

**Dissenting Statement of Commissioner Joshua D. Wright
Regarding Amendments to Hart-Scott-Rodino Rules**

FTC Matter No. P989316

June 28, 2013

The Commission voted today to publish final amendments to the Hart-Scott-Rodino (“HSR”) Rules. The final amendments establish, among other things, a procedure for the automatic withdrawal of an HSR filing upon the submission of a filing to the U.S. Securities and Exchange Commission announcing that the notified transaction has been terminated.¹ I want to thank staff in the Premerger Notification Office for their efforts in drafting the amendments to the HSR Rules and for their diligent administration of the premerger notification program.

I disagree with the Commission’s decision to publish the final amendments to the HSR Rules. It has long been accepted as a principle of good governance that federal agencies should issue new regulations only if their benefits exceed their costs.² In my view, the record does not support the conclusion that the new automatic withdrawal rule offers any benefits that justify its adoption. The notice of proposed rulemaking claims the automatic withdrawal rule is necessary to prevent the antitrust agencies from “expend[ing] scarce resources on hypothetical transactions.”³ However, I have not seen evidence that any of the over 68,000 transactions that have been notified under the HSR Rules has resulted in the allocation of resources to a truly hypothetical transaction.

In the absence of evidence that the automatic withdrawal rule would remedy a problem that exists under the current HSR regime, and thus benefit the public, I believe we should refrain from creating new regulations.

¹ The amendments to the HSR Rules also would codify, with one modification, the existing procedure for pulling and refiling an HSR notification without payment of an additional filing fee. I have no objection to this portion of the amendments.

² See Exec. Order No. 13,563, 3 C.F.R. 215 (2012), *reprinted in* 5 U.S.C. § 601 app. (2006 & Supp. V 2011); Exec. Order No. 12,866, 3 C.F.R. 638 (1994), *reprinted as amended in* 5 U.S.C. § 601 (2006 & Supp. V 2011); Exec. Order No. 12,291, 3 C.F.R. 127 (1982), *revoked by* Exec. Order No. 12,866, 3 C.F.R. 638.

³ Premerger Notification; Reporting and Waiting Period Requirements, 78 Fed. Reg. 10574, 10575 (proposed Feb. 14, 2013) (to be codified at 16 C.F.R. pt 803).