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# CRA Competition Announcement

**CRA** Charles River  
Associates

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## CRA economists advise FTC on its successful challenge to Staples/Office Depot merger

CRA economists supported the US Federal Trade Commission (FTC) throughout its review of the proposed \$6.3 billion merger of Staples and Office Depot. CRA economists and Senior Consultant to CRA [Professor Carl Shapiro](#) analyzed the antitrust and competitive issues around the sale and distribution of consumable office supplies. Following a May 10, 2016 ruling granting the FTC's preliminary injunction to block the merger, the parties announced that they would abandon the deal.

In December 2015, the FTC sought a preliminary injunction to block the merger over concerns that it would significantly reduce competition nationwide in the market for consumable office supplies sold to large business customers for their own use. The ruling granting the preliminary injunction concluded that the merger, if consummated, would likely have anticompetitive effects.

Professor Shapiro, the Transamerica Professor of Business Strategy in the Haas School of Business at the University of California at Berkeley, applied methods endorsed by the 2010 Horizontal Merger Guidelines to define the relevant market. As the ruling noted, the concepts of cluster and targeted customer markets were critical in the definition of the relevant market in this case. Professor Shapiro testified that the relevant market is the sale and distribution of consumable office supplies to large customers, as distinct from the sales of other products used in offices and sales to small customers.

There is no third party source for competitor level data on consumable office supply sales to large customers. The CRA team built a database of consumable office supply sales by competitor, using product level purchase data obtained from a sample of Fortune 100 customers, and used it to calculate market shares in the relevant market. To corroborate these results, the team also calculated shares using a database of consumable office supply sales to large customers by competitor, created using product level sales data obtained from a sample of consumable office supply competitors. These analyses showed that Staples' and Office Depot's combined market shares and the resulting level of concentration in the relevant market were well above the levels that would trigger the presumption that the merger would be anti-competitive.

The CRA team also analyzed available win/loss data to evaluate the intensity of head-to-head competition between the merging firms. CRA's analyses demonstrated that the two firms frequently competed with each other, providing large customers with significant leverage in price negotiations,

and that remaining competitors were unlikely to replicate this competition and the leverage it afforded large customers. Moreover, expansion by Amazon Business and others was unlikely to be timely and sufficient to restore competition in the relevant market.

Judge Emmet G. Sullivan cited Professor Shapiro's reports and testimony at least 45 times in his 74-page opinion. He noted that his opinion regarding the merger hinged on two critical issues: (1) the reliability of the market definition and market share analysis; and (2) the likelihood that the competition resulting from new market entrants like Amazon Business would be timely and sufficient to restore competition lost as a result of the merger. He adopted Professor Shapiro's testimony on market definition and market shares, describing the market share data sample as "trustworthy" and the resulting shares as "reasonable and reliable." He also agreed with Professor Shapiro's testimony that entry and expansion were unlikely to provide sufficient additional competition to protect large customers.

Principal [Bharati Mandapati](#) led a team of CRA economists supporting Professor Shapiro on the matter, including [Matthew Johnson](#), Tina Lee, [Marissa Beck](#), Andrew Goldstein, Duke Shao, Phil Taylor, and [Hitesh Makhija](#).

### [About CRA's Antitrust & Competition Economics Practice](#)

In 1965, CRA's founders envisioned a company that would apply the then-burgeoning area of quantitative methods in economics to real-world issues. Our ability to apply theoretical concepts and superior analytics to create meaningful solutions to client challenges has been a source of pride and differentiation since the founding of the firm. Our consultants and academic affiliates continue to lead the way in developing innovative economic concepts and applying sophisticated economic analysis to complex cases. Read more about the practice [here](#).

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