STATEMENT OF
COMMISSIONER ROHIT CHOPRA

Regarding Flaws in the FTC’s 2017 Study on Merger Remedies
October 8, 2021

In January 2015, the Federal Trade Commission announced that it was launching an effort to study the effectiveness of its merger settlements, which was intended to build upon the agency’s 1999 Divestiture Study. In February 2017, the Federal Trade Commission authorized the release of the study, noting that the study “affirms the effectiveness of [the] FTC merger remedy process.”

However, there has been significant criticism of the methodology used for the study, which raised concerns about whether the study would fairly assess the status quo approach to addressing illegal mergers. In recent months, my office conducted a review of the study’s underlying work product related to divestitures in the market for generic pharmaceuticals. I have shared the results of this review with other offices within the Commission.

Putting aside concerns with the methodology, it is clear that the findings released to the public in 2017 failed to fully reflect

In my view, the Commission’s report exaggerated the effectiveness of its settlement strategy and significantly understated the failure rate of past merger settlements.

Given the review conducted by my office and the severe deficiencies in this one section of the report, I am concerned that the 2017 study is neither rigorous nor reliable. I believe the study should not be cited by the public going forward. I urge my colleagues to determine whether additional information should be released regarding the study, whether the entire study should be subjected to a more complete independent review, or whether it should be rescinded altogether.

4 In consultation with the agency’s Office of General Counsel, I have redacted certain deliberative process information in this statement.