



Office of Commissioner
Rohit Chopra

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

STATEMENT OF COMMISSIONER ROHIT CHOPRA

*Regarding a Petition to Modify an Agreement in the Matter of CoreLogic
Commission File No. C4458
November 30, 2020*

Today, the Federal Trade Commission is taking an action related to a 2014 merger settlement, where a Commission-approved remedy failed to work as planned. We have now voted to modify a licensing agreement between CoreLogic (NYSE: CLGX) and Renwood RealtyTrac (now known as ATTOM Data Solutions). The Commission ordered this agreement as part of a 2014 settlement to resolve charges surrounding CoreLogic's unlawful acquisition of DataQuick. The licensing agreement was intended to quickly allow Renwood RealtyTrac to emerge as a competitor to the newly merged CoreLogic and DataQuick.

Unfortunately, after the settlement was struck, the licensing process was chaotic and anything but quick, given CoreLogic's failures to comply with the FTC's order. These failures then led to a separate 2018 agreement with the FTC with additional terms. Now, six years later after the original settlement, RealtyTrac/ATTOM is finally ready to be an independent competitor, and the Commission's vote marks the conclusion of this fiasco.

The CoreLogic saga is another sign that complex settlements to address unlawful mergers are risky for the public, especially when the merged firm has an incentive to sabotage its competitor. The Commission needs to be wary of these remedies and do more to ensure compliance with its orders.

The Unlawful Transaction and the 2014 FTC Settlement

In 2010, TPG Global, one of the globe's largest private equity funds, purchased DataQuick, which compiled real estate data from various sources and licensed it to a wide range of players.¹ This data is a critical input for many products and services in the real estate and mortgage markets. DataQuick was one of very few players in the market for certain data. The Commission would later note that "DataQuick aggressively competes head-to-head against CoreLogic and Black Knight...offering lower prices and less restrictive license terms than its competitors."²

In 2013, TPG agreed to sell certain businesses including DataQuick to CoreLogic. DataQuick and CoreLogic were head-to-head competitors in a critical market. Since the transaction would shrink the number of competitors in that market from three to two, it was clear that the agreement would violate

¹ *TPG Capital to buy MDA property information subsidiaries*, HOUSINGWIRE (Nov. 5, 2010, 5:25 pm), <https://www.housingwire.com/articles/tpg-capital-buy-mda-property-information-subsiidiaries/>; Analysis of Agreement Containing Consent Orders to Aid Public Comment, *In the Matter of CoreLogic, Inc.*, File No. 131-0199, <https://www.ftc.gov/system/files/documents/cases/140324corelogicanalysis.pdf>.

² *Id.*

the antitrust laws. The Commission settled the case, requiring a complex remedy. CoreLogic and DataQuick would be allowed to merge, as long as the merged company licensed certain data for several years to another real estate data firm, RealtyTrac, that did not currently compile the datasets in question.³

Failure to Comply with the FTC Order

Since the Commission's remedy required the newly merged CoreLogic-DataQuick to provide data to its new competitor, RealtyTrac, the merged firm would have a strong incentive to sabotage the data that was required to be licensed. The Commission even explained that "[n]either CoreLogic or Black Knight has any incentive to offer such a license to a potential entrant that will compete against them."⁴ The Commission appointed an independent monitor to watch over the data transfer, but it didn't work. Almost immediately, RealtyTrac noticed that the data that CoreLogic was supposed to deliver was missing required data.⁵ Problems persisted over multiple years.⁶

In March 2018, the Commission outlined its charges that CoreLogic was failing to adhere to the requirements of the FTC's order. According to the Commission's show cause order, "CoreLogic's actions violated the Order and interfered with its remedial goals. CoreLogic slowed RealtyTrac's acquisition of the full scope of DataQuick bulk data and the information necessary to provide data in the same manner as DataQuick."⁷

In these situations, the Commission can be faced with an extremely difficult decision: (1) quickly settle the matter with a modified no-money, no-fault order, or (2) pursue penalties and other relief for order violations, which may lead to further harms to competition if it requires prolonged litigation. In June 2018, the Commission finalized a resolution to the alleged compliance breakdowns. CoreLogic agreed to a modified order to extend its data-sharing agreement with RealtyTrac/ATTOM for multiple years. CoreLogic would not pay any civil penalties or remediate any of the harm to business customers that it may have caused.

Lessons Learned

The FTC's vote to wind down the licensing agreement between CoreLogic and its new competitor will finally begin the process of bringing this ordeal to an end. Hopefully, competition lost by the merger will eventually be restored. Unfortunately, the Commission's original 2014 settlement failed to achieve the goal of immediate restoration of competition lost by a merger. As with other settlements that failed to work as intended, it will be important for the Commission to take steps to avoid outcomes like this in the future.

In addition to close and careful scrutiny of proposed remedies, the Commission must be unequivocal that FTC orders are not suggestions.⁸ Based on my review of the evidence, it is clear that CoreLogic

³ See *id.* at 3.

⁴ *Id.*

⁵ Order to Show Cause and Order Modifying Order, *In the Matter of CoreLogic, Inc.*, Docket No. C-4458, at 2 (Mar. 15, 2018), https://www.ftc.gov/system/files/documents/cases/c4458_corelogic_modifying_order.pdf.

⁶ *Id.*

⁷ *Id.* at 3.

⁸ Memorandum 2018-01 from Commissioner Rohit Chopra to Commission Staff and Commissioners Regarding Repeat Offenders (May 14, 2018), <https://www.ftc.gov/public-statements/2018/05/commissioners-memorandum-2018-01-repeat-offenders>.

violated its obligations under the agency's 2014 order. This led to serious harms, and the Commission was forced to expend significant resources to resolve these compliance deficiencies.

We must carefully examine whether our orders sufficiently incentivize firms to comply. For example, we will need to explore whether the Commission should include so-called crown jewel provisions that trigger additional asset divestitures when a firm fails to fully adhere to a divestiture order.⁹ If firms face the prospect of being forced to give up a core business asset, there will be fewer compliance failures. We should also consider provisions that give senior executives and business decision-makers more skin in the game to ensure timely compliance. These and other steps will reduce taxpayer burdens and protect our markets from anticompetitive harms.

This experience is another reminder that the Commission's role is not to be a proponent or a facilitator of mergers.¹⁰ Our role is to be an antitrust enforcer. We should not accept proposed remedies that are too complex, risky, or otherwise unworkable, and we should have no tolerance for violations of our orders.

⁹ See Letter to Robert C. Rech from Donald S. Clark Regarding Approving Application to Divest Recludan Assets, In the Matter of Adventis, S.A. (Sept. 26, 2001) (the Commission required divestiture of the alternate crown jewel assets, and appointed a trustee to accomplish that divestiture, when the respondent failed to divest the original assets on time), <https://www.ftc.gov/sites/default/files/documents/cases/2001/09/010926aventisletter.htm>.

¹⁰ Dissenting Statement of Commissioner Rohit Chopra Regarding Petitions for Modification, In the Matter of Linde AG and Praxair LLC, File No. 171-0068 (Nov. 13, 2020), <https://www.ftc.gov/public-statements/2020/11/dissenting-statement-commissioner-rohit-chopra-regarding-petitions>.