FEDERAL TRADE COMMISSION
BUREAU OF COMPETITION

DEPARTMENT OF JUSTICE
ANTITRUST DIVISION

ANNUAL REPORT TO CONGRESS
FISCAL YEAR 2005

Pursuant to Subsection (j) of Section 7A of the Clayton Act
Hart-Scott-Rodino Antitrust Improvements Act of 1976
(Twenty-Eighth Report)

Deborah Platt Majoras
Chairman
Federal Trade Commission

Thomas O. Barnett
Assistant Attorney General
Antitrust Division

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 2005 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 2005, 1,695 transactions were reported under the HSR Act, representing about a 17 percent increase from the 1,454 transactions reported in fiscal year 2004 and about a 66 percent decrease from the 4,926 transactions reported in fiscal year 2000, the last full fiscal year under the previous reporting thresholds.[1] (S*ee* Figure 1 below.)

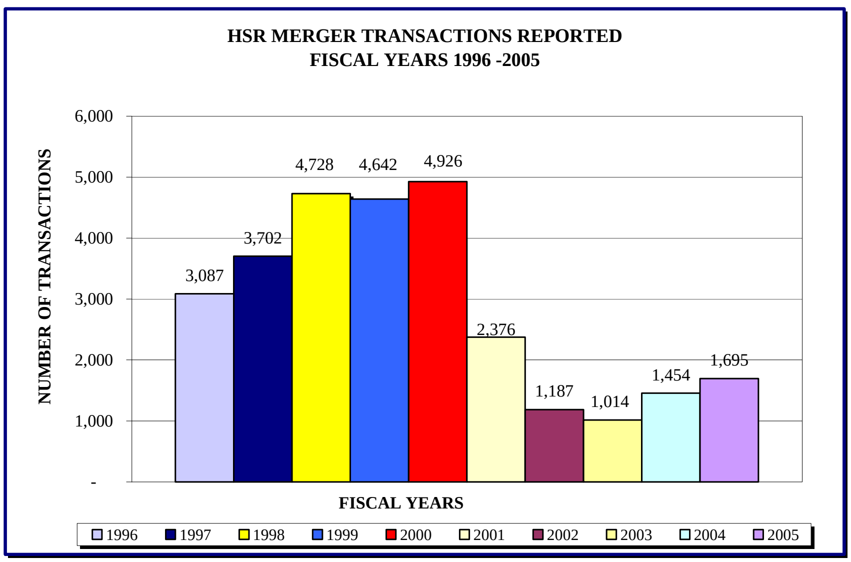

Figure 1

During the year, the Commission challenged fourteen transactions, leading to nine consent orders and four abandoned transactions. The Commission also authorized staff to seek

[1] 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 beginning in 2005), and made other changes to the filing and waiting period requirements. 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.

injunctive relief in one matter. The Commission challenged the proposed merger of Chevron Corporation and Unocal Corporation.[2] The proposed merger would have likely imposed additional costs on California consumers for California Air Resources Board reformulated gasoline ("CARB RFG"). The Commission also challenged the proposed acquisition by Valero L.P. for certain assets of Kaneb Services LLC and Kaneb Pipe Line Partners L.P,[3] which would have eliminated direct competition between Valero and Kaneb, which likely would have resulted in an increase in the wholesale price of light petroleum products in certain areas of Pennsylvania, Colorado, and Northern California.

The Antitrust Division challenged four merger transactions, leading to three consent decrees and one other transaction that was restructured after the Division informed the parties of its antitrust concerns relating to the transaction. The Division's notable merger challenges included the acquisition of AT&T Wireless by Cingular Wireless.[4] The Division filed a complaint alleging that the merger would reduce competition for mobile wireless telecommunications service in ten geographic areas and that it would reduce competition for mobile wireless broadband services in three additional markets**.**

In fiscal year 2005, 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, 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 public ready access to PNO staff interpretations of the premerger notification rules and the Act. As always, PNO staff continues its efforts 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. Subsection (j) of Section 7A provides:

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[2] *See infra* p. 15.

[3] *See infra* p. 16.

[4] *See infra* p. 11.

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

This is the 28^{th} annual report to Congress pursuant to this provision. It covers fiscal year 2005 -- October 1, 2004 through September 30, 2005.

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.

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 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.[5]

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.[6] Appendix A also shows for fiscal years 1996 through 2005 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 1996 through 2005.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2005 increased approximately 17 percent from the number of transactions reported in fiscal year 2004. In fiscal year 2005, 1,695 transactions were reported, while 1,454 were reported in fiscal year 2004. The statistics in Appendix A also show that the number of merger investigations in which second requests were issued in fiscal year 2005 increased approximately 43 percent from the number of merger investigations in which second requests were issued in fiscal year 2004. Second requests were issued in 50 merger investigations in fiscal year 2005, while second requests were issued in 35 merger investigations in fiscal year 2004. The percentage of transactions resulting in second requests also increased, from 2.5 percent in fiscal year 2004 to 3.1 percent in fiscal year 2005. (*See* Figure 2 below.)

[5] 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. 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).

[6] 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

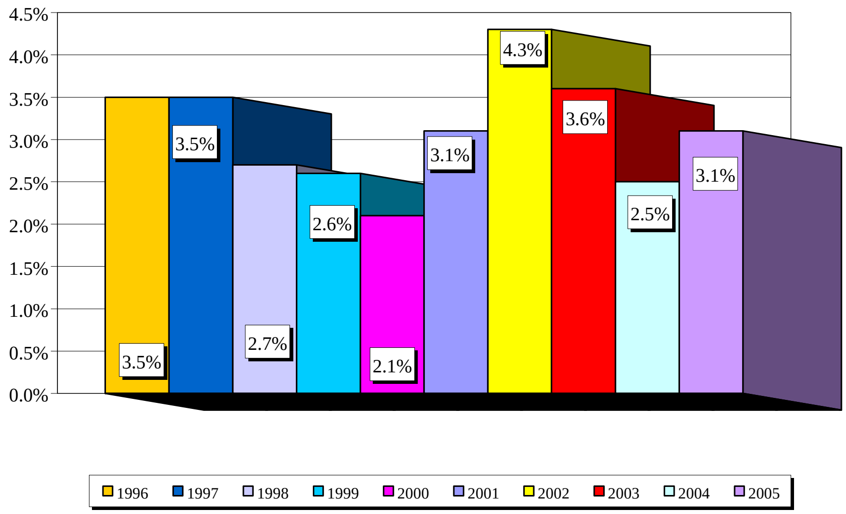

Figure 2

The statistics in Appendix A also show that early termination of the waiting period was requested in the majority of transactions. In fiscal year 2005, early termination was requested in 82 percent (1,385) of the transactions reported, down from fiscal year 2004 where it was requested in 85 percent (1,241) of the transactions reported. Likewise, the percentage of requests granted out of the total requested decreased from 76 percent in fiscal year 2004, to 72 percent in fiscal year 2005.

Statistical tables (Tables I through XI) in Exhibit A contain information about the agencies' enforcement activities for transactions reported in fiscal year 2005. 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 2005, clearance was granted to one or the other of the agencies for the purpose of conducting an initial investigation in 18.9 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 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 two years, there has been an increase in the dollar value of reported transactions rising to about $630 billion in fiscal year 2004 and to about $1.1 trillion in fiscal year 2005.

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 2005 based on the acquired entity's operations.

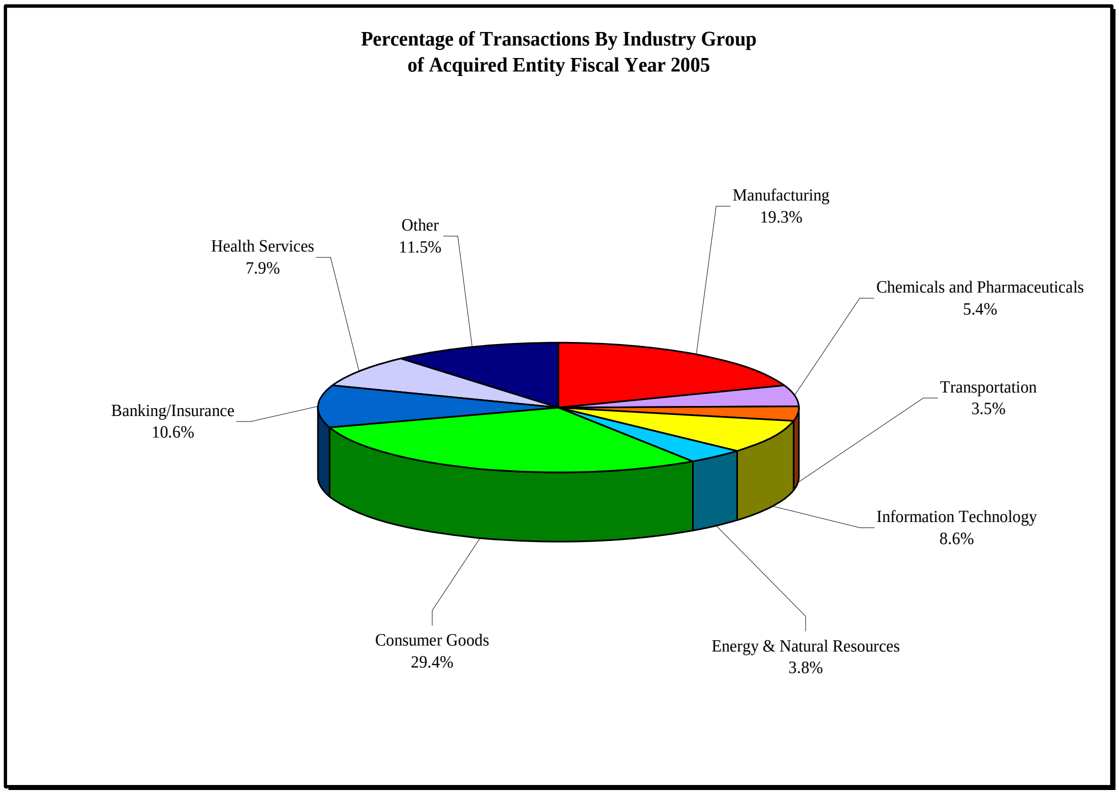

Figure 3

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 2005. 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, 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.[7] The antitrust agencies examine the circumstances of each violation to determine whether penalties should be sought.[8] During fiscal year 2005, 73 corrective filings for violations were received, and the agencies recovered $2,350,000 in civil penalties as a result of two enforcement actions.

In *United States v. Smithfield, Inc.*,[9] Smithfield, the nation's largest hog producer and pork packer, agreed on November 10, 2004 to pay a $2 million civil penalty to settle charges brought by the Department of Justice in February 2003 that the company twice failed to comply with premerger notification requirements before making acquisitions above the statutory threshold of stock of its competitor, IBP Inc., which was at the time the nation's second largest pork packer. Smithfield's claim that the acquisitions were exempt because they were "solely for the purpose of investment" was rejected by the Department of Justice because Smithfield was actively considering merging with IBP at the time the acquisitions were made.

In *United States v. Scott R. Sacane*,[10] the complaint alleged that Scott R. Sacane, a Connecticut hedge fund manager, failed to comply with notification and waiting period requirements before making acquisitions of two companies through an investment fund that he controlled. Sacane eventually held more than 50 percent of the voting securities of Aksys Ltd. and more than $100 million of voting securities of Esperion Therapeutics, Inc., without complying with the HSR Act. Under the terms of a consent decree filed simultaneously with the suit, Sacane agreed to pay a civil penalty of $350,000 to settle the charges.

2. *Final Rules*

1. *Non-corporate Entities*

On March 8, 2005, the Commission, with the concurrence of the Assistant Attorney General, published a Notice of Final Rulemaking[11] responding to public comments to the proposed rules published on April 8, 2004.[12] The final rules are intended to apply the Act as consistently as possible to all forms of legal entities, reconciling the disparate treatment of corporations, partnerships, and limited liability companies under the rules, particularly in the

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[7] 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).

[8] 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.

[9] *See* the Annual Report to Congress, Fiscal Year 2003 for a description of this case.

[10] United States v. Scott R. Sacane, No. 1:05CV01897 (D.D.C. filed September 26, 2005).

[11] 70 Fed. Reg. 11502 (March 8, 2005).

[12] 69 Fed. Reg. 18686 (April 8, 2004).

areas of formation of these entities, acquisition of interests in them, and the application of certain exemptions. The central thrust of these rules changes is that meaningful antitrust review would occur at the point at which control of an unincorporated entity changes.

The changes to the coverage rules included a revision to Section 801.1(b) to remove the alternate control test for unincorporated entities; an amendment to Section 801.1(f) to define a "non-corporate interest"; a revision to Section 801.2(d) to clarify the consolidation rule; an amendment to Section 801.2(f) to define when acquiring interests in unincorporated entities may constitute an acquisition; a new subsection to Section 801.10 to define how to value such an acquisition; a new subsection to Section 801.13 to address aggregation of non-corporate interests; and a new Section 801.50, which makes certain formations of unincorporated entities a reportable event. There were also ministerial changes to Sections 801.4, 802.40, and 802.41 to adapt their application to both corporations and unincorporated entities. Additionally, there were minor changes to the Notification and Report Form to require that Item 5(d) be completed in connection with the formation of an unincorporated entity, to reflect the applicability of Items 7 and 8 to unincorporated entities and to change the reporting requirement in Items 1, 2 and 7 with regard to the formation of new entities.

Changes to the exemption rules included expanding Section 802.4 to eliminate the dissimilar treatment of asset and voting securities acquisitions that are substantively the same; codifying in Section 802.10 a longstanding informal interpretation that pro-rata reformations (*e.g.* reincorporation in a new jurisdiction) are exempt transactions; changing Section 802.30 to apply the intraperson exemption to entities that are controlled other than through holdings of voting securities; and adding a new Section 802.65 to exempt acquisitions of non-corporate interests in entities that are formed in connection with financing transactions.

In addition to amendments concerning unincorporated entities, there were technical corrections to Sections 801.13, 801.15, and 802.2.

We note here that a comment received from the American Bar Association's Section of Antitrust Law expressed concern that the estimated number of additional filings these rules would entail (as calculated in the Paperwork Reduction Act section of the proposed rules) may not reflect the actual number that may ultimately 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 require notification as a result of these amendments. Between February 23, 2005 (when the Commission announced adoption of the Final Rules) and the end of fiscal year 2005, a total of fifteen transactions that would not have been reportable prior to the implementation of these rules changes required HSR filings.

Of those fifteen transactions made reportable by the non-corporate rule changes, nine of the transactions involved the direct or indirect acquisition of a controlling, but not 100 percent, interest in an existing unincorporated entity. The other six involved the formation of an unincorporated joint venture. Ten of the transactions were granted early termination of the waiting period. One transaction was cleared to the Federal Trade Commission for investigation. No second requests were issued. The transactions involved a broad range of industries: Oil & Gas (3); Healthcare (2); Electronics (2); Media and Telecommunications (2); Entertainment (1); Aerospace (1); Software (1); Restaurants (1); Chemicals (1); and Financial (1). Five of the transactions involved at least one foreign person.

The Commission has no means to count newly non-reportable transactions to determine the effect of amended and new exemptions introduced by these rules changes. However, with the amendments to the intraperson exemption,[13] that exemption now applies to all transactions in which the acquiring and the acquired person are the same. Based on an average of 32 such transactions a year having been reported under the Act in the period from fiscal year 1997 through fiscal year 2004, it seems that the expansion of this exemption alone may more than offset the increase in filings due to the introduction of these rules changes.

2. *Threshold Adjustments*

Effective March 2, 2005, the Commission, with the concurrence of the Assistant Attorney General, amended the premerger notification rules[14] to reflect adjustment and publication of reporting thresholds as required by the 2000 amendments[15] to Section 7A of the Clayton Act, 15 U.S.C. 18a.

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 amended the rules to provide a method for future adjustments as required by the 2000 amendments and to reflect the revised thresholds in the examples contained in the rules. These rules also adjusted references to the notification and filing fee thresholds and other limitations in the rules and the Notification and Report Form and Instructions to remain consistent with the revised jurisdictional and filing fee thresholds. The revised thresholds will be published annually in January to be effective 30 days after publication.[16]

3. *Other Rules*

Finally, on August 15, 2005, the Commission published a Notice of Proposed Rulemaking[17] that would enable filing parties to provide Internet links to certain documents in lieu of paper copies, and to address "stale filing" situations, in which parties make premerger notification filings but then fail to comply with a second request.

The Commission proposed a change to relieve the burden of complying with Items 4(a) and (b) of the Notification and Report Form. Previously, paper copies of annual reports, annual

[13] 16 C.F.R. § 802.30.

[14] 70 Fed. Reg. 4988 (January 31, 2005).

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

[16] The adjusted thresholds for 2006 were effective February 17, 2006. 71 Fed. Reg. 2943 (January 18, 2006).

[17] 70 Fed. Reg. 47733 (August 15, 2005).

audit reports and regularly prepared balance sheets and copies of certain documents, such as 10Ks filed with the Securities and Exchange Commission, were required in response to these items. The proposed modification of paragraph 803.2(e) would allow filing persons to provide an Internet address linking directly to the documents required by Items 4(a) and (b) in lieu of providing paper copies.

The Commission also proposed an amendment to the rules to specify that an acquiring person's notification, and an acquired person's notification in certain types of transactions, shall expire after eighteen months if a second request to them remains outstanding.

The public comment period for these proposed rules ended on October 14, 2005. No comments were received, and the final rules were published as proposed on December 12, 2005[18] and were effective on January 11, 2006. Several technical corrections required as a result of the rulemaking on non-corporate entities were also included in these final rules.

MERGER ENFORCEMENT ACTIVITY[19]

1. *The Department of Justice*

During fiscal year 2005, the Antitrust Division challenged four merger transactions that it concluded might have substantially lessened competition if allowed to proceed as proposed. In three of these challenges, the Antitrust Division filed a complaint in U.S. district court. All three of these cases were settled by consent decree. In the other merger challenge during fiscal year 2005, when apprised of the Antitrust Division's concerns regarding their proposed transaction, the parties restructured it to avoid competitive problems.[20] The Antitrust Division also obtained a civil penalty and injunctive relief settling a claim of violation of a consent decree entered in a 2000 merger case and succeeded in convincing the United States Court of Appeals for the Sixth Circuit to reverse a grant of summary judgment for defendants in a merger challenge brought in 2003.

In *United States, et al., v. Cingular Wireless Corporation, et al.*,[21] the Division challenged the proposed $41 billion acquisition of AT&T Wireless by Cingular Wireless. The complaint alleged that the transaction, as originally proposed, would have reduced competition for mobile wireless telecommunications service in ten geographic areas, increasing the

[18] 70 Fed. Reg. 73369 (December 12, 2005).

[19] 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.

[20] Department of Justice press release issued May 24, 2005 – Proposed Acquisition of Moneyline Telerate by Reuters Ltd. The Division evaluated the transaction and the proposed restructuring in collaboration with the European Commission's Directorate-General for Competition, which was also reviewing the transaction.

[21] United States and the State of Connecticut and the State of Texas v. Cingular Wireless Corporation, SBC Communications Inc., BellSouth Corporation and AT&T Wireless Services, Inc., No. 1:04CV01850 (D.D.C. filed October 25, 2004).

likelihood of unilateral actions by the merged firm to raise prices, diminish the quality or quantity of services provided, refrain from or delay making investments in network improvements, and refrain from or delay launching new services. The transaction also would have lessened competition for mobile wireless broadband services in three additional markets. A proposed consent decree settling the suit was filed simultaneously with the complaint. Under the terms of the decree, the merged firm was required to divest assets in thirteen markets in eleven states: Connecticut, Texas, Georgia, Kansas, Kentucky, Louisiana, Massachusetts, Missouri, Michigan, Oklahoma, and Tennessee. The Court entered the consent decree on March 14, 2005.

In *United States v. ALLTEL Corporation, et al.*,[22] the Division challenged ALLTEL Corporation's proposed $6 billion acquisition of Western Wireless Corporation, alleging that the acquisition, as originally proposed, would have resulted in higher prices, lower quality and quantity of services, and diminished investment in network improvements for mobile wireless service consumers in sixteen rural areas in Nebraska, Kansas, and Arkansas. ALLTEL and Western Wireless were regional mobile wireless service providers that served many rural markets. Although the combination of these two regional providers gives the merged firm the benefit of having a larger service area footprint, the proposed transaction would have reduced competition in specific markets where ALLTEL and Western Wireless were each other's most significant competitors. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. Under the terms of the consent decree, ALLTEL was required to divest Western Wireless' mobile wireless service business, including spectrum and customers, in nine markets in Nebraska, six markets in Kansas, and one market in Arkansas. ALLTEL was also required to divest the Cellular One service mark under which Western Wireless had operated in the sixteen divestiture markets, as well as in almost all other areas in which it had operated. The Court entered the consent decree on October 12, 2005.

In *United States v. Waste Industries USA, Inc.*,[23] the Division challenged Waste Industries' August 2003 acquisition of waste-hauling assets from Allied Waste Industries, Inc., alleging that the acquisition had lessened competition for small container commercial hauling services in the Southside of Virginia (the independent cities of Norfolk, Chesapeake, Virginia Beach, Portsmouth, Suffolk, and Franklin, Virginia and the county of Southampton). Small container commercial hauling involves the collection of waste from commercial establishments, such as retail stores, offices and restaurants, as well as the shipment of the collected waste to disposal sites. The complaint alleged the August 2003 transaction reduced the number of significant firms competing in the collection of small container commercial waste in the Southside of Virginia from four to three, giving Waste Industries control over approximately 43 percent of that market. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. Under the terms of the decree, Waste Industries was required to divest small container commercial hauling assets on certain routes in the Southside and to alter its existing and future contracts for small container commercial waste-hauling services. The

[22] United States v. ALLTEL Corporation and Western Wireless Corporation, No. 1:05CV01345 (D.D.C. filed July 6, 2005).

[23] United States v. Waste Industries USA, Inc., No. 2:05CV468 (E.D. Va. filed August 8, 2005).

contract modifications were to promote competition by making it easier for customers in the area to switch to other small container commercial waste haulers. The Court entered the consent decree on November 4, 2005.

Additionally, on November 30, 2004, the Division petitioned the Court to enter a settlement agreement and enforcement order against Republic Services, Inc. for violating a decree that was entered by the Court in 2000, in *United States v. Allied Waste Industries, Inc. and Republic Services, Inc.*[24] The Division alleged that Republic's operations in both Lakeland, Florida and Louisville, Kentucky used contracts with terms less favorable to customers than the terms mandated by the 2000 decree. The purpose of that contract relief had been to make it easier for Republic's customers to switch to competing waste collection services. The settlement agreement and enforcement order, which the Court entered on December 1, 2004, required Republic to pay a $1.5 million civil penalty and to replace all of its existing customer contracts involving terms exceeding those required by decree with contracts containing terms no more restrictive than those required by decree.

In October 2004, the Division filed an appeal in *United States and the Commonwealth of Kentucky v. Dairy Farmers of America, Inc. and Southern Belle Dairy Co., LLC.*[25] Oral argument took place in the Sixth Circuit on July 19, 2005. On October 25, 2005, the Court reversed the District Court's grant of summary judgment to defendants and remanded the case for trial.

2. *The Federal Trade Commission*

The Commission challenged fourteen transactions that it concluded would have lessened competition if allowed to proceed as proposed during fiscal year 2005,[26] leading to nine consent orders and four abandonments.[27] In one matter, the Commission authorized staff to seek injunctive relief in district court, which the court dismissed at the Commission's request prior to a preliminary injunction hearing.

In *Federal Trade Commission v. Aloha Petroleum Ltd., and Trustreet Properties, Inc.,*[28] the Commission filed for a temporary restraining order and preliminary injunction to block Aloha's proposed acquisition of a half interest in an import-capable terminal and retail gasoline

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

[25] *See* the Annual Report to Congress, Fiscal Years 2003 and 2004 for a description of this case and its disposition by the District Court.

[26] To avoid double counting this report includes only those merger enforcement actions in which the Commission took its first public action during fiscal year 2005.

[27] The Commission did not make public statements about the transactions that were abandoned after the parties were told of the Commission's concerns about the proposed transactions.

[28] Federal Trade Commission v. Aloha Petroleum, Ltd., and Trustreet Properties, Inc., Civ. No. CV05 00471 (D.D.C. filed July 27, 2005). On September 9, 2005, the district court entered the order dismissing the complaint.

assets of Trustreet Properties, alleging that the acquisition would have substantially lessened competition in the marketing of gasoline by bulk suppliers in Hawaii and in the retail sale of gasoline on Oahu, resulting in higher prices to consumers. According to the complaint, Aloha already owned a 50 percent interest in the Barbers Point petroleum importing terminal on Oahu and, under the proposed transaction, would have acquired the other half interest from Trustreet. The Barbers Point terminal was the newest on the island and could take full cargoes of gasoline, which was the most economical way to bring in low-cost bulk supply to Hawaii. The proposed transaction likely would have reduced the number of gasoline marketers with ownership of, or guaranteed access to, a refinery or an import-capable terminal from five to four. It would have also reduced from three to two the number of bulk suppliers who had been willing to sell to unintegrated retailers. Subsequent to the Commission filing its complaint, Aloha announced it would enter into a 20-year throughput agreement giving Mid Pac Petroleum LLC substantial rights to use the Barbers Point terminal. The agreement essentially substituted Mid Pac for Trustreet as a bulk supply gasoline marketer in Hawaii, making it a significant competitor in the relevant market. As a result, the Commission filed a motion asking the district court to dismiss the FTC's complaint seeking an injunction.

In fiscal year 2005, the Commission accepted consent agreements for public comment in nine merger cases. Eight of the consent agreements became final in fiscal year 2005; one became final in fiscal year 2006.

In *Genzyme Corporation/ILEX Oncology, Inc.*,[29] the complaint alleged that Genzyme's proposed $1 billion acquisition of ILEX would have substantially lessened competition in the U.S. market for the research, development, manufacture, and sale of solid organ transplant ("SOT") acute therapy drugs. According to the complaint SOT acute therapy drugs are used to suppress a recipient's immune system in solid organ transplants. The U.S. market for such drugs was highly concentrated and Genzyme was the leading supplier with its product, Thymoglobulin. ILEX's Campath, the newest entrant, accounted for a relatively small, but quickly gaining market share. There were four other SOT acute therapy drugs used in the United States, but Thymoglobulin and Campath had been especially close competitors because their mechanisms of action were more alike than those of the other four products. The proposed transaction likely would have eliminated direct competition between the parties, resulting in higher prices and decreased development in this specialized drug area. Under the consent agreement, Genzyme was required to divest all contractual rights to ILEX's Campath.

In *Cemex, S.A. de C.V.*,[30] the complaint alleged that Cemex's proposed $5.8 billion acquisition of RMC Group PLC would have substantially lessened competition in the metropolitan Tucson, Arizona market for the manufacture and sale of ready-mix concrete. According to the complaint, there were only three ready-mix concrete manufacturers in the highly concentrated metropolitan Tucson market. If the transaction had been allowed to proceed as proposed, the market likely would have become more concentrated with only two independent suppliers of ready-mix concrete remaining. As a result, ready-mix concrete buyers in the market

[29] Genzyme Corporation/ILEX Oncology, Inc., Docket No. C-4128 (issued December 20, 2004).

[30] Cemex, S.A. de C.V., Docket No. C-4131 (issued February 11, 2005).

would have been forced to pay higher prices and receive diminished service. The consent order required Cemex to divest RMC's Tucson area ready-mix concrete assets.

In *Cytec Industries Inc.*,[31] the complaint alleged that Cytec's proposed $1.8 billion acquisition of the Surface Specialties business of UCB S.A. would have substantially lessened competition in the market for the research, development, manufacture, and sale of amino resins for industrial liquid coatings and adhesion promotion in rubber in North America. According to the complaint, the amino resins were used as cross-linking agents in thermoset surface coatings for a range of applications, including automotive coatings, coil coatings, can coatings, appliance coatings, and general maintenance coatings. They were also used to promote the adhesion of rubber to materials in tires, thereby enhancing the performance and durability of tires. The complaint asserted that for many years Cytec and UCB had been direct and substantial competitors in the market for amino resins, and absent relief from the consent order this competition likely would have been lost and not easily replaced, resulting in higher prices for consumers. Under the order, Cytec was required to divest UCB's amino resins business.

In *Occidental Petroleum Corporation/Vulcan Materials Company*,[32] the complaint alleged that the proposed $359 million acquisition by Occidental Petroleum Corporation for the chemicals business of Vulcan Materials Company would have substantially lessened competition in the U.S. market for the production and sale of the following products: (1) potassium hydroxide ("KOH"), a raw material used in the production of many potassium chemicals such as food additives for low-sodium foods; (2) potassium carbonate ("potcarb"), used as a nutrition supplement for dairy cattle; and (3) anhydrous potassium carbonate ("APC"), the solid form of potcarb. According to the complaint, Occidental, through its subsidiary Occidental Chemical Company ("OxyChem"), and Vulcan were the primary U.S. competitors in the relevant markets for many years and the only producers of APC in the country. The complaint also asserted that each market was highly concentrated and consumers relied on the competition between OxyChem and Vulcan to maintain competitive pricing. Under the consent order, OxyChem was required to divest Vulcan's Port Edwards, Wisconsin chemical facility and related assets.

In *Chevron Corporation/Unocal Corporation*,[33] the complaint alleged that the proposed $18 billion merger of Chevron and Unocal would have substantially lessened competition in the marketing and refining of CARB RFG in California. According to the complaint, Chevron was a leading refiner and marketer of CARB RFG. Unocal did not refine or market CARB RFG, however it owned a portfolio of five U.S. patents relating to reformulated gasoline which covered the production and supply of CARB RFG, particularly in the warm weather months. The complaint asserted that Unocal licensed its RFG patents to others in exchange for payments ranging from 1.2 to 3.4 cents per gallon. Unocal also won a patent infringement suit against major refiners of CARB RFG, awarding the company royalties of 5.75 cents per infringing gallon produced in California. In addition to the royalties that Unocal threatened to collect upon

[31] Cytec Industries Inc., Docket No. C-4132 (issued February 28, 2005).

[32] Occidental Petroleum Corporation/Vulcan Materials Company, Docket No. C-4139 (issued June 2, 2005).

[33] Chevron Corporation/Unocal Corporation, Docket No. C-4144 (issued July 27, 2005).

enforcement of the patents, Chevron's ownership of Unocal likely would have enabled it to position itself to coordinate with its downstream competitors, to the detriment of consumers. In order to remedy the anticompetitive effects of the proposed merger, the consent order required Chevron and Unocal to cease from enforcing Unocal's relevant patents, undertaking any new enforcement efforts related to the patents, and to cease from all attempts to collect damages, royalties, or other payments related to the use of any of the patents. The parties were also required to dismiss all pending legal action related to alleged infringement of the patents.

In *Valero L.P./Valero Energy Corporation/Kaneb Services LLC/Kaneb Pipe Line Partners, L.P.*,[34] the complaint alleged that Valero L.P.'s proposed $2.8 billion acquisition of Kaneb Services LLC and Kaneb Pipe Line Partners would have substantially lessened competition in the following markets: 1) terminaling services for bulk suppliers of light petroleum products in the Greater Philadelphia Area; 2) pipeline transportation and terminaling services for bulk suppliers of light petroleum products in the Colorado Front Range; 3) terminaling services for bulk suppliers of refining components, blending components, and light petroleum products in California; and 4) terminaling for bulk ethanol in Northern California. The transaction, as proposed, likely would have eliminated direct competition between Valero and the Kaneb entities and increased the wholesale price of light petroleum products in the relevant markets. To settle the complaint, Valero agreed to divest the Philadelphia area terminals, the San Francisco Bay terminals, and the West Pipeline system. The consent order also required Valero to develop an information firewall and maintain open, non-discriminatory access to two retained Northern California terminals in order to ensure access to ethanol terminaling in Northern California.

In *Novartis AG*,[35] the complaint alleged that the proposed $1.7 billion acquisition of Eon Labs, Inc. by Novartis would have substantially lessened competition in the U.S. market for the following products: (1) generic desipramine hydrochloride tablets, used in the treatment of clinical depression; (2) generic orphenadrine citrate extended release tablets, used as muscle relaxants; and (3) generic rifampin oral capsules, used in the treatment of tuberculosis. According to the complaint, the proposed transaction likely would have eliminated direct competition between the parties in each of the three generic markets, resulting in higher prices for consumers. Under the consent order, Novartis was required to divest all the assets necessary to manufacture and market generic desipramine hydrochloride tablets, orphenadrine citrate extended release tablets, and rifampin oral capsules in the United States.

In *Penn National Gaming, Inc.*,[36] the complaint alleged that Penn National's proposed $2.2 billion acquisition of Argosy Gaming Company would have substantially lessened competition in the market for casino services in Baton Rouge, Louisiana. According to the complaint, Penn National and Argosy were the only two casino operators in Baton Rouge, and absent relief provided in the Commission's consent order Penn National could have gained a

[34] Valero L.P./Valero Energy Company/Kaneb Services LLC/Kaneb Pipe Line Partners, L.P., Docket No. C-4141 (issued June 14, 2005).

[35] Novartis AG, Docket No. C-4150 (issued September 21, 2005).

[36] Penn National Gaming, Inc., Docket No. C-4143 (issued July 26, 2005).

monopoly in that market. Louisiana law limited the number of licenses to fifteen river boat casinos, four racinos (race tracks with slot machines), and one non-Native American land-based casino. All of these licenses had been granted, and there was no evidence that any of the operating businesses had plans to relocate outside of the state. The consent order required Penn National to sell Argosy's Baton Rouge casino.

In *The Procter & Gamble Company/The Gillette Company*,[37] the complaint alleged that Procter & Gamble's proposed $57 billion acquisition of Gillette would have substantially lessened competition in the U.S. markets for at-home teeth whitening products, adult battery-powered toothbrushes, rechargeable toothbrushes, and men's antiperspirant/deodorant. According to the complaint, the loss of competition between the parties in the relevant markets likely would have resulted in consumers paying higher prices. The consent order required the parties to divest Gillette's Rembrandt at-home teeth whitening business, Procter & Gamble's Crest SpinBrush battery-powered and rechargeable toothbrush business, and Gillette's Right Guard men's antiperspirant/deodorant business. The order also required Procter & Gamble to amend its Crest Sonicare IntelliClean System rechargeable toothbrush joint venture business agreement with Philips Oral Health Care, Inc., allowing Philips to independently market and sell IntelliClean and eliminating all non-compete provisions.

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

[37] The Procter & Gamble Company/The Gillette Company, Docket No. C-4151 (issued September 29, 2005).

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

LIST OF EXHIBITS

APPENDIX A

SUMMARY OF TRANSACTIONS

FISCAL YEARS 1996- 2005

APPENDIX A
SUMMARY OF TRANSACTION BY YEAR

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Transactions Reported	**3,087**	**3,702**	**4,728**	**4,642**	**4,926**	**2,376**	**1,187**	**1,014**	**1,454**	**1,695**
Filings Received[1]	**6,001**	**7,199**	**9,264**	**9,151**	**9,941**	**4,800**	**2,369**	**2,001**	**2,866**	**3,322**
Adjusted Transactions In Which A Second Request Could Have Been Issued[2]	**2,864**	**3,438**	**4,575**	**4,340**	**4,749**	**2,237**	**1,142**	**968**	**1,377**	**1,610**
Investigations in Which Second Requests Were Issued	**99**	**122**	**125**	**111**	**98**	**70**	**49**	**35**	**35**	**50**
FTC[3]	36	45	46	45	43	27	27	15	20	25
Percent[4]	1.3%	1.3%	1.0%	1.0%	0.9%	1.2%	2.4%	1.5%	1.5%	1.6%
DOJ[3]	63	77	79	68	55	43	22	20	15	25
Percent[4]	2.2%	2.2%	1.7%	1.6%	1.2%	1.9%	1.9%	2.1%	1.1%	1.6%
Transactions Involving a Request For Early Termination[5]	**2,861**	**3,363**	**4,323**	**4,110**	**4,324**	**2,063**	**1,042**	**700**	**1,241**	**1,385**
Granted[5]	2,044	2,513	3,234	3,103	3,515	1,603	793	606	943	997
Not Granted[5]	817	850	1,089	1,007	809	460	249	94	298	388

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 party filed a complete notification); (2) transactions reported pursuant to the exemption provisions of §§ 7A(c)(6) and 7(c)(8) of the Act; and (3) transactions 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 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 801.4 of the Premerger Notification rules. Secondary acquisitions have been deducted in order to be consistent with statistics present in 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 1996 - 2005

APPENDIX B

TABLE 1. NUMBER OF TRANSACTIONS REPORTED BY MONTH FOR THE FISCAL YEARS 1996 - 2005

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
OCTOBER	238	296	424	333	376	360	89	77	93	143
NOVEMBER	273	332	387	359	428	451	105	104	127	160
DECEMBER	249	267	426	394	468	345	95	78	143	128
JANUARY	238	263	306	282	335	245	111	93	86	139
FEBRUARY	231	250	336	330	440	66	87	71	109	102
MARCH	277	315	392	427	455	120	109	74	138	122
APRIL	252	302	384	364	343	94	99	92	135	124
MAY	304	328	401	438	398	153	111	83	131	171
JUNE	253	319	442	445	494	190	88	80	122	153
JULY	265	389	435	444	351	94	121	86	123	120
AUGUST	264	318	427	434	446	163	97	85	135	170
SEPTEMBER	243	323	368	392	392	95	75	91	112	163
TOTAL	**3,087**	**3,702**	**4,728**	**4,642**	**4,926**	**2,376**	**1,187**	**1,014**	**1,454**	**1,695**

APPENDIX B
TABLE 2. NUMBER OF FILINGS RECEIVED[1] BY MONTH FOR FISCAL YEARS 1996 - 2005

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
OCTOBER	450	561	818	662	777	751	190	148	185	280
NOVEMBER	520	636	749	686	839	920	211	206	254	324
DECEMBER	474	521	836	785	922	686	183	150	280	246
JANUARY	445	514	614	548	677	499	224	179	168	268
FEBRUARY	480	483	650	658	867	144	174	146	209	201
MARCH	528	614	766	828	959	243	230	144	277	239
APRIL	498	599	763	719	695	188	203	182	251	244
MAY	584	640	787	851	859	296	212	168	267	338
JUNE	502	620	862	884	1,004	378	170	158	255	302
JULY	515	759	851	887	718	182	230	170	235	237
AUGUST	515	617	844	885	886	332	191	164	270	332
SEPTEMBER	490	635	724	758	738	181	151	186	215	311
TOTAL	6,001	7,199	9,264	9,151	9,941	4,800	2,369	2,001	2,866	3,322

[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 under §§7A(c)(6) and (c)(8) of the Clayton Act.

EXHIBIT A

STATISTICAL TABLES

FOR

FISCAL YEAR 2005

DATA PROFILING HART-SCOTT-RODINO PREMERGER

NOTIFICATION FILINGS AND ENFORCEMENT INTERESTS

TABLE I FISCAL YEAR 2005[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**
Below 50M[5]	21	1.3%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50M - 100M	533	33.1%	39	25	7.3%	4.7%	12.0%	4	3	0.8%	0.6%	1.4%
100M - 150M	233	14.5%	17	11	7.3%	4.7%	12.0%	0	1	0.0%	0.4%	0.4%
150M - 200M	160	9.9%	19	13	11.9%	8.1%	20.0%	2	2	1.3%	1.3%	2.6%
200M - 300M	180	11.2%	23	12	12.8%	6.7%	19.5%	2	4	1.1%	2.2%	3.3%
300M - 500M	181	11.2%	19	12	10.5%	6.6%	17.1%	2	0	1.1%	0.0%	1.1%
500M - 1000M	142	8.8%	24	20	16.9%	14.1%	31.0%	3	4	2.1%	2.8%	4.9%
Over 1000M	160	9.9%	42	27	26.3%	16.9%	43.2%	12	11	7.5%	6.9%	14.4%
ALL TRANSACTIONS	1,610	100.0%	183	120	11.4%	7.5%	18.9%	25	25	1.6%	1.6%	3.2[6]%

TABLE II
FISCAL YEAR 2005[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		PERCENTAGE OF TOTAL NUMBER OF CLEARANCES GRANTED			NUMBER		PERCENT		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 50	21	1.3%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
LESS THAN 100	554	34.4%	39	25	12.9%	8.3%	21.1%	4	3	8.0%	6.0%	14.0%
LESS THAN 150	787	48.9%	56	36	18.5%	11.9%	30.4%	4	4	8.0%	8.0%	16.0%
LESS THAN 200	947	58.8%	75	48	24.8%	15.8%	40.6%	6	6	12.0%	12.0%	24.0%
LESS THAN 300	1,127	70.0%	98	60	32.3%	19.8%	52.1%	8	10	16.0%	20.0%	36.0%
LESS THAN 500	1,308	81.2%	117	72	38.6%	23.8%	62.4%	10	10	20.0%	20.0%	40.0%
LESS THAN 1000	1,450	90.1%	141	92	46.5%	30.4%	76.9%	13	14	26.0%	28.0%	54.0%
ALL TRANSACTIONS	1,610	100.0%	183	120	60.4%	39.6%	100.0%	25	25	50.0%	50.0%	100.0%

TABLE III
FISCAL YEAR 2005[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			TOTAL NUMBER OF CLEARANCES PER AGENCY		TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
50M - 100M	39	25	64	2.4%	1.6%	4.0%	21.3%	20.8%	12.9%	8.3%	21.2%
100M - 150M	17	11	28	1.1%	0.7%	1.7%	9.3%	9.2%	5.6%	3.6%	9.2%
150M - 200M	19	13	32	1.2%	0.8%	2.0%	10.4%	10.8%	6.3%	4.3%	10.6%
200M - 300M	23	12	35	1.4%	0.7%	2.2%	12.6%	10.0%	7.6%	4.0%	11.6%
300M - 500M	19	12	31	1.2%	0.7%	1.9%	10.4%	10.0%	6.3%	4.0%	10.3%
500M - 1000M	24	20	44	1.5%	1.2%	2.7%	13.1%	16.7%	7.9%	6.6%	14.5%
Over 1000M	42	27	69	2.6%	1.7%	4.3%	23.0%	22.5%	13.9%	8.9%	22.8%
ALL CLEARANCES	183	120	303	11.4%	7.5%	18.9%	100.0%	100.0%	60.4%	39.6%	100.0%

TABLE IV

FISCAL YEAR 2005[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
50M - 100M	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
100M - 150M	4	4	8	0.2%	0.2%	0.4%	1.7%	1.7%	3.3%	8.0%	8.0%	16.0%
150M -200M	2	2	4	0.1%	0.1%	0.2%	1.3%	1.3%	2.5%	4.0%	4.0%	8.0%
200M - 300M	2	4	6	0.1%	0.2%	0.3%	1.1%	2.2%	3.4%	4.0%	8.0%	12.0%
300M - 500M	2	0	2	0.1%	0.0%	0.1%	1.1%	0.0%	1.1%	4.0%	0.0%	4.0%
500M - 1000M	3	4	7	0.2%	0.2%	0.4%	2.1%	2.8%	4.9%	6.0%	8.0%	14.0%
Over 1000M	12	11	23	0.7%	0.7%	1.4%	7.5%	6.9%	14.4%	24.0%	22.0%	46.0%
ALL TRANSACTIONS	25	25	50	1.6%	1.6%	3.2%	1.6%	1.6%	3.2%	50.0%	50.0%	100.0%

TABLE V
FISCAL YEAR 2005[1]
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD[7]	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
$53.1M	102	6.3%	6	5	5.9%	4.9%	10.8%	0	2	0.0%	2.0%	2.0%
$106.3M	115	7.1%	10	4	8.7%	3.5%	12.2%	1	0	0.9%	0.0%	0.9%
$530.7M	33	2.0%	7	2	21.2%	6.1%	27.3%	0	0	0.0%	0.0%	0.0%
25%	4	0.2%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50%	886	55.0%	99	86	11.2%	9.7%	20.9%	13	20	1.5%	2.3%	3.7%
ASSETS ONLY	470	29.2%	61	23	13.0%	4.9%	17.9%	11	3	2.3%	0.6%	2.9%
ALL TRANSACTIONS	1,610	100.0%	183	120	11.4%	7.5%	18.9%	25	25	1.6%	1.6%	3.2[6]%

TABLE VI
FISCAL YEAR 2005[1]
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	179	11.1%	6	2	3.4%	1.1%	4.5%	0	0	0.0%	0.0%	0.0%
50M - 100M	41	2.5%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
100M - 150M	60	3.7%	10	0	16.7%	0.0%	16.7%	1	0	1.7%	0.0%	1.7%
150M - 200M	52	3.2%	1	5	1.9%	9.6%	11.5%	0	0	0.0%	0.0%	0.0%
200M - 300M	64	4.0%	9	5	14.1%	7.8%	21.9%	0	1	0.0%	1.6%	1.6%
300M - 500M	106	6.6%	7	5	6.6%	4.7%	11.3%	1	2	0.9%	1.9%	2.8%
500M - 1000M	155	9.6%	21	10	13.5%	6.5%	20.0%	3	2	1.9%	1.3%	3.2%
OVER 1000M	953	59.2%	129	93	13.5%	9.8%	23.3%	20	20	2.1%	2.1%	4.2%
ALL TRANSACTIONS	1,610	100.0%	183	120	11.4%	7.5%	18.9%	25	25	1.6%	1.6%	3.2[6]%

TABLE VII
FISCAL YEAR 2005[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	152	9.4%	6	3	3.9%	2.0%	5.9%	1	0	0.7%	0.0%	0.7%
50M - 100M	54	3.4%	2	3	3.7%	5.6%	9.3%	0	0	0.0%	0.0%	0.0%
100M - 150M	44	2.7%	2	3	4.5%	6.8%	11.3%	0	2	0.0%	4.5%	4.5%
150M - 200M	43	2.7%	2	2	4.7%	4.7%	9.4%	2	2	4.7%	4.7%	9.4%
200M - 300M	69	4.3%	2	3	2.9%	4.3%	7.2%	0	1	0.0%	1.4%	1.4%
300M - 500M	122	7.6%	7	7	5.7%	5.7%	11.4%	2	2	1.6%	1.6%	3.2%
500M - 1000M	187	11.6%	14	16	7.5%	8.6%	16.1%	5	3	2.7%	1.6%	4.3%
0VER 1000M	835	51.9%	145	80	17.4%	9.6%	27.0%	15	15	1.8%	1.8%	3.6%
***Sales Not Available*[8]**	104	6.5%	3	3	2.9%	2.9%	5.8%	0	0	0.0%	0.0%	0.0%
ALL TRANSACTIONS	1,610	100.0%	183	120	11.4%	7.5%	18.9%	25	25	1.6%	1.6%	3.2[6]%

TABLE VIII
FISCAL YEAR 2005[1]
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	256	15.9%	25	9	9.8%	3.5%	13.3%	1	1	0.4%	0.4%	0.8%
50M - 100M	242	15.0%	25	16	10.3%	6.6%	16.9%	3	4	1.2%	1.7%	2.9%
100M - 150M	125	7.8%	26	12	20.8%	9.6%	30.4%	2	2	1.6%	1.6%	3.2%
150M - 200M	74	4.6%	10	5	13.5%	6.8%	20.3%	0	0	0.0%	0.0%	0.0%
200M - 300M	90	5.6%	8	4	8.9%	4.4%	13.3%	1	2	1.1%	2.2%	3.3%
300M - 500M	54	3.4%	8	5	14.8%	9.3%	24.1%	1	1	1.9%	1.9%	3.8%
500M - 1000M	66	4.1%	16	4	24.2%	6.1%	30.3%	3	0	4.5%	0.0%	4.5%
0VER 1000M	120	7.5%	7	19	5.8%	15.8%	21.6%	5	4	4.2%	3.3%	7.5%
***Assets Not Available*[9]**	583	36.2%	58	46	9.9%	7.9%	17.8%	9	11	1.5%	1.9%	3.4%
ALL TRANSACTIONS	1,610	100.0%	183	120	11.4%	7.5%	18.9%	25	25	1.6%	1.6%	3.2[6]%

TABLE IX
FISCAL YEAR 2005[1]
TRANSACTIONS BY SALES OF ACQUIRED ENTITIES[10]

SALES RANGE ($ MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS[3]				
	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	251	15.6%	24	8	9.6%	3.2%	12.8%	3	1	1.2%	0.4%	1.6%
50M - 100M	221	13.7%	26	23	11.8%	10.4%	22.2%	4	5	1.8%	2.3%	4.1%
100M - 150M	114	7.1%	15	7	13.2%	6.1%	19.3%	0	1	0.0%	0.9%	0.9%
150M - 200M	92	5.7%	11	4	12.0%	4.3%	16.3%	1	0	1.1%	0.0%	1.1%
200M - 300M	106	6.6%	15	4	14.2%	3.8%	18.0%	1	0	0.9%	0.0%	0.9%
300M - 500M	84	5.2%	11	9	13.1%	10.7%	23.8%	3	2	3.6%	2.4%	6.0%
500M - 1000M	77	4.8%	12	8	15.6%	10.4%	26.0%	4	2	5.2%	2.6%	7.8%
0VER 1000M	182	11.3%	14	15	7.7%	8.2%	15.9%	4	3	2.2%	1.6%	3.8%
Sales Not Available[11]	483	30.0%	57	42	11.8%	8.7%	20.5%	5	11	1.0%	2.3%	3.3%
ALL TRANSACTIONS	1,610	100.0%	185	120	11.5%	7.5%	18.9%	25	25	1.6%	1.6%	3.2[6]%

TABLE X

FISCAL YEAR 2005[1]

INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[12]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[13]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
111	Agricultural Production - Crops	1	0.1%	-0.3%	0	0	0	0	0	0
112	Agricultural Production - Livestock and Animal Specialties	3	0.2%	0.2%	0	0	0	0	0	0
113	Lumber and Wood Products, Except Furniture	2	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	27	1.7%	0.4%	5	0	5	1	0	1
212	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	4	0.2%	-0.1%	0	0	0	0	0	0
213	Drilling Oil and Gas Wells	9	0.6%	0.2%	0	2	2	0	1	1
221	Electric, Gas and Sanitary Services	36	2.2%	-1.1%	0	4	4	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	7	0.4%	-0.2%	0	0	0	0	0	0
235	Construction - Special Grade Contractors	4	0.2%	-0.2%	0	0	0	0	0	0
238	Specialty Trade Contractors	1	0.1%	NC	0	0	0	0	0	0
311	Food and Kindred Products	26	1.6%	-0.8%	3	3	6	1	0	1
312	Bottled and Canned Soft Drinks and Carbonated Drinks; and Cigarette Manufacturing	12	0.7%	0.2%	7	0	7	2	0	2

TABLE X

FISCAL YEAR 2005[1]

INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[12]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[13]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
313	Textile Mill Products	1	0.1%	NC	0	0	0	0	0	0
315	Apparel and Other Finished Products Made From Fabrics and Similar Materials	5	0.3%	0.2%	0	0	0	0	0	0
316	Leather and Leather Products	1	0.1%	-0.1%	0	1	1	0	0	0
321	Sawmills	7	0.4%	-0.2%	0	0	0	0	0	0
322	Paper and Allied Products	8	0.5%	-0.4%	0	1	1	0	1	1
323	Commercial Lithographic Printing	7	0.4%	-0.4%	0	0	0	0	0	0
324	Petroleum Refining and Related Industries	7	0.4%	-0.1%	3	0	3	1	0	1
325	Chemicals and Allied Products	111	6.9%	1.2%	36	0	36	3	0	3
326	Rubber and Misc. Plastics Products	26	1.6%	0.3%	4	0	4	1	0	1
327	Stone, Clay, Glass and Concrete Products	11	0.7%	0.3%	2	2	4	1	0	1
331	Iron and Steel Mills	16	1.0%	-0.2%	3	2	5	0	0	0
332	Fabricated Metal Products, Except Machinery and Transportation Equipment	16	1.0%	-1.1%	3	5	8	1	2	3
333	Industrial and Commercial Machinery and Computer Equipment	23	1.4%	-0.4%	4	2	6	0	0	0
334	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	66	4.1%	-1.4%	11	12	23	1	2	3

TABLE X FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRING PERSONS										
3-DIGIT NAICS CODE[12]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[13]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
335	**Electronic and Other Electrical Equipment and Components, Except Computer Equipment**	19	1.2%	-0.3%	2	4	6	0	2	2
336	**Transportation Equipment**	36	2.2%	-0.3%	4	2	6	1	0	1
337	**Home Furniture, Furnishings and Equipment Stores**	3	0.2%	-0.4%	0	0	0	0	0	0
339	**Miscellaneous Manufacturing Industries**	19	1.2%	-0.7%	9	0	9	1	1	2
421	**Wholesale Trade - Durable Goods**	75	4.7%	0.5%	6	3	9	0	1	1
422	**Wholesale Trade - Nondurable Goods**	70	4.3%	0.5%	13	6	19	0	0	0
423	**Automobile and Other Motor Vehicle Merchant Wholesalers**	2	0.1%	NC	0	0	0	0	0	0
424	**Printing and Writing Paper Merchant Wholesalers**	4	0.2%	0.1%	2	0	2	0	0	0
425	**Business to Business Electronic Markets**	0	0.0%	-0.1%	0	0	0	0	0	0
441	**Automotive Dealers and Gasoline Service Stations**	6	0.4%	-0.6%	1	0	1	0	0	0
442	**Furniture Stores**	0	0.0%	-0.1%	0	0	0	0	0	0
443	**Miscellaneous Repair Services**	2	0.1%	NC	0	0	0	0	0	0
444	**Building Materials, Hardware, Garden Supply, and Mobile Home Dealers**	2	0.1%	-0.3%	1	0	1	0	0	0
445	**Supermarkets and Other Grocery (Except Convenience) Stores**	2	0.1%	-0.4%	0	0	0	0	0	0

TABLE X

FISCAL YEAR 2005[1]

INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[12]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[13]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
446	Miscellaneous Retail	4	0.2%	-0.3%	3	0	3	0	0	0
447	Food Stores	8	0.5%	0.1%	1	0	1	0	0	0
448	Apparel and Accessory Stores	4	0.2%	-0.3%	0	0	0	0	0	0
451	Sporting Goods Stores	4	0.2%	0.1%	0	0	0	0	0	0
452	General Merchandise Stores	3	0.2%	0.1%	3	0	3	1	0	1
453	Stationery and Office Supplies	1	0.1%	0.1%	0	0	0	0	0	0
454	Heating Oil Dealers and Liquefied Petroleum Gas	20	1.2%	-0.1%	2	0	2	0	0	0
481	Transportation by Air	10	0.6%	0.4%	0	5	5	0	0	0
482	Railroad Transportation	0	0.0%	-0.1%	0	0	0	0	0	0
483	Water Transportation	5	0.3%	-0.1%	0	1	1	0	0	0
484	Motor Freight Transportation and Warehousing	9	0.6%	NC	0	1	1	0	0	0
485	Local and Suburban Transit and Interurban Highway Passenger Transportation	2	0.1%	0.1%	0	0	0	0	0	0
486	Pipelines, Except Natural Gas	13	0.8%	-0.1%	5	0	5	2	0	2
488	Air Traffic Control	8	0.5%	0.3%	0	2	2	0	1	1
492	Couriers	1	0.1%	-0.3%	0	0	0	0	0	0
493	Warehousing and Storage	3	0.2%	NC	0	0	0	0	0	0
511	Printing, Publishing and Allied Industries	85	5.3%	NC	3	10	13	1	3	4
512	Motion Pictures	4	0.2%	-0.8%	0	2	2	0	1	1
513	Communications	82	5.1%	-0.3%	4	9	13	2	5	7
514	On-line Services	24	1.5%	-0.2%	0	3	3	0	0	0
516	Internet Publishing and Broadcasting	1	0.1%	NC	0	0	0	0	0	0

TABLE X

FISCAL YEAR 2005[1]

INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[12]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[13]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
517	TELECOMMUNICATIONS	2	0.1%	NC	0	1	1	0	0	0
518	INTERNET SERVICE PROVIDERS, WEB SEARCH PORTALS, AND DATA PROCESSING SERVICES	2	0.1%	NC	0	0	0	0	0	0
519	NEWS SYNDICATES	0	0.0%	-0.1%	0	0	0	0	0	0
521	DEPOSITORY INSTITUTIONS	0	0.0%	NC	0	0	0	0	0	0
522	NONDEPOSITORY CREDIT INSTITUTIONS	45	2.8%	1.6%	0	1	1	0	1	1
523	SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES AND SERVICES	158	9.8%	2.0%	4	10	14	0	3	3
524	INSURANCE CARRIERS	42	2.6%	-1.7%	5	7	12	0	0	0
525	INSURANCE AGENTS, BROKERS AND SERVICE	16	1.0%	0.1%	1	2	3	0	0	0
531	LESSORS OF RESIDENTIAL BUILDINGS AND DWELLINGS	8	0.5%	0.1%	0	0	0	0	0	0
532	AUTOMOTIVE REPAIR, SERVICES AND PARKING	8	0.5%	0.1%	2	1	3	0	0	0
533	LESSORS OF NONFINANCIAL INTANGIBLE ASSETS (EXCEPT COPYRIGHTED WORKS)	5	0.3%	-0.1%	1	1	2	0	0	0
541	SERVICES -- BUSINESS, LEGAL, ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT AND RELATED SERVICES	89	5.5%	-0.7%	7	5	12	0	0	0
551	HOLDING AND OTHER INVESTMENT OFFICES	31	1.9%	1.8%	0	0	0	0	0	0
561	TRANSPORTATION SERVICES	2	0.1%	0.9%	2	0	2	0	0	0
562	SOLID WASTE COLLECTION	30	1.9%	1.6%	0	0	0	1	0	1
611	EDUCATIONAL SERVICES	5	0.3%	NC	0	0	0	0	0	0
621	HEALTH SERVICES	4	0.2%	-0.1%	0	0	0	0	0	0

TABLE X

FISCAL YEAR 2005[1]

INDUSTRY GROUP OF ACQUIRING PERSONS

3-DIGIT NAICS CODE[12]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[13]	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	19	1.2%	0.1%	5	3	8	0	0	0
623	NURSING AND RESIDENTIAL CARE FACILITIES	5	0.3%	NC	7	1	8	0	0	0
624	SOCIAL SERVICES	1	0.1%	NC	0	1	1	0	0	0
711	REAL ESTATE	2	0.1%	NC	0	0	0	0	0	0
713	AMUSEMENT AND RECREATION SERVICES	3	0.2%	-0.6%	2	0	2	2	0	2
721	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	4	0.2%	-0.2%	2	0	2	0	0	0
722	EATING AND DRINKING PLACES	17	1.1%	0.2%	0	0	0	0	0	0
811	GENERAL AUTOMOTIVE REPAIR	1	0.1%	-0.1%	0	0	0	0	0	0
812	PERSONAL SERVICES	3	0.2%	0.1%	0	0	0	0	0	0
813	MEMBERSHIP 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 AND HOUSING PROGRAMS	0	0.0%	NC	0	0	0	0	0	0
999	NONCLASSIFICABLE ESTABLISHMENTS	0	0.0%	-0.1%	0	0	0	0	0	0
000	NOT AVAILABLE[14]	139	8.6%	6.7%	5	5	10	2	0	2
	ALL TRANSACTIONS	1,610	100.0%		183	120	303	25	25	50

Table XI

FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[15] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
111	Agricultural Production - Crops	0	0.0%	-0.1%	0	0	0	0	0	0	0
112	Agricultural Production - Livestock and Animal Specialties	1	0.1%	0.1%	0	0	0	0	0	0	1
113	Lumber and Wood Products, Except Furniture	3	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	34	2.1%	1.2%	4	1	5	2	1	3	17
212	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	10	0.6%	0.2%	2	0	2	0	0	0	2
213	Drilling Oil and Gas Wells	12	0.7%	0.3%	0	2	2	0	2	2	7
221	Electric, Gas and Sanitary Services	46	2.9%	-0.9%	1	5	6	0	2	2	29
233	Building Construction – General Contractors and Operative Builders	2	0.1%	0.1%	0	0	0	0	0	0	0
234	Heavy Construction Other Than Building Construction - Contractors	4	0.2%	-0.2%	0	0	0	0	0	0	4
235	Construction - Special Grade Contractors	4	0.2%	-0.3%	0	0	0	0	0	0	2
311	Food and Kindred Products	26	1.6%	-0.4%	3	3	6	1	2	3	18
312	Bottled and Canned Soft Drinks and Carbonated Drinks; and Cigarette Manufacturing	17	1.1%	0.6%	6	0	6	2	0	2	10
313	Textile Mill Products	2	0.1%	NC	0	0	0	0	0	0	0
315	Apparel and Other Finished Products Made From Fabrics and Similar Materials	1	0.1%	NC	0	0	0	0	0	0	1

Table XI

FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[15] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
316	Leather and Leather Products	2	0.1%	0.1%	0	1	1	0	0	0	1
321	Sawmills	9	0.6%	NC	0	1	1	0	0	0	5
322	Paper and Allied Products	10	0.6%	-0.2%	0	1	1	0	1	1	5
324	Petroleum Refining and Related Industries	10	0.6%	1.4%	3	0	3	1	0	1	4
325	Chemicals and Allied Products	76	4.7%	0.4%	24	1	25	4	1	5	55
326	Rubber and Misc. Plastics Products	24	1.5%	0.5%	5	0	5	1	0	1	16
327	Stone, Clay, Glass and Concrete Products	20	1.2%	0.5%	2	2	4	1	0	1	7
331	Iron and Steel Mills	24	1.5%	0.8%	4	2	6	0	0	0	9
332	Fabricated Metal Products, Except Machinery and Transportation Equipment	31	1.9%	-0.1%	2	4	6	1	2	3	10
333	Industrial and Commercial Machinery and Computer Equipment	21	1.3%	1.0%	2	4	6	0	0	0	11
334	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	69	4.3%	1.4%	8	12	20	0	1	1	47
335	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	21	1.3%	-0.4%	2	3	5	0	2	2	11
336	Transportation Equipment	34	2.1%	1.8%	5	3	8	1	0	1	18
337	Home Furniture, Furnishings and Equipment Stores	4	0.2%	-0.1%	0	0	0	0	0	0	2

Table XI

FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[15] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
339	Miscellaneous Manufacturing Industries	24	1.5%	-0.4%	6	0	6	0	0	0	13
421	Wholesale Trade - Durable Goods	97	6.0%	1.9%	10	0	10	0	0	0	49
422	Wholesale Trade - Nondurable Goods	72	4.5%	1.7%	14	3	17	3	0	3	49
423	Automobile and other Motor Vehicle Merchant Wholesalers	2	0.1%	-0.2%	0	0	0	0	0	0	1
424	Printing and Writing Paper Merchant Wholesalers	5	0.3%	0.2%	2	0	2	0	0	0	0
441	Automotive Dealers and Gasoline Service Stations	2	0.1%	0.6%	0	0	0	0	0	0	2
443	Miscellaneous Repair Services	2	0.1%	NC	0	0	0	0	0	0	1
444	Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	2	0.1%	NC	1	0	1	0	0	0	1
445	Supermarkets and Other Grocery (except Convenience) Stores	3	0.2%	-0.1%	0	0	0	0	0	0	1
446	Miscellaneous Retail	8	0.5%	0.1%	3	0	3	0	0	0	4
447	Food Stores	10	0.6%	0.4%	1	0	1	0	0	0	6
448	Apparel and Accessory Stores	10	0.6%	0.1%	0	0	0	0	0	0	3
451	Sporting Goods Stores	8	0.5%	0.4%	0	0	0	0	0	0	4
452	General Merchandise Stores	14	0.9%	0.7%	4	0	4	0	0	0	3
453	Stationery and Office Supplies	2	0.1%	0.1%	0	0	0	0	0	0	1
454	Heating Oil Dealers and Liquefied Petroleum Gas	14	0.9%	NC	3	0	3	0	0	0	10
481	Transportation by Air	10	0.6%	0.2%	0	5	5	0	0	0	6
482	Railroad Transportation	0	0.0%	0.3%	0	0	0	0	0	0	0

Table XI

FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[15] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
483	Water Transportation	0	0.0%	-0.4%	0	0	0	0	0	0	0
484	Motor Freight Transportation and Warehousing	7	0.4%	0.2%	0	1	1	0	0	0	5
485	Local and Suburban Transit and Interurban Highway Passenger Transportation	1	0.1%	NC	0	0	0	1	0	1	1
486	Pipelines, Except Natural Gas	17	1.1%	0.2%	4	0	4	0	0	0	10
488	Air Traffic Control	11	0.7%	0.2%	0	1	1	0	0	0	4
492	Couriers	0	0.0%	-0.1%	0	0	0	0	0	0	0
493	Warehousing & Storage	2	0.1%	-0.3%	0	0	0	1	0	1	1
511	Printing, Publishing and Allied Industries	89	5.5%	0.9%	3	12	15	1	3	4	63
512	Motion Pictures	12	0.7%	0.3%	0	3	3	0	1	1	4
513	Communications	102	6.3%	1.9%	5	11	16	0	3	3	50
514	On-line Services	32	2.0%	0.3%	0	3	3	0	0	0	18
517	Telecommunications	1	0.1%	NC	0	0	0	0	0	0	0
518	Internet Service Providers, Web Search Portals, and Data Processing Services	1	0.1%	0.1%	1	0	1	0	0	0	0
521	Depository Institutions	0	0.0%	NC	0	0	0	0	0	0	0
522	Nondepository Credit Institutions	48	3.0%	0.3%	0	3	3	0	1	1	27
523	Security and Commodity Brokers, Dealers, Exchanges and Services	120	7.4%	4.5%	1	7	8	0	2	2	72
524	Insurance Carriers	48	3.0%	-0.8%	4	5	9	0	0	0	28
525	Insurance Agents, Brokers and Service	1	0.1%	NC	0	0	0	0	0	0	0

Table XI

FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[15] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
531	Lessors of Residential Buildings and Dwellings	7	0.4%	NC	0	0	0	0	0	0	5
532	Automotive Repair, Services and Parking	13	0.8%	0.1%	3	2	5	0	0	0	5
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	13	0.8%	0.3%	4	0	4	0	0	0	3
541	Engineering, Accounting, Research, Management and Related Services	111	6.9%	1.6%	14	5	19	0	0	0	63
551	Holding and Other Investment Offices	2	0.1%	NC	0	0	0	0	0	0	0
561	Transportation Services	27	1.7%	-0.2%	2	2	4	1	0	1	14
562	Solid Waste Collection	10	0.6%	0.4%	0	3	3	0	0	0	3
611	Educational Services	3	0.2%	-0.1%	0	0	0	0	0	0	2
621	Health Services	17	1.1%	1.0%	6	2	8	2	0	2	8
622	General Medical and Surgical; Psychiatric and Substance Abuse Hospitals	21	1.3%	0.3%	8	1	9	0	0	0	15
623	Nursing and Residential Care Facilities	5	0.3%	0.7%	0	0	0	0	0	0	3
624	Social Services	1	0.1%	-0.1%	0	1	1	0	0	0	1
711	Real Estate	3	0.2%	0.2%	0	3	3	0	0	0	0
713	Amusement and Recreation Services	12	0.7%	-0.1%	2	0	2	2	0	2	6
721	Hotels, Rooming Houses, Camps, and Other Lodging Places	12	0.7%	0.4%	2	0	2	0	0	0	2
722	Eating and Drinking Places	14	0.9%	0.5%	0	0	0	0	0	0	4
811	General Automotive Repair	5	0.3%	-0.1%	0	0	0	0	0	0	1

Table XI

FISCAL YEAR 2005[1] INDUSTRY GROUP OF ACQUIRED ENTITIES

3-DIGIT NAICS CODE[11]	INDUSTRY DESCRIPTION	NUMBER[4]	PERCENT OF TOTAL	CHANGE FROM FY 2004[12]	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS[3]			NUMBER OF 3 DIGIT INTRA-INDUSTRY TRANSACTIONS[15] *(the data series for this column was revised in April, 2008)*
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
812	Personal Services	3	0.2%	0.2%	0	0	0	0	0	0	2
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
999	Nonclassificable Establishments	0	0.0%	-15.8%	0	0	0	0	0	0	0
000	Not Available[10]	39	2.4%	1.7%	7	2	9	0	1	1	1
		1,612	100.0%		183	120	303	25	25	50	869

[1] Fiscal year 2005 figures include transactions reported between October 1, 2004 and September 30, 2005.

[2] The size of transaction is based on the aggregate total amount of voting securities and/or assets 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 and Report Form.

[3] During fiscal year 2005, 1,695 transactions were reported under the HSR Premerger Notification program. The smaller number 1,610 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).

[4] These statistics are based on the date the Second Request was issued.

[5] The total number of filings under $50M submitted in Fiscal Year 2005 is corrective filings.

[6] *See supra*, Appendix A note 4.

[7] In February 2001, legislation raised the size-of-transaction threshold from $15 million to $50 million with annual adjustments beginning in February 2005. The total number of filings includes filings made at the $50M, $100M, and $500M thresholds.

[8] 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.

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

[10] Sales of 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.

[11] 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.

[12] 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 President, Office of Management and Budget. The NAICS groups used in this table were determined from responses submitted by parties to Item 5 of the Premerger Notification and Report Form, effective July 1, 2001.

[13] This represents the deviation from the fiscal year 2004 percentage.

[14] This category includes transactions by newly-formed entities.

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