

EXPERTS WITH IMPACT

In M&A Competition Investigations and Second Requests



FTI Consulting's client, one of the largest life sciences corporations in the world, was responding to government requests in the US, Canada and Europe, relating to its multi-billion dollar merger with a US-based corporation. As trusted advisors to the client, FTI's M&A and competition investigation experts were ready to help.

For mergers and acquisitions to obtain approval, regulators such as the US Department of Justice, Canadian Competition Bureau and European Commission often conduct extensive investigations to ensure transactions meet all requirements under current laws and regulations. Requests for information under these investigations typically involve massive electronic discovery exercises, requiring the collection, analysis, review and production of millions of electronic documents under very tight deadlines.

In this matter, the client was facing three of these inquiries, all at the same time and across different continents, time zones and languages. The scope of the project reached more than 130 custodians and the need to process more than 30 million files. The European Commission required a production of the requested data within a few weeks, and for the Canadian Competition Bureau and the DOJ, production was needed in a just a few months.

To process the massive volumes of data residing in the US, Canada and Germany, and conduct review in multiple languages and within various data privacy restrictions, FTI's experts quickly mobilised on a global scale. The team was able to meet data privacy laws by establishing processing and review teams at the client's locations and providing native speakers for review in each language.

FTI's deep expertise with merger inquiries provided a sound strategy for the use of predictive coding in multiple jurisdictions to mitigate the massive data volumes, including guidance on the processes and methods that were approved by regulators. The team also leveraged custom processes to accurately and automatically identify foreign language documents that would need to be machine language translated and thus reducing costs for the client.

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— Craig Earnshaw
Senior Managing Director
FTI Consulting

The team's hands-on review management ensured accurate forecasting of timing, deposition preparation and detailed tracking of review decisions and findings. The team also managed the overlap between data requests and multiple law firms by implementing a centralised repository to reuse data processed and stored in different locations and de-duplicate data sets.

As deadlines were met, new and refresh requests were incoming on a rolling basis, requiring the team to collect and review new data within new search parameters and produce information quickly. FTI ensured its experts, stationed around the world, were working around the clock, at times, even travelling to hand deliver the data and productions in different countries to meet a deadline.

IMPACT:

GLOBAL PRESENCE. LOCAL EXPERTISE

FTI's ability to mobilise globally on a vast scale made it possible for the client to meet every regulator deadline – for a total of more than a hundred productions – and ultimately gain approval for the merger. The centralised repository of data provided significant cost savings, consistency on major decision points across all requests and the ability to track almost 1,000 pieces of evidence. More than a million documents were produced to the DOJ to meet substantial compliance, and just under that were produced to the European Commission in just a few weeks. The use of predictive coding for some of these responses enabled the exclusion of non-responsive document sets, providing an estimated \$4 million in cost savings for review and foreign language translation services.

For further information on how FTI Consulting can assist you in competition investigations, second requests and merger clearance, please visit www.ftitechnology.co.uk.



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