FEDERAL TRADE COMMISSION
BUREAU OF COMPETITION

DEPARTMENT OF JUSTICE
ANTITRUST DIVISION

ANNUAL REPORT TO CONGRESS
FISCAL YEAR 2002

Pursuant to Subsection (j) of Section 7A of the Clayton Act
Hart-Scott-Rodino Antitrust Improvements Act of 1976
(Twenty-Fifth 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, gives the Federal Trade Commission (the "Commission") and the Antitrust Division of the Department of Justice (the "Antitrust Division" or "Division") the opportunity 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 2002 to protect consumers -- individuals, businesses, and government -- against anticompetitive mergers.

Fiscal year 2002 marked the first full year of operation under the extensive reforms to the HSR Act.[1] The increase in the reporting thresholds inherently resulted in a decrease in the number of reportable transactions as did the overall decline in merger activity from that of recent years. (*See* Figure 1 below.) In fiscal year 2002, 1,187 transactions were reported under the Act, representing about a 50 percent decrease from the number of transactions reported in fiscal year 2001, and about a 76 percent decrease from the 4,926 transactions reported in fiscal year 2000, the last full fiscal year under the previous reporting thresholds.[2]

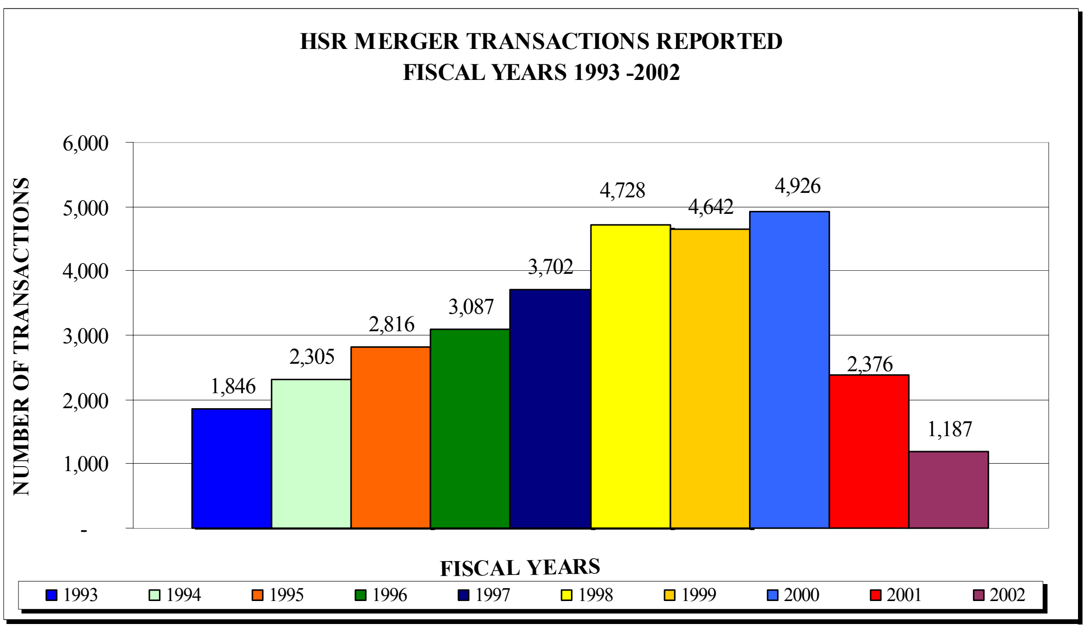

Figure 1

During the year, the Commission challenged twenty-four transactions, leading to ten consent orders, two administrative complaints, and seven abandoned transactions. The

[1] 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. The legislation, which became effective February 1, 2001, raised the size-of-transaction threshold from $15 million to $50 million and made other changes to the filing and waiting period requirements.

[2] *See* Appendix A.

Commission also authorized staff to seek injunctive relief in five matters, one of which was filed in district court. Most notably, the Commission challenged the proposed merger of Nestle Holdings, Inc., the world's largest food producer, and Ralston Purina Company,[3] the world's largest producer of dry pet foods. The merger would have eliminated direct competition between the companies in the dry cat food market and increased the likelihood of higher prices for consumers. The Commission also challenged the proposed merger of Valero Energy Corporation and Ultramar Diamond Shamrock Corporation,[4] which would have likely increased the price of California Air Resources Board ("CARB") gasoline for consumers in California due to loss of competition from the merger.

The Antitrust Division challenged ten merger transactions, leading to two consent decrees, two abandoned transactions, and five other transactions that were restructured after the Division informed the parties of its antitrust concerns relating to the transaction. The Division's merger challenges included General Dynamics Corporation's proposed acquisition of Newport News Shipbuilding, Inc., which would have eliminated competition for nuclear submarines and harmed competition for other military ships.[5] The Division also challenged Archer-Daniels-Midland Company's proposed acquisition of Minnesota Corn Processors[6] that, as originally structured, would have reduced the number of independent competitors in the corn wet milling industry to four, making coordination among the remaining firms more likely.

In fiscal year 2002, 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/, continued to provide improved access to information necessary to the notification process. The website includes such information as the premerger notification filing form and instructions, the premerger notification statute and rules, formal interpretations of the rules, grants of early termination, filing fee instructions, HSR events, tips for completing the filing form, procedures for submitting post-consummation filings, frequently asked questions regarding the HSR filing requirements, and other useful information. In particular, the website is the paramount source of information for HSR practitioners seeking information on the changes to the Act and the premerger rules as a result of last fiscal year's HSR reform legislation, and includes Federal Register notices finalizing the rules. A recent addition is a database of informal interpretation letters which provide PNO staff interpretations of the premerger notification rules and the Act.

This fiscal year the PNO staff continued its outreach efforts by providing an in-depth introductory seminar about the HSR filing requirements, specifically targeting new HSR

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[3] *See infra* p. 15.

[4] *See infra* p. 16.

[5] *See* infra p. 10.

[6] *See infra* p. 10.

practitioners and others who are not familiar with the program, and incorporated those seminar materials on the website.

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. Subsection (j) of Section 7A provides:

> Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and the need for any rule promulgated pursuant thereto, and any recommendations for revisions of this section.

This is the twenty-fifth annual report to Congress pursuant to this provision. It covers fiscal year 2002 -- October 1, 2001 through September 30, 2002.

In general, the 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.

However, if either agency determines during the waiting period that further inquiry is necessary, it 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 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).[7] This additional time provides the reviewing agency with the opportunity to

[7] Under the statutory changes cited in footnote 1, this waiting period extension was increased to 30 days for most transactions. The 10-day waiting period extension for cash tender offers and bankruptcies remains the same.

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, with the concurrence of the Assistant Attorney General, 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.[8]

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,[9] 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. Appendix A also shows for fiscal years 1993 through 2002 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 1993 through 2002.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2002 decreased approximately 50 percent from the number of transactions reported in fiscal year 2001. In fiscal year 2002, 1,187 transactions were reported, while 2,376 were reported in fiscal year 2001. The statistics in Appendix A show that the number of merger investigations in which second requests were issued in fiscal year 2002 decreased approximately 30 percent from the number of merger investigations in which second requests were issued in fiscal year 2001. Second requests were issued in 49 merger investigations in

[8] 43 Fed. Reg. 3443 (August 4, 1978); 43 Fed. Reg. 36053 (August 15, 1978); 44 Fed. Reg. (November 21, 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. 35531 (July 6, 2001); 67 Fed. Reg. 11898 (March 18, 2002); 67 Fed. Reg. 11904 (March 18, 2002); 68 Fed. Reg. 2425 (January 17, 2003).

[9] 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.

fiscal year 2002, while second requests were issued in 70 merger investigations in fiscal year 2001. While the number of second requests declined, the percentage of second request transactions increased. (*See* Figure 2 below.)

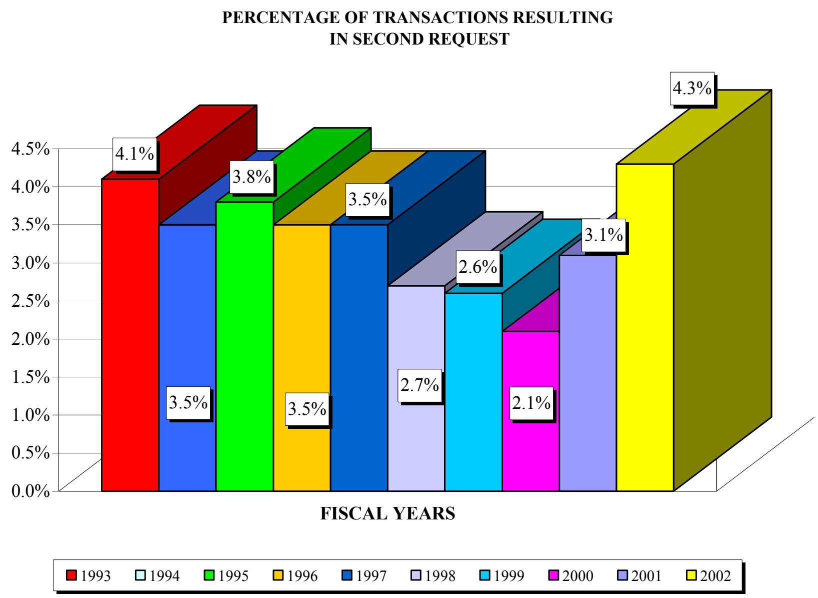

Figure 2

The statistics in Appendix A also show that in recent years, early termination was requested in the majority of transactions. In fiscal year 2002, early termination was requested in 87.8 percent (1,042) of the transactions reported while in fiscal year 2001 it was requested in 86.8 (2,063) percent of the transactions reported. The percentage of requests granted out of the total requested slightly decreased from 77.7 percent in fiscal year 2001 to 76.1 percent in fiscal year 2002.

Statistical tables (Tables I through XI) in Exhibit A contain information about the agencies' enforcement activities for transactions reported in fiscal year 2002. 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 2002, clearance was granted to one or the other of the agencies for the purpose of conducting an initial investigation in 18.3 percent of the total number of transactions in which a second request could have been issued.

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 1993 to 2000 from about $222 million to about $3 trillion before declining to about $1 trillion in fiscal year 2001. During fiscal year 2002, the dollar value of reported transactions fell to about $565.4 billion.

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 2002 based on the acquired entity's operations.

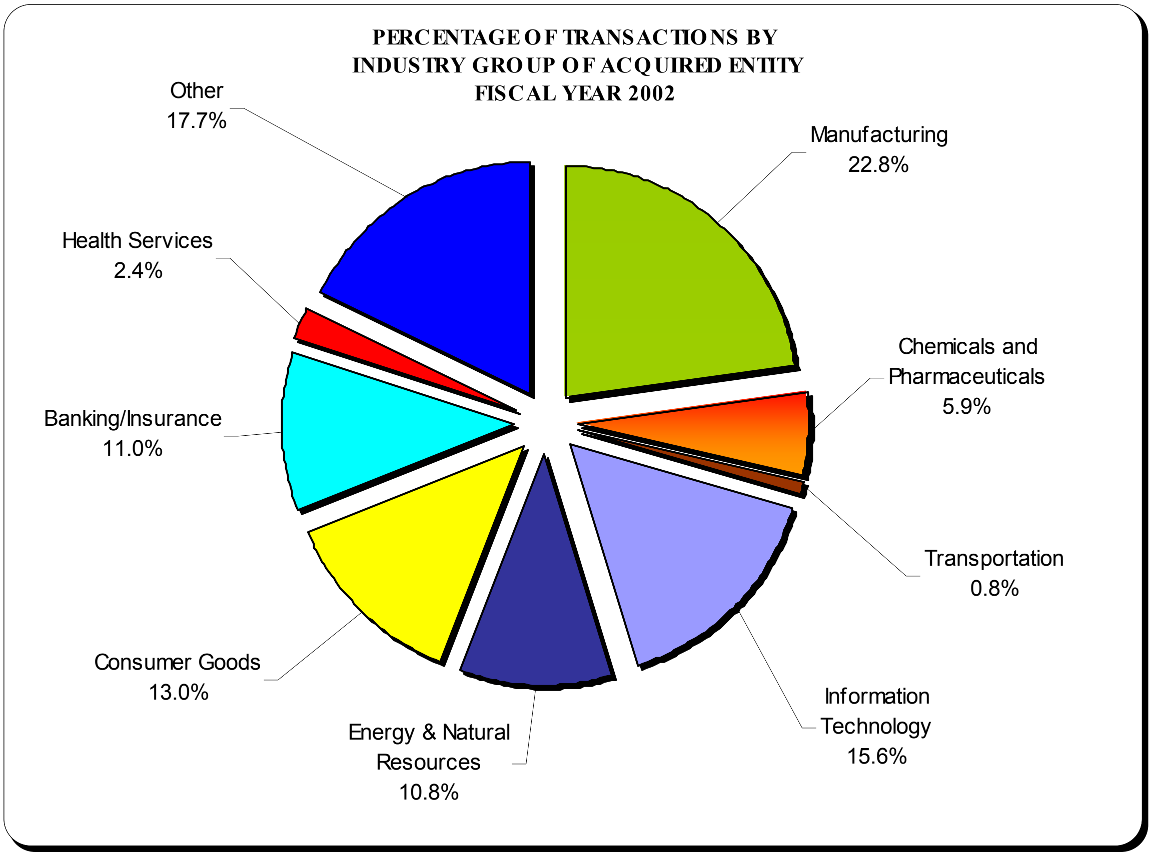

Figure 3

DEVELOPMENTS WITHIN THE PREMERGER PROGRAM

1. *Final Rules*

On February 1, 2001, the Commission, with the concurrence of the Assistant Attorney General, published two Federal Register notices resulting in significant changes to the premerger notification rules. These amendments were discussed in detail in the fiscal year 2001 Annual Report.[10]

The first 2001 Federal Register notice had published Interim Rules[11] that became effective on February 1, 2001, and incorporated the extensive statutory changes to the HSR

[10] See the Annual Report to Congress, Fiscal Year 2001 for a detailed discussion of the substantive changes.

[11] The majority of the Interim Rules became final on January 17, 2003. 68 Fed. Reg. 2425. These

Act into the Premerger Notification Program. In fiscal year 2002, in response to public comments, the Commission, with the concurrence of the Assistant Attorney General, modified one of the Interim Rules. The final rule restored to parties who filed prior to February 1, 2001 the full five-year period following expiration of the waiting period to acquire up to the next notification threshold that was in effect at the time of filing.[12]

The second 2001 Federal Register notice had set forth certain proposed amendments that were not necessary to implement the HSR Act, but consisted instead of updates, corrections and other improvements in the rules that the Commission determined were timely and appropriate. These proposals had included modifying Section 802.2 by removing associated agricultural assets from the agricultural property exemption, revising Section 802.6(b) regarding federal regulatory approval, and restructuring and revising Sections 802.50 and 802.51 to clarify and refocus exemptions for acquisitions of foreign assets and voting securities. During fiscal year 2002, these amendments were finalized (with some changes in response to public comment) and became effective on April 17, 2002.[13]

2. *Compliance*

The Commission and the Department of Justice 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 2002. 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 requirements of the Act. In addition, industry sources, such as competitors, customers and suppliers, as well as interested members of the public, 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 requirements is liable for a civil penalty of up to $11,000 for each day the violation continues.[14] In fiscal year 2002, corrective filings for thirteen transactions were received[15] and one enforcement action was brought.

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changes included implementing the increase in the size-of-transaction threshold and the introduction of a three-tiered filing fee structure, and the elimination of Section 802.20 (which applied to acquisitions of 15% but valued at $15 million or less), as well as updating the filing form.

[12] 67 Fed. Reg. 11904 (March 18, 2002).

[13] 67 Fed. Reg. 11898 (March 18, 2002).

[14] Effective 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).

[15] 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.

In *The Hearst Trust*,[16] the complaint alleged that Hearst failed to submit certain key corporate documents that were required for premerger notification review under the HSR Act before acquiring Medi-Span, Inc. in 1998, and that the failure to submit these documents hindered the ability of the federal antitrust agencies to analyze the competitive effects of the acquisition prior to consummation. Hearst's acquisition of Medi-Span, its main competitor in the market for electronic integratable drug information databases, also known as integratable drug data files, allowed Hearst's First DataBank, Inc. subsidiary to institute substantial price increases to its customers for use of the electronic databases which contain clinical, pricing and other information on prescription and non-prescription drugs. Pharmacists, physicians, hospital staff, and health plans use these databases to help them provide high-quality, cost-effective patient care. Most notably, integratable drug data files are needed for pharmacists to get quick, automatic warnings of any dangerous interactions between newly prescribed drugs and other drugs their patients are already taking. A consent decree that was filed simultaneously with the complaint and entered by the court on October 15, 2001 required Hearst to pay $4 million in civil penalties, as of then the largest amount paid by a single company for a violation of the premerger notification law.

MERGER ENFORCEMENT ACTIVITY[17]

1. *The Department of Justice*

During fiscal year 2002, the Antitrust Division challenged ten merger transactions that it concluded may have substantially lessened competition if allowed to proceed as proposed. In four of these transactions, the Antitrust Division filed a complaint in U.S. district court. Two of these cases were settled by consent decree; one transaction was abandoned after filing the complaint; and one case was litigated unsuccessfully in district court. In the six other challenges during fiscal year 2002, the Antitrust Division informed the parties to a proposed transaction that it would likely file suit challenging the transaction unless the parties restructured the proposal to avoid competitive problems or abandoned the proposal altogether.[18] In five of these proposed transactions, the parties restructured the transactions;

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[16] United States v. The Hearst Trust and The Hearst Corporation, Civil No. 1:01CV02119 (D.D.C. complaint filed October 11, 2001).

In Federal Trade Commission v. The Hearst Trust, Civ. No. 1:01CV00734 (D.D.C. complaint filed April 5, 2001), the Commission filed for a permanent injunction alleging that Hearst and First DataBank illegally acquired a monopoly in the market for electronic integratable drug information drug data files. On December 14, 2001, the Commission voted to approve a proposed settlement that required Hearst to divest the former Medi-Span business and pay $19 million as disgorgement of unlawful profits. The settlement marks the first time the Commission has sought either divestiture or disgorgement of profits in a federal court action for a consummated merger. The funds were required to be distributed to injured customers as part of the settlement of a private class action suit alleging unlawful overcharges by Hearst. The district court approved the final order and stipulated permanent injunction on December 18, 2001. See Annual Report to Congress, Fiscal Year 2001at 19-20.

[17] 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.

[18] In four instances, the Department of Justice issued press releases: November 29, 2001 – Wells Fargo

and in one, the parties abandoned the proposed transaction entirely.

In *United States v. SunGard Data Systems, Inc. and Comdisco, Inc.*,[19] the Division sued to prevent SunGard from acquiring Comdisco and consequently reducing competition substantially in the sale of shared hot site disaster recovery services provided to consumers in the event of an interruption of a computer data center due to an incapacitating event. The companies were two of three major suppliers of shared hot site services for data recovery. For many customers, SunGard and Comdisco were the closest and best competitive alternatives, based upon considerations of hot site systems offerings, service, and price. After Comdisco filed voluntary Chapter 11 bankruptcy, SunGard offered the highest bid at the auction for the Comdisco assets. The Division sued to block the transaction in the U.S. District Court for the District of Columbia on October 23, 2001. On November 14, 2001, after an expedited trial, the district court entered judgment for the defendants, denied the Division's request for permanent injunction, and dismissed the complaint with prejudice.

In *United States v. General Dynamics Corporation and Newport News Shipbuilding Inc.*,[20] the Division challenged General Dynamics' $2.6 billion acquisition of Newport News, alleging that the cash tender offer, as originally proposed, would eliminate competition for nuclear submarines – a weapon platform of vital importance to the security of the United States – resulting in a monopoly. General Dynamics and Newport News were the only manufacturers of nuclear submarines. The companies were also leaders on the only two teams working to develop electric drive technology for nuclear submarines and surface combatants. The merger, as structured, also would have harmed competition for the manufacture of other military ships, including conventionally powered surface combatants. The parties abandoned their merger agreement on October 29, 2001.

In *United States v. The Manitowoc Company, Inc., Grove Investors, Inc. and National Crane Corporation*,[21] the Division challenged The Manitowoc Company's $170 million

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and Company merger with Texas Financial Bancorporation, Inc. and its acquisition of certain bank and non-bank subsidiaries of Marquette Bancshares, Inc. – Minnesota and South Dakota banks (business banking services); December 3, 2001 – SunTrust Bank's acquisition of Huntington National Bank – Florida banks (business banking services); December 18, 2001 – Suiza Foods Corporation and Dean Foods Company merger (dairy processing plants in Alabama, Florida, Indiana, Kentucky, Ohio, South Carolina, Virginia and Utah); September 6, 2002 – Aggregate Industries' acquisition of Wakefield Materials Company (ready-mix concrete facility serving northern metropolitan Boston).

In the remaining two challenges, the Division informed the parties of its antitrust concerns but did not issue a press release: American General Media Corp.'s proposed acquisition of Rocky Mountain Broadcasting I, L.L.C. and Salisbury Broadcasting's acquisition of Mass Entertainment Corporation (Aspen and Vail, Colorado radio stations); Oldcastle Materials Group's acquisition of Aggregate Industries' Central Region ((Michigan and Indiana) (aggregate, asphalt and ready-mix concrete facilities)).

[19] United States v. SunGard Data Systems, Inc. & Comdisco, Inc., No.01-2196 (ESH) (D.D.C. Oct. 22, 2001).

[20] United States v. General Dynamics Corp. & Newport News Shipbuilding Inc., No.1:01CV02200 (D.D.C. Oct. 23, 2001).

[21] United States v. The Manitowoc Co., Inc., Grove Investors, Inc. & National Crane Corp., No.

acquisition of Grove Investors. The complaint alleged that the acquisition, as originally proposed, would have reduced competition by combining two of only three major producers of medium- and heavy-lift boom trucks in North America. A boom truck is a stiff boom telescopic crane mounted on a standard flat-bed commercial truck chassis. This general-purpose mobile crane has a broad range of applications in the construction, petroleum, and utility industries. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. Under the terms of the decree, Manitowoc was required to divest either its own or Grove's boom truck business to a purchaser acceptable to the Division. The Court entered the consent decree on December 11, 2002.

In *United States v. Archer-Daniels-Midland Company and Minnesota Corn Processors,*[22] the companies agreed to dissolve a joint venture with a competing corn wet miller in order for ADM to proceed with its $634 million proposed acquisition of MCP. ADM and MCP were two of the largest wet corn millers in the United States. The complaint alleged that the acquisition, as originally structured, would have lessened competition substantially by reducing the number of independent competitors in the corn wet milling industry to four and making coordination among the remaining firms more likely. The wet mill processing of corn results in the manufacture of corn syrup and high fructose corn syrup ("HFCS"), products found in foods and soft drinks. Americans consume over $2.5 billion in corn syrup and HFCS each year. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. The decree required ADM and MCP to dissolve the joint venture between MCP and Corn Producers International, Inc. ("CPI"), allowing CPI to compete independently of the merged ADM and MCP. The Court entered the consent decree on July 22, 2003.

During fiscal year 2002, the Division investigated four bank merger transactions for which divestiture was required prior to or concurrently with the acquisition and two others in which conditions were imposed. A "not significantly adverse" letter conditioned upon a letter agreement between the parties and the Division was sent to the appropriate bank regulatory agency in all instances.[23] Also during fiscal year 2002, courts entered consent decrees in two

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02CV0159 (D.D.C. July 31, 2002).

[22] United States v. Archer-Daniels-Midland Co. & Minnesota Corn Processors, No. 1:02CV01768 (D.D.C. Sept. 6, 2002).

[23] The six letters were: October 4, 2001 letter to the Comptroller of the Currency regarding the application by Community Bank, N.A., Canton, NY, to acquire 36 branches of Fleet National Bank, Providence, RI; October 15, 2001 letter to the Comptroller of the Currency regarding the application for NBT Bank, N.A., Norwich, NY, to acquire Central National Bank, Canajoharie, NY; November 29, 2001 letter to the Board of Governors of the Federal Reserve System regarding the application by Wells Fargo & Company, San Francisco, CA, to acquire certain bank and non-bank subsidiaries of Marquette Bancshares, Inc., MN, and to merge with Texas Financial Bancorporation, TX (the Pohlad Group); December 3, 2001 letter to the Board of Governors regarding the application by SunTrust Bank, Atlanta, GA, to acquire Florida branches of Huntington Bank, Columbus, OH; December 26, 2001 letter to the Board of Governors of the regarding the application by Wesbanco, Inc., Wheeling, WV, to acquire American Bancorporation, Wheeling, OH, and to merge Wheeling National Bank, Wheeling, WV, into Wesbanco Bank, Wheeling, WV; August 8, 2002 letter to the Federal Deposit Insurance Corporation regarding the application by S&T Bank, Indiana, PA, to acquire PFC Bank, Ford City, PA, as part of a transaction wherein S&T Bancorp, Inc. acquired Peoples Financial Corp.

merger cases previously filed by the Division in fiscal year 2001.[24]

Additionally, on September 10, 2002, in *United States v. Earthgrains Co., Specialty Foods Corp. and Metz Holdings, Inc.* (N.D. Ill.), the Division petitioned the Court to find Earthgrains Baking Companies, Inc., successor in interest to Earthgrains Company, in civil contempt for violating an order that had been entered by the court on July 3, 2000.[25] According to the motion, Earthgrains violated the consent decree by failing to maintain assets prior to their divestiture, as required by the Hold Separate Stipulation and Order. To resolve the matter, Earthgrains agreed to pay a $100,000 civil penalty to the United States.

2. *The Federal Trade Commission*

The Commission challenged twenty-four transactions that it concluded would lessen competition if allowed to proceed as proposed during fiscal year 2002,[26] leading to ten consent orders, two administrative complaints, and seven withdrawn filings. In five of the twenty-four matters, the Commission authorized staff to seek injunctive relief; of these, one case was filed in district court and after a preliminary injunction was granted the parties abandoned the transaction, in two cases the parties negotiated a consent agreement, and in two other cases the parties abandoned the transaction.

In *Diageo plc/Vivendi Universal S.A.*,[27] the Commission authorized staff to file for a preliminary injunction to block Diageo's and Pernod Ricard S.A.'s proposed $8.15 billion joint acquisition of Vivendi's Seagram Wine and Spirits business. According to the complaint, the proposed acquisition would have substantially lessened competition in five relevant product markets in the distilled spirits industry. Specifically, the rum market would have become a duopoly controlled by Bacardi U.S.A., the industry leader, and Diageo/Seagram, the second and third largest sellers of rum in the United States. Together, Bacardi U.S.A. and Diageo/Seagram would have controlled 95 percent of all premium rum sales in the United States. The next largest competitor would have a market share in the United States of about only two percent. Diageo would have also acquired highly sensitive commercial business information about Seagram's Gin, its principal competitor in the retail gin market. Prior to the Commission's filing of a complaint seeking the preliminary injunction, a proposed consent agreement was negotiated that allowed the parties to proceed with the transaction under certain conditions. The order required Diageo to divest its Malibu

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[24] On April 5, 2002, the District Court entered the consent decree in United States v. Premdor, Inc., Premdor U.S. Holdings, Inc., Int'l Paper Co. & Masonite Corp. (D.D.C. Aug. 3, 2001); on April 17, 2002, the consent decree was entered in United States v. 3D Systems Corp. & DTM Corp. (D.D.C. Aug. 16, 2001). See the Annual Report to Congress, Fiscal Year 2001 for a description of these cases.

[25] See the Annual Report to Congress, Fiscal Year 2000 for a description of this case.

[26] In addition to the two administrative complaints discussed on page 14 of this report, an administrative complaint was also issued in Libbey Inc./Newell Rubbermaid, Inc. (See the above discussion). To avoid double counting this report includes only those merger enforcement actions in which the Commission took its first public action during fiscal year 2002.

[27] Diageo plc/Vivendi Universal S.A., Docket No. C-4032 (issued February 4, 2002).

Rum assets, the country's leading coconut-flavored rum, to a Commission-approved buyer and agree not to obtain or use any commercially sensitive business information regarding four brands, including Seagram's Gin, that were to be acquired by Pernod.

In *Libbey, Inc./Newell Rubbermaid, Inc.*,[28] the Commission filed for a preliminary injunction in district court alleging that Libbey's proposed acquisition of Newell Rubbermaid's Anchor Hocking Corporation subsidiary would have substantially lessened competition in the market for soda-lime glassware sold to the food service industry in the United States. According to the complaint, the acquisition would have combined the largest and third-largest sellers of soda-lime glassware to the United States food service industry. The acquisition would have eliminated substantial competition between Libbey and Anchor, increased barriers to entry into the relevant market and increased the likelihood of higher prices for consumers. In April 2002, the court granted the Commission's motion blocking the proposed acquisition. Following the court's preliminary injunction order, in May 2002 the Commission issued an administrative complaint against the parties. The parties subsequently abandoned the transaction.

In *Deutsche Gelatine-Fabriken Stoess AG/Goodman Fielder Limited*,[29] the Commission authorized staff to file for a preliminary injunction to block the proposed acquisition by DGF Stoess of Goodman Fielder's gelatin business. According to the complaint, DGF Stoess and Goodman Fielder were the two largest producers of pigskin and beef hide gelatin in the world. Pigskin and beef hide gelatin are used primarily by the food industry as an ingredient in edible products and by the pharmaceutical industry to produce capsules and tablets. The proposed acquisition would have further consolidated an already concentrated market and increased the likelihood that customers of pigskin and beef hide gelatin would be forced to pay higher prices. Prior to the Commission's filing of a complaint seeking the preliminary injunction, a proposed consent agreement was negotiated to remedy the alleged anticompetitive effects of the merger. Under the terms of the agreement, DGF Stoess could not acquire Goodman Fielder's entire gelatin business; rather, Leiner Davis Gelatin Corporation, a Goodman Fielder subsidiary, would retain its United States and Argentine gelatin plants and related assets.

In *Meade Instruments Corporation/Tasco Holdings, Inc.*,[30] the Commission authorized staff to file for a preliminary injunction in federal district court to pre-empt any attempt by Meade to purchase assets of bankrupt Tasco Holdings, Inc.'s Celestron International subsidiary. According to the complaint, Meade was the leading manufacturer of performance telescopes and Schmidt-Cassegrain telescopes in the United States, with dominant positions in

[28] Federal Trade Commission v. Libbey, Inc., Civ. No. 02-0060 (D.D.C. complaint filed January 14, 2002). On June 10, 2002, the respondents announced that they had terminated their merger agreement. On October 7, 2002, the Commission issued a consent order in settlement of the accompanying administrative proceedings (Docket No. 9301).

[29] Deutsche Gelatine-Fabriken Stoess AG/Goodman Fielder Limited, Docket No. C-4045 (issued April 17, 2002).

[30] Meade Instruments Corporation/Tasco Holdings, Inc., File No. 021-0127.

the markets for performance and Schmidt-Cassegrain telescopes. Celestron International was the number two performance telescope provider in the United States and the only other supplier of Schmidt-Cassegrain telescopes. The acquisition would have adversely impacted the performance telescope market by eliminating competition between the two companies and by creating a monopoly in the market for Schmidt-Cassegrain telescopes. In May 2002, Meade notified the Commission that it had abandoned its efforts to bid for the Celestron assets.

In *Cytyc Corporation/Digene Corporation*,[31] the Commission authorized staff to seek a preliminary injunction to block Cytyc's proposed acquisition of Digene. According to the complaint, the combination of the two companies would have lessened competition and increased consumer prices within the highly concentrated market for primary cervical cancer screening tests. Both Cytyc and Digene manufactured and sold products used to screen women for cervical cancer. Cytyc's products accounted for 93 percent of the U.S. liquid-based pap tests, the most widely used sensitive primary screening tool available for the detection of cervical cancer. The only other company producing and selling an FDA-approved liquid pap test in the United States was TriPath Imaging. While three other companies had developed such tests, they had not yet begun clinical trials, and were at least two years away from entering the U.S. market. Digene was the only company in the United States selling a DNA-based test for the human papillomavirus ("HPV"), believed to cause nearly all cervical cancer cases. Digene's HPV test is most commonly and efficiently conducted using a residual sample obtained from a liquid pap test, which requires FDA approval. Thus, it is important that a company manufacturing liquid pap tests have FDA approval to run the Digene HPV test off its sample medium. It is similarly important that a liquid pap test supplier's customers have viable access to Digene's HPV test. By purchasing Digene, Cytyc would have been in a position to eliminate its only existing competitor, TriPath, by limiting access to Digene's HPV test, and thus, could have thwarted the entry of other firms that planned to sell liquid pap tests in the United States. The parties abandoned the transaction prior to the Commission's filing of the complaint in district court.

The Commission issued an administrative complaint in *MSC.Software Corporation,*[32] alleging that MSC's 1999 acquisitions of Universal Analytics, Inc. ("UAI") and Computerized Structural Analysis & Research Corporation ("CSAR") substantially lessened competition in the market for a popular type of advanced computer-aided engineering software used throughout the aerospace and automotive industries known as Nastran. According to the complaint, MSC was the dominant Nastran supplier with an estimated 90 percent of worldwide revenue and UAI and CSAR, each, held an estimated five percent of worldwide revenue. The acquisitions created and enhanced MSC's power to raise prices above a competitive level and prevented other suppliers of engineering software form acquiring UAI and CSAR and increasing competition. Subsequently, the matter was withdrawn from adjudication and a consent agreement was negotiated. The order required MSC to divest at least one clone copy of its current advanced Nastran software, including the

[31] Cytyc Corporation/Digene Corporation, File No. 021-0098.

[32] MSC.Software Corporation, Docket No. 9299 (issued October 9, 2001).

source code. In addition, MSC was required to permit certain customers to terminate paid-up licenses entered into since the acquisitions and required MSC to refund a portion of the advance consideration paid by its customers.

The Commission also issued an administrative complaint in *Chicago Bridge & Iron Company N.V., Chicago Bridge & Iron Company, and Pitt-Des Moines, Inc.*,[33] alleging that CB&I's 2001 acquisition of the Water Division and Engineered Construction Division of Pitt-Des Moines, Inc. ("PDM") substantially lessened competition in four relevant specialty industrial storage tank markets. According to the complaint, CB&I and PDM competed against each other as the two leading U.S. producers of large, field-erected industrial and water storage tanks and other specialized steel-plate structures. The combination of the two companies resulted in a monopoly in the U.S. markets for two of the more difficult and costly products to construct – LNG tanks and thermal vacuum chambers. In addition, the combination of the two companies resulted in a dominant firm in the U.S. markets for LPG tanks and LIN/LOX/LAR tanks. On June 18, 2003, in an Initial Decision, the administrative law judge upheld the administrative complaint allegations. The order entered by the judge required CB&I to divest all of the assets acquired in the February 2001 acquisition, in order to restore competition as it existed prior to the acquisition.

In fiscal year 2002, the Commission accepted consent agreements for public comment in ten merger cases. A complaint and decision and order were issued in eight of these matters during the fiscal year, and a consent agreement in two of these cases became final after September 2002.

In *Airgas, Inc.*,[34] the complaint alleged that Airgas's purchase of the Puritan Bennett Medical Gas business from Mallinckrodt, Inc. in January 2000 had an adverse effect on competition in the nitrous oxide market in the United States and Canada. Nitrous oxide is a clear, odorless gas primarily used in dental and surgical procedures as an analgesic agent or as a supplement to anesthesia. At the time of the acquisition, Puritan Bennett was Airgas's only competitor in the production and sale of nitrous oxide. Airgas was the nation's largest distributor of industrial, medical, and specialty gases and the only producer and seller of nitrous oxide in North America. Puritan Bennett, prior to its $90 million purchase by Airgas, was a leading distributor of medical gases and a producer and seller of nitrous oxide in North America. The acquisition eliminated any competition in this market in North America and increased the likelihood that customers requiring nitrous oxide would pay higher prices. Under the agreement, Airgas was required to divest a nitrous oxide business to Air Liquide America Corporation, a producer of other medical gases, such as medical grade oxygen and nitrogen. The agreement also required Airgas to supply Air Liquide with a sufficient amount of bulk liquid nitrous oxide in order to ensure that Air Liquide has the same volume of nitrous oxide as Airgas did before its acquisition of Puritan Bennett.

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[33] Chicago Bridge & Iron Company N.V., Chicago Bridge & Iron Company, and Pitt-Des Moines, Inc., Docket No. 9300 (issued October 25, 2001).

[34] Airgas, Inc., Docket No. C-4029 (issued December 12, 2001).

In *Koninklijke Ahold NV/Bruno's Supermarkets, Inc.*,[35] the complaint alleged that Ahold's proposed purchase of Bruno's Supermarkets would have substantially lessened competition in the retail sale of food and grocery items in supermarkets in or near the towns of Milledgeville and Sandersville, Georgia. According to the complaint, Ahold, a global food service distributor and retailer, operated approximately 1,300 United States food stores under the trade names Giant, Stop & Shop, Tops, and BI-LO. Bruno's Supermarkets, a large supermarket chain in the southeastern United States, owned 169 supermarkets under the trade names Bruno's Fine Foods, Food World, Food Max, Food Fair, and Fresh Value. The order required Ahold to divest two of its BI-LO supermarkets in Georgia, one in Milledgeville and one in Sandersville.

In *Nestle Holdings, Inc./Ralston Purina Company*,[36] the complaint alleged that Nestle's proposed $10.3 billion acquisition of Ralston would have substantially lessened competition in the dry cat food market in the United States. According to the complaint, the proposed transaction would have substantially increased concentration in the relevant market, eliminated direct competition between the companies, and increased the ability of the combined company to unilaterally exercise market power, thereby increasing the likelihood that consumers would pay higher prices. Nestle, the largest food corporation in the world, sells its pet food products through its Friskies Pet Care Division, including Alpo, Come N' Get It, Mighty Dog, Friskies, Fancy Feast, Jim Dandy, and Chef's Blend. Ralston, the world's leading producer of dry pet foods, markets brands such as Dog Chow, Puppy Chow, Cat Chow, Kitten Chow, Purina Special Care, Meow Mix, Purina O.N.E., Purina Pro Plan, Fit & Trim, Alley Cat, and Deli-Cat. Under the order, Nestle was required to divest Ralston's Meow Mix and Alley Cat brands to J.W. Childs Equity Partners II, L.P., which owns Hartz Mountain, a leading manufacturer and distributor of pet supplies in the United States.

In *Valero Energy Corp./Ultramar Diamond Shamrock Corp.*,[37] the complaint alleged that the proposed merger of petroleum refiners Valero and Ultramar would have substantially lessened competition in the following markets: 1) the refining and bulk supply of California Air Resources Board ("CARB") 2 and CARB 3 gasoline for sale in Northern California and 2) the refining and bulk supply of CARB 2 and CARB 3 gasoline in the state of California. According to the complaint, both Valero and Ultramar were leading refiners and marketers of CARB gasoline in California and by eliminating the direct competition between the parties the merger would have likely increased the price of CARB gasoline for consumers in California due to loss of competition from the merger. The order required Valero to divest Ultramar's Golden Eagle Refinery, certain bulk gasoline supply contracts, and 70 Ultramar retail service stations in Northern California to a Commission-approved buyer.

In *INA-Holding Schaeffler KG/FAG Kugelfischer Georg Schafer AG*,[38] the complaint

[35] Koninklijke Ahold NV/Bruno's Supermarkets, Inc., Docket No. C-4027 (issued January 16, 2002).

[36] Nestle Holdings, Inc./Ralston Purina Company, Docket No. C-4028 (issued February 4, 2002).

[37] Valero Energy Corp./Ultramar Diamond Shamrock Corp., Docket No. C-4031 (issued February 19, 2002).

[38] INA-Holding Schaeffler KG/FAG Kugelfischer Georg Schafer AG, Docket No. C-4033 (issued February 5, 2002).

alleged that the proposed acquisition of FAG by INA would have lessened competition and created a monopoly in the worldwide market for the research, development, manufacture and sale of cartridge ball screw support bearings ("CBSSB"), a type of bearing used in manufacturing machine tool equipment. According to the complaint, INA and FAG were the only two suppliers of CBSSB in the world and the proposed acquisition, if consummated, would have resulted in a monopoly in the market. Entry into the market was a difficult process because of, among other things, the time and cost associated with researching and developing a line of CBSSB products, acquiring the necessary production assets, and developing the expertise needed to successfully design, produce, and market these products. The order required INA and FAG to divest FAG's CBSSB business to Aktiebolaget SKF, the largest supplier of ball and other roller bearings in the world.

In *Solvay S.A.*,[39] the complaint alleged that Solvay's proposed $1.3 billion acquisition of Ausimont S.p.A. from Italengeria S.p.A. would have lessened competition in the production and sale of all grades of polyvinylidene fluoride ("PVDF") and the production and sale of melt-processible grades of PVDF. PVDF is a fluoropolymer used in a wide variety of applications, including highly durable architectural coatings, wire and cable jacketing, fiber optic raceways, chemical processing equipment, semiconductor manufacturing equipment, and other miscellaneous applications. According to the complaint, Solvay and Ausimont were two of only three producers of PVDF in the United States and were two of the three major PVDF producers in the world. The proposed merger would have eliminated Ausimont as a growing competitor in the market for melt-processible grades of PVDF, increasing the likelihood of higher prices and reduced innovation in the relevant market. The order required Solvay to divest its United States PVDF operations, including its Decatur, Alabama PVDF plant and its interest in Alventia LLC, a joint venture that manufactures the main raw material for PVDF.

In *Bayer AG/Aventis S.A.*,[40] the complaint alleged the proposed $6.2 billion acquisition by Bayer of Aventis's subsidiary Aventis CropScience Holdings S.A. would have lessened competition in the United States in the following markets: 1) new generation chemical insecticide products; 2) new generation chemical insecticide active ingredients and related technologies for various insecticide and animal health products; 3) post-emergent grass herbicides for spring wheat; and 4) cool weather cotton defoliants. According to the complaint, all of the relevant markets were highly concentrated. Bayer and Aventis were two of only three firms competing significantly in the market for new generation chemical insecticide active ingredients and products and the only firms that had developed and successfully sold such products for non-repellent liquid termite control and for veterinarian use in controlling fleas. The companies were also the only two suppliers of cool weather cotton defoliants. The merger would have eliminated a significant competitor, increased barriers to entry, reduced innovation competition for certain products, and increased the possibility of coordinated interaction among the remaining competitors in the relevant

[39] Solvay S.A., Docket No. C-4046 (issued June 21, 2002).

[40] Bayer AG/Aventis S.A., Docket No. C-4049 (issued July 24, 2002).

markets. The order required the parties to divest assets relating to their acetamiprid, fipronil, flucarbazone, and folex businesses.

In *Amgen Inc./Immunex Corporation*,[41] the complaint alleged that the proposed $16 billion acquisition by Amgen of Immunex would have lessened competition in the United States in the research, development and sale of the following: 1) neutrophil (white blood cell) regeneration factors; 2) tumor necrosis factor ("TNF") inhibitors used in the treatment of rheumatoid arthritis; and 3) interleukin-1 ("IL-1") inhibitors, also used in the treatment of rheumatoid arthritis. According to the complaint, all three markets in the United States were highly concentrated. Amgen and Immunex were the only two companies competing in the market for neutrophil regeneration products and Immunex was only one of two companies with TNF inhibitors on the market. Amgen's Kineret was the only IL-1 inhibitor approved for sale in the United States for the treatment of rheumatoid arthritis. Immunex and Regeneron Pharmaceuticals Inc. were the only two companies with IL-1 inhibitor products in clinical trials in the United States, but due to the patent position of Amgen and Immunex, Regeneron would have likely been unable to bring its IL-inhibitor to market. To remedy the anticompetitive effects of the proposed merger, the order required the companies to sell all of Immunex's assets related to Leukine, a neutrophil regeneration factor, to Schering AG. The order also required the companies to grant a license to certain intellectual property rights related to TNF inhibitors to Serono S.A. and certain intellectual property rights related to IL-1 inhibitors to Regeneron.

In *Phillips Petroleum Company/Conoco Inc.*,[42] the complaint alleged that the proposed merger of Phillips and Conoco would have lessened competition in the following markets: 1) the bulk supply of light petroleum products in Eastern Colorado and Northern Utah; 2) light petroleum product terminaling services in the metropolitan statistical areas ("MSAs") of Spokane, Washington, and Wichita, Kansas; 3) the bulk supply of propane in Southern Missouri, the St. Louis MSA, and Southern Illinois; 4) natural gas gathering in more than 50 sections of the Permian Basin in New Mexico and Texas; and 5) the fractionation processes in Mont Belvieu, Texas. According to the complaint, the merger would have eliminated ongoing competition between the two companies resulting in the likelihood of increased rates and terminaling services fees and the reduced output of propane, processed natural gas and other products and services, thereby increasing consumer costs. The order required the companies to divest several refineries, a light petroleum products terminal, a propane terminal, and certain gas gathering assets. The parties were also required to create firewalls that prevent the transfer of competitively sensitive information among the Mont Belvieu fractionators.

In *Shell Oil Company/Pennzoil-Quaker State Company*,[43] the complaint alleged that the proposed $1.8 billion acquisition of Pennzoil by Shell would have lessened competition

[41] Amgen Inc./Immunex Corporation, Docket No. C-4056 (issued September 3, 2002).

[42] Phillips Petroleum Company/Conoco Inc., Docket No. C-4058 (issued February 7, 2003).

[43] Shell Oil Company/Pennzoil-Quaker State Company, Docket No. C-4059 (issued November 18, 2002).

and raised prices in the United States and Canadian market for Group II paraffinic base oil. Group II base oil is used to produce motor oil and other lubricants, and is needed to meet current performance standards for lighter-viscosity motor oil formulations, such as 5-W20 and 5-W30, as well as requirements for other lubricants. According to the complaint, Pennzoil had a 50/50 joint venture with Conoco Inc. called Excel Paralubes that operated a base oil refinery at West Lake, Louisiana adjacent to Conoco's petroleum products refinery in Lake Charles, Louisiana. The proposed merger would have eliminated Pennzoil as a major competitor and positioned Shell, the market leader, into a close partnership with Conoco Inc., another leading producer. The price of Group II base oils would have likely increased by a substantial amount, especially as new motor oil standards are developed and require even greater use of Group II base oil. The order required the parties to divest Pennzoil's 50 percent interest in Excel Paralubes, which represents Pennzoil's only base oil ownership position, to a Commission-approved buyer and freeze Pennzoil's ability to obtain additional Group II base oil supply under an existing 10-year agreement with ExxonMobil Corporation at approximately current levels.

ONGOING REASSESSMENT OF THE EFFECTS OF THE PREMERGER NOTIFICATION PROGRAM

The Commission continually reviews 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 American 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 adequately consider 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 in order to increase accessibility, promote transparency and reduce 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 1993 - 2002
Appendix B -	Number of Transactions Reported and Filings Received by Month for Fiscal Years 1993 - 2002.

LIST OF EXHIBITS

Exhibit A -	Statistical Tables for Fiscal Year 2002, Presenting Data Profiling Hart-Scott-Rodino Premerger Notification Filings and Enforcement Interest

APPENDIX A

SUMMARY OF TRANSACTIONS

FISCAL YEARS 1993 - 2002

APPENDIX A

SUMMARY OF TRANSACTION BY YEAR

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Transactions Reported	**1,846**	**2,305**	**2,816**	**3,087**	**3,702**	**4,728**	**4,642**	**4,926**	**2,376**	**1,187**
Filings Received[1]	**3,559**	**4,403**	**5,439**	**6,001**	**7,199**	**9,264**	**9,151**	**9,941**	**4,800**	**2,369**
Adjusted Transactions In Which A Second Request Could Have Been Issued[2]	1,745	2,128	2,612	2,864	3,438	4,575	4,340	4,749	2,237	1,142
Investigations in Which Second Requests Were Issued	**71**	**73**	**101**	**99**	**122**	**125**	**111**	**98**	**70**	**49**
FTC[3]	40	46	58	36	45	46	45	43	27	27
Percent[4]	2.3%	2.2%	2.2%	1.3%	1.3%	1.0%	1.0%	0.9%	1.2%	2.4%
DOJ[3]	31	27	43	63	77	79	68	55	43	22
Percent[4]	1.8%	1.3%	1.6%	2.2%	2.2%	1.7%	1.6%	1.2%	1.9%	1.9%
Transactions Involving a Request For Early Termination[5]	**1,689**	**2,081**	**2,471**	**2,861**	**3,363**	**4,323**	**4,110**	**4,324**	**2,063**	**1,042**
Granted[5]	1,201	1,508	1,869	2,044	2,513	3,234	3,103	3,515	1,603	793
Not Granted[5]	448	573	602	817	850	1,089	1,007	809	460	249

[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 sections 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 sections 7A (c)(6) and 7A(c)(8) of the Act.; and (3) transactions which were found to be 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 one threshold and later filing 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 801.4 of the Premerger Notification rules. Secondary acquisitions have been deducted in order to be consistent with the statistics presented in most of the prior annual reports.

[3] These statistics are based on the date the request was issued and not the date the investigation was opened.

[4] Second Requests investigations as a percentage of the total number of adjusted transactions.

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

APPENDIX B

NUMBER OF TRANSACTIONS REPORTED

AND

FILINGS RECEIVED BY MONTH

FOR

FISCAL YEARS 1993 - 2002

Appendix B

Table 1. Number of Transactions Reported by Months for the Fiscal Years 1993 - 2002

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
October	163	184	273	238	296	424	333	376	360	89
November	184	221	309	273	332	387	359	428	451	105
December	160	222	216	249	267	426	394	468	345	95
January	100	156	180	238	263	306	282	335	245	111
February	110	149	170	231	250	336	330	440	66	87
March	149	167	229	277	315	392	427	455	120	109
April	131	167	177	252	302	384	364	343	94	99
May	155	220	281	304	328	401	438	398	153	111
June	151	182	252	253	319	442	445	494	190	88
July	172	208	225	265	389	435	444	351	94	121
August	204	226	237	264	318	427	434	446	163	97
September	167	203	267	243	323	368	392	392	95	75
TOTAL	**1,846**	**2,305**	**2,816**	**3,087**	**3,702**	**4,728**	**4,642**	**4,926**	**2,376**	**1,187**

APPENDIX B

TABLE 2. NUMBER OF FILINGS RECEIVED[1] BY MONTH FOR FISCAL YEARS 1993 - 2002

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
OCTOBER	297	332	505	450	561	818	662	777	751	190
NOVEMBER	341	428	614	520	636	749	686	839	920	211
DECEMBER	325	427	419	474	521	836	785	922	686	183
JANUARY	188	293	360	445	514	614	548	677	499	224
FEBRUARY	239	295	326	480	483	650	658	867	144	174
MARCH	263	326	432	528	614	766	828	959	243	230
APRIL	251	321	350	498	599	763	719	695	188	203
MAY	301	421	534	584	640	787	851	859	296	212
JUNE	311	362	496	502	620	862	884	1,004	378	170
JULY	327	380	439	515	759	851	887	718	182	230
AUGUST	393	431	455	515	617	844	885	886	332	191
SEPTEMBER	323	387	509	490	635	724	758	738	181	151
TOTAL	3,559	4,403	5,439	6,001	7,199	9,264	9,151	9,941	4,800	2,369

[1] Usually, two filings are received, one from the acquiring person and one from the acquired person when the transaction is reported, unless notification is for a joint venture where more than one acquiring person is required to submit a filing. Only one filing is received when an acquiring person files for a transaction that is exempt under Sections 7A(c)(6) and (c)(8) of the Clayton Act.

EXHIBIT A

STATISTICAL TABLES

FOR

FISCAL YEAR 2002

DATA PROFILING HART-SCOTT-RODINO PREMERGER

NOTIFICATION FILINGS AND ENFORCEMENT INTEREST

TABLE I
FISCAL YEAR 2002[1]
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	NUMBER		PERCENT OF TRANSACTION RANGE GROUP			NUMBER		PERCENT OF TRANSACTION RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Less than 50	2[5]	0.2%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50 UP to 100	414	36.3%	32	16	7.7%	3.9%	11.6%	3	4	0.7%	1.0%	1.7%
100 UP to 150	179	15.7%	16	13	8.9%	7.3%	16.2%	3	3	1.6%	1.7%	3.3%
150 UP to 200	112	9.8%	14	10	12.5%	8.9%	21.4%	3	1	2.7%	0.9%	3.6%
200 UP to 300	130	11.4%	17	9	13.1%	6.9%	20.0%	3	1	2.3%	0.8%	3.1%
300 UP to 500	125	10.9%	18	15	14.4%	12.0%	26.4%	2	3	1.6%	2.4%	4.0%
500 UP to 1000	95	8.3%	13	11	13.7%	11.6%	25.3%	6	5	6.3%	5.3%	11.6%
1000 AND UP	85	7.4%	14	11	16.5%	12.9%	29.4%	7	5	8.2%	5.9%	14.1%
ALL TRANSACTIONS	1,142	100.0%	124	85	10.9%	7.4%	18.3%	27	22	2.4%	1.9%	4.3%

TABLE II
FISCAL YEAR 2002[1]
ACQUISITIONS BY SIZE OF TRANSACTION[2] (CUMULATIVE)

TRANSACTION RANGE ($MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS[3]				
	NUMBER[4]	PERCENT	NUMBER		PERCENT OF CLEARANCES GRANTED			NUMBER		PERCENT OF TOTAL SECOND REQUESTS ISSUED		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 50	2[5]	0.2%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
LESS THAN 100	416	36.5%	32	16	15.3%	7.7%	23.0%	3	4	6.1%	8.2%	14.3%
LESS THAN 150	595	52.2%	48	29	23.0%	13.9%	36.9%	6	7	12.2%	14.3%	26.5%
LESS THAN 200	707	62.0%	62	39	29.7%	18.7%	48.4%	9	8	18.4%	16.3%	34.7%
LESS THAN 300	837	73.4%	79	48	37.8%	23.0%	60.8%	12	9	24.5%	18.4%	42.9%
LESS THAN 500	962	84.3%	97	63	46.4%	30.1%	76.5%	14	12	28.6%	24.5%	53.1%
LESS THAN 1000	1,057	91.7%	110	74	52.6%	35.4%	88.0%	20	17	40.8%	34.7%	75.5%
ALL TRANSACTIONS	1,142		124	85	59.3%	40.7%	100.0%	27	22	55.1%	44.9%	100.0%

TABLE III
FISCAL YEAR 2002[1]
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[4]			CLEARANCE GRANTED AS A PERCENTAGE OF: TOTAL NUMBER OF CLEARANCES PER AGENCY		CLEARANCE GRANTED AS A PERCENTAGE OF: TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
50 to 100	32	16	48	2.8%	1.4%	4.2%	25.8%	18.8%	15.3%	7.6%	22.9%
100 to 150	16	13	29	1.4%	1.1%	2.5%	12.9%	15.3%	7.7%	6.2%	13.9%
150 to 200	14	10	24	1.2%	0.8%	2.1%	11.2%	11.8%	6.7%	4.8%	11.5%
200 to 300	17	9	26	1.5%	0.8%	2.2%	13.7%	10.6%	8.1%	4.3%	12.4%
300 to 500	18	15	33	1.6%	1.3%	2.8%	14.6%	17.7%	8.6%	7.2%	15.8%
500 to 1000	13	11	24	1.1%	1.0%	2.1%	10.6%	12.9%	6.2%	5.3%	11.5%
1000 AND UP	14	11	25	1.2%	1.0%	2.4%	11.2%	12.9%	6.7%	5.3%	12.0%
ALL CLEARANCES	124	85	209	10.9%	7.4%	18.3%	100.0%	100.0%	59.3%	40.7%	100.0%

TABLE IV
FISCAL YEAR 2002[1]

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
50 to 100	3	4	7	0.3%	0.4%	0.7%	0.7%	1.0%	1.7%	6.1%	8.2%	14.3%
100 to 150	3	3	6	0.3%	0.3%	0.6%	1.6%	1.7%	3.3%	6.1%	6.1%	12.2%
150 to 200	3	1	4	0.3%	0.1%	0.4%	2.7%	0.9%	3.6%	6.1%	2.1%	8.2%
200 to 300	3	1	4	0.3%	0.1%	0.4%	2.3%	0.8%	3.1%	6.1%	2.0%	8.1%
300 to 500	2	3	5	0.2%	0.3%	0.5%	1.6%	2.4%	4.0%	4.1%	6.1%	10.2%
500 to 1000	6	5	11	0.5%	0.4%	0.9%	6.3%	5.3%	11.6%	12.2%	10.2%	22.4%
1000 AND UP	7	5	12	0.6%	0.4%	1.0%	8.2%	5.9%	14.3%	14.3%	10.2%	24.5%
ALL TRANSACTIONS	27	22	49	2.4%	1.9%	4.3%	2.4%	1.9%	4.3%	55.0%	44.9%	99.9%

TABLE V
FISCAL YEAR 2002[1]
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS				
	NUMBER	PERCENT	NUMBER		PERCENTAGE OF THRESHOLD GROUP			NUMBER		PERCENTAGE OF THRESHOLD GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
$50M	241	21.1%	16	8	6.6%	3.3%	9.9%	3	3	1.2%	1.2%	2.4%
$100M	238	20.8%	30	12	12.6%	5.0%	17.6%	5	2	2.1%	0.8%	2.9%
$500M	52	4.6%	6	9	11.5%	17.3%	28.8%	2	4	3.8%	7.7%	11.5%
25%	4	0.4%	0	1	0.0%	25.0%	25.0%	0	0	0.0%	0.0%	0.0%
50%	552	48.3%	72	46	13.0%	8.3%	21.3%	17	11	3.1%	2.0%	5.1%
ASSETS ONLY	55	4.8%	0	9	0.0%	16.4%	16.4%	0	2	0.0%	3.6%	3.6%
ALL TRANSACTIONS	1,142	100.0%	124	85	10.9%	7.4%	18.3%	27	22	2.4%	1.9%	4.3%

TABLE VI
FISCAL YEAR 2002
TRANSACTIONS BY ASSETS OF ACQUIRING PERSON

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	47	4.1%	0	1	0.0%	2.1%	2.1%	0	1	0.0%	2.1%	2.1%
50M - 100M	25	2.2%	1	0	4.0%	0.0%	4.0%	1	0	4.0%	0.0%	4.0%
100M - 150M	24	2.1%	2	1	8.3%	4.2%	12.5%	0	0	0.0%	0.0%	0.0%
150M - 200M	38	3.3%	3	4	7.9%	10.5%	18.4%	0	1	0.0%	2.6%	2.6%
200M - 300M	44	3.9%	5	0	11.4%	0.0%	11.4%	0	0	0.0%	0.0%	0.0%
300M - 500M	103	9.0%	4	5	3.9%	4.9%	8.8%	3	2	2.9%	1.9%	4.9%
500M - 1000M	129	11.3%	14	12	10.9%	9.3%	20.2%	2	3	1.6%	2.3%	3.9%
OVER 1000M	732	64.1%	95	62	13.0%	8.5%	21.5%	21	15	2.9%	2.0%	4.9%
ALL TRANSACTIONS	1,142	100.0%	124	85	10.9%	7.4%	18.3%	27	22	2.4%	1.9%	4.3%

TABLE VII
FISCAL YEAR 2002[1]
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	88	7.7%	4	1	4.5%	1.1%	5.6%	0	1	0.0%	1.1%	1.1%
50M - 100M	26	2.3%	2	1	7.7%	3.8%	11.5%	1	0	3.8%	0.0%	3.8%
100M - 150M	31	2.7%	2	1	6.5%	3.2%	9.7%	1	0	3.2%	0.0%	3.2%
150M - 200M	32	2.8%	1	2	3.1%	6.3%	9.4%	1	1	3.1%	3.1%	6.2%
200M - 300M	51	4.5%	4	3	7.8%	5.9%	13.7%	0	0	0.0%	0.0%	0.0%
300M - 500M	95	8.3%	4	9	4.2%	9.5%	13.7%	1	2	1.1%	2.1%	3.2%
500M - 1000M	97	8.5%	11	10	11.3%	10.3%	21.6%	2	2	2.1%	2.1%	4.2%
0VER 1000M	685	60.0%	95	58	13.9%	8.5%	22.3%	21	16	3.1%	2.3%	5.4%
Sales Not Available[6]	37	3.2%	1	0	2.7%	0.0%	2.7%	0	0	0.0%	0.0%	0.0%
ALL TRANSACTIONS	1,142	100.0%	124	85	10.9%	7.4%	18.3%	27	22	2.4%	1.9%	4.3%

TABLE VIII FISCAL YEAR 2002 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	350	30.6%	29	24	8.3%	6.9%	15.2%	3	4	0.9%	1.1%	2.0%
50M - 100M	212	18.6%	21	17	9.9%	8.0%	17.9%	2	5	0.9%	2.4%	3.3%
100M - 150M	110	9.6%	10	8	9.1%	7.3%	16.4%	2	0	1.8%	0.0%	1.8%
150M - 200M	61	5.3%	8	5	13.1%	8.2%	21.3%	1	1	1.6%	1.6%	3.2%
200M - 300M	74	6.5%	12	2	16.2%	2.7%	18.9%	1	1	1.4%	1.4%	2.7%
300M - 500M	79	6.9%	12	10	15.2%	12.7%	27.9%	4	1	5.1%	1.3%	6.4%
500M - 1000M	56	4.9%	9	8	16.1%	14.3%	30.4%	2	6	3.6%	10.7%	14.3%
0VER 1000M	101	8.8%	8	8	7.9%	7.9%	15.8%	10	3	9.9%	3.0%	12.9%
Assets Not Available[7]	99	8.7%	15	3	15.2%	3.0%	18.2%	2	1	2.0%	1.0%	3.0%
ALL TRANSACTIONS	1,142	100.0%	124	85	10.9%	7.4%	18.3%	27	22	2.4%	1.9%	4.3%

TABLE IX FISCAL YEAR 2002 TRANSACTIONS BY SALES OF ACQUIRED ENTITIES[8]												
SALES RANGE ($ MILLIONS)	**HSR TRANSACTIONS**		**CLEARANCE GRANTED TO FTC OR DOJ**					**SECOND REQUEST INVESTIGATIONS**				
	NUMBER	**PERCENT**	**NUMBER**		**PERCENTAGE OF SAKES RANGE GROUP**			**NUMBER**		**PERCENTAGE OF SAKES RANGE GROUP**		
			FTC	**DOJ**	**FTC**	**DOJ**	**TOTAL**	**FTC**	**DOJ**	**FTC**	**DOJ**	**TOTAL**
Below 50M	405	35.5%	37	28	9.1%	6.9%	16.0%	3	6	0.7%	1.5%	2.2%
50M - 100M	142	12.4%	15	10	10.6%	7.0%	17.6%	3	1	2.1%	0.7%	2.8%
100M - 150M	81	7.1%	5	7	6.2%	8.6%	14.8%	0	2	0.0%	2.5%	2.5%
150M - 200M	63	5.5%	2	10	3.2%	15.9%	19.1%	0	0	0.0%	0.0%	0.0%
200M - 300M	89	7.8%	12	7	13.5%	7.9%	21.4%	1	2	1.1%	2.2%	3.4%
300M - 500M	98	8.6%	20	8	20.4%	8.2%	28.6%	5	1	5.1%	1.0%	6.1%
500M - 1000M	131	11.5%	13	7	9.9%	5.3%	15.2%	2	4	1.5%	3.1%	4.6%
0VER 1000M	87	7.6%	10	7	11.5%	8.0%	19.5%	13	5	14.9%	5.7%	20.7%
Sales Not Available[9]	46	4.0%	10	1	21.7%	2.2%	23.9%	0	1	0.0%	2.2%	2.2%
ALL TRANSACTIONS	1,142	100.0%	124	85	10.9%	7.4%	18.3%	27	22	2.4%	1.9%	4.3%

TABLE X
FISCAL YEAR 2002[1]
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE [10]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[11]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
111	**Agricultural Production – Crops**	0	0.0%	NC	0	0	0	0	0	0
112	**Agricultural Production – Livestock and Animal Specialties**	1	0.1%	0.1%	0	0	0	0	0	0
113	**Lumber and Wood Products, Except Furniture**	1	0.1%	-0.1%	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**	13	1.1%	0.1%	0	0	0	0	0	0
212	**Mining and Quarrying of Nonmetallic Minerals, Except Fuels**	13	1.1%	1.1%	0	0	0	0	0	0
221	**Electric, Gas and Sanitary Services**	53	4.6%	4.1%	1	8	9	0	1	1
233	**Building Construction – General Contractors and Operative Builders**	1	0.1%	-0.2%	0	0	0	0	0	0
234	**Heavy Construction Other Than Building Construction – Contractors**	4	0.4%	-0.2%	1	0	1	0	0	0
235	**Construction – Special Grade Contractors**	7	0.6%	0.1%	0	0	0	0	0	0

TABLE X
FISCAL YEAR 2002[1]
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE [10]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[11]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
311	Food and Kindred Products	32	2.8%	-0.1%	9	6	15	2	2	4
312	Bottled and Canned Soft Drinks and Carbonated Drinks; and Cigarette Manufacturing	8	0.7%	0.6%	0	0	0	0	0	0
313	Textile Mill Products	1	0.1%	-0.2%	0	0	0	0	0	0
315	Apparel and Other Finished Products Made From Fabrics and Similar Materials	1	0.1%	0.1%	0	0	0	0	0	0
316	Leather and Leather Products	0	0.0%	-0.2%	0	0	0	0	0	0
322	Paper and Allied Products	9	0.8%	0.1%	0	4	4	0	1	1
324	Petroleum Refining and Related Industries	9	0.8%	0.5%	1	0	1	1	0	1
325	Chemicals and Allied Products	71	6.2%	1.3%	29	2	31	7	0	7
326	Rubber and Misc. Plastics Products	20	1.8%	0.8%	4	1	5	2	0	2
327	Stone, Clay, Glass and Concrete Products	13	1.1%	0.7%	3	1	4	0	1	1
332	Fabricated Metal Products, Except Machinery and Transportation Equipment	23	2.0%	0.6%	4	2	6	0	0	0

TABLE X FISCAL YEAR 2002[1] INDUSTRY GROUP OF ACQUIRING PERSONS											
3-DIGIT NAICS CODE[10]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[11]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
333	**Industrial and Commercial Machinery and Computer Equipment**	22	1.9%	-1.2%	2	6	8	0	2	2
334	**Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks**	79	6.9%	2.6%	11	12	23	3	4	7
335	**Electronic and Other Electrical Equipment and Components, Except Computer Equipment**	10	0.9%	-4.4%	0	3	3	0	0	0
336	**Transportation Equipment**	18	1.6%	-0.4%	4	1	5	1	0	1
337	**Home Furniture, Furnishings and Equipment Stores**	4	0.4%	NC	2	0	2	0	0	0
339	**Miscellaneous Manufacturing Industries**	15	1.3%	0.8%	3	0	3	0	0	0
421	**Wholesale Trade – Durable Goods**	43	3.8%	-0.2%	4	6	10	0	0	0
422	**Wholesale Trade – Nondurable Goods**	56	4.9%	1.6%	9	0	9	3	0	3
441	**Automotive Dealers and Gasoline Service Stations**	5	0.4%	-0.9%	0	0	0	0	0	0

TABLE X
FISCAL YEAR 2002[1]
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[10]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[11]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
443	**Miscellaneous Repair Services**	2	0.2%	0.1%	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
446	**Miscellaneous Retail**	6	0.5%	-0.2%	2	0	2	0	0	0
447	**Food Stores**	2	0.2%	-0.5%	0	1	1	0	0	0
448	**Apparel and Accessory Stores**	4	0.4%	0.3%	0	0	0	0	0	0
452	**General Merchandise Stores**	1	0.1%	-0.2%	0	0	0	0	0	0
453	**Stationery and Office Supplies**	2	0.2%	-0.5%	0	0	0	0	0	0
454	**Heating Oil Dealers and Liquefied Petroleum Gas**	8	0.7%	-0.3%	2	0	2	0	0	0
481	**Transportation by Air**	3	0.3%	-0.1%	0	0	0	0	0	0
482	**Railroad Transportation**	1	0.1%	0.1%	0	0	0	0	0	0
483	**Water Transportation**	3	0.3%	-0.3%	1	1	2	1	1	2
484	**Motor Freight Transportation and Warehousing**	3	0.3%	-0.3%	0	0	0	0	0	0
485	**Local and Suburban Transit and Interurban Highway Passenger Transportation**	0	0.0%	NC	0	0	0	0	0	0
486	**Pipelines, Except Natural Gas**	21	1.8%	-1.2%	3	0	3	1	0	1

TABLE X
FISCAL YEAR 2002[1]
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[10]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[11]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
511	Printing, Publishing and Allied Industries	44	3.9%	1.5%	2	5	7	1	1	2
512	Motion Pictures	14	1.2%	0.8%	0	1	1	0	0	0
513	Communications	79	6.9%	0.2%	0	11	11	0	5	5
521	Depository Institutions	0	0.0%	1.5%	0	0	0	0	0	0
522	Nondepository Credit Institutions	51	4.5%	3.4%	1	1	2	0	0	0
523	Security and Commodity Brokers, Dealers, Exchanges and Services	88	7.7%	4.4%	1	2	3	0	1	1
524	Insurance Carriers	32	2.8%	0.8%	1	2	3	0	0	0
525	Insurance Agents, Brokers and Service	18	1.6%	0.9%	0	0	0	0	0	0
532	Automotive Repair, Services and Parking	5	0.4%	NC	1	0	1	0	0	0
541	Services – Business, Legal, Engineering, Accounting, Research, Management and Related Services	83	7.3%	6.5%	9	7	16	3	2	5
551	Holding and Other Investment Offices	2	0.2%	-4.6%	0	0	0	0	0	0
561	Transportation Services	20	1.8%	0.8%	3	0	3	0	0	0
611	Educational Services	3	0.3%	-9.7%	0	0	0	1	0	1
621	Health Services	11	1.0%	0.4%	3	0	3	1	0	1

TABLE X
FISCAL YEAR 2002[1]
INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE [10]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[11]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
622	**General Medical and Surgical; Psychiatric and Substance Abuse Hospitals**	16	1.4%	0.8%	3	0	3	0	0	0
624	**Social Services**	1	0.1%	0.1%	0	0	0	0	0	0
711	**Real Estate**	4	0.4%	-0.1%	0	0	0	0	0	0
713	**Amusement and Recreation Services**	5	0.4%	-3.1%	1	0	1	0	0	0
721	**Hotels, Rooming Houses, Camps, and Other Lodging Places**	5	0.4%	0.1%	1	0	1	0	0	0
722	**Eating and Drinking Places**	14	1.2%	0.5%	1	0	1	0	0	0
812	**Personal Services**	2	0.2%	0.1%	0	1	1	0	0	0
813	**Membership Organizations**	1	0.1%	NC	0	0	0	0	0	0
923	**Administration of Human Resource Programs**	0	0.0%	-0.1%	0	0	0	0	0	0
924	**Administration of Environmental Quality and Housing Programs**	0	0.0%	NC	0	0	0	0	0	0
999	**Non-classificable Establishments**	0	0.0%	NC	0	0	0	0	0	0
000	Not Available[12]	56	4.9%	NC	2	1	3	0	1	1
	ALL TRANSACTIONS	1,142			124	85	209	27	22	49

Table XI

FISCAL YEAR 2002[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[13] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
111	Agricultural Production - Crops	0	0.0%	NC	0	0	0	0	0	0	0
112	Agricultural Production - Livestock and Animal Specialties	1	0.1%	NC	0	0	0	0	0	0	1
113	Lumber and Wood Products, Except Furniture	3	0.3%	0.1%	0	0	0	0	0	0	1
114	Fishing, Hunting and Trapping	0	0.0%	NC	0	0	0	0	0	0	0
211	Oil and Gas Extraction	11	1.0%	NC	0	0	0	0	0	0	9
212	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	9	0.8%	0.6%	0	0	0	0	0	0	3
221	Electric, Gas and Sanitary Services	58	5.1%	1.4%	1	8	9	0	1	1	44
233	Building Construction – General Contractors and Operative Builders	0	0.0%	-0.2%	0	0	0	0	0	0	0
234	Heavy Construction Other Than Building Construction - Contractors	8	0.7%	0.1%	1	0	1	0	0	0	4
235	Construction - Special Grade Contractors	10	0.9%	0.5%	0	0	0	0	0	0	4
311	Food and Kindred Products	36	3.2%	0.6%	7	6	13	2	2	4	26
312	Bottled and Canned Soft Drinks and Corbonated Drinks; and Cigarette Manufacturing	6	0.5%	0.3%	0	0	0	0	0	0	6
313	Textile Mill Products	2	0.2%	-0.2%	0	0	0	0	0	0	1
315	Apparel and Other Finished Products Made From Fabrics and Similar Materials	1	0.1%	NC	0	0	0	0	0	0	1
316	Leather and Leather Products	0	0.0%	NC	0	0	0	0	0	0	0

Table XI

FISCAL YEAR 2002[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2001[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[13] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
322	Paper and Allied Products	11	1.0%	0.1%	0	4	4	0	0	0	6
324	Petroleum Refining and Related Industries	4	0.4%	NC	1	0	1	1	0	1	4
325	Chemicals and Allied Products	67	5.9%	1.6%	22	1	23	6	0	6	44
326	Rubber and Misc. Plastics Products	18	1.6%	0.3%	2	1	3	0	0	0	14
327	Stone, Clay, Glass and Concrete Products	18	1.6%	1.2%	3	2	5	0	1	1	11
332	Fabricated Metal Products, Except Machinery and Transportation Equipment	20	1.8%	-0.1%	4	2	6	0	0	0	16
333	Industrial and Commercial Machinery and Computer Equipment	24	2.1%	-0.9%	2	5	7	0	2	2	16
334	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	76	6.7%	2.4%	11	13	24	1	3	4	51
335	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	10	0.9%	-3.9%	0	4	4	0	0	0	7
336	Transportation Equipment	23	2.0%	0.3%	5	1	6	1	0	1	13
337	Home Furniture, Furnishings and Equipment Stores	3	0.3%	0.2%	2	0	2	0	0	0	2
339	Miscellaneous Manufacturing Industries	13	1.1%	0.5%	3	0	3	0	0	0	7
421	Wholesale Trade - Durable Goods	55	4.8%	0.5%	7	4	11	2	0	2	32
422	Wholesale Trade - Nondurable Goods	49	4.3%	1.5%	10	0	10	3	0	3	30

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					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
441	Automotive Dealers and Gasoline Service Stations	7	0.6%	-0.9%	0	0	0	0	0	0	4
443	Miscellaneous Repair Services	2	0.2%	0.1%	0	0	0	0	0	0	2
444	Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	0	0.0%	NC	0	0	0	0	0	0	0
446	Miscellaneous Retail	9	0.8%	NC	2	0	2	0	0	0	5
447	Food Stores	1	0.1%	-0.5%	0	0	0	0	0	0	1
448	Apparel and Accessory Stores	9	0.8%	0.6%	0	1	1	0	0	0	4
452	General Merchandise Stores	2	0.2%	NC	0	0	0	0	0	0	0
453	Stationery and Office Supplies	0	0.0%	NC	0	5	5	2	0	2	0
454	Heating Oil Dealers and Liquefied Petroleum Gas	20	1.8%	NC	2	0	2	0	0	0	7
481	Transportation by Air	3	0.3%	NC	0	1	1	0	1	1	1
482	Railroad Transportation	0	0.0%	-0.1%	0	0	0	0	0	0	0
483	Water Transportation	3	0.3%	-0.4%	1	1	2	1	1	2	2
484	Motor Freight Transportation and Warehousing	3	0.3%	-0.2%	0	0	0	1	0	1	1
485	Local and Suburban Transit and Interurban Highway Passenger Transportation	0	0.0%	NC	1	0	1	1	0	1	0
486	Pipelines, Except Natural Gas	23	2.0%	1.6%	4	0	4	0	0	0	13
511	Printing, Publishing and Allied Industries	55	4.8%	2.0%	2	7	9	0	2	2	32
512	Motion Pictures	18	1.6%	1.2%	0	1	1	0	0	0	8
513	Communications	100	8.8%	1.2%	0	6	6	0	7	7	55
521	Depository Institutions	1	0.1%	-1.2%	0	0	0	0	0	0	0
522	Nondepository Credit Institutions	41	3.6%	1.9%	0	1	1	0	0	0	29
523	Security and Commodity Brokers, Dealers, Exchanges and Services	48	4.2%	0.9%	0	2	2	0	1	1	21

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					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
524	Insurance Carriers	32	2.8%	0.5%	1	2	3	0	0	0	22
525	Insurance Agents, Brokers and Service	3	0.3%	-0.7%	0	0	0	0	0	0	1
532	Automotive Repair, Services and Parking	10	0.9%	0.5%	1	0	1	0	0	0	5
541	Engineering, Accounting, Research, Management and Related Services	89	7.8%	-4.9%	10	5	15	3	1	4	57
551	Holding and Other Investment Offices	0	0.0%	-1.2%	0	0	0	0	0	0	0
561	Transportation Services	19	1.7%	0.7%	3	0	3	0	0	0	9
611	Educational Services	3	0.3%	0.1%	0	0	0	0	0	0	3
621	Health Services	13	1.1%	-1.2%	3	0	3	1	0	1	6
622	General Medical and Surgical; Psychiatric and Substance Abuse Hospitals	14	1.2%	NC	3	0	3	0	0	0	13
624	Social Services	0	0.0%	-0.1%	0	0	0	0	0	0	0
711	Real Estate	4	0.4%	0.4%	0	0	0	0	0	0	4
713	Amusement and Recreation Services	7	0.6%	NC	1	0	1	0	0	0	1
721	Hotels, Rooming Houses, Camps, and Other Lodging Places	2	0.2%	NC	1	0	1	0	0	0	0
722	Eating and Drinking Places	14	1.2%	0.3%	1	0	1	0	0	0	2
812	Personal Services	2	0.2%	0.1%	0	1	1	0	0	0	0
813	Membership Organizations	0	0.0%	-2.5%	0	0	0	0	0	0	0
711	Miscellaneous Services	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

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					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
999	**Nonclassificable Establishments**	0	0.0%	NC	0	0	0	0	0	0	0
000	**NOT AVAILABLE**	49	4.3%	1.1%	7	1	8	2	0	2	1
	ALL TRANSACTIONS	1,142	100.0%	--	124	85	209	27	22	49	662

[1] Fiscal Year 2002 figures include transactions reported between October 1, 2001 and September 30, 2002.

[2] The size-of-transactions is based on the aggregate total amount of voting securities and/or assets to be held by the acquiring person as a result of the transaction and is taken from the response to Item 3(b)(ii) and 3(c) of the notification form.

[3] These statistics are based on the date that the second request was issued.

[4] During fiscal year 2002, 1,187 transactions were reported under the HSR Premerger Notification program. The smaller number of 1,142 reflects adjustments to eliminate the following types of transactions: (1) transactions reported under Sections 7A(c)(6) and (c)(8), (transactions involving certain regulated industries and financial businesses); (2) transactions found to be 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 acquiring persons).

[5] The total number of filings under $50M submitted in Fiscal Year 2002 is corrective filings for transactions occurring before February 1, 2001.

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

[7] Assets of an acquired entity are not available when the acquired entity's financial data is consolidated within its ultimate parent.

[8] Sales of an acquired entity are taken from responses to Items 4(a) and (b) (SEC documents and annual reports) or Item 5 (dollar revenues) of the Premerger Notification and Report form.

[9] This category includes acquisitions of newly formed corporations or corporate joint ventures from which no sales were generated, and acquisitions of assets which produced no sales or revenues during the prior year to filing the Notification and Report form.

[10] 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 effective July 1, 2001.

[11] This number represents the deviation from the FY 2001 percentage.

[12] This category includes transactions by newly formed entities.

[13] The intra-industry transaction column identifies the number of acquisitions in which both the acquiring and acquired persons derived revenues in the same industry.