

Introduction (pp. 1 – 2) [who Kevin Murphy is, his fees, a one paragraph summary of his opinion, and how his report is organized]

Section I: Overview (pp. 2 – 4) [an executive summary of his expert economic testimony]

Section II: Qualifications (pp. 5 – 6) [why the court should accept him as an economic expert]

Section III: Assignment (p. 7) [which questions the FTC asked him to address]

Section IV: Summary of Opinions (pp. 7 – 9) [summary of his opinions and which evidence he relied on to reach his opinions]

Section V: Background (pp. 9 – 17) [surveys the competitive landscape and the proposed transaction]

A. Basic Description of Parties

B. An Introduction to Other Producers Relevant to the Analysis

C. Product differentiation plays a key role in the economic analysis of the competitive impact of this proposed transaction

D. For several years, Whole Foods has been following a strategy of competing directly with Wild Oats by building new stores in direct competition with Wild Oats existing stores

E. Overlaps in the Proposed Transaction

F. Summary of Background Facts

Section VI: Econometric Evidence on Substitution and Price Effects (pp. 17 – 28) [econometric analysis of how entry in a geographic market has affected margins and sales of existing competitors]

Section VII: Other Evidence on Substitution and Price Effects (pp. 28 – 36) [documents from the parties discussing “Project Goldmine” and each potential competitor: *Earth Fare* and *New Seasons*, *Trader Joe’s*, and conventional supermarkets]

Section VIII: Competitive Effects of the Acquisition (pp. 36 – 42) [local markets with head-to-head competition between Whole Foods and Wild Oats]

Overlap markets where both firms currently compete and Whole Foods plans to close the competing Wild Oats store

Overlap markets where both firms currently compete and Whole Foods plans to continue to operate the competing Wild Oats store

Section IX: Application of the 1992 *Horizontal Merger Guidelines* (pp. 42 – 60) [walks reader through the steps to assess a horizontal merger as laid out in the HMG not already addressed elsewhere in the report]

A. The Relevant Product Market: Applying the Hypothetical Monopolist Test

A. Premium Natural and Organic Supermarkets Constitute a Well-Defined Relevant Antitrust Market for Purposes of Evaluating the Competitive Impact of this Proposed Transaction

B. Geographic Market Definition

C. Summary of Market Definition

D. Entry

Expansion by Existing Firms into Other Markets (*Earth Fare*, *New Seasons*)

Entry of Firms Currently in Related Markets (Conventional Supermarkets, *Trader Joe’s*, *Gourmet Supermarkets*)

Repositioning of Existing Firms (Conventional Supermarkets, *Trader Joe’s*)

De-Novo Entry

Overall Effect of Entry

Section X: Conclusion (pp. 61 – 62) [reinforces his main points]