and resolution without litigation. The second half of the book consists of forty seven appendices containing the relevant statutes, guidelines, agency statements, and numerous valuable sample documents related to the clearance process. Both the text and the appendices make this handbook an easy and comprehensive one volume guide to the field.

The question of premerger coordination (also called gun jumping) is key for virtually any transaction. Businesses are anxious to understand each other's business strategy and prospects and enjoy the fruits of the transaction as soon as possible. However, any exchange of information and business coordination prior to antitrust clearance is fraught with antitrust peril. Yet, court decisions are few, and even the handful of enforcement actions and the resulting consent decrees are often so highly fact and situation specific that future prediction and counseling is difficult.

Premerger Coordination helps fill this gap through its comprehensive coverage of the issues and its unique format. After surveying the law of premerger activity under each of the applicable statutes, the handbook provides a summary of premerger coordination enforcement actions and their outcomes in the United States and in a much more cursory fashion for other jurisdictions around the world. This is followed by an extensive and invaluable series of questions and analysis covering many of the anticipated situations that can arise during due diligence, the crafting of the merger agreement, the waiting period, and even post closing. Each issue and analysis is supported by citations to the relevant cases, consent decrees, government guidelines, and relevant statements by government officials. This is a well crafted source of learning on an intricate area of law in a highly user friendly style.

A useful companion is the *Joint Ventures: Antitrust Analysis of Collaborations Among*

Competitors. This is a relatively brief introduction to a topic that is potentially even broader than the field of mergers and acquisitions. Because a joint venture can be defined broadly to encompass any collaborative undertaking in which two or more undertakings devote resources to pursue a common objective, joint ventures potentially fall under any and all of the US antitrust statutes. A full treatise on joint venture would thus be as deep and broad as a full treatise on the antitrust laws themselves.

The scope of the new *Joint Venture* handbook is less comprehensive than its companions, but nonetheless valuable as a starting place for research in the field. It reviews the predominant types of joint ventures which raise antitrust concerns, the general antitrust statutes, the more specific statutes dealing directly with joint ventures, and the government guidelines governing counseling in the area. The handbook then discusses the rule of reason as the primary standard governing legitimate joint ventures and the important *Copperweld* decision¹ which requires an agreement between two economically independent actor for the application of Section 1 of the Sherman Act. The heart of the handbook is the final two chapters which discuss the antitrust issues in joint venture formation and the reasonableness of collateral restraints imposed on the joint venturers.

Together all three handbooks provide real world guidance to an important and complicated area of antitrust law where there is much confusion, little case law, and the need for accurate sophisticated counseling grows daily.

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¹ *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752 (1984).