Index

administrative structure
merger remedies and national approaches 124–6
merger review procedure see merger review procedure, administrative structure and agency powers
 Africa
COMESA see COMESA (Common Market for Eastern and Southern Africa) South Africa, merger remedies 129
agency
competition agency powers, ICN 207 cooperation, ICN 284 interagency coordination and convergence, ICN 204–5 powers, merger review procedure see merger review procedure, administrative structure and agency powers review costs, use of 221 review numbers, proportional cost reduction suggestion 222 analytical approach to merger review see substantive merger law, analytical approach to merger review antitrust see competition law
APEC (Asia Pacific Economic Cooperation), competition law regimes discussion forum 169–70
Australia

305
International merger policy

BRIC countries see Brazil, Russia, India, China
business costs see transnational merger costs, business costs for mergers

Canada
Competition Act 61
Merger Guidelines and market definition 60–61
Merger Guidelines and unilateral effects 67
merger notification requirements, short form notifications 199
merger remedies 122–3
merger-generated efficiencies 73–4
pre-merger notification (PMN) processes 112
territoriality principle 139
Tervita Corporation v Commissioner of Competition 73–4

cases see merger cases

China
Anti-Monopoly Law and market definition 61, 87
bilateral cooperation agreements 176–7
global mergers, behavioral remedies 147–8
MediaTek/MStar Semiconductor merger 131
Merger Guidelines and unilateral effects 67
merger remedies 122, 124–5, 129–31, 206
pre-merger notification (PMN) processes 79–80, 86–7, 110, 112–17, 147
public interest and anti-competitive mergers 54–5
resource problems 82, 87
Western Digital/Hitachi and Seagate/Samsung mergers 130–31
collusion toleration 20–21, 42
COMESA (Common Market for Eastern and Southern Africa)
competition law enforcement rules 180, 300
competition test 52, 55
market share analysis and notifiability assessment 228
pre-merger notification (PMN) processes 108, 110, 112–13
comity and cooperation roles 157–218, 297–8
Antitrust Cooperation Agreements (ACAs), ex ante merger review coordination 172–3
Antitrust Cooperation Agreements (ACAs) and information sharing 171–6
Antitrust Mutual Assistance Agreements (AMAAs) 171
bilateral and multilateral recommendations 159–60, 162, 165–6
comity and cooperation, differences between 159–60
comity limitations 163–7
comity practices 157–60
cooperation agreements and voluntary filing form 177
coopetition, bilateral and trilateral competition law agreements 170–79
cooperation, bilateral and trilateral competition law agreements and conflict avoidance 170–71, 174–5
cooperation, plurilateral and multilateral agreements 179–82
International Competition Network (ICN) see International Competition Network (ICN), Recommended Practices
judicial determinations 165–6
merger review benefits 167–9
negative (traditional) comity 160–61, 166–7
negotiation by lead jurisdiction 163–5
OECD see OECD
one-stop-shop merger review 179–80
Index

positive comity 161–3, 166–7
competition law: Antitrust
  Cooperation Agreements (ACAs) see under comity and cooperation roles
bilateral and trilateral agreements 170–79
bilateral and trilateral agreements, conflict avoidance 170–71, 174–5
competition standard for merger review, recognition of 302
competition test variations, substantive merger law 52–3, 295–6
Draft International Antitrust Code (DIAC) 246–8
effects 29–31
ICN see International Competition Network (ICN), Recommended Practices
identification and prevention of anti-competitive mergers 43–4
OECD see OECD scope and nature of 11–13
SIEC test (significant impediment to effective competition) 53, 226
SLC test (substantial lessening of competition) 53
wealth transfers and anti-competitive mergers 33–4
see also law and policy theoretical framework
competitive-based merger test, business costs for mergers 226
concurrent applications 151–3
see also extraterritorial application of national laws
confidentiality concerns 118, 203–4, 268, 278, 289–90, 303
conflict, dealing with 145–8, 150–51, 264–5
consumer welfare
economic efficiency approach see law and policy theoretical framework, economic efficiency approach (modern consumer welfare)

defered jurisdiction approach, rationalization proposals 264–7
see also jurisdiction ‘domicile’ principle (pseudo-territoriality) 139
see also extraterritorial application of national laws
economic efficiency approach see law and policy theoretical framework, economic efficiency approach (modern consumer welfare)
economic entity doctrine and nationality principle 141–2
economics, competition law and economics, need for expertise in 256–7
Ecuador, pre-merger notification (PMN) processes 110
effects doctrine, extraterritorial application of national laws 142–5
efficiency
dynamic efficiency and innovation 22, 25–6
economic efficiency approach see law and policy theoretical
framework, economic efficiency approach (modern consumer welfare)
economic efficiency gains as justification for merger 21–7, 30–32
economies of scale and productive efficiency 24–5
Gains, substantive merger law 72–5
productive and allocative efficiency, law and policy theoretical framework 22–5, 32–4

EU
Administrative Arrangement on Attendance (AAA) with US 173
Antitrust Cooperation Agreement (ACA) with US 172–3
Bilateral cooperation agreements 172–4, 176–7, 183
Boeing/McDonnell Douglas 76
Comity, restrictive approach 158, 162–3
Competition test 52
Entry barriers and timeliness 71
Failing firm defence 69
General Electric Co v Commission 165
General Electric/Honeywell 76
Impala v Commission 76
Imperial Chemical Industries Ltd v Commission 139
Merger Guidelines and coordinated effects 68
Merger Guidelines and unilateral effects 66–7
Merger notification requirements 200
Merger notification timing 195
Merger remedies 121–2, 127, 130–31
Merger-generated efficiencies 74
Nationality principle and economic entity doctrine 141–2
One-stop-shop merger review 108, 179–80, 259–60
Pre-merger notification (PMN) processes 84–5, 89, 107–8, 110–15, 117
Pre-merger notification (PMN) processes, penalties for failure to notify 111–12
Significant impediment to effective competition (SIEC) test 226
SS Lotus (France v Turkey) 138
Western Digital/Hitachi merger 130–31
See also individual countries
Ex ante merger review 136, 154, 172–3
See also merger review
Extraterritorial application of national laws 135–56, 297
‘Domicile’ principle (pseudo-territoriality) 139
Economic entity doctrine and nationality principle 141–2
Effects doctrine 142–4
Effects doctrine, and mergers 144–5
Ex ante merger review requirements 136
Law enforcement ability 148–9
Mergers and extraterritoriality 144–5
Mergers and extraterritoriality, overlapping claims and potential for conflict 145–8
Objective territoriality principle (jurisdiction over conduct ‘initiated abroad and completed within the jurisdiction’) 140–41
Protective jurisdiction doctrine and national security 142
Regulator size and application limits 149
Sovereignty concept and jurisdiction 137–8, 149–50
Sovereignty concept and territoriality principle 138–9
Extraterritorial application of national laws, appropriate scope and timing 149–54
Aggressive regulation default 152–3
Concurrent applications 151–3
Divergent outcomes 153–4
ex ante merger review and delay risk 154
financial turnover thresholds 150
multiple jurisdictions and regulatory conflict 150–51
welfare effects, global 150–52
failing firms 69–70, 213–14
filing
  common form see rationalization proposals, common filing form
  ‘Compact’ agreement filing model 269–72
fee variations, business costs for mergers 229–30
time frame agreements, need for 302 voluntary, and cooperation agreements 177
financial considerations
  comprehensive international code proposal 260
  financial thresholds, merger review procedure 106–8
  financial turnover thresholds, and extraterritorial application of national laws 150
  see also cost-effectiveness
Finland, merger remedies 124
  forum choice, significance of, rationalization proposals 256–7
France
  cooperation agreements and voluntary filing form 177
  France/UK/German filing form, failure of 279
Germany
  cooperation agreements and voluntary filing form 177
  France/UK/German filing form, failure of 279
  merger notification requirements, short form notifications 199
Greece, market share analysis and notifiability assessment 228
Guernsey
  competition law 61

market share analysis and notifiability assessment 228
harm theories
  analytical approach to merger review 64–9
  Herfindahl-Hirschman Index (HHI) 61–2
  ICN, Merger Analysis 64–5
  market share and concentration and likelihood of harm 61–3
  hold-separate agreements 127
  see also merger remedies and national approaches
Hungary, pre-merger notification (PMN) processes 110
ICN see International Competition Network (ICN), Recommended Practices
India
  bilateral cooperation agreements 176
  Competition Act and market definition 61
  pre-merger notification (PMN) processes 79–80, 110, 114–16, 147
information sharing and access
  Antitrust Cooperation Agreements (ACAs) 171–6
  ICN threshold notifiability criteria 194–5, 198–202, 206
  international procedural clearing house proposal 271–2
  non-binding international principles 286
  requirement compliance, business costs for mergers 230–32
time frames and informational requirements, merger reviews 113–16
International Chamber of Commerce (ICC)
  BIAC/ICC Recommendations to OECD on international merger control best practices 185–6
International merger policy

cooperation and multijurisdictional merger review 168
international code, rationalization proposals for comprehensive see rationalization proposals, comprehensive international code
International Competition Network (ICN), Recommended Practices
agency cooperation 284
assessment and limitations of role 215–16
competition protection 3, 6, 28–9
cooperaion and convergence in competition policy, promotion of 188–216, 298
cooperaion and multijurisdictional merger review 168–9, 178–9, 181, 282–4
merger remedies guidance 123
Mergers Working Group, Guiding Principles and recommended practices 189
see also OECD
International Competition Network (ICN), Recommended Practices, Merger Analysis 56, 62–3, 208–14, 290
anticompetitive unilateral effects 212
competitive effects analysis in horizontal merger review 211–12
coordinated effects 68
entry and expansion assessment 213
failing firms and exiting assets 213–14
legal framework for competition merger analysis 208–9
market definition and SSNIP test 209–10
market share use, thresholds and presumptions 62, 210–12
merger-generated efficiencies 74
post-merger coordinated effects 212–13
theories of harm 64–5
unilateral effects 62
International Competition Network (ICN), Recommended Practices, Merger Notification Procedures 190–208
competition agency powers 207
confidence protection 203–4
flexibility consideration 198–9
initial notification requirements 198–200, 276–7
interagency coordination and convergence 204–5
investigative conduct 201–3
jurisdiction review nexus and sovereignty 190–93
jurisdiction review nexus and sovereignty, and threshold notification reviews 191–3
merger control provisions review 207–8
merger remedies recommendations 205–7
merger remedies recommendations, structural remedy preference 206
notification thresholds, clarity requirement 46, 105, 111
notification timing 195–6, 302
procedural fairness 203
review periods 196–8
review periods, extension considerations 197–8
short form notifications 199
threshold notifiability criteria 191–5
threshold notifiability criteria, information accessibility 194–5, 198–202, 206
transaction costs reduction 199
translation requirements, limitation of 199
transparency requirements 200–202, 205–6, 302
transparency requirements, and decision explanations 201
International Competition Policy Advisory Committee (ICPAC), notification thresholds 107
International League of Competition Law (LIDC) 169
international principles, rationalization proposals for non-binding see rationalization proposals, non-binding international principles
Ireland buyer power 72 entry barriers and timeliness 71 pre-merger notification (PMN) processes 110, 112
Israel pre-merger notification (PMN) processes 112 public interest and anti-competitive mergers 55 Italy, dominance test 53–4 jurisdiction deferred jurisdiction approach, international procedural clearing house proposal 264–7 facilitative lead jurisdiction approach, international procedural clearing house 270–73 judicial determinations and comity 165–6 jurisdictional allocation, conflict of laws approach 265–6 lead jurisdiction identification, international procedural clearing house 266–7 multi-jurisdictional review costs 221–2, 232, 235 protective jurisdiction doctrine and national security 142 review nexus and sovereignty, ICN 190–93 see also law and policy theoretical framework
International merger policy

non-binding international principles proposals 290–91
merger remedies and national approaches 121–34, 297
administrative approach 124–6
behavioural (conduct) remedies 127–31
behavioural (conduct) remedies and developing countries 129
behavioural (conduct) remedies and financial crises 129
form of merger remedies 126–32
hold-separate agreements 127
international considerations and cooperation 132–3
monitoring requirements 128–9
process transparency 124–5
role of 122–3
structural remedies 126–7
third party role 125
time frames, varying 124
merger review
analytical approach see substantive merger law, analytical approach to merger review
benefits, comity and cooperation roles 167–9
competition standard for merger review, recognition of 302
ex ante merger review coordination, Antitrust Cooperation Agreements (ACAs) 172–3
future priorities 300–304
goals 294–5
non-binding international principles proposals 290
one-stop-shop merger review, comity and cooperation roles 179–80
periods, ICN 196–8
pre-merger notification (PMN) processes and systems see pre-merger notification (PMN) processes and systems
process delay costs, business costs for mergers 234–5
merger review procedure, administrative structure and agency powers 81–7
Australia pre-merger notification (PMN) processes 85–6, 94–5, 99–100
blocking process 83, 86
China pre-merger notification (PMN) processes 86–7, 110, 112–17, 147
EU pre-merger notification (PMN) processes 84–5, 89, 107–8, 110–15, 117
legal challenges 83–7
multiple agency involvement 81
notification requirements 81
resource concerns 81–2
US pre-merger notification (PMN) processes 82–4, 88–90, 97–102, 106–7, 111, 113–17, 208
merger review procedure, notification system, mandatory PMN 87–104, 88–93, 97–100, 296
eyearly termination procedures 93
hybrid approach and mandatory notification 102–4
identification of mergers likely to raise competition concerns and size of transaction 90–91
merger benefits outweighing subsequent punitive orders, mandatory notification justification 96
over-inclusiveness issues 91, 106
review delays 93
timing of outcomes, deadlines for 92
transaction cost drawbacks 92–3
transparency issues 99–100
merger review procedure, notification system, optimal approach 100–104
cost effectiveness 100–103
detection risk, importance of 103
hybrid approach and mandatory notification 102–4
problems with finding 103–4
merger review procedure, notification system, voluntary notification 94–100, 296
adherence failure problems 95
choices against notification 95–6
effectiveness strategies 97–9
merger benefits outweighing
subsequent punitive orders,
mandatory notification justification 96
‘midnight mergers’ 95–7
review rights 96
self-selection disadvantages 95–7
transaction costs 99, 104
transparency issues 99–100
merger review procedure, notification thresholds and triggers 105–18
benchmark requirements 109–10
confidentiality issues 118
financial thresholds 106–8
notification fees 112–13
notification timing and triggering events 109–11
penalties for failure to notify 111–12
qualification check 105–6
time frames and informational requirements 113–16
transparency issues 116–17
‘midnight mergers’ 95–7
multilateral agreements, comity and cooperation roles 179–82
multiple jurisdictions and regulatory conflict 150–51
see also jurisdiction
Namibia, pre-merger notification (PMN) processes 108
national issues
approaches to merger review goals 295–7
common filing form, national authority notification 278
comprehensive international code consent difficulties 257–60, 264–5
goals for international markets 40–41, 48–9
independence requirements, comprehensive international code 248–9
laws, extraterritorial application see extraterritorial application of national laws
national champions approach, legal test adoption decisions 55
national convergences, substantive merger law 56
nationality principle and economic entity doctrine, EU 141–2
protective jurisdiction doctrine and national security 142
public benefits (national interest) considerations 54–5
welfare impact, national differences 255–6
see also individual countries; sovereignty
New Zealand
Antitrust Cooperation Agreement (ACA) with Australia 175–6
bilateral cooperation agreements 175–7
market share analysis and notifiability assessment 228
Merger Guidelines and unilateral effects 67
merger remedies 127
pre-merger notification (PMN) processes 100
public interest and anti-competitive mergers 54
Norway, merger notification requirements, short form notifications 199
notification system
assessment costs and market share analysis 227–8
business costs for mergers 228–32
fees, proposal to eliminate 302
ICN see International Competition Network (ICN), Recommended Practices, Merger Notification Procedures
merger review procedure see merger review procedure, notification system
notification thresholds
agreement, need for binding 301–2
Index

clarity requirements 46
financial turnover thresholds, and extraterritorial application of national laws 150
and market share use, ICN 62, 210–12
notifiability criteria, ICN 191–5, 194–5, 198–9, 200–202, 206
notification agreement, non-binding international principles 286
notification reviews, jurisdiction review nexus and sovereignty, ICN 191–3
notification thresholds, clarity requirement, ICN 46, 105, 111
threshold agreement, non-binding international principles proposal 286
and triggers, merger review procedure see merger review procedure, notification thresholds and triggers

OECD
adherence incentives 284–5
assessment of role 187–8
BIAC/ICC Recommendations on code of best practice 185–6, 285
comity recommendations 158–63
competition test 52, 302
consensus basis, problems with 285
cooperation and multijurisdictional merger review 168–9, 178–9, 181–8, 282–5, 298
coopera"on recommendations 182–3
merger remedies guidance 123
Merger Review 2005 186, 284–5, 288
Report on Notification of Transnational Mergers 184–5, 276–7
roundtables with competition authorities 186–7
targeted recommendations on merger review, adoption proposal 301
time frame recommendations 287
see also International Competition Network (ICN), Recommended Practices
one-stop-shop merger review, EU 108, 179–80, 259–60
overlapping claims 145–8
see also extraterritorial application of national laws
overlapping costs and cost-transfers 221, 232
see also transnational merger costs
personalities for failure to notify 111–12
see also merger review procedure, notification thresholds and triggers
policy and law see law and policy theoretical framework
Portugal, market share analysis and notifiability assessment 228
pre-merger notification (PMN) processes and systems
notification system see merger review procedure, notification system procedural regulation objectives 43–6, 296
time factors, procedural regulation objectives 47
see also individual countries; merger review headings
PriceWaterhouseCoopers study, business costs for mergers 223–5
procedural clearing house, rationalization proposals for international see rationalization proposals, international procedural clearing house procedural regulation objectives see law and policy theoretical framework, procedural regulation objectives ‘race to the bottom’ fear, comprehensive international code 253–4
rationalization proposals 242–93, 299–300
bilateral cooperation and natural convergence 292
limited international code consideration 261–2
rationalization proposals, common filing form 274–84, 293, 299
benefits 275
business support for 279–82
confidentiality waivers 278
content agreement 276–7
cost saving benefits 276
feasibility difficulties 275–6
filing fees 280
languages and currencies, recognition and cost concerns 277–8
national authority notification 278
overview 274–5
two-stage review process 279
voluntary/mandatory options 279
rationalization proposals, comprehensive international code 244–61
case against 253–60
case for 252–3
centralization concerns 249
competition law and economics, need for expertise in 256–7
disputes, learning from 255
Draft International Antitrust Code (DIAC) 246–8
early attempts 245–9
financial considerations 260
forum choice, significance of 256–7
limited international code consideration 261–2
market structures, problems with different 254–5
national consent difficulties 257–60
national independence requirements 248–9
optimal approach, absence of 254
overview 244–5
public interest justification for mergers 248
‘race to the bottom’ fear 253–4
regulatory error problems 255
welfare impact, national differences 255–6
WTO action, calls for 249–51
WTO action, objections to 250–51, 256–8, 283
rationalization proposals, international procedural clearing house 262–74, 293
acting costs 273
‘Compact’ agreement filing model 269–72
compliance cost reduction 271
confidentiality concerns 268
defferred jurisdiction approach 264–7
facilitative lead jurisdiction approach 270–73
facilitative lead jurisdiction approach, problems 272–3
information accessibility 271–2
jurisdictional allocation, conflict of laws approach 265–6
jurisdictional allocation, lead jurisdiction identification 266–7
language problems 270
mutual recognition of merger clearance decisions 267
national consent difficulties and conflicting outcomes 264–5
overview 262–3
single merger filing 268–70
time frame problems 265
welfare maximization problems 264
rationalization proposals, non-binding international principles 282–91
confidentiality concerns 289–90
content 286–8
cooperation in transnational merger cases 289–90
information requests, nature and scope 286
location of 282–5, see also ICN; OECD; UNCTAD
merger remedies 290–91
merger review 290
national champion policy exemption 290
notification threshold agreement 286
second-stage merger reviews, maximum review period 287–8
third party views 288
time frames for merger filing and review 287–8
transparency, importance of 288–9
regulation policy see law and policy theoretical framework
regulator size and application limits laws 149
regulatory error problems, comprehensive international code 255
remedies see merger remedies
review see merger review
Russia
bilateral cooperation agreements 176–7
pre-merger notification (PMN) processes 79–80, 108
self-selection disadvantages 95–7
see also merger review procedure, notification system, voluntary notification
SIEC test (significant impediment to effective competition) 53, 226
SLC test (substantial lessening of competition) 53
Slovakia, market share analysis and notifiability assessment 228
socio-economic impact of mergers 27–8, 30–37
see also law and policy theoretical framework
South Africa, merger remedies 129
see also COMESA
sovereignty
and jurisdiction 137–8, 149–50
and jurisdiction review nexus, ICN 190–93
and territoriality principle 138–9
see also national issues
Spain, market share analysis and notifiability assessment 228
SSNIP test (small but significant non-transitory increase in price) 58–9, 209–10
substantive merger law 50–78
convergence and enforcement differences 50–51
see also law and policy theoretical framework
substantive merger law, analytical approach to merger review 56–78
buyer power 72
coordinated effects 68–9
efficiency gains 72–5
entry barriers and timeliness 71–2
failing firms and mavericks 69–70
market definition 57–61
market definition, role in merger review 59–60
market definition, SSNIP test 58–9
market power and price reduction affecting supplier output 65
market share and concentration and likelihood of harm 61–3
market share and concentration and likelihood of harm, Herfindahl-Hirschman Index (HHI) 61–2
national convergences 56
substitution test 57–8
theories of harm 64–9
unilateral effects 66–7
substantive merger law, legal test adoption decisions 51–5, 75–6
competition test variations 52–3, 295–6
dominance test 53–4, 295–6
and market size 55
national champions approach 55
public benefits (national interest) considerations 54–5
significant impediment to effective competition (SIEC) test 53
substantial lessening of competition (SLC) test 53
Switzerland, dominance test 53–4
third party role 125, 237–8, 288
thresholds see notification thresholds
timing factors
  delay costs, business costs for mergers 234–5
  and entry barriers 71–2
extraterritorial application of national laws see extraterritorial application of national laws, appropriate scope and timing
and informational requirements, notification thresholds and triggers 113–16
international procedural clearing house, time frame problems 265
merger remedies and national approaches 124
non-binding international principles 287–8
notification timing, ICN 195–6, 302
outcomes deadlines, mandatory PMN 92
pre-merger notification (PMN) systems 47
transaction costs 92–3, 99, 104, 199
see also cost-effectiveness
translation requirements 199, 232, 270, 277–8, 301
transnational merger costs 219–41, 298–9
agency review costs, use of 221
agency review numbers, proportional cost reduction suggestion 222
authorities’ costs 238–9
current costs 220–22
delay costs, reduction suggestion 222
multi-jurisdictional review costs 221–2, 232, 235
overlapping costs and cost-transfers 221, 232
public costs 239–40
third party costs 237–8
transnational merger costs, business costs for mergers 222–37
competitive-based merger test and substantive compliance 226
compliance with substantive laws 225–7
delay costs 233–5
divergent outcomes, effects of 236–7
error costs 237
filing fee variations 229–30
information requirement compliance 230–32
internal and resource costs 232–3
notifiability assessment costs and market share analysis 227–8
notification costs 228–32
notification costs, early termination procedures 231
PriceWaterhouseCoopers study 223–5
review process delay costs 234–5
significant impediment to effective competition (SIEC) test 226
time sensitivity and delay costs 234–5
translation requirements 232
transparency measures 226
uncertainty issues 235–6
transparency issues
business costs for mergers 226
ICN, Merger Notification Procedures 200–202, 205–6, 302
merger review procedure, notification system, mandatory PMN 99–100
merger review procedure, notification system, voluntary notification 99–100
merger review procedure, notification thresholds and triggers 116–17
non-binding international principles 288–9
process transparency, merger remedies and national approaches 124–5
Turkey, market share analysis and notifiability assessment 228
UAE, pre-merger notification (PMN) processes 110
UK
cooperation agreements and voluntary filing form 177
entry barriers and timeliness 72
Index

France/UK/German filing form, failure of 279
merger guidelines and market definition 60, 228
merger remedies 127
merger-generated efficiencies 74
Ukraine, pre-merger notification (PMN) processes 108
UNCTAD (United National Conference on Trade and Development) 6, 29, 169, 285, 304
unilateral effects 18–20, 62, 66–7
US
  Administrative Arrangement on Attendance (AAA) with EU 173
  American Banana Co v United Fruit Co 138–9
  Antitrust Cooperation Agreement (ACA) with EU 172–3
  bilateral cooperation agreements 173–4, 176–7, 183
  Brown Shoe Co v United States 61, 90
  Clayton Act 61
  comity, restrictive approach 158, 162–3
domestic merger review costs 222
  entry barriers and timeliness 72
  Hart-Scott-Rodino (HSR) Act 82, 90, 106–7, 113
  Hartford Fire Insurance v California 158
  Horizontal Merger Guidelines, failing firm defence 69
  jurisdictional claims and effects doctrine 142–3
  Laker Airways Ltd v Sabena 143
  Mannington Mills Inc v Congoleum Corp 143
  Merger Guidelines and coordinated effects 68
  Merger Guidelines and market definition 59–61
  Merger Guidelines and market share and concentration 62, 64
  Merger Guidelines and unilateral effects 67
  merger notification requirements, short form notifications 199
merger remedies 125, 126–7, 130–31
merger-generated efficiencies 74
pre-merger notification (PMN) processes 82–4, 88–90, 97–102, 106–7, 111, 113–17, 208
pre-merger notification (PMN) processes, ‘Compact’ agreement for multiple filings under state and federal laws 269, 271–2
pre-merger notification (PMN) processes, penalties for failure to notify 111
territoriality principle and competition laws 138–9
Timberlane Lumber Co v Bank of America 143
transnational merger cases, waiver guidance 204–5
United States v Alcoa 142
United States v El Paso Natural Gas Co 45
United States v General Dynamics Corp 61
United States v Philadelphia National Bank 61
Western Digital/Hitachi merger 130–31
Westinghouse Uranium 143
voluntary notification
  common filing form, rationalization proposals 279
  merger review procedure see merger review procedure, notification system, voluntary notification
wealth concentration prevention 33–4, 36–7
welfare effects
  comprehensive international code, public interest justification for mergers 248
  comprehensive international code, welfare impact and national differences 255–6
consumer welfare see law and policy
theoretical framework,
economic efficiency approach
(modern consumer welfare)
economic efficiency approach
(traditional consumer welfare)
32–4
extraterritorial application of national
laws 150–52
international procedural clearing
house, maximization problems
264

International merger policy

public benefits (national interest)
considerations 54–5
welfare goals 30–34
WTO (World Trade Organization)
action
calls for 249–51
objections to 250–51, 256–8, 283