



**FEDERAL TRADE COMMISSION
BUREAU OF COMPETITION**



**DEPARTMENT OF JUSTICE
ANTITRUST DIVISION**

HART-SCOTT-RODINO ANNUAL REPORT FISCAL YEAR 2007

**Section 7A of the Clayton Act
Hart-Scott-Rodino Antitrust Improvements Act of 1976
(Thirtieth Report)**

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INTRODUCTION

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act" or the "Act"), together with Section 13(b) of the Federal Trade Commission Act and Section 15 of the Clayton Act, enables the Federal Trade Commission (the "Commission") and the Antitrust Division of the Department of Justice (the "Antitrust Division" or "Division") to obtain effective preliminary relief against anticompetitive mergers and to prevent interim harm to competition and consumers. The premerger notification program was instrumental in detecting transactions that were the subject of the numerous enforcement actions brought in fiscal year 2007¹ to protect consumers -- individual, business, and government -- against anticompetitive mergers.

The Commission and the Antitrust Division continue their efforts to protect competition by identifying and investigating those mergers and acquisitions that raise potentially significant competitive concerns. In fiscal year 2007, 2,201 transactions were reported under the HSR Act, representing about a twenty-four percent increase from the 1,768 transactions reported in fiscal year 2006 and about a fifty-five percent decrease from the 4,926 transactions reported in fiscal year 2000, the last full fiscal year under the previous reporting thresholds.² (See Figure 1 below.)

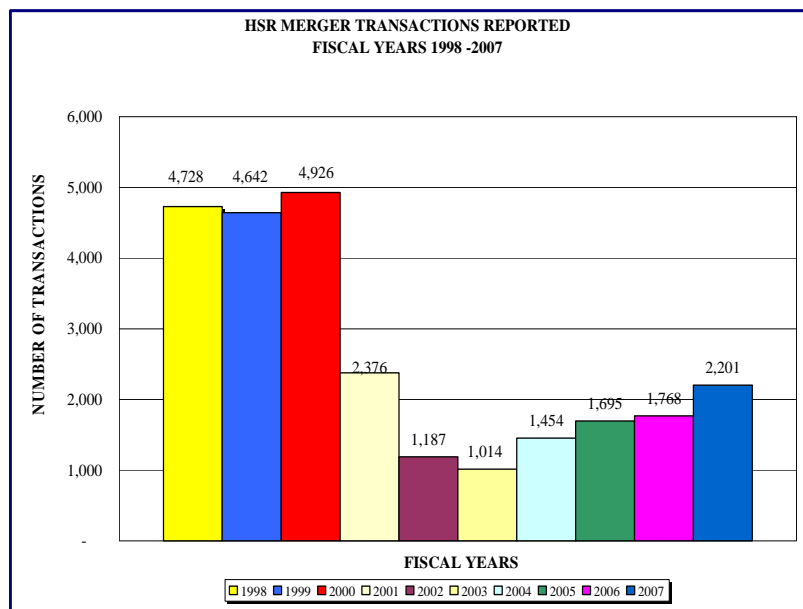


Figure 1

¹ The fiscal year covers the period of October 1, 2006 through September 30, 2007.

² The decrease in the number of reportable transactions since fiscal year 2000 is, to a considerable extent, a result of the significant statutory changes to the HSR Act that took effect on February 1, 2001. The legislation raised the size-of-transaction threshold from \$15 million to \$50 million (with annual adjustments for inflation that began in 2005), and made other changes to the filing and waiting period requirements. In fiscal year 2007, the threshold was adjusted to \$59.8 million. Section 630 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY 2001, Pub. L. No. 106-553, 114 Stat. 2762. See also Appendix A.

During the year, the Commission challenged twenty-two transactions, leading to fourteen consent orders, three administrative complaints that were also litigated in federal court, and five abandoned transactions. The Commission's notable challenges included Service Corporation International's acquisition of Alderwoods Group, Inc.³ The Commission's complaint alleged that the acquisition would have led to higher prices and diminished services for funeral and cemetery services for consumers in forty-seven highly concentrated markets in the United States. The Commission also challenged the proposed merger of the Rite Aid Corporation and The Jean Coutu Group (PJC), Inc.⁴ The merger, as proposed, likely would have resulted in higher prices for consumers of pharmacy services who do not pay a price negotiated by or paid through a third party, such as an insurance plan, in twenty-three markets in the United States.

The Antitrust Division challenged twelve merger transactions, leading to three consent decrees, one abandoned transaction, and seven other transactions that were restructured after the Division informed the parties of its antitrust concerns relating to the transaction. One matter is pending in district court. Notably, the Division obtained a consent decree that is awaiting entry by the Court that would require Monsanto Company and Delta & Pine Land Company to divest a significant seed company, multiple cottonseed lines, and other valuable assets, and require Monsanto to change certain license agreements in order to proceed with their \$1.5 billion merger. The significant divestitures and licensing changes will ensure that U.S. cotton farmers benefit from competition to develop and sell high-yielding cottonseed with the most desirable traits.⁵ The Division also obtained a consent decree under which CEMEX, S.A.B. de C.V., in order to proceed with its acquisition of Rinker Group, was required to divest thirty-nine ready mix concrete, concrete block and aggregate facilities in Arizona and Florida.⁶

In fiscal year 2007, the Commission's Premerger Notification Office ("PNO") continued to respond to thousands of telephone calls seeking information concerning the reportability of transactions under the HSR Act and the details involved in completing and filing the Notification and Report Form ("the filing form"). The HSR website, www.ftc.gov/bc/hsr/hsr.htm, continued to provide improved access to information necessary to the notification process. The website includes such information as introductory guides that provide an overview of the premerger notification program and review process. It also provides access to the filing form and instructions, the premerger notification statute and rules, current filing thresholds, notices of grants of early termination, filing fee instructions, scheduled HSR events, training materials for new HSR practitioners, tips for completing the filing form, procedures for submitting post-consummation filings, frequently asked questions regarding the HSR filing requirements, and other useful information. The website is the primary source of information for HSR practitioners seeking information on changes to the Act and amendments to the premerger rules, including speeches, press releases, summaries and highlights, and Federal Register notices about the amendments. The website also includes a database of informal interpretation letters, giving the

³ See *infra* p. 17.

⁴ See *infra* pp. 19-20

⁵ See *infra* pp. 12-13

⁶ See *infra* p. 11.

public ready access to PNO staff interpretations of the premerger notification rules and the Act. As always, PNO staff is available to assist HSR practitioners and readily provides them with needed information.

BACKGROUND OF THE HSR ACT

Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, amended the Clayton Act by adding a new Section 7A, 15 U.S.C §18a. In general, the HSR Act requires that certain proposed acquisitions of voting securities or assets must be reported to the Commission and the Antitrust Division prior to consummation. The parties must then wait a specified period, usually 30 days (15 days in the case of a cash tender offer or a bankruptcy sale), before they may complete the transaction. Whether a particular acquisition is subject to these requirements depends upon the value of the acquisition and, in certain acquisitions, the size of the parties as measured by their sales and assets. Small acquisitions, acquisitions involving small parties, and other classes of acquisitions that are less likely to raise antitrust concerns are excluded from the Act's coverage.

The primary purpose of the statutory scheme, as the legislative history makes clear, is to provide the antitrust enforcement agencies with the opportunity to review mergers and acquisitions before they occur. The premerger notification program, with its filing and waiting period requirements, provides the agencies with both the time and the information necessary to conduct this antitrust review. Much of the information for a preliminary antitrust evaluation is included in the notification filed with the agencies by the parties to the proposed transactions and is immediately available for review during the waiting period.

If either agency determines during the waiting period that further inquiry is necessary, however, the agency is authorized by Section 7A(e) of the Clayton Act to issue a request for additional information and documentary material (a "second request"). The second request extends the waiting period for a specified period (usually 30 days, but 10 days in the case of a cash tender offer or bankruptcy sale) after all parties have complied with the request (or, in the case of a tender offer or a bankruptcy sale, after the acquiring person complies). This additional time provides the reviewing agency with the opportunity to analyze the information and to take appropriate action before the transaction is consummated. If the reviewing agency believes that a proposed transaction may substantially lessen competition, it may seek an injunction in federal district court to prohibit consummation of the transaction. The Commission may also challenge the transaction in administrative litigation.

The Commission, with the concurrence of the Assistant Attorney General for the Antitrust Division, promulgated final rules implementing the premerger notification program on July 31, 1978. At that time, a comprehensive Statement of Basis and Purpose was also published, containing a section-by-section analysis of the rules and an item-by-item analysis of the filing form. The program became effective on September 5, 1978. The Commission, with the concurrence of the Assistant Attorney General, has amended the rules and the filing form on several occasions over the years to improve the program's effectiveness and to lessen the burden of complying with the rules.⁷

⁷ 43 Fed. Reg. 3443 (August 4, 1978); 43 Fed. Reg. 36053 (August 15, 1978); 44 Fed. Reg. (November 21,

A STATISTICAL PROFILE OF THE PREMERGER NOTIFICATION PROGRAM

The appendices to this report provide a statistical summary of the operation of the premerger notification program. Appendix A shows, for a ten-year period, the number of transactions reported, the number of filings received, the number of merger investigations in which second requests were issued, and the number of transactions in which requests for early termination of the waiting period were received, granted, and not granted.⁸ Appendix A also shows for fiscal years 1998 through 2007 the number of transactions in which second requests could have been issued, as well as the percentage of transactions in which second requests were issued. Appendix B provides a month-by-month comparison of the number of transactions reported and the number of filings received for fiscal years 1998 through 2007.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2007 increased approximately twenty-four percent from the number of transactions reported in fiscal year 2006. In fiscal year 2007, 2,201 transactions were reported, while 1,768 were reported in fiscal year 2006. The statistics in Appendix A also show that the number of merger investigations in which second requests were issued in fiscal year 2007 increased 40 percent from the number of merger investigations in which second requests were issued in fiscal year 2006. Second requests were issued in 63 merger investigations in fiscal year 2007 (31 issued by the FTC and 32 issued by the Division), while second requests were issued in 45 merger investigations in fiscal year 2006 (28 issued by the FTC and 17 issued by the Division). The percentage of transactions resulting in second requests also increased, from 2.6 percent in fiscal year 2006 to 3.0 percent in fiscal year 2007. (*See Figure 2 below.*)

1979); 45 Fed. Reg. 14205 (March 5, 1980); 48 Fed. Reg. 34427 (July 29, 1983); 50 Fed. Reg. 46633 (November 12, 1985); 51 Fed. Reg. 10368 (March 26, 1986); 52 Fed. Reg. 7066 (March 6, 1987); 52 Fed. Reg. 20058 (May 29, 1987); 54 Fed. Reg. 214251 (May 18, 1989); 55 Fed. Reg. 31371 (August 2, 1990); 60 Fed. Reg. 40704 (August 9, 1995); 61 Fed. Reg. 13666 (March 28, 1996); 63 Fed. Reg. 34592 (June 25, 1998); 66 Fed. Reg. 8680 (February 1, 2001); 66 Fed. Reg. 8723 (February 1, 2001); 66 Fed. Reg. 16241 (March 23, 2001); 66 Fed. Reg. 23561 (May 9, 2001); 66 Fed. Reg. 35541 (July 6, 2001); 67 Fed. Reg. 11898 (March 18, 2002); 67 Fed. Reg. 11904 (March 18, 2002); 68 Fed. Reg. 2425 (January 17, 2003); 70 Fed. Reg. 4988 (January 31, 2005); 70 Fed. Reg. 11501 (March 8, 2005); 70 Fed. Reg. 11526 (March 8, 2005); 70 Fed. Reg. 47733 (August 15, 2005); 70 Fed. Reg. 73369 (December 12, 2005); 70 Fed. Reg. 77312 (December 30, 2005); 71 Fed. Reg. 2943 (January 18, 2006); 71 Fed. Reg. 35995 (June 23, 2006); 72 Fed. Reg. 2692 (January 22, 2007).

⁸ The term "transaction," as used in Appendices A and B, and Exhibit A to this report, does not refer only to separate mergers or acquisitions. A particular merger, joint venture or acquisition may be structured such that it involves more than one transaction. For example, cash tender offers, options to acquire voting securities from the issuer, or options to acquire voting securities from someone other than the issuer, may result in multiple acquiring or acquired persons that necessitate separate HSR transaction numbers to track the filing parties and waiting periods.

**PERCENTAGE OF TRANSACTIONS RESULTING
IN SECOND REQUEST**

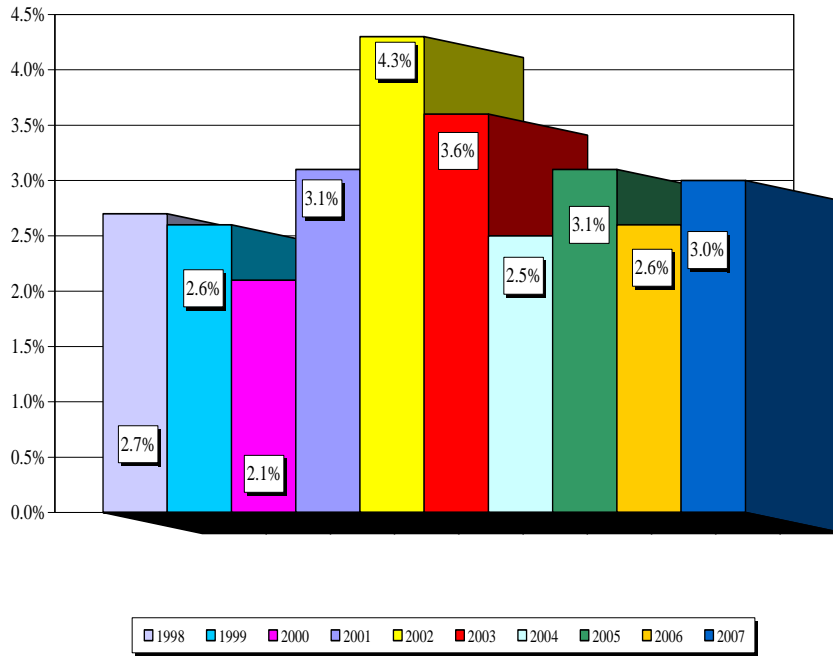


Figure 2

The statistics in Appendix A also show that early termination of the waiting period was requested in the majority of transactions. In fiscal year 2007, early termination was requested in 84 percent (1,840) of the transactions reported, up slightly from fiscal year 2006 where it was requested in 83 percent (1,468) of the transactions reported. Similarly, the percentage of requests granted out of the total requested increased slightly from 75 percent in fiscal year 2006 to 76 percent in fiscal year 2007.

Statistical tables (Tables I through XI) in Exhibit A contain information about the agencies' enforcement activities for transactions reported in fiscal year 2007. The tables provide, for various statistical breakdowns, the number and percentage of transactions in which clearances to investigate were granted by one antitrust agency to the other and the number of merger investigations in which second requests were issued. Table III of Exhibit A shows that, in fiscal year 2007, clearance was granted to one or the other of the agencies for the purpose of conducting an initial investigation in 14.0 percent of the total number of HSR transactions.

The tables also provide the number of transactions based on the dollar value of transactions reported and the reporting threshold indicated in the notification report. The total dollar value of reported transactions rose dramatically from fiscal years 1996 to 2000 from about \$677.4 billion to about \$3 trillion. After the statutory thresholds were raised, the dollar value declined to about \$1 trillion in fiscal year 2001, \$565.4 billion in fiscal year 2002, and \$406.8 billion in fiscal year 2003. During the last four years, there has been an increase in the dollar

value of reported transactions rising to about \$630 billion in fiscal year 2004, \$1.1 trillion in fiscal year 2005, \$1.3 trillion in fiscal year 2006, and almost \$2 trillion in 2007.

Tables X and XI provide the number of transactions in each industry group in which the acquiring person or the acquired entity derived revenue. Figure 3 illustrates the percentage of reportable transactions within industry groups for fiscal year 2007 based on the acquired entity's operations.⁹

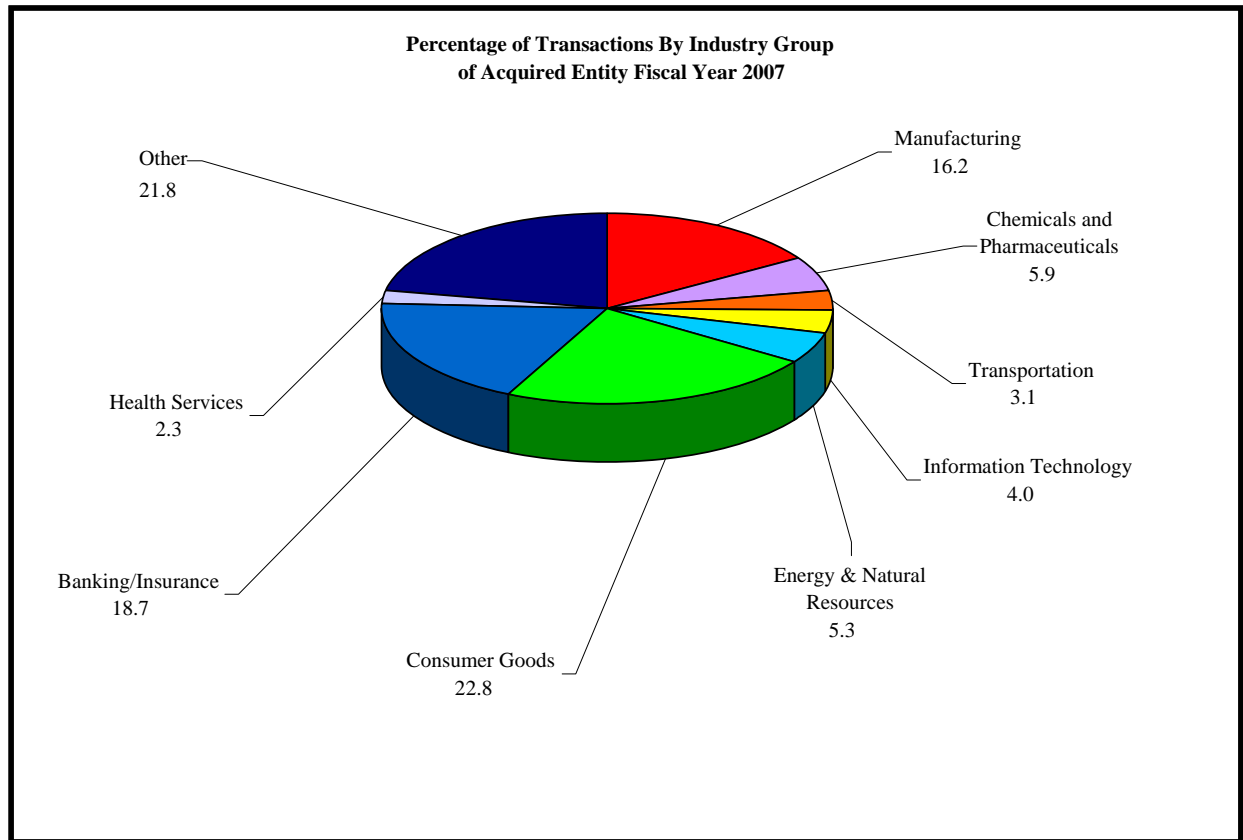


Figure 3

DEVELOPMENTS WITHIN THE PREMERGER PROGRAM

1. *Compliance*

The Commission and the Antitrust Division continued to monitor compliance with the premerger notification program's filing and waiting period requirements and initiated a number of compliance investigations in fiscal year 2007. The agencies monitor compliance through a variety of methods, including the review of newspapers and industry publications for announcements of transactions that may not have been reported in accordance with the

⁹ The "Other" category consists of industry segments that include construction, educational services, performing arts, recreation and non-classifiable establishments.

requirements of the Act. In addition, industry sources, such as competitors, customers and suppliers, and interested members of the public, often provide the agencies with information about transactions and possible violations of the Act's requirements.

Under Section 7A(g)(1) of the Act, any person that fails to comply with the Act's notification and waiting period requirements is liable for a civil penalty of up to \$11,000 for each day the violation continues.¹⁰ The antitrust agencies examine the circumstances of each violation to determine whether penalties should be sought.¹¹ During fiscal year 2007, 32 corrective filings for violations were received. The agencies brought one enforcement action, resulting in the payment of \$250,000 in civil penalties.

In *United States v. James D. Dondero*,¹² the complaint alleged that James D. Dondero, a Texas hedge fund manager, failed to comply with the notification and waiting period requirements of the HSR Act prior to exercising options to acquire stock of Motient Corp., where he served on the board of directors. As a result of exercising the options, the defendant and the investment fund that he controlled, Highland Capital Management L.P., held voting securities of Motient valued in excess of the \$50 million HSR reporting threshold then in effect. Less than a year before the violation alleged in the complaint, Dondero made a corrective HSR filing relating to a failure to file regarding Highland's acquisitions of stock in another company, and as part of that filing, outlined steps that would be taken to avoid future violations. Under the terms of a consent decree filed simultaneously with the complaint and entered by the court on May 22, 2007, Dondero agreed to pay \$250,000 in civil penalties to settle the charges.

2. *The Impact of Non-corporate Rule Changes on Transactions Requiring Notification under the HSR Act*

On March 8, 2005, the Commission published amendments to the premerger notification rules¹³ ("the rules") that attempted to reconcile, as far as was practical, the previous disparate treatment of corporations, partnerships and limited liability companies under the rules. The rulemaking introduced a number of changes, particularly in the areas of acquisitions of interests in non-corporate entities, formations of the entities, and the application of certain exemptions, including the intraperson exemption.

As an anticipated result of the rules changes, some transactions that previously did not require notification now have to be notified, while others that previously would have required

¹⁰ On November 20, 1996, dollar amounts specified in civil monetary penalty provisions within the Commission's jurisdiction were adjusted for inflation in accordance with the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134 (April 26, 1996). The adjustments included, in part, an increase from \$10,000 to \$11,000 for each day during which a person is in violation under Section 7A(g)(1). 61 Fed. Reg. 54548 (October 21, 1996), corrected at 61 Fed. Reg. 55840 (October 29, 1996).

¹¹ When the parties inadvertently fail to file, the enforcement agencies generally do not seek penalties where the parties promptly make corrective filings after discovering the failure to file, submit an acceptable explanation of their failure to file, and have not previously violated the Act.

¹² *United States v. James D. Dondero*, No. 1:07-CV-00931 (D.D.C. filed May 21, 2007).

¹³ 70 Fed. Reg. 11502 (March 8, 2005).

notification no longer require notification. The rulemaking acknowledged how hard it was to estimate the impact on the total number of filings going forward, especially given the inherent difficulty of estimating the number of filings eliminated by the changes. Two of the public comments¹⁴ on the proposed rules expressed concern that the number of additional filings the Commission had estimated the rules changes would trigger (as calculated in the Paperwork Reduction Act section of the proposed rules) may not have reflected the actual number that ultimately would be required. The Commission agreed that it was difficult to project the impact of these changes and committed to monitoring the number and types of transactions that required notification as a result of these amendments.¹⁵

The PNO has monitored these filings from the public announcement of the Commission's adoption of the rule changes on February 23, 2005 through September 30, 2007 (the end of fiscal year 2007). During this period, of the total 4,924 filings received, filings were required in eighty-seven transactions that would not have been reportable before. While there is no real way to determine how many filings were eliminated, based on past data available for partnership rollup filings, it is estimated that an average of forty-one transactions per year¹⁶ that previously required notification were exempted under § 802.30. In addition, a significant number of previously reportable transactions are now exempted by the expansion of § 802.4, which exempts acquisitions of voting securities of corporations and non-corporate interests of unincorporated entities, such as partnerships and limited liability companies, that hold assets that would be exempt if acquired directly as long as the corporation or unincorporated entity does not hold more than \$50 million (as adjusted) of other non-exempt assets.

Given this data since inception of the new rules, it appears that the net effect of the rules changes on the total number of transactions has been quite small, and they possibly even have reduced the total number of reportable transactions. In addition, the rules changes, as intended, enhanced the underlying logic and consistency of the HSR rules in the treatment of different types of entities, such that the Commission is now receiving the filings it should get, at the juncture that it is appropriate, and receiving fewer unnecessary filings. Given this minimal impact of the rule changes on overall filings, the Commission will discontinue monitoring these filings going forward.

3. Threshold Adjustments

The 2000 amendments to Section 7A require the Commission to publish adjustments to the Act's jurisdictional and filing fee thresholds annually, based on the change in the gross national product, in accordance with Section 8(a)(5) for each fiscal year beginning after September 30, 2004. The Commission in 2005 amended the rules to provide a method for future adjustments as required by the 2000 amendments and to reflect the revised thresholds in the

¹⁴ Section of Antitrust Law, American Bar Association (Grady, Kevin) (06/03/2004) and Bank Of America (Wertz, Phillip) (06/03/2004).

¹⁵ 70 Fed. Reg. 11510 (March 8, 2005).

¹⁶ Between 1997 and 2002, the Commission received 248 filings in which the acquiring person and the acquired person were the same.

examples contained in the rules. The revised thresholds are published annually in January and are effective 30 days after publication.

On January 22, 2007, the Commission published a notice¹⁷ to reflect adjustment of reporting thresholds as required by the 2000 amendments¹⁸ to Section 7A of the Clayton Act, 15 U.S.C. 18a. The revised thresholds became effective February 21, 2007.

4. *Premerger Review Process Improvements*

In February 2006, after the creation of a Merger Process Task force and following up on the issuance of the “Statement of the FTC’s Bureau of Competition on Guidelines for Merger Investigations” in 2002,¹⁹ the FTC announced a series of substantial reforms to the merger review process to reduce the volume of materials that parties must produce to respond to a second request. The reforms are designed to permit staff and the parties to identify more rapidly the relevant substantive issues and focus more quickly and effectively on the relevant documents and data. These reforms are detailed in an announcement available at <http://www.ftc.gov/os/2006/02/mergerreviewprocess.pdf>.

During fiscal year 2007, the Antitrust Division announced that it was amending its 2001 Merger Review Process Initiative²⁰ in order to further streamline the merger investigation process to improve the efficiency of the Division’s investigations while reducing the cost, time and burdens faced by parties to transactions that are reviewed by the Division. The amendments to the Division’s 2001 Merger Review Process Initiative are set forth, and additional background information provided, at <http://www.usdoj.gov/atr/public/220241.pdf>.

MERGER ENFORCEMENT ACTIVITY²¹

1. *The Department of Justice*

During fiscal year 2007, the Antitrust Division challenged twelve merger transactions that it concluded might have substantially lessened competition if allowed to proceed as proposed. In four of these challenges, the Antitrust Division filed a complaint in U.S. district court. Three of these cases were settled by consent decree, and litigation is pending in one case. In the other eight challenges to mergers during fiscal year 2007, when apprised of the Antitrust

¹⁷ 72 Fed. Reg. 2692 (January 22, 2007).

¹⁸ 15 U.S.C. 18a(a). *See* Pub. L. 106-553, 114 Stat. 2762.

¹⁹ The Statement of the FTC’s Bureau of Competition on Guidelines for Merger Investigations for December 11, 2002, is available at <http://www.ftc.gov/os/2002/12/bcguidelines021211.htm>.

²⁰ *See* the Annual Report to Congress, Fiscal Year 2001, at pp. 11-12.

²¹ All cases in this report were not necessarily reportable under the premerger notification program. Because of provisions regarding the confidentiality of the information obtained pursuant to the Act, it would be inappropriate to identify which cases were initiated under the program except in specific instances where such information has already been disclosed.

Division's concerns regarding the proposed transaction, the parties restructured their transaction to avoid competitive problems in seven instances, and in one instance, the parties abandoned the proposed transaction.²²

In *United States v. CEMEX, S.A.B. de C.V.*,²³ the Division challenged Mexico-based CEMEX's proposed \$12 billion hostile takeover of Australia-based Rinker Group. The complaint alleged that the transaction, as originally proposed, would substantially lessen competition for ready mix concrete in certain metropolitan areas in Arizona and Florida, as well as result in increased prices for ready mix concrete, concrete block, and aggregate sold to customers handling state Department of Transportation projects and other large building projects. Ready mix concrete is a building material used in large construction projects such as highways, bridges, tunnels, and buildings. Concrete block is another building material commonly used in the construction of residential and commercial structures. Aggregate is crushed stone and gravel produced at quarries, mines, or gravel pits, that is used in, among other things, the production of ready mix concrete, concrete block, and asphalt. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. Under the terms of the decree, CEMEX, in the event it succeeded in its hostile takeover of Rinker Group, was required to divest 39 ready mix concrete, concrete block, and aggregate facilities in Arizona and Florida. The Court entered the consent decree on August 31, 2007.

In *United States v. Amsted Industries*,²⁴ the Division challenged Amsted's December 2005 acquisition of FM Industries (FMI). The complaint alleged that the acquisition had created a monopoly in the design, manufacture and sale of new end-of-car cushioning units (EOCCs) used in the railroad industry, and had substantially lessened competition in the market for reconditioned EOCCs. As a result, prices of new and reconditioned EOCCs had increased and likely would have continued to increase while quality and innovation would likely have declined. EOCCs are hydraulic devices that protect sensitive cargos by mitigating forces experienced by railcars during coupling and transit. The Division filed a proposed consent decree simultaneously with the complaint, requiring divestiture and grant of a license to an approved buyer, to facilitate that company's entry into the markets for new and reconditioned EOCCs. Specifically, the decree required Amsted to divest all of the intangible and other manufacturing assets needed to produce new and reconditioned EOCCs that it had acquired from FMI. Further, because the FMI business had been discontinued as a result of the transaction, the decree also required Amsted to grant a perpetual license to its own intellectual property to account for gaps

²² In four instances, the Division issued press releases: October 19, 2006 – proposed merger of AmSouth Bancorporation and Regions Financial Corporation (banks); October 31, 2006 – proposed acquisition of CBS radio stations by Entercom Communications Corporation; June 12, 2007 – proposed merger of Main Street Trust, Inc. and First Busey Corporation (banks); September 27, 2007 – proposed acquisition of Laidlaw International, Inc. by FirstGroup plc (school buses). In four other instances, the Division informed the parties of its concerns, but did not issue a press release: proposed acquisition of Texas Regional Bancshares Inc. by Banco Bilbao Vizcaya Argentaria S.A. (banks); proposed joint venture between Smiths Group plc and General Electric Company (detection and homeland security businesses); proposed acquisition by Media General Communications of television stations from General Electric; and proposed acquisition of Nichiro Corporation by Maruha Group, Inc. (seafood suppliers).

²³ *United States v. CEMEX, S.A.B. de C.V.*, No. 1:07-CV-00640 (D.D.C. filed April 4, 2007).

²⁴ *United States v. Amsted Industries, Inc.*, No.1:07-CV-00710 (D.D.C. filed April 18, 2007).

in the FMI assets. The Court entered the consent decree on July 16, 2007. Amsted's acquisition of FMI was not subject to the reporting and waiting period requirements of the HSR Act, and the Division opened its investigation after customers complained of price increases resulting from the acquisition.

In *U.S. v. Daily Gazette Company and MediaNews Group, Inc.*,²⁵ the Division sued Daily Gazette Company (Gazette Company) and MediaNews Group, seeking an order requiring the parties to undo a series of May 2004 transactions that extinguished competition between the two daily newspapers in Charleston, West Virginia. The complaint alleged that these transactions resulted in the acquisition by Gazette Company, owner and publisher of the *Charleston Gazette* newspaper, of the *Charleston Daily Mail* newspaper from MediaNews as part of a plan to terminate the publication of the *Charleston Daily Mail* and leave Charleston with a single daily newspaper. The complaint further alleged that Gazette Company had begun using its new control over the *Charleston Daily Mail* to initiate the termination of that newspaper, but suspended those actions in December 2004 when the Division learned of the transactions and began an investigation. Until 2004, Gazette Company and MediaNews operated within a joint operating agreement (JOA), under which each owned 50 percent of an entity that performed many of the commercial functions of the two Charleston newspapers. The JOA did not eliminate all economic competition between Gazette Company and MediaNews, and they competed vigorously against each other for readers prior to the challenged transactions, benefiting readers by giving them a choice between two daily newspapers with unique news and other content. The suit is currently pending in U.S. District Court in the Southern District of West Virginia, as the Court on June 19, 2008 issued an order and opinion denying defendants' motion to dismiss, allowing the suit to proceed.

In *U.S. v. Monsanto Company and Delta & Pine Land Company*,²⁶ the Division challenged the proposed \$1.5 billion acquisition of Delta & Pine Land Company (DPL) by Monsanto. The complaint alleged that the transaction, as originally proposed, would have resulted in higher prices of traited cottonseed for U.S. farmers and would have blocked or delayed development of traits for cottonseed that would compete with Monsanto. Trait ed cottonseed is seed that has been genetically modified to induce highly desirable characteristics, such as resistance to insects or tolerance to herbicides. The Division filed a proposed settlement simultaneously with the complaint, requiring the merged firm to divest Monsanto's Stoneville Pedigreed Seed Company, 20 proprietary DPL cottonseed lines, and other significant assets. Monsanto is also required to provide the divested Stoneville company a license as favorable as DPL's current Monsanto license in terms of revenues, future traits, and the ability to combine or "stack" non-Monsanto traits with Monsanto traits. The merged entity will also have to divest to Syngenta Crop Protection AG a group of 43 DPL cottonseed lines that contain VipCot, Syngenta's insect-resistant trait technology that DPL planned to begin marketing as early as 2009. Finally, the merged entity must amend certain terms in its current trait license agreements

²⁵ United States v. Daily Gazette Company and MediaNews Group, Inc., No. 2:07-0329 (S.D. WV filed May 22, 2007).

²⁶ United States v. Monsanto Company and Delta & Pine Land Company, No. 1:07-CV-00992 (D.D.C. filed May 31, 2007).

with other cottonseed companies to allow them, without penalty, to stack non-Monsanto and Monsanto traits and to sell cottonseed that includes non-Monsanto traits. The proposed consent decree is awaiting entry by the Court.

During fiscal year 2007, the Division investigated three bank merger transactions for which divestiture was required prior to or concurrently with the acquisition. In those instances, a “not significantly adverse” letter conditioned upon a letter agreement between the parties and the Division was sent to the appropriate bank regulatory agency.²⁷

Additionally, on May 8, 2007, the Division filed a petition in the U.S. District Court for the District of Columbia asking it to find Allied Waste Industries, Inc. (Allied) in civil contempt of a decree entered by the Court in 2000, in *United States v. Allied Waste Industries, Inc. and Browning-Ferris Industries, Inc.*²⁸ Under the 2000 consent decree, Allied was required to sell waste collection and disposal operations in 13 states, covering 18 metropolitan areas, in order to proceed with its \$9.4 billion acquisition of Browning-Ferris. Allied was also required to seek the Division's approval before acquiring waste collection and disposal assets in any of the relevant geographic areas covered under the decree, provided certain minimum dollar threshold amounts are met. According to the Division's petition, Allied violated this provision of the 2000 decree by acquiring a set of waste collection assets in the Chicago area in January 2004 from Homewood Disposal Services Inc. without first obtaining Division approval. The Division filed a proposed settlement agreement simultaneously with the petition, requiring Allied to pay \$125,000. The Court entered the settlement order on June 7, 2007. This is the second time the Department has moved to enforce Allied's compliance with provisions in the 2000 consent decree. In August 2004, the Division settled a violation relating to Allied's premature termination of disposal rights at a former Browning-Ferris landfill in Massachusetts.²⁹ The 2004 settlement required Allied to implement a program to ensure full compliance with the 2000 decree, and as a consequence of that compliance program, Allied brought its earlier acquisition from Homewood to the Division's attention as a potential violation of the 2000 decree.

²⁷ The three letters were: October 19, 2006, letter to Board of Governors of the Federal Reserve System regarding the application by Banco Bilbao Vizcaya Argentaria, S.A., Bilbao, Spain, to acquire Texas Regional Bancshares, Inc., McAllen, TX; October 19, 2006, letter to Board of Governors of the Federal Reserve System regarding the application by Regions Financial Corporation, Birmingham, AL, to acquire AmSouth Bancorporation, Birmingham, AL; and June 12, 2007, letter to Board of Governors of the Federal Reserve System regarding the application by First Busey Corporation, Urbana, IL, to acquire Main Street Trust, Inc., Champaign, IL.

²⁸ See the Annual Report to Congress, Fiscal Year 1999 for a description of this case.

²⁹ See the Annual Report to Congress, Fiscal Year 2004 for a description of this case.

2. *The Federal Trade Commission*

The Commission challenged twenty-two transactions that it concluded may have lessened competition if allowed to proceed as proposed during fiscal year 2007,³⁰ leading to fourteen consent orders, three administrative complaints that were also litigated in federal court, and five abandonments. In each of the matters in which administrative complaints were authorized, the Commission also authorized staff to seek injunctive relief; of these, in two cases the parties consummated the transaction after the court denied the Commission's request for a preliminary injunction, and in one matter the parties abandoned the transaction after the Court of Appeals granted the Commission a preliminary injunction pending appeal.

The Commission issued an administrative complaint in *Equitable Resources, Inc./Dominion Resources, Inc., Consolidated Natural Gas Company, and The Peoples Natural Gas Company*,³¹ alleging that Equitable Resources' proposed \$790 million acquisition of The People's Natural Gas Company (Dominion Peoples), a subsidiary of Dominion Resources, would have substantially lessened competition in the market for the local distribution of natural gas to nonresidential customers in certain areas in western Pennsylvania. Equitable Resources and Dominion Peoples were each others sole competitors and the proposed transaction would have resulted in a monopoly. The Commission also filed a complaint in federal district court seeking a temporary restraining order and preliminary injunction to block the transaction. The district court dismissed the complaint, but the Court of Appeals for the Third Circuit granted the Commission an injunction blocking the transaction pending appeal. The parties abandoned the transaction and the matter was subsequently removed from administrative adjudication.

In *Paul L. Foster, Western Refining, Inc./Giant Industries, Inc.*,³² the Commission sought a preliminary injunction and a temporary restraining order to block Western Refining's proposed \$1.4 billion acquisition of Giant Industries. According to the complaint, the proposed transaction would have lessened competition in the market for the bulk supply of light petroleum products in northern New Mexico. By eliminating direct competition between Western Refining and Giant Industries, two of five significant bulk suppliers of light petroleum products to northern New Mexico, the proposed transaction would have increased concentration in an already highly concentrated market. The transaction would have also increased the likelihood of competitor coordination, allowing Western Refining to more easily coordinate profitably with one or more of the few remaining significant bulk suppliers of light petroleum products, including gasoline, to restrict output or raise prices. The district court denied the Commission's

³⁰ To avoid double counting, this report includes only those merger enforcement actions in which the Commission took its first public action during fiscal year 2007.

³¹ *Equitable Resources, Inc./Dominion Resources, Inc., Consolidated Natural Gas Company, and The Peoples Natural Gas Company*, Docket No. 9322 (issued March 14, 2007). The proposed transaction includes Equitable Resource's purchase of Hope Gas, Inc., another subsidiary of Dominion; however, the Commission did not challenge this part of the transaction.

³² *FTC v. Paul L. Foster, Western Refining, Inc. and Giant Industries, Inc.*, No. 07-cv-352 (D.D.C. April 12, 2007).

request for a preliminary injunction and a motion for an injunction pending appeal. Afterward, the parties consummated the transaction and the matter was withdrawn from adjudication.

In *Whole Foods Market, Inc./Wild Oats Market, Inc.*,³³ the Commission sought a preliminary injunction and temporary restraining order to block Whole Foods' proposed \$670 million acquisition of Wild Oats pending an administrative trial. According to the complaint, the proposed transaction would have allowed Whole Foods, the largest premium natural and organic supermarket chain in the United States, to acquire its closest competitor and longtime rival, Wild Oats. Post-acquisition, the combined firm likely would have been able to raise prices unilaterally, resulting in higher prices and reduced quality, service and choice for consumers. The district court entered a temporary restraining order pending a preliminary injunction hearing, but after a hearing the district court denied the Commission's motion for a preliminary injunction. The appeals court also denied the Commission's request for an injunction pending appeal. The parties subsequently consummated the transaction. The Commission also issued an administrative complaint against the merger, and the administrative litigation is ongoing. Additionally, in July 2008, the Court of Appeals for the D.C. Circuit reversed the district court's opinion that denied the preliminary injunction and remanded the case to the district court.

In fiscal year 2007, the Commission accepted consent agreements for public comment in fourteen merger cases. Eleven of the consent agreements became final in fiscal year 2007; three became final in fiscal year 2008.

In *The Boeing Company/Lockheed Martin Corporation*,³⁴ the Commission charged that the formation of United Launch Alliance, LLC (ULA), a proposed joint venture between Boeing and Lockheed Martin, would have substantially lessened competition in the U.S. markets for government medium-to-heavy (MTH) launch services and space vehicles. According to the Commission's complaint, the U.S. markets for government MTH launch services and space vehicles were highly concentrated. Boeing and Lockheed were the only suppliers of government MTH launch services, and Boeing and Lockheed were two of only three firms that accounted for the majority of sales in the market for government space vehicles. The ULA, through its joint ownership by the parties, likely would have been able to gain access to competitively sensitive non-public information concerning other space vehicle suppliers and other potential MTH launch services competitors and position itself to raise costs or disadvantage other suppliers in these markets. Under the consent order settling the Commission's charges, the following actions were required: (1) ULA cooperate on equivalent terms with all providers of government space vehicles; (2) Boeing's and Lockheed Martin's space vehicle businesses provide equal consideration and support to all launch services providers when seeking any U.S. Government delivery-in-orbit contract; and (3) Boeing, Lockheed Martin, and ULA safeguard competitively sensitive information obtained from other providers of space vehicles and launch services.

³³ FTC v. Whole Foods Market, Inc. and Wild Oats Markets, Inc., No. 07-cv-01021 (D.D.C. June 6, 2007).

³⁴ The Boeing Company/Lockheed Martin Corporation, Docket No. C-4188 (issued May 1, 2007).

In *Thermo Electron Corporation*,³⁵ the Commission challenged Thermo Electron 's proposed \$12.8 billion acquisition of Fisher Scientific International, Inc. alleging that the acquisition would have substantially lessened competition in the U.S. market for high performance centrifugal vacuum evaporators (CVEs), used in removing solvents from laboratory samples. According to the Commission's complaint, the proposed transaction would have combined the only two significant suppliers of high performance CVEs in the United States, leaving Thermo Electron as a virtual monopolist in the approximately \$10 million market. Thermo Electron and Fisher Scientific accounted for approximately 30 percent and 70 percent of the market, respectively, and directly competed on price, service, and product innovation. The only other firm that sold high performance CVEs, Martin Christ GmbH, had minimal sales in the United States and it was unlikely that those sales would have increased sufficiently to restore the lost competition between Thermo Electron and Fisher Scientific. To settle the charges, the Commission required Thermo Electron to divest Fisher Scientific's Genevac division, comprising Fisher's entire CVE business.

In *Barr Pharmaceuticals*,³⁶ the Commission challenged Barr's proposed \$2.5 billion acquisition of Pliva d.d because it likely would have substantially lessened competition in the following product markets in the United States: generic trazodone tablets, used in treating depression; generic triameterene/HCTZ tablets, used in treating high blood pressure; generic nimodipine soft-get capsules, used in treating symptoms resulting from ruptured blood vessels in the brain; and organ preservation solutions, used in preserving the viability of donor organs prior to transplantation. According to the Commission's complaint, in each of the three generic drug markets, Barr and Pliva were two of a small number of suppliers or the only two future competitors. The market for organ preservation was highly concentrated and the proposed acquisition would have provided Barr with a near monopoly position, with an approximate 90 percent of the U.S. market. The elimination of competition between the parties would have increased the likelihood of coordinated interaction among competitors and consumers paying higher prices for such products and services. The consent order required the divestiture of Barr Pharmaceutical's generic trazodone and triamterene/HCTZ businesses, divestiture of Pliva's branded organ preservation solution Custodial, and divestiture of either Pliva or Barr's generic minodipine business.

In *Watson Pharmaceuticals, Inc./Andrx Corporation*,³⁷ the Commission challenged Watson's proposed \$1.9 billion acquisition of Andrx, alleging that the proposed acquisition would have substantially lessened competition in the following product markets in the United States: hydrocodone bitartrate/ibuprofen tablets, used to treat the short-term management of acute pain; glipizide ER tablets, used to treat Type 2 diabetes; and 11 oral contraceptive drugs. According to the Commission's complaint, in each of the markets the proposed transaction would have reduced the number of competing generic drug suppliers. In the markets for

³⁵ Thermo Electron Corporation., Docket No. C-4170 (issued October 17, 2006).

³⁶ Barr Pharmaceuticals, Inc., Docket No. C-4171 (issued October 19, 2006).

³⁷ Watson Pharmaceuticals, Inc./Andrx Corporation, Docket No. C-4172 (issued October 31, 2006).

hydrocodone bitartrate/ibuprofen tablets and glipizide ER tablets, Watson and Andrx were two of a small number of suppliers. Similarly, Watson and Andrx were two of a limited number of suppliers or potential entrants in the eleven generic oral contraceptives markets. The transaction, as proposed, would have eliminated substantial price competition resulting from each firm's independent entry into the markets. In resolving its concerns with the transaction, the Commission by consent order required the parties to take the following actions: (1) end Watson's marketing agreement with Interpharm Holdings, Inc. and return all rights and agreements necessary to market generic hydrocodone bitartate/ibuprofen tablets back to Interpharm; (2) assign and divest Andrx's right to develop, manufacture and market generic extended release glipizide ER tablets; and (3) sell Andrx's rights and assets needed to develop and market the eleven generic oral contraceptive products.

In *Service Corporation International/Alderwoods Group, Inc.*,³⁸ the Commission challenged SCI's proposed acquisition of Alderwoods, alleging that the transaction would have substantially lessened competition in 47 markets for funeral or cemetery services. According to the Commission's complaint, SCI and Alderwoods were the largest providers of funeral and cemetery services and associated merchandise or property in the United States. The transaction would have raised competitive concerns in 35 highly concentrated funeral service markets and 12 highly concentrated cemetery service markets, and likely would have resulted in higher prices and diminished services for consumers. Under its order settling the matter, the Commission required SCI to sell funeral homes in 29 markets and cemeteries in 12 markets across the United States. In six other markets, SCI was required to sell certain funeral homes that it had planned to acquire or end its licensing agreements with third party funeral homes affiliated with SCI.

In *Johnson & Johnson/Pfizer Inc.*,³⁹ the Commission charged that Johnson and Johnson's proposed \$16.6 billion acquisition of Pfizer Inc.'s Consumer Healthcare business would have substantially lessened competition in the U.S. markets for the following over-the-counter (OTC) medications: hydrocortisone anti-itch products, night time sleep aids, diaper rash treatments, and H-2 blockers. According to the Commission's complaint, each of the product markets was highly concentrated. Johnson & Johnson and Pfizer were the only significant suppliers of branded OTC hydrocortisone anti-itch products in the United States. Pfizer was the market leader with its Cortizone products, while Johnson & Johnson was the second leading supplier with its Cortaid products. In the market for OTC night time sleep aids, Pfizer was the market leader with its Unisom products, while Johnson & Johnson was the second leading supplier with its Simply Sleep products. Similarly, in the market for OTC H-2 blockers, used to treat heartburn associated with acid indigestion, Johnson & Johnson was the market leader with its Pepcid products, while Pfizer was the second leading supplier with its Zantac products. The firms were also significant suppliers of OTC diaper rash treatments. Pfizer was the market leader with its Desitin products, and Johnson and Johnson was the third largest supplier with its Balmex products. The elimination of competition between the parties increased the likelihood of raised prices for consumers and reduced incentives for suppliers to improve service or product quality in the relevant product markets. The Commission's consent order required the parties to

³⁸ *Service Corporation International/Alderwoods, Inc.*, Docket No. C-4174 (issued November 21, 2006).

³⁹ *Johnson & Johnson/Pfizer Inc.*, Docket No. C-4180 (issued December 20, 2006).

divest Pfizer's Zantac H-2 blocker business, Pfizer's Cortisone hydrocortisone anti-itch business, Pfizer's Unisom night-time sleep aid business, and Johnson & Johnson's Balmex diaper rash treatment business.

In *General Dynamics Corporation*,⁴⁰ the Commission challenged General Dynamic's proposed \$275 million acquisition of SNC Technologies, Inc. and SNC Technologies Corporation (collectively "SNC") alleging that the transaction would have substantially lessened competition in the North American market for melt-pour loan, assemble and pack ("LAP") services used during the manufacture of ammunition for mortars and artillery. According to the Commission's complaint, the transaction would have combined two of only three suppliers of melt-pour LAP services to the U.S. military. Melt-pour LAP services are the final step in producing and delivering ammunition for mortars and artillery to the U.S. military. General Dynamics had a controlling interest in American Ordnance, LLC, a joint venture with Day & Zimmerman, Inc., which provided mortar and artillery ammunition LAP services to the U.S. military. SNC also provided LAP services to the U.S. and Canadian militaries. The only other supplier of mortar and artillery melt-pour LAP services to the U.S. market was using a facility that was slated for closure. Absent relief, the proposed transaction would have likely allowed the combined firm to exercise market power unilaterally, forcing the U.S. military to pay higher prices for these munitions. The transaction also raised the possibility that General Dynamics could have shared confidential American Ordnance business information with SNC, increasing the likelihood of coordination between the two companies. Under a consent order settling the Commission's complaint, General Dynamics was required to divest its interest in American Ordnance.

In *Hospira, Inc./Mayne Pharma Limited*,⁴¹ the Commission challenged Hospira's proposed \$2 billion acquisition of rival drug manufacturer Mayne Pharma. The Commission alleged in its complaint that the acquisition would have substantially lessened competition in the U.S. market for five injectable drugs: (1) hydromorphone hydrochloride, (2) nalbuphine hydrochloride, and (3) morphine sulfate, all of which are used to treat moderate to severe pain; (4) preservative-free morphine, typically used when morphine is delivered into the spinal column; and (5) deferoxamine mesylate, used to treat acute iron poisoning or chronic iron overload. According to the Commission's complaint, there were a limited number of suppliers in each product market. Hospira and Mayne were two of only three suppliers in the market for hydromorphone hydrochloride, and while Mayne did not participate in the other four markets it was in the process of entering those markets. The proposed transaction increased the likelihood that the combined entity would have delayed or eliminated substantial additional price competition resulting from Mayne's independent entry into these markets. In settling the Commission's charges, the companies agreed to divest Mayne's rights and assets related to the relevant products.

In TC Group, LLC, Riverstone Holdings LLC, Carlyle/Riverstone Global Energy and

⁴⁰ General Dynamics Corporation, Docket No. C-4181 (issued December 27, 2006).

⁴¹ Hospira, Inc./Mayne Pharma Limited, Docket No. C-4182 (issued January 18, 2007).

Power Fund II, LP, and Carlyle/Riverstone Global Energy and Power Fund III, LP,⁴² the Commission challenged a proposed \$22 billion transaction in which energy transportation, storage and distribution firm Kinder Morgan, Inc. would have been acquired by Kinder Morgan's management and a group of investment firms, including private equity firms managed and controlled by The Carlyle Group and Riverstone Holdings LLC. The Commission's complaint alleged that the proposed transaction would have substantially lessened competition in the terminaling of gasoline and other light petroleum products in eleven markets in the Southeastern United States. Carlyle and Riverstone already held significant equity interests in Magellan Midstream, a major competitor of Kinder Morgan. Post-acquisition, Carlyle and Riverstone would have had the right to Board representation at both firms, the right to exercise veto power over actions by Magellan, and access to non-public competitively sensitive information about Kinder Morgan or Magellan. The transaction, as proposed, would have combined under common partial ownership, two of the primary independent participants in the relevant markets and increased the likelihood of the acquiring persons exercising unilateral market power, resulting in higher prices for gasoline and other light petroleum products in the relevant markets. The Commission's consent order settling the complaint required Carlyle and Riverstone to remove their representatives from the Magellan Board, cede control of Magellan to its other principal investor, Madison Dearborn Partners, and refrain from influencing the management of Magellan. The order also required the respondents to establish safeguards against the sharing of competitively sensitive information between Kinder Morgan and Magellan.

In *Actavis Group, HF./Abrika Pharmaceuticals, Inc.*,⁴³ the Commission charged that Actavis' proposed \$235 million acquisition of Abrika would have substantially lessened competition in the U.S. market for generic isradipine capsules, which are prescribed for patients to treat hypertension, ischemia, and depression. According to the Commission's complaint, Actavis and Abrika were the only two companies selling generic isradipine capsules in the United States. The elimination of competition between the parties would have increased the likelihood that consumers would have been forced to pay higher prices. The Commission's order required the parties to divest all rights and assets needed to manufacture and market generic isradipine capsules.

In *Rite Aid Corporation/The Jean Coutu Group (PJC), Inc.*,⁴⁴ the Commission charged that Rite Aid's proposed \$3.5 billion acquisition of Brooks and Eckerd pharmacies from Jean Coutu would have substantially lessened competition in the U.S. market for the retail sale of pharmacy services to cash customers in 23 local markets. Cash customers are consumers of pharmacy services who do not pay a price negotiated by or paid through a third party, such as an insurance plan or pharmacy benefits manager. According to the Commission's complaint, each of the 23 markets was highly concentrated. Rite Aid and Eckerd/Brooks were two of a small number of pharmacies offering cash services, and combined, accounted for at least half and up to

⁴² TC Group, LLC, Riverstone Holdings LLC, Carlyle/Riverstone Global Energy and Power Fund II, LP, and Carlyle/Riverstone Global Energy and Power Fund III, LP, Docket No. C-4183 (issued January 24, 2007).

⁴³ Actavis Group, HF./Abrika Pharmaceuticals, Inc., Docket No. C-4190 (issued May 18, 2007).

⁴⁴ Rite Aid Corporation/The Jean Coutu Group (PJC), Inc., Docket No. C-4191 (issued June 1, 2007).

100 percent of the pharmacies in those markets. The elimination of competition between Rite Aid and Brooks or Eckerd would have likely increased prices paid by cash customers for pharmacy services and decreased the quality and selection of services. The consent order required Rite Aid and Jean Coutu to sell one retail pharmacy store in each of the 23 geographic markets.

In *Jarden Corporation/K2 Inc.*,⁴⁵ the Commission charged that Jarden's proposed \$1.2 billion acquisition of K2 would have substantially lessened competition in the U.S. market for monofilament fishing line. According to the Commission's complaint, monofilament fishing line was the most widely used and least expensive type of fishing line. Jarden had a very large share of the market and K2 was Jarden's most significant competitor. The Commission charged that the proposed transaction would have further situated Jarden as the dominant supplier of monofilament fishing line in the United States and significantly increased concentration in the market. It would have also increased the likelihood of Jarden raising prices and reducing incentives to improve service or product quality for monofilament fishing line products. The Commission's consent order required the parties to sell assets related to four popular types of monofilament lines owned by K2.

In *American Renal Associates, Inc./Fresenius Medical Care Holdings, Inc.*,⁴⁶ the Commission challenged an agreement between American Renal and Fresenius to close three Fresenius outpatient dialysis clinics near competing American Renal clinics in Rhode Island and Massachusetts. It also challenged American Renal's proposed acquisition of two other Fresenius clinics in Rhode Island. According to the Commission's complaint, by agreeing to close three Fresenius clinics, the parties would have denied the benefits of competition to consumers of outpatient dialysis services in Rhode Island and southeast Massachusetts by effectively allocating Fresenius' patients in those areas to American Renal clinics. Further, the proposed acquisition of Fresenius' two Warwick, Rhode Island clinics would have left American Renal as the sole provider of outpatient dialysis services in the Warwick-Cranston area, likely resulting in increased prices and reduced services and quality for consumer of outpatient dialysis services in that area. The parties terminated their agreement containing the offending provisions after Commission staff raised antitrust concerns. The consent order settling the charges prohibited the parties from agreeing with any clinic operator to close clinics or otherwise allocate dialysis markets, territories, or customers. The order also required American Renal to notify the Commission of its intention to acquire any dialysis clinic assets in the Warwick-Cranston area of Rhode Island.

In *Mylan Laboratories, Inc./E. Merck oHG*,⁴⁷ the Commission charged that Mylan's proposed \$6.6 billion acquisition of Merck would have substantially lessened competition in the U.S. market for five generic drugs used to treat patients with hypertension and heart problems: acebutolo hydrochloride capsules, flecainide acetate tablets, guanfacine hydrochloride tablets,

⁴⁵ *Jarden Corporation/K2 Inc., Inc.*, Docket No. C-4196 (issued August 8, 2007).

⁴⁶ *American Renal Associates, Inc./Fresenius Medical Care Holdings, Inc.*, Docket No. C-4202 (issued October 17, 2007).

⁴⁷ *Mylan Laboratories, Inc./E. Merck oHG, Inc.*, Docket No. C-4200 (issued September 26, 2007).

nicardipine hydrochloride capsules, and sotalol hydrochloride AF tablets. According to the Commission's complaint, Mylan and Merck were two significant competitors in the relevant product markets, which were already highly concentrated. The elimination of competition between the parties would have increased the likelihood of consumers paying higher prices for such products. The order settling the Commission's charges required the parties to divest all assets related to the five generic drugs.

ONGOING REASSESSMENT OF THE EFFECTS OF THE PREMERGER NOTIFICATION PROGRAM

The Commission and the Antitrust Division continually review the impact of the premerger notification program on the business community and antitrust enforcement. As indicated in past annual reports, the HSR program ensures that virtually all significant mergers or acquisitions that affect consumers in the United States will be reviewed by the antitrust agencies prior to consummation. The agencies generally have the opportunity to challenge unlawful transactions before they occur, thus avoiding the problem of constructing effective post-acquisition relief. As a result, the HSR Act is doing what Congress intended, giving the government the opportunity to investigate and challenge mergers that are likely to harm consumers *before* injury can arise. Prior to the premerger notification program, businesses could, and frequently did, consummate transactions that raised significant antitrust concerns before the antitrust agencies had the opportunity to consider adequately their competitive effects. The enforcement agencies were forced to pursue lengthy post-acquisition litigation, during the course of which harm from the consummated transaction continued (and afterwards as well, where achievement of effective post-acquisition relief was not practicable). Because the premerger notification program requires reporting before consummation, this problem has been significantly reduced.

Always cognizant of the program's impact and effectiveness, the enforcement agencies continue to seek ways to speed up the review process and reduce burdens for companies. As in past years, the agencies will continue their ongoing assessment of the HSR program to increase accessibility, promote transparency, and reduce the burden on the filing parties without compromising the agencies' ability to investigate and interdict proposed transactions that may substantially lessen competition.

LIST OF APPENDICES

- Appendix A - Summary of Transactions, Fiscal Years 1998 - 2007
- Appendix B - Number of Transactions Reported and Filings Received by Month for Fiscal Years 1998 - 2007

LIST OF EXHIBITS

- Exhibit A - Statistical Tables for Fiscal Year 2007, Presenting Data Profiling Hart-Scott-Rodino Premerger Notification Filings and Enforcement Interest

APPENDIX A

SUMMARY OF TRANSACTIONS

FISCAL YEARS 1998 - 2007

APPENDIX A SUMMARY OF TRANSACTION BY YEAR										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Transactions Reported	4,728	4,642	4,926	2,376	1,187	1,014	1,454	1,695	1,768	2,201
Filings Received ¹	9,264	9,151	9,941	4,800	2,369	2,001	2,866	3,322	3,580	4,429
Adjusted Transactions In Which A Second Request Could Have Been Issued ²	4,575	4,340	4,749	2,237	1,142	968	1,377	1,610	1,746	2,108
Investigations in Which Second Requests Were Issued	125	111	98	70	49	35	35	50	45	63
FTC ³	46	45	43	27	27	15	20	25	28	31
Percent ⁴	1.0%	1.0%	0.9%	1.2%	2.4%	1.5%	1.5%	1.6%	1.6%	1.5%
DOJ ³	79	68	55	43	22	20	15	25	17	32
Percent ⁴	1.7%	1.6%	1.2%	1.9%	1.9%	2.1%	1.1%	1.6%	1.0%	1.5%
Transactions Involving a Request For Early Termination ⁵	4,323	4,110	4,324	2,063	1,042	700	1,241	1,385	1,468	1,840
Granted ⁵	3,234	3,103	3,515	1,603	793	606	943	997	1,098	1,402
Not Granted ⁵	1,089	1,007	809	460	249	94	298	388	370	438

¹ Usually, two filings are received, one from the acquiring person and one from the acquired person when a transaction is reported. Only one application is received when an acquiring party files for an exemption under §§ 7A(c)(6) or (c)(8) of the Clayton Act.

² These figures omit from the total number of transactions reported all transactions for which the agencies were not authorized to request additional information. These include (1) incomplete transactions (only one party filed a complete notification); (2) transactions reported pursuant to the exemption provisions of §§ 7A(c)(6) or (c)(8) of the Act; and (3) transactions deemed non-reportable. In addition, where a party filed more than one notification in the same year to acquire voting securities of the same corporation, e.g., filing for one threshold and later for a higher threshold, only a single consolidated transaction has been counted because, as a practical matter, the agencies do not issue more than one Second Request in such a case. These statistics also omit from the total number of transactions reported secondary acquisitions filed pursuant to 801.40 of the Premerger Notification rules. Secondary acquisitions have been deducted in order to be consistent with statistics present in the most prior annual reports.

³ These statistics are based on the date the request was issued, not the date the investigation was opened.

⁴ Second Request investigations are a percentage of the total number of adjusted transactions. The total percentage reflected in Figure 2 may not equal the sum of reported component values due to rounding.

⁵ These statistics are based on the date of the HSR filing, not the date action was taken on the request.

APPENDIX B

NUMBER OF TRANSACTIONS REPORTED

AND

FILINGS RECEIVED BY MONTH

FOR

FISCAL YEARS 1998 - 2007

Appendix B
Table 1. Number of Transactions Reported by Month for the Fiscal Years 1998 - 2007

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
October	424	333	376	360	89	77	93	143	130	201
November	387	359	428	451	105	104	127	160	148	189
December	426	394	468	345	95	78	143	128	137	151
January	306	282	335	245	111	93	86	139	142	143
February	336	330	440	66	87	71	109	102	124	157
March	392	427	455	120	109	74	138	122	150	194
April	384	364	343	94	99	92	135	124	125	156
May	401	438	398	153	111	83	131	171	158	250
June	442	445	494	190	88	80	122	153	172	202
July	435	444	351	94	121	86	123	120	141	219
August	427	434	446	163	97	85	135	170	186	200
September	368	392	392	95	75	91	112	163	155	139
TOTAL	4,728	4,642	4,926	2,376	1,187	1,014	1,454	1,695	1,768	2,201

APPENDIX B										
TABLE 2. NUMBER OF FILINGS RECEIVED¹										
BY MONTH FOR FISCAL YEARS 1997 - 2007										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
OCTOBER	818	662	777	751	190	148	185	280	264	406
NOVEMBER	749	686	839	920	211	206	254	324	311	379
DECEMBER	836	785	922	686	183	150	280	246	264	306
JANUARY	614	548	677	499	224	179	168	268	285	292
FEBRUARY	650	658	867	144	174	146	209	201	266	325
MARCH	766	828	959	243	230	144	277	239	309	383
APRIL	763	719	695	188	203	182	251	244	274	313
MAY	787	851	859	296	212	168	267	338	311	481
JUNE	862	884	1,004	378	170	158	255	302	350	403
JULY	851	887	718	182	230	170	235	237	258	443
AUGUST	844	885	886	332	191	164	270	332	377	407
SEPTEMBER	724	758	738	181	151	186	215	311	311	291
TOTAL	9,264	9,151	9,941	4,800	2,369	2,001	2,866	3,322	3,580	4,429

¹ Usually, two filings are received, one from the acquiring person and one from the acquired person when the transaction is reported. Only one filing is received when an acquiring person files for a transaction that is exempt under Sections 7(A)(c)(6) and (c)(8) of the Clayton Act.

EXHIBIT A

STATISTICAL TABLES

FOR

FISCAL YEAR 2007

DATA PROFILING HART-SCOTT-RODINO PREMERGER

NOTIFICATION FILINGS AND ENFORCEMENT INTERESTS

TABLE I
FISCAL YEAR 2007¹
ACQUISITIONS BY SIZE OF TRANSACTION (BY SIZE RANGE)²

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER ⁴	PERCENT ⁵	NUMBER		PERCENT OF TRANSACTION RANGE GROUP			NUMBER		PERCENT OF TRANSACTION RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M⁵	1	0.0%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50M - 100M	484	23.0%	42	18	8.7%	3.7%	12.4%	3	2	0.6%	0.4%	1.0%
100M - 150M	370	17.6%	11	6	3.0%	1.6%	4.6%	5	3	1.4%	0.8%	2.2%
150M - 200M	156	7.4%	15	5	9.6%	3.2%	12.8%	2	3	1.3%	1.9%	3.2%
200M - 300M	250	11.8%	17	7	6.8%	2.8%	9.6%	2	5	0.8%	2.0%	2.8%
300M - 500M	254	12.0%	30	10	11.8%	3.9%	15.7%	5	4	2.0%	1.6%	3.6%
500M - 1000M	290	13.8%	31	14	10.7%	4.8%	15.5%	6	4	2.1%	1.4%	3.5%
Over 1000M	303	14.4%	55	35	18.2%	11.6%	29.8%	8	11	2.6%	3.6%	6.2%
<i>ALL TRANSACTIONS</i>	2,108	100.0%	201	95	9.5%	4.5%	14.0%	31	32	1.5%	1.5%	3.0%

TABLE II
FISCAL YEAR 2007¹
ACQUISITIONS BY SIZE OF TRANSACTION² (CUMULATIVE)

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER ⁴	PERCENT	NUMBER		PERCENTAGE OF TOTAL NUMBER OF CLEARANCES GRANTED			NUMBER		PERCENT		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 50⁵	1	0.0%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
LESS THAN 100	674	31.9%	42	18	14.2%	6.1%	20.3%	5	3	7.9%	4.8%	12.7%
LESS THAN 150	855	40.5%	53	24	17.9%	8.1%	26.0%	8	5	12.7%	7.9%	20.6%
LESS THAN 200	1,030	48.8%	68	29	23.0%	9.8%	32.8%	10	8	15.9%	12.7%	28.6%
LESS THAN 300	1,261	59.8%	85	36	28.7%	12.2%	40.9%	12	13	19.0%	20.6%	39.6%
LESS THAN 500	1,515	71.8%	115	46	38.9%	15.5%	54.4%	17	17	27.0%	27.0%	54.0%
LESS THAN 1000	1,805	85.6%	146	60	49.3%	20.3%	69.6%	23	21	36.5%	33.3%	69.8%
ALL TRANSACTIONS	2,108		201	95	67.9%	32.1%	100.0%	31	32	49.2%	50.8%	100.0%

TABLE III
FISCAL YEAR 2007¹
TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY

TRANSACTION RANGE (\$ MILLIONS)	CLEARANCE GRANTED TO AGENCY			CLEARANCE GRANTED AS A PERCENTAGE OF:								
				TOTAL NUMBER OF TRANSACTIONS			TOTAL NUMBER OF CLEARANCES PER AGENCY			TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL	
50M - 100M	35	15	50	1.7%	0.7%	2.4%	17.4%	15.8%	11.8%	5.1%	16.9%	
100M - 150M	18	9	27	0.9%	0.4%	1.3%	9.0%	9.5%	6.1%	3.0%	9.1%	
150M - 200M	15	5	20	0.7%	0.2%	0.9%	7.4%	5.3%	5.1%	1.7%	6.8%	
200M - 300M	17	7	24	0.8%	0.3%	1.1%	8.5%	7.4%	5.7%	2.4%	8.1%	
300M - 500M	30	10	40	1.4%	0.5%	1.9%	14.9%	10.5%	10.1%	3.4%	13.5%	
500M - 1000M	31	14	45	1.5%	0.7%	2.2%	15.4%	14.7%	10.5%	4.7%	15.2%	
Over 1000M	55	35	90	2.6%	1.7%	4.3%	27.4%	36.8%	18.6%	11.8%	30.4%	
ALL CLEARANCES	201	95	296	9.5%	4.5%	14.0%	100.0%	100.0%	67.9%	32.1%	100.0%	

TABLE IV
FISCAL YEAR 2007¹
INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED

TRANSACTION RANGE (\$MILLIONS)	INVESTIGATIONS IN WHICH SECOND REQUEST WERE ISSUED ³			SECOND REQUESTS ISSUED AS A PERCENTAGE OF:								
				TOTAL NUMBER OF TRANSACTIONS			TRANSACTIONS IN EACH TRANSACTION RANGE GROUP			TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
50M - 100M	5	3	8	0.2%	0.1%	0.3%	0.7%	0.4%	1.1%	7.9%	4.8%	12.7%
100M - 150M	3	2	5	0.1%	0.1%	0.2%	1.7%	1.1%	2.8%	4.8%	3.2%	8.0%
150M -200M	2	3	5	0.1%	0.1%	0.2%	1.1%	1.7%	2.8%	3.2%	4.8%	8.0%
200M - 300M	2	5	7	0.1%	0.2%	0.3%	0.9%	2.2%	3.1%	3.2%	7.9%	11.1%
300M - 500M	5	4	9	0.2%	0.2%	0.4%	2.0%	1.6%	3.6%	7.9%	6.3%	14.2%
500M - 1000M	6	4	10	0.3%	0.2%	0.5%	2.1%	1.4%	3.5%	9.5%	6.3%	15.8%
Over 1000M	8	11	19	0.4%	0.5%	0.9%	2.6%	3.6%	6.2%	12.7%	17.5%	30.2%
ALL TRANSACTIONS	31	32	63	1.5%	1.5%	3.0%	1.5%	1.5%	3.0%	49.2%	50.8%	100.0%

TABLE V
FISCAL YEAR 2007¹
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD ⁶	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENTAGE OF THRESHOLD GROUP			NUMBER		PERCENTAGE OF THRESHOLD GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
\$50M (as adjusted)	116	5.5%	3	1	2.6%	0.9%	3.5%	1	1	0.9%	0.9%	1.8%
\$100M (as adjusted)	172	8.1%	2	7	1.2%	4.1%	5.3%	0	7	0.0%	4.1%	4.1%
\$500M (as adjusted)	46	2.2%	1	2	2.2%	4.3%	6.5%	1	0	2.2%	0.0%	2.2%
25%	2	0.1%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50%	1,182	56.1%	143	64	12.1%	5.4%	17.5%	15	18	1.3%	1.5%	2.8%
ASSETS ONLY	590	28.0%	52	21	8.8%	3.6%	12.4%	14	6	2.4%	1.0%	3.4%
ALL TRANSACTIONS	2,108	100.0%	201	95	9.5%	4.5%	14.0%	31	32	1.5%	1.5%	3.0%

TABLE VI
FISCAL YEAR 2007¹
TRANSACTIONS BY ASSETS OF ACQUIRING PERSON

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENTAGE OF ASSET RANGE GROUP			NUMBER		PERCENTAGE OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	210	10.0%	5	4	2.4%	1.9%	4.3%	0	1	0.0%	0.5%	0.5%
50M - 100M	72	3.4%	3	4	4.2%	5.6%	9.8%	0	3	0.0%	4.2%	4.2%
100M - 150M	88	4.2%	6	2	6.8%	2.3%	9.1%	1	1	1.1%	1.1%	2.2%
150M - 200M	57	2.7%	3	2	5.3%	3.5%	8.8%	0	2	0.0%	3.5%	3.5%
200M - 300M	87	4.1%	2	3	2.3%	3.4%	5.7%	0	1	0.0%	1.1%	1.1%
300M - 500M	132	6.3%	9	0	6.8%	0.0%	6.8%	3	2	2.3%	1.5%	3.8%
500M - 1000M	207	9.8%	20	10	9.7%	4.8%	14.5%	1	0	0.5%	0.0%	0.5%
OVER 1000M	1,255	59.5%	153	70	12.2%	5.6%	17.8%	26	22	2.1%	1.8%	3.9%
ALL TRANSACTIONS	2,108	100.0%	201	95	9.5%	4.5%	14.0%	31	32	1.5%	1.5%	3.0%

**TABLE VII
FISCAL YEAR 2007¹
TRANSACTIONS BY SALES OF ACQUIRING PERSON**

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENTAGE OF SALES RANGE GROUP			NUMBER		PERCENTAGE OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	154	7.3%	4	7	2.6%	4.5%	7.1%	0	0	0.0%	0.0%	0.0%
50M - 100M	95	4.5%	4	4	4.2%	4.2%	8.4%	0	0	0.0%	0.0%	0.0%
100M - 150M	62	2.9%	4	4	6.5%	6.5%	13.0%	1	0	1.6%	0.0%	1.6%
150M - 200M	58	2.7%	3	4	5.2%	6.9%	12.1%	0	0	0.0%	0.0%	0.0%
200M - 300M	103	4.9%	3	3	2.9%	2.9%	5.8%	0	1	0.0%	1.0%	1.0%
300M - 500M	134	6.4%	11	4	8.2%	3.0%	11.2%	3	2	2.2%	1.5%	3.7%
500M - 1000M	231	11.0%	20	18	8.7%	7.8%	16.5%	0	3	0.0%	1.3%	1.3%
OVER 1000M	1,057	50.1%	147	47	13.9	4.4%	18.3%	27	25	2.5%	2.4%	4.9%
<i>Sales Not Available⁷</i>	214	10.2%	5	4	2.3%	1.9%	4.2%	0	1	0.0%	0.5%	0.5%
ALL TRANSACTIONS	2,108	100.0%	201	95	9.5%	4.5%	14.0%	31	32	1.5%	1.5%	3.0%

TABLE VIII
FISCAL YEAR 2007¹
TRANSACTIONS BY ASSETS OF ACQUIRED ENTITIES

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS				
	NUMBER	PERCENT	NUMBER		PERCENTAGE OF ASSET RANGE GROUP			NUMBER		PERCENTAGE OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	354	16.8%	32	11	9.0%	3.1%	12.1%	6	4	1.7%	1.1%	2.8%
50M - 100M	316	15.0%	32	9	10.1%	2.8%	12.9%	3	1	0.9%	0.3%	1.2%
100M - 150M	191	9.1%	27	6	14.1%	3.1%	17.2%	7	2	3.7%	1.0%	4.7%
150M - 200M	111	5.2%	17	6	15.3%	5.4%	20.7%	0	1	0.0%	0.9%	0.9%
200M - 300M	162	7.7%	20	4	12.3%	2.5%	14.8%	3	0	1.9%	0.0%	1.9%
300M - 500M	131	6.2%	14	14	10.7%	10.7%	21.4%	1	0	0.8%	0.0%	0.8%
500M - 1000M	169	8.0%	20	6	11.8%	3.6%	15.4%	3	1	1.8%	0.6%	2.4%
OVER 1000M	491	23.3%	30	39	6.1%	7.9%	14.0%	8	23	1.6%	4.7%	6.3%
<i>Assets Not Available⁸</i>	183	8.7%	9	0	5.0%	0.0%	5.0%	0	0	0.0%	0.0%	0.0%
ALL TRANSACTIONS	2,108	100.0%	201	95	9.5%	4.5%	14.0%	31	32	1.5%	1.5%	3.0%

TABLE IX
FISCAL YEAR 2007¹
TRANSACTIONS BY SALES OF ACQUIRED ENTITIES⁹

SALES RANGE (\$ MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENTAGE OF SALES RANGE GROUP			NUMBER		PERCENTAGE OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	367	17.4%	44	20	12.0%	5.4%	17.4%	10	4	2.7%	1.1%	3.8%
50M - 100M	336	15.9%	30	6	8.9%	1.8%	10.7%	3	3	0.9%	0.9%	1.8%
100M - 150M	194	9.2%	13	4	6.7%	2.1%	8.8%	4	2	2.1%	1.0%	3.1%
150M - 200M	120	5.7%	8	3	6.7%	2.5%	9.2%	0	3	0.0%	2.5%	2.5%
200M - 300M	204	9.7%	16	8	7.8%	3.9%	11.7%	6	3	2.9%	1.5%	4.4%
300M - 500M	169	8.0%	21	5	12.4%	3.0%	15.4%	1	2	0.6%	1.2%	1.8%
500M - 1000M	196	9.3%	31	15	15.8%	7.7%	23.5%	3	7	1.5%	3.6%	5.1%
OVER 1000M	383	18.2%	30	33	7.8%	8.6%	16.4%	4	8	1.0%	2.1%	3.1%
<i>Sales Not Available¹⁰</i>	139	6.6%	8	1	5.8%	0.7%	6.5%	0	0	0.0%	0.0%	0.0%
ALL TRANSACTIONS	2,108	100.0%	201	95	9.5%	4.5%	14.0%	31	32	1.5%	1.5%	3.0%

TABLE X
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
111	CROP PRODUCTION	0	0.0%	NC	0	0	0	0	0	0
112	ANIMAL PRODUCTION	0	0.0%	-0.1%	0	0	0	0	0	0
113	FORESTRY AND LOGGING	2	0.1%	NC	0	0	0	0	0	0
114	FISHING, HUNTING AND TRAPPING	0	0.0%	NC	0	0	0	0	0	0
211	OIL AND GAS EXTRACTION	28	1.3%	-0.5%	0	0	0	0	0	0
212	MINING (EXCEPT OIL AND GAS)	9	0.4%	-0.5%	0	2	2	0	2	2
213	SUPPORT ACTIVITIES FOR MINING	20	0.9%	0.3%	0	3	3	0	2	2
221	UTILITIES	54	2.6%	-0.4%	0	3	3	0	0	0
233	CONSTRUCTION	0	0.0%	-0.1%	0	0	0	0	0	0
236	CONSTRUCTION OF BUILDINGS	5	0.2%	0.1%	2	0	2	0	0	0
237	HEAVY AND CIVIL ENGINEERING CONSTRUCTION	4	0.2%	-0.2%	1	0	1	0	0	0
238	SPECIALTY TRADE CONTRACTORS	7	0.3%	0.1%	0	0	0	0	0	0
311	FOOD AND KINDRED PRODUCTS	33	1.6%	-0.2%	4	2	6	0	3	3
312	BEVERAGE AND TOBACCO PRODUCT MANUFACTURING	6	0.3%	-0.4%	0	0	0	0	0	0
313	TEXTILE MILLS	3	0.1%	-0.2%	1	1	2	1	0	1
314	TEXTILE PRODUCTS	3	0.1%		0	0	0	0	0	0
315	APPAREL MANUFACTURING	3	0.1%	-0.2%	0	0	0	0	0	0
316	LEATHER AND ALLIED PRODUCT MANUFACTURING	0	0.0%	0.0%	0	0	0	0	0	0
321	WOOD PRODUCT MANUFACTURING	6	0.3%	-0.7%	0	0	0	0	0	0
322	PAPER MANUFACTURING	9	0.4%	NC	0	4	4	1	0	1
323	PRINTING AND RELATED SUPPORT ACTIVITIES	17	0.8%	0.6%	2	1	3	1	0	1

TABLE X
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
324	PETROLEUM AND COAL PRODUCTS MANUFACTURING	3	0.1%	-0.1%	1	0	1	0	0	0
325	CHEMICAL MANUFACTURING	124	5.9%	-0.3%	55	0	55	15	0	15
326	PLASTICS AND RUBBER MANUFACTURING	32	1.5%	0.1%	7	0	7	2	0	2
327	NONMETALLIC MINERAL PRODUCT MANUFACTURING	14	0.7%	-0.2%	1	1	2	0	0	0
331	PRIMARY METAL MANUFACTURING	31	1.5%	0.7%	2	3	5	0	1	1
332	FABRICATED METAL PRODUCT MANUFACTURING	39	1.9%	-0.3%	4	0	4	0	0	0
333	MACHINERY MANUFACTURING	40	1.9%	0.0%	0	3	3	0	0	0
334	COMPUTER AND ELECTRONIC PRODUCT MANUFACTURING	56	2.7%	-1.8%	6	3	9	0	0	0
335	ELECTRICAL EQUIPMENT, APPLIANCE, AND COMPONENT MANUFACTURING	15	0.7%	0.3%	0	1	1	0	0	0
336	TRANSPORTATION EQUIPMENT MANUFACTURING	38	1.8%	-0.3%	3	3	6	0	1	1
337	FURNITURE AND RELATED PRODUCT MANUFACTURING	5	0.2%	NC	0	0	0	0	0	0
339	MISCELLANEOUS MANUFACTURING	27	1.3%	-0.3%	11	1	12	3	1	4
421	WHOLESALE TRADE	5	0.2%	-1.4%	0	1	1	0	0	0
423	MERCHANT WHOLESALERS, DURABLE GOODS	124	5.9%	NC	21	4	25	1	0	1
424	MERCHANT WHOLESALERS, NONDURABLE GOODS	72	3.4%	0.5%	14	1	15	0	1	1

TABLE X
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
425	WHOLESALE ELECTRIC MARKETS AND AGENT AND BROKERS	1	0.0%	-0.1%	0	0	0	0	0	0
441	MOTOR VEHICLE AND PARTS DEALERS	6	0.3%	-0.5%	0	0	0	0	0	0
442	FURNITURE AND HOME FURNISHING STORES	3	0.1%	-0.2%	0	0	0	0	0	0
443	MISCELLANEOUS REPAIR SERVICES	1	0.0%	-0.1%	0	0	0	0	0	0
444	ELECTRONICS AND APPLIANCE STORES	4	0.2%	-0.2%	0	0	0	0	0	0
445	FOOD AND BEVERAGE STORES	6	0.3%	-0.1%	6	0	6	2	0	2
446	HEALTH AND PERSONAL CARE STORES	4	0.2%	-0.9%	2	0	2	0	0	0
447	GASOLINE STATIONS	7	0.3%	-0.5%	2	0	2	0	0	0
448	CLOTHING AND CLOTHING ACCESSORIES STORES	10	0.5%	0.2%	0	0	0	0	0	0
451	SPORTING GOODS, HOBBY, BOOK, AND MUSIC STORES	4	0.2%	0.1%	0	0	0	0	0	0
452	GENERAL MERCHANDISE STORES	1	0.0%	-0.2%	0	0	0	0	0	0
453	MISCELLANEOUS STORE RETAILERS	6	0.3%	0.2%	1	2	3	0	0	0
454	NON-STORE RETAILERS	21	1.0%	-0.4%	0	0	0	1	1	2
481	AIR TRANSPORTATION	6	0.3%	0.1%	0	1	1	0	0	0
482	RAILROAD TRANSPORTATION	1	0.0%	NC	0	0	0	0	0	0
483	WATER TRANSPORTATION	6	0.3%	NC	0	0	0	0	0	0
484	TRUCK TRANSPORTATION	7	0.3%	-0.2%	0	0	0	0	0	0
485	TRANSIT AND GROUND TRANSPORTATION	2	0.1%	NC	0	1	1	0	1	1
486	PIPELINE TRANSPORTATION	7	0.3%	-0.7%	1	0	1	0	1	1

TABLE X
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
488	SUPPORT ACTIVITIES FOR TRANSPORTATION	9	0.4%	-0.4%	0	0	0	0	0	0
492	COURIERS	1	0.0%	NC	0	0	0	0	0	0
493	WAREHOUSING AND STORAGE	3	0.1%	-0.4%	0	1	1	0	0	0
511	PUBLISHING INDUSTRIES (EXCEPT INTERNET)	96	4.6%	-1.8%	0	12	12	0	3	3
512	MOTION PICTURES AND SOUND RECORDING INDUSTRIES	10	0.5%	-0.4%	0	1	1	0	1	1
515	BROADCASTING (EXCEPT INTERNET)	12	0.6%	-0.8%	0	1	1	0	1	1
516	INTERNET PUBLISHING AND BROADCASTING	4	0.2%	0.1%	0	0	0	0	0	0
517	TELECOMMUNICATIONS	44	2.1%	NC	1	6	7	1	3	4
518	INTERNET SERVICE PROVIDERS, WEB SEARCH PORTALS, AND DATA PROCESSING SERVICES	34	1.6%	0.9%	5	3	8	1	2	3
519	OTHER INFORMATION SERVICES	3	0.1%	-0.4%	0	2	2	0	0	0
521	MONETARY AUTHORITIES - CENTRAL BANK	0	0.0%	0.0%	0	0	0	0	0	0
522	CREDIT INTERMEDIATION AND RELATED ACTIVITIES	56	2.7%	0.1%	1	2	3	0	2	2
523	SECURITIES, COMMODITY CONTRACTS, AND OTHER FINANCIAL INVESTMENTS AND RELATED ACTIVITIES	210	10.0%	2.2%	0	7	7	0	2	2
524	INSURANCE CARRIERS AND RELATED ACTIVITIES	59	2.8%	-0.4%	3	1	4	0	1	1
525	FUNDS, TRUSTS, AND OTHER FINANCIAL VEHICLES	53	2.5%	1.1%	0	1	1	0	1	1

TABLE X
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
531	REAL ESTATE	11	0.5%	-0.4%	0	3	3	0	1	1
532	RENTAL AND LEASING SERVICES	18	0.9%	0.7%	4	0	4	0	0	0
533	LESSORS OF NONFINANCIAL INTANGIBLE ASSETS (EXCEPT COPYRIGHTED WORKS)	15	0.7%	0.3%	4	2	6	0	0	0
541	PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES	104	5.0%	1.0%	11	1	12	1	0	1
551	MANAGEMENT COMPANIES AND ENTERPRISES	3	0.1%	-0.3%	0	0	0	0	0	0
561	ADMINISTRATIVE AND SUPPORT SERVICES	39	1.9%	0.4%	4	1	5	0	0	0
562	WASTE MANAGEMENT AND REMEDIATION SERVICES	12	0.6%	0.1%	0	1	1	0	0	0
611	EDUCATIONAL SERVICES	7	0.3%	0.2%	0	0	0	0	0	0
621	AMBULATORY HEALTH CARE SERVICES	22	1.0%	NC	6	1	7	0	0	0
622	HOSPITALS	14	0.7%	-0.6%	4	0	4	1	0	1
623	NURSING CARE FACILITIES	9	0.4%	NC	2	0	2	0	0	0
624	SOCIAL ASSISTANCE	3	0.1%	NC	1	0	1	0	0	0
711	PERFORMING ARTS, SPECTATOR SPORTS, AND RELATED INDUSTRIES	0	0.0%	-0.1%	0	0	0	0	0	0
713	AMUSEMENT, GAMBLING, AND RECREATION INDUSTRIES	6	0.3%	-0.2%	0	0	0	0	0	0
721	ACCOMMODATION	5	0.2%	-0.6%	0	0	0	0	0	0
722	FOOD SERVICES AND DRINKING PLACES	21	1.0%	0.2%	1	0	1	0	0	0

**TABLE X
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRING PERSONS**

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
811	REPAIR AND MAINTENANCE	6	0.3%	-0.1%	0	0	0	0	0	0
812	PERSONAL AND LAUNDRY SERVICES	1	0.0%	-0.2%	1	0	1	0	0	0
813	RELIGIOUS, GRANTMAKING, CIVIC, PROFESSIONAL, AND SIMILAR ORGANIZATIONS	0	0.0%	NC	0	0	0	0	0	0
923	ADMINISTRATION OF HUMAN RESOURCE PROGRAMS	0	0.0%	NC	0	0	0	0	0	0
924	ADMINISTRATION OF ENVIRONMENTAL QUALITY PROGRAMS	0	0.0%	NC	0	0	0	0	0	0
999	NONCLASSIFIABLE ESTABLISHMENTS	207	9.8%	6.6%	5	7	12	0	1	1
000	NOT AVAILABLE ¹³	74	3.5%	3.5%	1	1	2	0	0	0
	<i>ALL TRANSACTIONS</i>	2,108	100%		201	95	296	31	32	63

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
111	CROP PRODUCTION	0	0.0%	-0.1%	0	0	0	0	0	0	0
112	ANIMAL PRODUCTION	0	0.0%	-0.1%	0	0	0	0	0	0	0
113	FORESTRY AND LOGGING	4	0.2%	0.1%	0	0	0	0	0	0	2
114	FISHING, HUNTING AND TRAPPING	0	0.0%	NC	0	0	0	0	0	0	0
211	OIL AND GAS EXTRACTION	49	2.3%	0.1%	0	1	1	0	0	0	22
212	MINING (EXCEPT OIL AND GAS)	19	0.9%	0.4%	1	3	4	0	2	2	5
213	SUPPORT ACTIVITIES FOR MINING	29	1.4%	1.0%	0	4	4	0	3	3	19
221	UTILITIES	112	5.3%	2.8%	0	6	6	0	2	2	53
233	CONSTRUCTION	0	0.0%	NC	0	0	0	0	0	0	0
234	CONSTRUCTION OF BUILDINGS	0	0.0%	-0.1%	0	0	0	0	0	0	0
235	CONSTRUCTION - SPECIAL GRADE CONTRACTORS	0	0.0%	-0.1%	0	0	0	0	0	0	0
236	NEW SINGLE-FAMILY HOUSING CONSTRUCTION	5	0.2%	NC	2	0	2	0	0	0	3
237	HEAVY AND CIVIL ENGINEERING CONSTRUCTION	11	0.5%	0.2%	1	0	1	0	0	0	3
238	SPECIALTY TRADE CONTRACTORS	13	0.6%	0.3%	0	0	0	0	0	0	4
311	FOOD AND KINDRED PRODUCTS	33	1.6%	0.1%	4	4	8	0	3	3	26

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
312	BOTTLED AND CANNED SOFT DRINKS AND CARBONATED DRINKS; AND CIGARETTE MANUFACTURING	9	0.4%	NC	1	0	1	0	0	0	4
313	TEXTILE MILL	6	0.3%	0.1%	1	1	2	0	0	0	3
314	TEXTILE MILL PRODUCTS	4	0.2%	NC	1	0	1	1	0	1	3
315	APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS	3	0.1%	-0.1%	1	0	1	0	0	0	2
316	LEATHER AND LEATHER PRODUCTS	0	0.0%	-0.1%	0	0	0	0	0	0	0
321	SAWMILLS	5	0.2%	-0.5%	0	0	0	0	0	0	4
322	PAPER AND ALLIED PRODUCTS	28	1.3%	0.5%	0	9	9	0	3	3	9
323	COMMERCIAL LITHOGRAPHIC PRINTING	16	0.8%	NC	2	1	3	1	0	1	11
324	PETROLEUM REFINING AND RELATED INDUSTRIES	11	0.5%	0.3%	4	0	4	0	0	0	3
325	CHEMICALS AND ALLIED PRODUCTS	130	6.2%	1.9%	40	1	41	8	0	8	55
326	RUBBER AND MISC. PLASTICS PRODUCTS	52	2.5%	1.4%	8	0	8	2	0	2	21
327	STONE, CLAY, GLASS AND CONCRETE PRODUCTS	17	0.8%	0.1%	1	0	1	0	0	0	7
331	IRON AND STEEL MILLS	33	1.6%	0.7%	0	2	2	0	0	0	12

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
332	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT	40	1.9%	0.5%	3	0	3	0	0	0	15
333	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	46	2.2%	0.3%	1	2	3	0	1	1	24
334	MEASURING, ANALYZING AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC, MEDICAL AND OPTICAL GOODS; WATCHES AND CLOCKS	75	3.6%	0.3%	6	4	10	0	1	1	35
335	ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT	16	0.8%	0.5%	1	1	2	0	0	0	9
336	TRANSPORTATION EQUIPMENT	50	2.4%	1.3%	3	3	6	0	1	1	19
337	HOME FURNITURE, FURNISHINGS AND EQUIPMENT STORES	6	0.3%	0.2%	0	0	0	0	0	0	0
339	MISCELLANEOUS MANUFACTURING INDUSTRIES	41	1.9%	0.6%	16	0	16	3	0	3	18
421	WHOLESALE TRADE - DURABLE GOODS	1	0.0%	-1.1%	0	0	0	0	0	0	0
423	AUTOMOBILE AND OTHER MOTOR VEHICLE MERCHANT WHOLESALERS	135	6.4%	2.9%	18	4	22	0	0	0	80

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
424	PRINTING AND WRITING PAPER MERCHANT WHOLESALERS	82	3.9%	1.7%	13	1	14	2	1	3	42
425	WHOLESALE ELECTRONIC MARKETS AND AGENTS AND BROKERS	1	0.0%	-0.2%	0	0	0	0	0	0	0
441	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	18	0.9%	0.2%	0	0	0	0	0	0	6
442	FURNITURE AND HOME FURNISHINGS STORES	3	0.1%	NC	0	0	0	0	0	0	1
443	MISCELLANEOUS REPAIR SERVICES	0	0.0%	-0.1%	0	0	0	0	0	0	0
444	BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS	0	0.0%	-0.3%	0	0	0	0	0	0	0
445	SUPERMARKETS AND OTHER GROCERY (EXCEPT CONVENIENCE) STORES	8	0.4%	0.2%	4	0	4	2	0	2	5
446	MISCELLANEOUS RETAIL	4	0.2%	-0.1%	2	0	2	0	0	0	2
447	FOOD STORES	10	0.5%	0.3%	2	0	2	0	0	0	7
448	APPAREL AND ACCESSORY STORES	18	0.9%	0.5%	1	0	1	0	0	0	6
451	SPORTING GOODS STORES	6	0.3%	0.2%	0	0	0	0	0	0	2
452	GENERAL MERCHANDISE STORES	6	0.3%	-0.1%	0	0	0	0	0	0	0
453	STATIONERY AND OFFICE SUPPLIES	6	0.3%	0.2%	0	0	0	0	0	0	5

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
454	HEATING OIL DEALERS AND LIQUEFIED PETROLEUM GAS	16	0.8%	0.1%	1	0	1	1	0	1	9
481	TRANSPORTATION BY AIR	9	0.4%	0.2%	0	2	2	0	0	0	5
482	RAILROAD TRANSPORTATION	4	0.2%	0.2%	0	0	0	0	0	0	1
483	WATER TRANSPORTATION	11	0.5%	0.3%	0	0	0	0	0	0	4
484	MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	10	0.5%	-0.4%	0	0	0	0	0	0	4
485	LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION	2	0.1%	0.1%	0	1	1	0	1	1	1
486	PIPELINES, EXCEPT NATURAL GAS	8	0.4%	-0.6%	1	0	1	0	0	0	4
488	AIR TRAFFIC CONTROL	25	1.2%	0.7%	0	1	1	0	0	0	6
492	COURIERS	0	0.0%	NC	0	0	0	0	0	0	0
493	WAREHOUSING & STORAGE	5	0.2%	0.1%	0	1	1	0	0	0	2
511	PRINTING, PUBLISHING AND ALLIED INDUSTRIES	113	5.4%	0.5%	0	10	10	0	1	1	73
512	MOTION PICTURES	19	0.9%	0.5%	0	1	1	0	1	1	5
513	COMMUNICATIONS	1	0.0%	-0.9%	0	0	0	0	1	1	1
514	ON-LINE SERVICES	4	0.2%	-0.4%	0	0	0	0	0	0	1
515	BROADCASTING (EXCEPT INTERNET)	21	1.0%	NC	0	2	2	0	2	2	11
516	INTERNET PUBLISHING	11	0.5%	NC	1	1	2	0	0	0	2
517	TELECOMMUNICATIONS	66	3.1%	1.4%	1	4	5	1	3	4	28

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
518	INTERNET SERVICE PROVIDERS, WEB SEARCH PORTALS, AND DATA PROCESSING SERVICES	50	2.4%	1.9%	3	3	6	0	2	2	18
519	OTHER INFORMATION SERVICES	1	0.0%	NC	0	1	1	0	0	0	1
521	DEPOSITORY INSTITUTIONS	0	0.0%	-0.1%	0	0	0	0	0	0	0
522	NONDEPOSITORY CREDIT INSTITUTIONS	63	3.0%	1.2%	0	2	2	0	1	1	30
523	SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES AND SERVICES	56	2.7%	0.1%	0	2	2	0	1	1	46
524	INSURANCE CARRIERS	68	3.2%	0.7%	2	3	5	0	1	1	39
525	INSURANCE AGENTS, BROKERS AND SERVICE	4	0.2%	NC	0	0	0	0	0	0	0
531	LESSORS OF RESIDENTIAL BUILDINGS AND DWELLINGS	15	0.7%	0.1%	0	0	0	0	0	0	4
532	AUTOMOTIVE REPAIR, SERVICES AND PARKING	26	1.2%	NC	4	0	4	1	0	1	13
533	LESSORS OF NONFINANCIAL INTANGIBLE ASSETS (EXCEPT COPYRIGHTED WORKS)	21	1.0%	0.5%	6	0	6	1	0	1	14
541	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT AND RELATED SERVICES	125	5.9%	1.0%	14	7	21	2	0	2	70
551	HOLDING AND OTHER INVESTMENT OFFICES	1	0.0%	-0.1%	0	0	0	0	0	0	0

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
561	TRANSPORTATION SERVICES	29	1.4%	-0.3%	4	1	5	0	0	0	17
562	SOLID WASTE COLLECTION	11	0.5%	NC	0	2	2	0	0	0	9
611	EDUCATIONAL SERVICES	9	0.4%	0.1%	0	1	1	0	1	1	9
621	HEALTH SERVICES	29	1.4%	0.2%	7	0	7	2	0	2	14
622	GENERAL MEDICAL AND SURGICAL; PSYCHIATRIC AND SUBSTANCE ABUSE HOSPITALS	9	0.4%	-0.5%	5	1	6	2	0	2	15
623	NURSING AND RESIDENTIAL CARE FACILITIES	13	0.6%	0.2%	4	0	4	0	0	0	3
624	SOCIAL SERVICES	1	0.0%	-0.3%	1	0	1	0	0	0	1
711	REAL ESTATE	10	0.5%	0.2%	0	0	0	0	0	0	0
713	AMUSEMENT AND RECREATION SERVICES	5	0.2%	-0.3%	0	0	0	0	0	0	2
721	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	10	0.5%	-0.5%	0	0	0	0	0	0	4
722	EATING AND DRINKING PLACES	15	0.7%	-0.4%	1	0	1	0	0	0	8
811	GENERAL AUTOMOTIVE REPAIR	9	0.4%	0.1%	0	0	0	0	0	0	3
812	PERSONAL SERVICES	2	0.1%	-0.4%	1	0	1	0	0	0	1
813	MEMBERSHIP ORGANIZATIONS	0	0.0%	NC	0	0	0	0	0	0	0
923	ADMINISTRATION OF HUMAN RESOURCE PROGRAMS	0	0.0%	NC	0	0	0	0	0	0	0
924	ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	0	0.0%	NC	0	0	0	0	0	0	0

Table XI
FISCAL YEAR 2007¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2006 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
999	NONCLASSIFICABLE ESTABLISHMENTS	0	0.0%	NC	0	0	0	0	0	0	0
000	NOT AVAILABLE ¹⁴	40	1.9%	-24.6%	8	2	10	2	0	2	1
	<i>ALL TRANSACTIONS</i>	2,108	100.0%		201	95	296	31	32	63	1,026

¹ Fiscal year 2007 figures include transactions reported between October 1, 2006 and September 30, 2007.

² The size of transaction is based on the aggregate total amount of voting securities, non-corporate interests and/or assets held by the acquiring person as a result of the transaction and are taken from the response to Item 3 (b)(ii) and 3 (c) of the Notification and Report Form.

³ These statistics are based on the date the Second Request was issued.

⁴ During fiscal year 2007, 2,201 transactions were reported under the HSR Premerger Notification program. The smaller number 2,108 reflects the adjustments to eliminate the following types of transactions: (1) transactions reported under Section 7A(c)(6) and (c)(8) (transactions involving certain regulated industries and financial businesses); (2) transactions deemed non-reportable; (3) incomplete transactions (only one party in each transaction filed a compliant notification); and (4) transactions withdrawn before the waiting period began. The table does not, however, exclude competing offers or multiple party transactions (transactions involving two or more acquired persons).

⁵ The total number of filings under \$50M (as adjusted) submitted in Fiscal Year 2007 is corrective filings.

⁶ In February 2001, legislation raised the size of transaction from \$15 million to \$50 million with annual adjustments beginning in February 2005.

⁷ This category includes newly-formed acquiring persons, foreign acquiring person with no United States revenues, and acquiring persons who had not derived any revenues from their investments at the time of filing.

⁸ Assets of an acquired entity are available when the acquired entity's financial data is consolidated within its ultimate parent.

⁹ Sales an acquired entity are taken from responses to Item 4(a) and (b) (SEC documents and annual reports) or item 5 (dollar revenues) of the Premerger Notification and Report Form.

¹⁰ This category includes acquisition of newly-formed entities from which no sales were generated, and acquisitions of assets which produced no sales revenues during the prior year to filing the Notification and Report Form.

¹¹ The 3-digit codes are part of the North American Industrial Classification System (NAICS) established by the United States Government North American Industrial Classification System 1997, Executive Office of the President, Office of Management and Budget. The NAICS groups used in this table were determined from responses submitted by the parties to Item 5 of the Premerger Notification and Report Form.

¹² This represents the deviation from the fiscal year 2006 percentage.

¹³ This category includes transactions by newly-formed entities.

¹⁴ The intra-industry transactions column identifies the number of acquisitions in which both the acquiring and acquired person derived revenues from the same 3-digit NAICS code.