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BUREAU OF COMPETITION



DEPARTMENT OF JUSTICE
ANTITRUST DIVISION

HART-SCOTT-RODINO ANNUAL REPORT

FISCAL YEAR 2013

Section 7A of the Clayton Act
Hart-Scott-Rodino Antitrust Improvements Act of 1976
(Thirty-Sixth Annual Report)

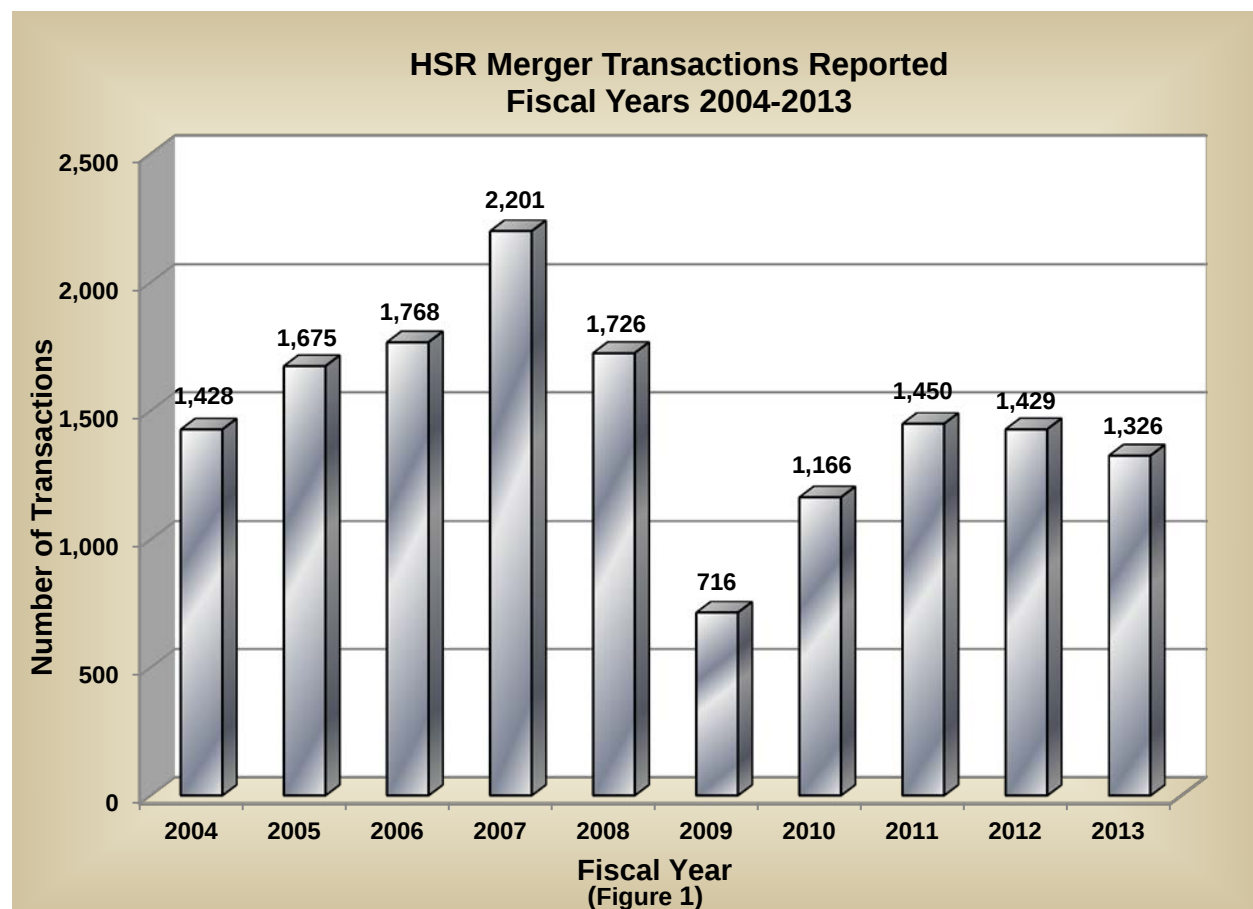
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INTRODUCTION

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 (“HSR Act” or “the Act”), together with Section 13(b) of the Federal Trade Commission Act and Section 15 of the Clayton Act, enables the Federal Trade Commission (“FTC” or “Commission”) and the Antitrust Division of the Department of Justice (“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 alerting the Commission and the Division to transactions that became the subjects of the numerous enforcement actions brought in fiscal year 2013¹ 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 2013, 1,326 transactions were reported under the HSR Act, representing about a 7.2% decrease from the 1,429 transactions reported in fiscal year 2012. (See Figure 1 below.)



¹ Fiscal year 2013 covers the period of October 1, 2012 through September 30, 2013.

During fiscal year 2013, the Commission brought 23 merger enforcement actions,² including 16 in which it accepted consent orders for public comment, all of which resulted in final orders; two in which the transactions were abandoned or restructured as a result of antitrust concerns raised during the investigation; one in which the Commission filed a complaint in federal court to permanently enjoin the acquisition; and four in which the Commission initiated administrative litigation. In one of these administrative matters, the Commission contemporaneously filed a motion for preliminary injunction in federal court. In two of the others, the Commission dismissed its administrative complaints after the parties abandoned their intended transactions, and in the fourth, the Commission issued a consent order requiring divestitures. These enforcement actions preserved competition in numerous sectors of the economy, including pharmaceuticals, hospitals, high tech and industrial goods, casinos, and energy.

One of the Commission's notable challenges was against Idaho-based St. Luke's Health System's acquisition of Idaho's largest independent, multi-specialty physician practice group, Saltzer Medical Group. The Commission, together with the Idaho Attorney General, initiated an action in federal district court to block the transaction. The four-week bench trial began on September 23, 2013. On January 24, 2014, the U.S. District Court for the District of Idaho found that the acquisition violated Section 7 of the Clayton Act and the Idaho Competition Act, and permanently enjoined the consummated acquisition and ordered St. Luke's to fully divest itself of Saltzer's physicians and assets. St. Luke's has appealed the decision.

The Commission also initiated federal district court and administrative proceedings in connection with its challenge of Ardagh Group S.A.'s proposed acquisition of rival glass container manufacturer Saint-Gobain Containers, Inc. To resolve the litigation, Ardagh agreed to sell six of its nine U.S. glass container manufacturing plants. In another challenge, the Commission initiated administrative litigation and authorized staff to seek a temporary restraining order and preliminary injunction in federal district court to block casino operator Pinnacle Entertainment's proposed acquisition of rival Ameristar Casinos. The Commission agreed to resolve the litigation with a consent order that required Pinnacle to divest casino properties in Missouri and Louisiana to settle concerns that the acquisition would hinder competition in those areas.

During fiscal year 2013, the Antitrust Division challenged 15 merger transactions. In seven of these challenges, the Antitrust Division filed a complaint in U.S. district court. The Division prevailed at trial in its challenge to Bazaarvoice's \$168 million consummated acquisition of PowerReviews, its closest rival in the U.S. market for internet product ratings and reviews platforms. Subsequently, a proposed consent decree was filed with the court on April 24, 2014, requiring Bazaarvoice to divest the assets it acquired from PowerReviews and to adhere to other requirements to fully restore competition in the provision of online product ratings and reviews platforms. In another court challenge, trial is pending. The other five court challenges resulted in settlements being filed with the court: three times simultaneously with the complaint, and in two other instances, post-complaint. In the eight fiscal year 2013 challenges where the Division did not file a complaint, the parties in three instances abandoned the proposed

² To avoid double-counting, this Report includes only those merger enforcement actions in which the Commission or the Antitrust Division took its first public action during fiscal year 2013.

transaction, in three instances restructured the proposed transaction, and in two instances changed their conduct to avoid competitive problems, thus resolving the Division's concerns.

One of the Division's notable challenges was the suit brought, together with several state attorneys general, to block the merger between US Airways and American Airlines. As proposed, this transaction would have reduced competition in air travel—an industry that is increasingly concentrated and oligopolistic—and raised prices for consumers. The settlement, which was entered by the court on April 25, 2014, requires the parties to divest key assets at capacity-constrained airports across the country. These divestitures will provide low cost carrier airlines the opportunity to expand their national footprint and increase system-wide competition to the benefit of the American consumer.

The Division also acted to preserve competition and avoid price increases in the U.S. beer market, suing to stop Anheuser-Busch InBev's (ABI) proposed acquisition of total ownership and control of Grupo Modelo, a leading rival and aggressive competitor. After the Division sued, the parties agreed to divest to Constellation Brands Modelo's entire U.S. business, ensuring that Modelo would remain an independent horizontal competitor of ABI and MillerCoors.

In fiscal year 2013, the Commission's Premerger Notification Office ("PNO") continued to respond to thousands of telephone calls seeking information about 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, <http://www.ftc.gov/enforcement/premerger-notification-program>, continued to provide improved access to information necessary to the notification process. The website includes basic resources, such as introductory guides, that provide an overview of the premerger notification program and merger review process. It is the primary source of information for HSR practitioners seeking information relating to the HSR form and instructions, the premerger notification statute and rules, current filing thresholds, notices of grants of early termination, filing fee instructions, scheduled HSR events, training materials for new HSR practitioners, tips for completing the filing form, procedures for submitting post-consummation filings, contact information for PNO staff, and frequently asked questions regarding HSR filing requirements. Web users also can find up-to-date information, including speeches, press releases, summaries and highlights, and Federal Register notices regarding any amendments to the HSR rules. 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 is available to help HSR practitioners comply with HSR notification requirements.

BACKGROUND OF THE HSR ACT

Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435 ("the Act" or "HSR Act"), amended the Clayton Act by adding a new Section 7A, 15 U.S.C. § 18a. In general, the HSR Act requires that certain proposed acquisitions of voting securities or assets be reported to the Commission and the Antitrust Division prior to consummation. The parties must then wait a specified period, usually 30 days (or 15 days in the case of a cash tender offer or bankruptcy sale), before they may complete the transaction.

Whether a particular acquisition is subject to these requirements depends on the value of the acquisition and, in certain acquisitions, the size of the parties as measured by their sales and assets. Acquisitions valued below a certain threshold, acquisitions involving parties with assets and sales below a certain threshold, and certain 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.

If either agency determines during the waiting period that further inquiry is necessary, the agency is authorized by Section 7A(e) of the Clayton Act to issue a request for additional information and documentary material ("Second Request").³ The Second Request extends the waiting period for a specified period of time (usually 30 days, but 10 days in the case of a cash tender offer or bankruptcy sale) after all parties have complied with the Second Request (or, in the case of a tender offer or 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 also may 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 also was published, containing a section-by-section analysis of the rules and an item-by-item analysis of the filing form.⁴ 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 the ten-year period covering fiscal years 2004-2013, 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

³ 15 U.S.C. §18a(e)(1)(a) ("The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period)...require the submission of additional information or documentary material relevant to the proposed acquisition").

⁴ 43 Fed. Reg. 33450 (July 31, 1978).

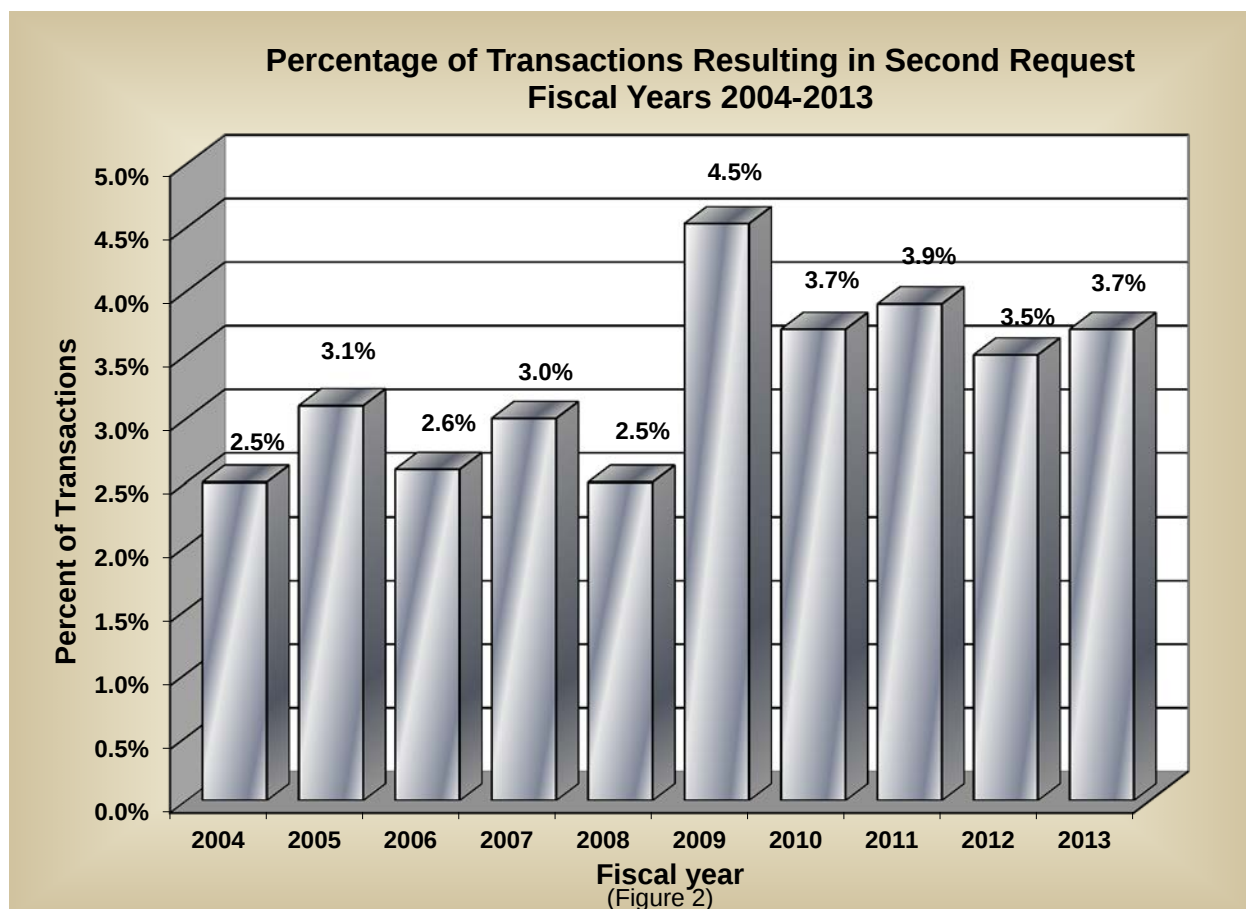
⁵ See <http://www.ftc.gov/enforcement/premerger-notification-program/statute-rules-and-formal-interpretations/statements-basis-purpose>.

transactions in which requests for early termination of the waiting period were received, granted, and not granted.⁶ Appendix A also shows 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 2004 through 2013.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2013 decreased 7.2% from the number of transactions reported in fiscal year 2012. In fiscal year 2013, 1,326 transactions were reported, while 1,429 were reported in fiscal year 2012.⁷ The statistics in Appendix A also show that the number of merger investigations in which Second Requests were issued in fiscal year 2013 decreased 4.1% from the number of merger investigations in which Second Requests were issued in fiscal year 2012. Second Requests were issued in 47 merger investigations in fiscal year 2013 (25 issued by the FTC and 22 issued by the Antitrust Division), while Second Requests were issued in 49 merger investigations in fiscal year 2012 (20 issued by the FTC and 29 issued by the Antitrust Division). The percentage of transactions in which a Second Request was issued increased from 3.5% in fiscal year 2012 to 3.7% in fiscal year 2013. (See Figure 2 below)

⁶ The term “transaction,” as used in Appendices A and B and Exhibit A to this Report, does not refer only to individual mergers or acquisitions. A particular merger, joint venture, or acquisition may be structured such that it involves more than one filing that must be made under the HSR Act.

⁷ This Report, like previous Reports, also includes annual data on “adjusted transactions in which a Second Request could have been issued” (“adjusted transactions”). See Appendix A and n.2 of Appendix A (explaining calculation of that data). There were 1,286 adjusted transactions in fiscal year 2013, and the data presented in the Tables and the percentages discussed in the text of this Report (*e.g.*, percentage of transactions resulting in Second Requests) are based on this figure.

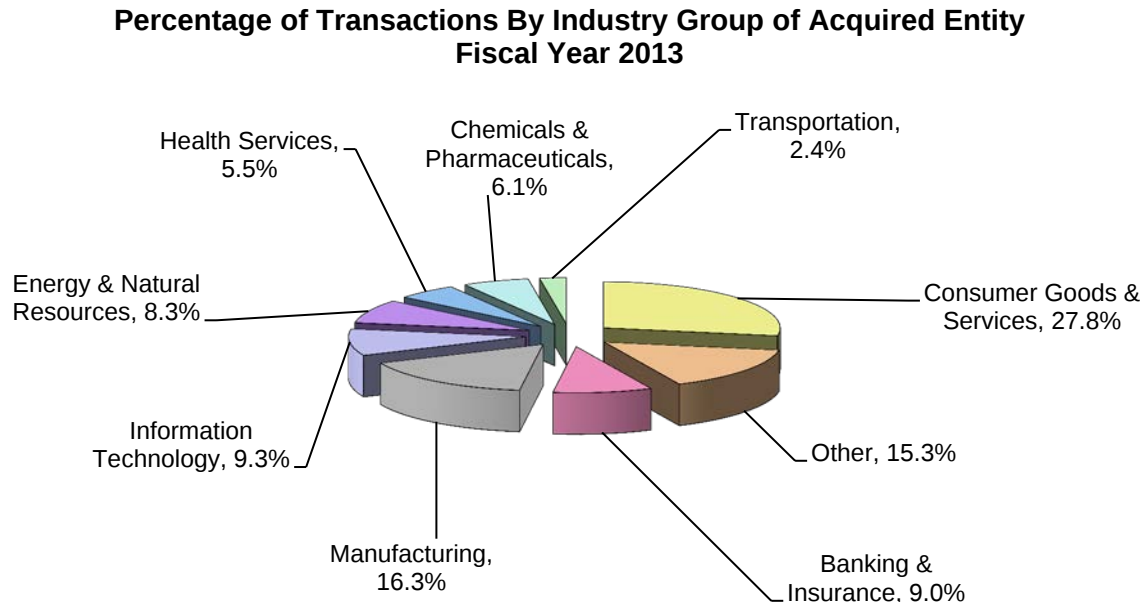


The statistics in Appendix A also show that early termination of the waiting period was requested in the majority of transactions. In fiscal year 2013, early termination was requested in 77% (990) of the transactions reported. In fiscal year 2012, early termination was requested in 78% (1,094) of the transactions reported. The percentage of requests granted out of the total requested decreased from 82% in fiscal year 2012 to 80.5% in fiscal year 2013.

The tables (Tables I through XI) in Exhibit A contain information regarding the agencies' enforcement activities for transactions reported in fiscal year 2013. The tables provide, for example, various categories of transactions, the number and percentage of transactions in which clearance to investigate was 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 2013, clearance was granted to either of the agencies to conduct an initial investigation in 16.9% of the total number of transactions reported. 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. In fiscal year 2013, the dollar value of reported transactions was \$815 billion.⁸

⁸ The information on the value of reported adjusted transactions for fiscal year 2013 is drawn from a database maintained by the Premerger Notification Office.

Tables X and XI provide the number of transactions by industry group in which the acquiring person or the acquired entity derived the most revenue. Figure 3 illustrates the percentage of reportable transactions within industry groups for fiscal year 2013 based on the acquired entity's operations.⁹



(Figure 3)

DEVELOPMENTS WITHIN THE PREMERGER PROGRAM

1. Amendments to the Premerger Notification Rules

The Commission, with the concurrence of the Antitrust Division, amended the premerger notification rules (effective August 9, 2013) to provide a framework for the withdrawal of a premerger notification filing under the HSR Act.¹⁰ These amendments set forth the procedures for voluntarily withdrawing an HSR filing; establish when a premerger notification filing will be automatically withdrawn if a filing publicly announcing the termination of the transaction is made with the U.S. Securities and Exchange Commission under the Securities Exchange Act of 1934 and the rules promulgated under that Act; and set forth the procedure for resubmitting a filing after a withdrawal without incurring an additional filing fee.

⁹ The category designated as “Other” consists of industry segments that include construction, educational services, performing arts, recreation, and other non-classifiable businesses.

¹⁰ Press Release, FTC Finalizes Amendments to the Premerger Notification Rules Related to the Withdrawal of HSR Filings (June 28, 2013), available at <http://www.ftc.gov/news-events/press-releases/2013/06/ftc-finalizes-amendments-premerger-notification-rules-related>; 78 Fed. Reg. 41293 (July 10, 2013) (codified at 16 C.F.R. pt. 803).

In another rule change (effective December 16, 2013), the Commission, with the concurrence of the Antitrust Division, amended the premerger notification rules regarding acquisitions of exclusive patent rights in the pharmaceutical industry.¹¹ The amended rules provide a framework for determining when a transaction involving the transfer of rights to a patent or part of a patent in the pharmaceutical and medicine manufacturing industry constitutes an asset acquisition that may be reportable under the HSR Act.

2. 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 2013. The agencies monitor compliance through a number of methods, including a review of newspapers and industry publications for announcements of transactions that may not have been reported in accordance with the HSR Act's requirements. In addition, industry sources, such as competitors, customers, and suppliers, interested members of the public, and, in certain cases, the parties themselves, 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 \$16,000 for each day the violation continues.¹² The antitrust agencies examine the circumstances of each violation to determine whether penalties should be sought.¹³ During fiscal year 2013, 39 post-consummation "corrective" filings were received, and the agencies brought two enforcement actions, resulting in \$1.2 million in civil penalties.

In *United States v. Barry Diller*,¹⁴ the complaint alleged that Barry Diller, a member of the board of directors of The Coca Cola Company ("Coke"), failed to comply with the HSR Act's premerger notification requirements before acquiring Coke voting securities. Although this was the first time that Diller was charged with an HSR Act violation, he had previously made a corrective filing for what he claimed was an inadvertent failure to file before acquiring voting securities of a different company. Under the terms of a consent decree filed simultaneously with the complaint and entered by the court on July 3, 2013, Diller agreed to pay a \$480,000 civil penalty to settle the charges.

¹¹ Press Release, FTC Finalizes Amendments to the Premerger Notification Rules Related to the Transfer of Exclusive Patent Rights in the Pharmaceutical Industry (Nov. 6, 2013), available at <http://www.ftc.gov/news-events/press-releases/2013/11/ftc-finalizes-amendments-premerger-notification-rules-related>; 78 Fed. Reg. 68705 (Nov. 15, 2013) (codified at 16 C.F.R. pt. 801).

¹² Dollar amounts specified in civil monetary penalty provisions within the Commission's jurisdiction are adjusted for inflation in accordance with the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134 (Apr. 26, 1996). The adjustments have included an increase in the maximum civil penalty from \$10,000 to \$11,000 for each day during which a person is in violation of Section 7A(g)(1) (61 Fed. Reg. 54548 (Oct. 21, 1996), corrected at 61 Fed. Reg. 55840 (Oct. 29, 1996)) and to \$16,000 effective February 10, 2009 (74 Fed. Reg. 857 (Jan. 9, 2009)).

¹³ If parties inadvertently fail to file, the agencies generally will not seek penalties so long as the parties promptly submit corrective filings after discovering the failure to file, submit an acceptable explanation of their failure to file, and have not previously violated the Act.

¹⁴ *United States v. Barry Diller*, No. 1:13-CV-01002 (D.D.C.) (final judgment issued July 3, 2013), available at <http://www.ftc.gov/sites/default/files/documents/cases/2013/07/130703dillerjdmtdmt.pdf>.

In *United States v. MacAndrews & Forbes Holdings*,¹⁵ the complaint alleged that investment firm MacAndrews & Forbes Holdings Inc. failed to comply with premerger notification requirements before acquiring voting securities of Scientific Games Corporation in June 2012. Although this was the first time that MacAndrews & Forbes had been charged with an HSR Act violation, the firm had previously made a corrective filing in May 2011 for what it asserted was an inadvertent failure to file before acquiring voting securities of a different company. Under the terms of a consent decree filed simultaneously with the complaint and entered by the court on July 1, 2013, MacAndrews & Forbes agreed to pay a civil penalty of \$720,000 to settle the charges.

3. *Threshold Adjustments*

The 2000 amendments to the HSR Act 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) of the Clayton Act for each fiscal year beginning after September 30, 2004. The Commission amended the rules in 2005 to provide a method for future adjustments as required by the 2000 amendments, and to reflect the revised thresholds contained in the rules. The revised thresholds are published annually in January and become effective 30 days after publication.

On January 11, 2013, the Commission published a notice¹⁶ to reflect adjustment of the reporting thresholds as required by the 2000 amendments¹⁷ to Section 7A of the Clayton Act, 15 U.S.C. § 18a. The revised thresholds, including an increase in the size of transaction threshold from \$68.2 million to \$70.9 million, became effective February 11, 2013.

MERGER ENFORCEMENT ACTIVITY¹⁸

1. *The Department of Justice*

During fiscal year 2013, the Antitrust Division challenged 15 merger transactions that it concluded might have substantially lessened competition if allowed to proceed as proposed. In seven of these challenges, the Antitrust Division filed a complaint in U.S. district court. One of these seven court challenges was litigated, and the district court ruled in favor of the government on January 8, 2014. In another court challenge, trial is pending. In three, the parties filed settlement papers simultaneously with the complaint, and in two other court challenges, settlement papers were filed post-complaint. In the eight fiscal year 2013 challenges where the Division did not file a complaint, in three instances the parties abandoned the proposed transaction, in three other instances the parties restructured the proposed transaction, and in two

¹⁵ *United States v. MacAndrews & Forbes Holdings Inc.*, No. 1:13-CV-0926 (D.D.C.) (final judgment issued July 1, 2013), available at <http://www.ftc.gov/sites/default/files/documents/cases/2013/07/130701macandrewsforbesjdmf.pdf>.

¹⁶ 78 Fed. Reg. 2406 (Jan. 11, 2013).

¹⁷ 15 U.S.C. §18a(a). See Pub. L. No. 106-553, 114 Stat. 2762.

¹⁸ The cases listed in this section were not necessarily reportable under the premerger notification program. Given the confidentiality of information obtained pursuant to the Act, it would be inappropriate to identify the cases initiated under the program except in those instances in which that information has already been disclosed.

instances the parties changed their conduct to avoid competitive problems, thus resolving the Division's concerns.¹⁹

In *United States v. Star Atlantic Waste Holdings, L.P., Veolia Environnement S.A., and Veolia ES Solid Waste, Inc.*,²⁰ the Division challenged the proposed acquisition of Veolia Environnement S.A. by Star Atlantic Waste Holdings, L.P. The complaint alleged that the transaction, as originally proposed, would have resulted in higher prices for the collection of commercial waste and the disposal of municipal solid waste in northern New Jersey, central Georgia, and Macon, Georgia. In each of these areas, Star Atlantic and Veolia were two of only a few significant firms providing commercial waste collection and municipal solid waste disposal. The Division filed a proposed consent decree simultaneously with the complaint, requiring Star Atlantic and Veolia to divest three transfer stations in northern New Jersey, a landfill and transfer station in central Georgia, and three commercial waste collection routes in the Macon metropolitan area. On March 1, 2013, the court entered the decree.

In *United States and State of New York v. Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights, LLC, and City Sights Twin, LLC*,²¹ the Division and the State of New York challenged the formation of Twin America, a joint venture formed in 2009 between the two largest double-decker hop-on, hop-off sightseeing bus companies operating in New York City. In addition to the joint venture itself, the complaint also names as defendants Coach USA Inc. and CitySights, LLC and the subsidiaries through which they entered into the Twin America joint venture, International Bus Services Inc. and City Sights Twin, LLC. The complaint alleges that the joint venture, which did not require notification under the HSR Act, had the effect of eliminating head-to-head competition between Coach and CitySights in the market for hop-on, hop-off bus tours in New York City and gave the parties an effective monopoly that enabled them to raise prices to consumers. The lawsuit seeks to dissolve the joint venture and impose other relief to restore competition and redress the anticompetitive effects of the parties' conduct. The suit is pending litigation.

In *United States v. Bazaarvoice, Inc.*,²² the Division challenged the June 2012 acquisition of PowerReviews, Inc. by Bazaarvoice, Inc. The complaint alleged that the transaction, which was not reportable under the HSR Act, significantly lessened competition in the market for product ratings and reviews (PRR) platforms in the United States by combining Bazaarvoice's

¹⁹ WellPoint Inc.'s proposed acquisition of Amerigroup Corp. (Medicaid managed care plans); proposed acquisition of certain branches from Bank of America by Camden National Bank, N.A. (banks); EnviroSolutions Holdings, Inc.'s acquisition of Environmental Alternatives, Inc. (solid waste collection; solid waste landfill); Entergy's acquisition of Acadia Energy Center Block II from Acadia Power Partners (wholesale electricity); Aetna, Inc.'s proposed acquisition of Coventry Health Care, Inc. (direct health and medical insurance carriers and third party administration of insurance and pension funds); Partners Healthcare System Inc.'s proposed acquisition of Cooley Dickinson Hospital (hospital services); Midcontinent Communications' proposed acquisition of the Knology business centered in Sioux Falls, South Dakota from WideOpenWest (WOW!) (cable, ISP, television broadcasting and sale of advertising); BAE Systems Inc.'s proposed acquisition of MHI Ship Repair & Services from American Maritime Holdings Inc. (ship building and repair).

²⁰ *United States v. Star Atlantic Waste Holdings, L.P., Veolia Environnement S.A., and Veolia ES Solid Waste, Inc.*, No. 1:12-CV-01847 (D.D.C. filed November 15, 2012).

²¹ *United States and State of New York v. Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights, LLC and City Sights Twin, LLC*, No. 12-CV-8989 (S.D.N.Y. filed December 11, 2012).

²² *United States v. Bazaarvoice, Inc.*, No. C-13-0133 (N.D. Cal. filed January 10, 2013).

market-leading PRR platform with PowerReviews, its most significant U.S. rival. Consumer-generated product ratings and reviews are displayed on retailers' and manufacturers' websites to enhance the online shopping experience. The feature allows consumers to read feedback from authentic product owners prior to making a purchase. According to the complaint, before the transaction PowerReviews was an aggressive price competitor and Bazaarvoice routinely responded to competitive pressure from PowerReviews. The lawsuit sought to restore the competition lost as a result of the acquisition by, among other things, having Bazaarvoice divest assets sufficient to create a separate and viable competing business to replace PowerReviews' competitive significance in the marketplace. After a three week trial, on January 8, 2014, the district court issued a Memorandum Opinion concluding that Bazaarvoice's acquisition violated the antitrust laws. The court's Memorandum Opinion can be found at <http://www.justice.gov/atr/cases/bazaarvoice.html>. A proposed consent decree was filed April 24, 2014, requiring Bazaarvoice to sell all of the PowerReviews assets to a divestiture buyer and containing other provisions to compensate for the deterioration of PowerReviews' competitive position that occurred as a result of the transaction. Under the proposed consent decree, Bazaarvoice is required to provide syndication services to the divestiture buyer for four years, allowing the divestiture buyer to build its customer base and develop its own syndication network. Bazaarvoice is required to waive breach of contract claims against its customers, allowing them to switch to the divestiture buyer without penalty. Bazaarvoice is also required to waive trade-secret restrictions for any of its employees who are hired by the divestiture buyer, enabling the buyer to leverage Bazaarvoice's post-merger research and development efforts.

In [*United States v. Anheuser-Busch InBev SA/NV and Grupo Modelo S.A.B de C.V.*](#),²³ the Division challenged Anheuser-Busch InBev's (ABI) proposed acquisition of the remaining interest in Grupo Modelo that ABI did not already own. According to the complaint filed on January 31, 2013, as originally proposed, the \$20.1 billion transaction would have substantially lessened competition in the market for beer in the United States as a whole and in 26 metropolitan areas across the United States, resulting in consumers paying more for beer and diminished innovation. ABI's Bud Light is the best selling beer in the United States, and Modelo's Corona Extra is the best selling import. On April 19, 2013, a consent decree was filed settling the suit and requiring Modelo and ABI to make divestitures that would fully replace Modelo as a competitor in the United States. The decree called for the divestiture of Modelo's entire U.S. business including perpetual and exclusive licenses of Modelo brand beers for distribution and sale in the United States, its most advanced brewery, Piedras Negras, and its interest in Crown Imports, LLC (Crown) to Constellation Brands, Inc. (Constellation) or an alternative purchaser. Crown was the joint venture established by Modelo and Constellation to import, market, and sell certain Modelo beers into the United States. The decree was entered by the court on October 24, 2013.

In [*United States v. Ecolab Inc. and Permian Mud Service, Inc.*](#),²⁴ the Division challenged Ecolab Inc.'s proposed acquisition of Permian Mud Services, Inc. The complaint alleged that the transaction, as originally proposed, would combine two of the three leading providers of production chemical management services ("PCMS") for deepwater wells in the U.S. Gulf of

²³ *United States v. Anheuser-Busch InBev SA/NV and Grupo Modelo S.A.B de C.V.*, No 1:13-CV-00127 (D.D.C. filed January 31, 2013).

²⁴ *United States v. Ecolab Inc. and Permian Mud Service, Inc.*, No 1:13-CV-00444 (D.D.C. filed April 8, 2013).

Mexico (“Gulf”) and eliminate significant competition in the highly concentrated market, leading to higher prices, reduced service quality, and diminished innovation. PCMS involves the application of specially formulated chemical solutions to oil and gas wells to facilitate hydrocarbon production and protect well infrastructure. These critical services are administered by experienced personnel including scientists, engineers, and other lab technicians who customize the chemical blends and application methodology for specific well formations. Permian’s wholly-owned subsidiary, Champion Technologies, Inc. (“Champion”), and Ecolab’s wholly-owned subsidiary, Nalco Company (“Nalco”), were the two largest suppliers of deepwater PCMS in the Gulf, and the companies vigorously competed head-to-head to win the business of oil and gas exploration and production companies. A proposed consent decree settling the suit filed simultaneously with the complaint requires the companies to divest to Clariant Corporation and its affiliate, Clariant International Ltd., assets Champion had been using to provide deepwater production chemical management services in the Gulf, including the patent for Champion’s best-selling production chemical in the deepwater Gulf. The settlement also provides Clariant with the exclusive right to hire the merged firm’s relevant personnel, who possess essential expertise and know-how. The court entered the consent decree on September 18, 2013.

In [United States and State of Texas v. Cinemark Holdings, Inc., Rave Holdings, LLC and Alder Wood Partners, L.P.](#),²⁵ the Division and the State of Texas challenged the proposed acquisition by Cinemark of Rave Cinemas. According to the complaint, the transaction, as originally proposed, would lessen competition in the market for first-run, commercial movies in specified portions of Kentucky, New Jersey and Texas. Under the terms of the proposed consent decree filed along with the complaint, Cinemark must divest movie theaters in Kentucky, New Jersey and Texas. In addition, Cinemark’s chairman must divest Movie Tavern, Inc., a company that he controlled that operated in Fort Worth and Denton, Texas that competed with Rave Cinemas. Without the divestitures, moviegoers in the relevant areas would likely have faced higher prices, and Cinemark, Rave Cinemas, and Movie Tavern would have had less incentive to maintain, upgrade, and renovate their theaters and to license the most popular movies, reducing the quality of the viewing experience for the moviegoer. On August 15, 2013, the court entered the consent decree.

In [United States, et al. v. US Airways Group, Inc. and AMR Corporation](#),²⁶ the Division and the states of Texas, Arizona, Pennsylvania, Florida, Tennessee, Virginia, and the District of Columbia challenged the proposed \$11 billion merger between US Airways Group, Inc. and American Airlines’ parent company, AMR Corporation. The complaint alleged that the transaction, as originally proposed, would substantially lessen competition for commercial air travel and result in passengers paying higher fares and receiving reduced service. In addition, the transaction would reduce competition in the market for slots at National Airport where the merged carrier would control almost 70% of the slots. A proposed consent decree settling the suit was filed November 12, 2013, requiring US Airways and American to divest slots and gates in key constrained airports across the country to low cost carriers in order to enhance system-

²⁵ *United States and State of Texas v. Cinemark Holdings, Inc., Rave Holdings, LLC, and Alder Wood Partners, L.P.*, No. 1:13-CV-00727 (D.D.C. filed May 20, 2013).

²⁶ *United States et al. v. US Airways Group, Inc. and AMR Corporation*, No. 1:13-CV-01236 (D.D.C. filed August 13, 2013).

wide competition in the airline industry and address the competitive harm that would result from the proposed transaction. Specifically, the companies are required to divest or transfer: (i) 104 air carrier slots and related gates and facilities at Washington Reagan National Airport; (ii) 34 slots at New York LaGuardia Airport and related gates and facilities; and (iii) two gates and related facilities at each of five airports: Boston Logan, Chicago O'Hare, Dallas Love Field, Los Angeles International, and Miami International. These divestitures are the largest ever in an airline merger and will allow low cost carriers to fly more direct and connecting flights throughout the country in competition with the legacy carriers. This will result in more choices and more competitive airfares for consumers. The court entered the consent decree on April 25, 2014.

Additionally, during fiscal year 2013, the Division initiated one civil contempt proceeding. On November 14, 2012, the Division filed a petition in the U.S. District Court for the District of Columbia asking the court to find Exelon Corporation in civil contempt for violating the consent decree and related order entered by the court in *United States v. Exelon Corporation and Constellation Energy Group, Inc.*²⁷ Under the decree, Exelon was required to sell three electricity plants in Maryland Brandon Shores and H.A. Wagner in Anne Arundel County, MD and C.P. Crane in Baltimore County, MD. Exelon was also required to abide by a hold separate stipulation and order that placed restrictions on Exelon's conduct between the time Exelon closed its \$7.9 billion acquisition of Constellation and the time it completed the plant divestitures required by the consent decree. The hold separate required Exelon, during this period, to bid certain of its electricity generating plants at or below cost to ensure that Exelon would not be able to raise market prices for electricity. In consenting to entry of the consent decree and hold separate, Exelon specifically agreed to take all steps necessary to comply with its legal obligations. The petition charged that Exelon failed to fulfill its obligations under the decree and related order. In a settlement agreement filed simultaneously with the petition, and approved by the court on November 26, 2012, Exelon agreed to pay \$400,000 to settle the alleged violation.

2. *The Federal Trade Commission*

During fiscal year 2013, the Commission brought 23 merger enforcement actions. Those 23 actions include: 16 in which the Commission accepted consent orders for public comment, with all 16 resulting in final orders; one in which the transaction was abandoned and one in which the transaction was restructured as a result of antitrust concerns raised during the investigation; one in which the Commission initiated proceedings to obtain a permanent injunction in federal district court; and four in which the Commission initiated administrative litigation. In one of the four administrative litigation matters, the Commission also sought a preliminary injunction in federal district court to enjoin the acquisition pending resolution of the Commission's administrative litigation.

Described below are the four matters in which the Commission initiated administrative litigation, and the single matter in which the Commission sought to enjoin permanently a consummated acquisition in federal district court.

²⁷ See the HSR Annual Report, Fiscal Year 2012 for a description of this case.

In [*Reading Health System/Surgical Institute of Reading*](#),²⁸ the Commission issued an administrative complaint challenging, and authorized staff to seek a preliminary injunction in federal district court enjoining, Reading Health Systems’ (“RHS”) proposed acquisition of rival surgical services provider Surgical Institute of Reading, L.P. The Commission alleged that the acquisition would have substantially reduced quality and price competition for orthopedic and other surgical services in the Reading, Pennsylvania area, and increased RHS’s ability to demand higher reimbursement rates from commercial health plans, causing significant harm to area employers and residents. Shortly after the Commission filed its administrative complaint, the parties abandoned the transaction.

In [*Integrated Device Technology/PLX Technology*](#),²⁹ the Commission challenged Integrated Device Technology’s (“IDT’s”) proposed acquisition of PLX Technology (“PLX”), IDT’s primary competitor. The Commission alleged that the transaction would have created a near-monopoly in the market for PCIe switches, a type of integrated computer circuit, which performs critical connectivity functions in computers and other electronic devices. The Commission also alleged that the acquisition would have eliminated substantial price, quality, and customer service competition between the two firms, leading to higher prices, less innovation, reduced customer service, and lower-quality products for consumers. The Commission issued an administrative complaint challenging, and authorized staff to seek a preliminary injunction in federal district court enjoining, the transaction. Shortly after the Commission filed its administrative complaint, IDT and PLX abandoned the transaction.

In [*Pinnacle Entertainment/Ameristar Casinos*](#),³⁰ the Commission issued an administrative complaint to challenge, and authorized staff to seek a preliminary injunction in federal district court to enjoin, Pinnacle Entertainment’s \$2.8 billion acquisition of rival casino operator, Ameristar Casinos. The Commission charged that the proposed transaction would substantially reduce the combined entity’s incentive to offer better prices and higher quality amenities and casino services to customers in two geographic markets: the St. Louis, Missouri metropolitan area, and the Lake Charles, Louisiana area. The Commission alleged that in St. Louis, the proposed acquisition would eliminate direct price and non-price competition between Pinnacle’s two casinos—Lumière and River City—and Ameristar’s St. Charles casino, enabling the merged firm to reduce its promotions and discounts to customers, reduce its investments in amenities, and offer a lower-quality experience without losing a substantial number of customers. In Lake Charles, Ameristar was building Mojito Pointe, a casino and hotel property located adjacent to Pinnacle’s existing casino resort, L’Auberge Lake Charles. Ameristar expected to open Mojito Pointe in 2014. The Commission alleged that in Lake Charles, the proposed acquisition would eliminate the significant competitive impact of Ameristar’s entry and close competition with Pinnacle, and thus eliminate the merging parties’ incentive to offer

²⁸ *In the Matter of Reading Health Sys.*, FTC Dkt. No. 9353 (compl. filed Nov. 16, 2012), available at <http://www.ftc.gov/enforcement/cases-proceedings/121-0155/reading-health-system-surgical-institute-reading-matter>.

²⁹ *In the Matter of Integrated Device Tech.*, FTC Dkt. No. 9354 (compl. filed Dec. 18, 2012), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/01/matter-integrated-device-technology-inc-corporation>.

³⁰ *In the Matter of Pinnacle Entm’t*, FTC Dkt. No. 9355 (compl. filed May 28, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/12/pinnacle-entertainment-inc-ameristar-casinos-inc>.

promotions, discounts, and better amenities to keep L'Auberge and Mojito Pointe customers from switching to the other's casino. To resolve the litigation and ensure that casino patrons would continue to benefit from competitive pricing and amenities in the St. Louis and Lake Charles areas, the Commission issued a consent order that required Pinnacle to divest its St. Louis-based Lumière casino and all related assets, as well as all of the assets associated with Ameristar's development and construction of Mojito Pointe casino in Lake Charles.

In [*Ardagh Group S.A./Saint-Gobain Containers*](#),³¹ the Commission issued an administrative complaint challenging Ardagh Group's proposed \$1.7 billion acquisition of rival glass manufacturer Saint-Gobain Containers. The Commission's complaint alleged that the acquisition would combine two of the three largest U.S. manufacturers of glass beer and spirits containers and result in an effective duopoly, increasing the ease and likelihood of coordination between the two remaining major glass container manufacturers. The Commission also alleged that the acquisition would harm competition by eliminating the head-to-head price and innovation competition that previously existed between Ardagh and Saint-Gobain. In addition to the administrative litigation, FTC staff filed a separate complaint in federal district court, seeking a preliminary injunction to halt the acquisition until the conclusion of the Commission's administrative proceeding and any subsequent appeals. To resolve the litigation, Ardagh agreed to sell six of its nine glass container manufacturing plants in the United States to a Commission-approved buyer.

In [*St. Luke's Health System/Saltzer Medical Group*](#),³² the Commission and the Idaho Attorney General filed a joint complaint in federal district court challenging Idaho-based St. Luke's Health System's consummated acquisition of Saltzer Medical Group. The Complaint alleged that the acquisition combined the two largest providers of adult primary care physician services in the Nampa, Idaho area, and increased St. Luke's ability and incentive to demand higher reimbursement rates from commercial health plans, thereby leading to higher health care costs for Idaho employers and area consumers. In March 2013, the U.S. District Court for the District of Idaho consolidated the Commission and Idaho Attorney General's joint action with a private action filed by two of St. Luke's rivals who similarly sought to block the acquisition. The 18-day proceeding commenced in September 2013 and ended in November. On January 24, 2014, the federal district court permanently enjoined the acquisition, finding that the combination would likely substantially increase St. Luke's market power over primary care physicians in the Nampa area and thus allow St. Luke's to demand higher rates for health care services, ultimately leading to higher costs for both employers and consumers.

As previously stated, in fiscal year 2013, the Commission also accepted consent agreements and issued proposed orders for public comment in 16 merger matters. The Commission has finalized all 16 of them.

³¹ *In the Matter of Ardagh Group*, FTC Dkt. No. 9356 (compl. filed June 28, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/131-0087/ardagh-group-sa-public-limited-liability-company>; *FTC v. Ardagh Group*, Case No. 1:13-cv-01021 (RMC) (D.D.C.), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/11/ardagh-group-sa-compagnie-de-saint-gobain-saint>.

³² *FTC v. St. Luke's Health Sys.*, Case No. 01:12-cv-00560-BLW-REB (D. Idaho) (compl. filed Mar. 12, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/03/st-lukes-health-system-ltd-and-saltzer-medical-group>.

In [*Universal Health Services/Ascend Health Services*](#),³³ the Commission challenged Universal Health Services' acquisition of Ascend Health Services. As proposed, the transaction allegedly would have led to a virtual monopoly and harmed competition for the provision of acute inpatient psychiatric services to commercially insured patients in the El Paso, Texas/Santa Theresa, New Mexico area. To resolve these charges, the Commission issued a consent order that required Universal Health to sell an acute inpatient psychiatric facility in the El Paso/Santa Theresa area, thus restoring competition in the local market for acute inpatient psychiatric services.

In [*Magnesium Elektron North America*](#),³⁴ the Commission challenged Magnesium Elektron North America, Inc.'s 2007 acquisition of rival Revere Graphics Worldwide, Inc. Magnesium Elektron specialized in the manufacture of magnesium products, including photoengraving magnesium plates. Revere also manufactured magnesium photoengraving plates, in addition to zinc, copper, and brass plates. The Commission's complaint alleged that the transaction was an unlawful merger-to-monopoly in the worldwide market for photoengraving magnesium plates, and increased Magnesium Elektron's ability to exercise market power unilaterally in the relevant market. To remedy these competitive concerns and replace the competition lost as a result of the Revere acquisition, the Commission issued a consent order requiring Magnesium Elektron to sell to Universal Engraving, Inc., a manufacturer in an adjacent market, the intellectual property and know-how used to roll and coat magnesium plates for photoengraving applications. The consent order also required Magnesium Elektron to supply Universal with finished magnesium plates and the chemicals used in the photoengraving process, thereby enabling Universal to enter the market immediately and compete while getting its production up and running.

In [*Watson Pharmaceuticals/Actavis*](#),³⁵ the Commission challenged Watson Pharmaceuticals' \$5.9 billion acquisition of rival Actavis. The Commission charged that the acquisition would reduce competition in the markets for 21 current and future generic drugs used to treat a wide range of conditions, including hypertension, diabetes, attention deficit hyperactivity disorder, and certain heart rhythm disorders. These markets were, or were expected to be, concentrated, and Watson and Actavis were, or were expected to be, two of only a few competitors. The consent order required the companies to divest the rights and assets pertaining to 18 drugs, and relinquish the manufacturing and marketing rights to three others, thus restoring competition that would otherwise be lost as a result of the acquisition and resolving the Commission's concerns about the acquisition's likely impact on competition.

In [*Corning Incorporated*](#),³⁶ the Commission charged that Corning's acquisition of Becton, Dickinson and Company's Discovery Labware Division would have had an

³³ *In the Matter of Universal Health Servs.*, FTC Dkt. No. C-4372 (final order issued Nov. 27, 2012), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/05/universal-health-services-and-alan-b-miller>.

³⁴ *In the Matter of Magnesium Elektron N.A.*, FTC Dkt. No. C-4381 (final order issued Dec. 21, 2012), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2012/12/magnesium-elektron-north-america-inc>.

³⁵ *In the Matter of Watson Pharm.*, FTC Dkt. No. C-4373 (final order issued Dec. 13, 2012), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2012/12/magnesium-elektron-north-america-inc>.

³⁶ *In the Matter of Corning Inc.*, FTC Dkt. No. C-4380 (final order issued Dec. 20, 2012), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2012/12/corning-incorporated>.

anticompetitive impact in the markets for tissue culture treated dishes, multi-well plates, and flasks (together, “TCT cell culture vessels”). TCT culture cell vessels are used by researchers at pharmaceutical and biotechnology companies and at universities in their cell culture research. According to the Commission, the acquisition would have increased Corning’s share in each market, and increased its incentive and ability unilaterally to charge higher prices for TCT cell culture vessels. To resolve these concerns and restore competition in the TCT cell culture markets, the Commission issued a consent order that required Corning to provide assets and assistance to enable another life sciences company to manufacture TCT cell culture vessels.

In *Hertz Global Holdings/Dollar Thrifty*,³⁷ the Commission challenged Hertz Global Holdings’ \$2.3 billion acquisition of Dollar Thrifty Automotive Group. Both Hertz and Dollar Thrifty provided car rentals to consumers in most major airports in the United States, and were two of four major competitors in the market for airport car rentals. The Commission charged that the acquisition would harm competition for airport car rentals in 72 individual airport locations by enabling the combined Hertz/Dollar Thrifty to increase prices, slow the pace of innovation, and decrease service levels. The Commission further charged that the acquisition would reduce the number of firms that own all of the most competitively significant car rental brands from four to three, increasing the likelihood of coordination among the remaining competitors. To resolve the Commission’s concerns and restore competition that would otherwise have been lost as a result of the acquisition, the Commission issued a consent order requiring Hertz to divest its entire Advantage Rent-A-Car business as well as 16 additional on-airport locations to Franchise Services of North America, Inc. (“FSNA”) and Macquarie Capital USA Inc. (“Macquarie”). The Commission’s consent order also required Hertz to divest 13 additional Dollar Thrifty airport concession agreements and related assets to FSNA/Macquarie. FSNA, through its direct subsidiary Simply Wheelz, operated these assets under the Advantage name. On November 15, 2013, Simply Wheelz filed for Chapter 11 bankruptcy protection and sought to sell Advantage, which it had continued to operate during this process. Following a bankruptcy auction held in December 2013, Catalyst was declared the winning bidder for the Advantage assets. The bankruptcy court approved Catalyst’s acquisition of Advantage, subject to Commission approval. Following a public comment period, the Commission approved FSNA’s application to sell the Advantage assets to Catalyst on January 30, 2014.

In *Robert Bosch GmbH/SPX Service Solutions*,³⁸ the Commission accepted a consent order to resolve charges that Bosch’s \$1.15 billion acquisition of SPX Services Solutions would have been anticompetitive. The Commission alleged that the acquisition, as originally proposed, would have given Bosch a virtual monopoly in the U.S. market for equipment used to recharge automobile air conditioning systems. Under the terms of the consent order, Bosch must divest its air conditioning recycling, recovery, and recharge (“ACRRR”) devices business, including all relevant intellectual property and contracts, to automotive manufacturer Mahle Clevite Inc. to restore competition that would otherwise have been lost if the acquisition had proceeded as initially proposed. In addition, the consent order resolves allegations that SPX harmed competition when it reneged on its agreement to license certain standard-essential patents on fair,

³⁷ *In the Matter of Hertz Global Holdings*, FTC Dkt. No. C-4376 (final order issued July 10, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/07/hertz-global-holdings-inc-matter>.

³⁸ *In the Matter of Robert Bosch GmbH*, FTC Dkt. No. C-4377 (final order issued Apr. 23, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/04/bosch-robert-bosch-gmbh>.

reasonable, and nondiscriminatory terms. To that end, Bosch must offer a royalty-free license to those patents to any third-party that wishes to use the patents to make ACRRR devices in the U.S.

In *Tesoro Corporation*,³⁹ the Commission challenged Tesoro's \$335 million acquisition of Chevron Corporation's Northwest Products Pipeline system and associated terminals. The Commission alleged that the acquisition as proposed would have given Tesoro ownership of two of the three refined light petroleum products terminals in the Boise, Idaho area, leading to substantially reduced competition for local terminaling services and increased terminal costs, which likely would have been passed on to consumers. Refined light petroleum products include gasoline, diesel fuel, and jet fuel. To resolve these concerns and preserve competition, the Commission issued a consent order requiring Tesoro to sell a refined light petroleum products terminal in Boise to a Commission-approved acquirer. The consent order also includes a separate order to maintain assets to preserve the Tesoro Boise terminal as a viable, competitive, and ongoing business until the terminal is divested.

In *Oltrin Solutions/JCI Jones Chemicals*,⁴⁰ the Commission challenged a non-compete agreement between two producers of bulk sodium hydrochloride bleach, a disinfectant used by municipalities and other entities to treat water. According to the Commission, in March 2010, Oltrin Solutions, LLC agreed to pay JCI Jones Chemicals \$5.5 million over four years in exchange for JCI's list of North Carolina bleach customers and an agreement that JCI would not sell bulk bleach in North Carolina or South Carolina for six years. The Commission alleged that the agreement eliminated substantial competition between Oltrin and JCI in the southern Virginia, North Carolina, and South Carolina bulk bleach market; substantially increased market concentration for bulk bleach sales in those areas; and increased Oltrin's ability to raise bulk bleach prices. To facilitate JCI's re-entry into the bulk bleach market and restore the competition lost as a result of the 2010 agreement, the Commission issued a consent order that required Oltrin to, among other things, transfer to JCI customer contracts totaling approximately two million gallons worth of bleach volume; enter into a six-month backup bleach supply agreement with JCI, so that JCI can continue to supply its bleach customers if JCI encounters any unexpected production interruptions; and notify any customers that requested a bid after execution of the non-competition agreement that JCI will be supplying bleach in the relevant area, and ask those customers to add JCI's contact information to any future solicitation bids.

In *Charlotte Pipe/Star Pipe Products*,⁴¹ the Commission accepted a consent order settling charges that Charlotte Pipe and Foundry Company's 2010 acquisition of the cast iron soil pipe ("CISP") business from Star Pipe Products, Ltd. was anticompetitive. In 2010, only two firms—Charlotte Pipe and McWane Inc.—sold 90% of the CISP products in the U.S. CISP products are used to transport wastewater from buildings to municipal sewage systems, to vent plumbing systems, and to transport rainwater to storm drains. According to the Commission, the third-

³⁹ *In the Matter of Tesoro Corp.*, FTC Dkt. No. C-4405 (final order issued Aug. 5, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/04/bosch-robert-bosch-gmbh>.

⁴⁰ *In the Matter of Oltrin Solutions*, FTC Dkt. No. C-4388 (final order issued Mar. 7, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/03/oltrin-solutions-llc-company-jci-jones-chemicals-inc>.

⁴¹ *In the Matter of Charlotte Pipe and Foundry*, FTC Dkt. No. C-4403 (final order issued May 9, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/05/charlotte-pipe-and-foundry-company-et-al>.

largest CISP seller, Star Products, had entered the U.S. market in 2007 and by 2010, had become a disruptive force or “maverick,” competing on price and service to customers’ benefit. In July 2010, Charlotte Pipe acquired Star Pipe’s CISP business for \$19 million. As part of the transaction, the parties allegedly executed a “Confidentiality and Non-Competition Agreement” that prohibited Star Pipe and certain of its employees from competing with Charlotte Pipe in the U.S., Canada, and Mexico for six years. Star Pipe also allegedly agreed to keep the acquisition confidential and inform its customers that it had decided to exit—rather than sell—the CISP business. After the acquisition, Charlotte Pipe destroyed the CISP production equipment that it acquired from Star Pipe. The Commission charged that the transaction, in conjunction with the non-competition agreement, eliminated actual and direct competition between Charlotte Pipe and Star Pipe, substantially increased market concentration, eliminated a maverick firm, and increased Charlotte Pipe’s ability to unilaterally exercise market power. The Commission’s consent order requires Charlotte Pipe to provide prior notification to the Commission of any acquisition of any entity engaged in the manufacture and sale of CISP products in the U.S., even if the acquisition is not otherwise reportable under the HSR Act, and wait 30 days before closing the transaction. In addition, the consent order prohibits Charlotte Pipe from enforcing the 2010 non-competition agreement against Star Pipe, and requires Charlotte Pipe to inform its customers of the Commission’s consent order, the voided confidentiality and non-competition agreement against Star Pipe, and Charlotte Pipe’s prior acquisitions of CISP manufacturers.

In *Graco Inc.*,⁴² the Commission charged that Graco violated the antitrust laws by acquiring Gusmer Corp. in 2005 and GlasCraft, Inc. in 2008. At the time, Gusmer and GlasCraft were Graco’s two closest competitors in the North American market for fast set equipment (“FSE”), which is used by contractors to apply polyurethane and polyuria coatings. FSE manufacturers sell their products almost exclusively through a network of specialized, third-party distributors, which, in turn, sell to end-users. Prior to the acquisitions, distributors had historically carried multiple FSE manufacturers’ brands, and Gusmer and GlasCraft competed with Graco as full-line FSE manufacturers. The Commission alleged that Graco’s Gusmer and GlasCraft acquisitions virtually eliminated all of Graco’s competition and increased Graco’s market share to between 90 and 95%, enabling Graco to raise prices and reduce product options and innovation. Additionally, Graco allegedly engaged in certain post-acquisition conduct that heightened barriers to entry and expansion in the North American FSE market. For example, the Commission charged that Graco increased the discount and inventory thresholds it required of distributors, and threatened distributors with retaliation if they agreed to carry rivals’ products. According to the Commission’s complaint, Graco also sued prospective entrants, such as Polyurethane Machinery Corp. (“PME”), alleging, among other things, breach of contract. Allegedly, the lawsuits effectively prevented some distributors from purchasing PME’s FSE due to uncertainty as to the litigation’s outcome and how supply might be affected as a result. To resolve these competitive concerns and restore competition lost in the acquisition, the Commission order required Graco to settle the PME litigation and grant PME an irrevocable license to certain Graco patents and intellectual property. The Commission order also prohibited Graco from imposing exclusivity conditions on FSE distributors, and discriminating against distributors that carry or service any rival’s FSE.

⁴² *In the Matter of Graco, Inc.*, FTC Dkt. No. C-4399 (final order issued Apr. 17, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/04/graco-inc>.

In *Nielsen Holdings/Arbitron Inc.*,⁴³ the Commission challenged Nielsen's proposed acquisition of Arbitron Inc., alleging that the merger would eliminate future competition between the two firms in the market for national syndicated cross-platform audience measurement services and tend to create a monopoly. Nielsen is a global media measurement and research firm, and the dominant provider of U.S. television audience measurement services. Arbitron also is a media measurement and research firm, and provides audience ratings for radio that are similar to Nielsen's television ratings. Both firms are developing national syndicated cross-platform audience measurement services, which allow audiences to be measured accurately across multiple platforms, such as television and online. The Commission alleged that the elimination of future competition between Nielsen and Arbitron in this market would increase the likelihood that Nielsen would exercise market power and cause U.S. advertisers, advertisement agencies, and media programmers to pay higher prices for national syndicated cross-platform audience measurement services. To resolve these concerns, the Commission issued a consent order that required Nielsen to divest assets related to Arbitron's cross-platform audience measurement business to a Commission-approved acquirer and enter related licensing agreements. The Commission approved an application by Nielsen to sell these assets to comScore, Inc. and to enter other arrangements supporting the divestiture.

In *General Electric Company*,⁴⁴ the Commission challenged General Electric Company's \$4.3 billion acquisition of the aviation business of Avio S.p.A., alleging that the acquisition would substantially lessen competition and give GE the ability and incentive to disrupt the design and certification of an engine component designed by Avio for rival aircraft manufacturer Pratt & Whitney. GE, through its joint venture CFM International, and Pratt & Whitney are the only engine manufacturers for Airbus's A320neo aircraft, and compete head-to-head for A320neo sales. Avio is the sole designer for the accessory gearbox ("AGB") on the Pratt & Whitney PW1100G engine for the Airbus A320neo aircraft. The Commission alleged that GE's acquisition of the Avio aviation business likely would diminish competition in the sale of engines for the A320neo, resulting in higher prices, reduced quality, and engine delivery delays for A320neo customers. To resolve these concerns, the Commission's consent order prohibits GE from interfering with Avio's design and development work on the AGB for the Pratt & Whitney PW1100G engine, and from accessing Pratt & Whitney's proprietary information about the AGB that is shared with Avio. Commission staff worked closely with a variety of international antitrust agencies, including the European Commission, throughout the investigation, and investigated in parallel how the acquisition would change GE's relationships with rival aircraft engine manufacturers.

In *Solera Holdings, Inc.*,⁴⁵ the Commission challenged Solera Holdings' 2012 acquisition of rival automotive recycling yard management systems ("YMS") software provider Actual Systems of America, Inc. The Commission charged that the acquisition eliminated direct and substantial competition between Solera and Actual Systems, two of the three leading providers of

⁴³ *In the Matter of Nielsen Holdings*, FTC File No. 131-0058 (final order issued Feb. 24, 2014), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/09/nielsen-holdings-nv-arbitron-inc-matter>.

⁴⁴ *In the Matter of General Elec. Co.*, FTC Dkt. No. C-4411 (final order issued Aug. 27, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/08/general-electric-company-matter>.

⁴⁵ *In the Matter of Solera Holdings*, FTC Dkt. No. C-4415 (final order issued Oct. 22, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/10/solera-holdings-inc>.

YMS to the automotive recycling industry. To resolve these concerns and restore competition that was lost as a result of the acquisition, the Commission issued a consent order that required Solera to divest assets related to Actual Systems' U.S. and Canadian YMS business to ASA Holdings, an entity formed by former Actual Systems managers.

In *Actavis/Warner Chilcott*,⁴⁶ the Commission challenged Actavis Inc.'s proposed \$8.5 billion acquisition of Warner Chilcott plc. The Commission alleged that the acquisition would substantially reduce competition in the U.S. markets for four current and future pharmaceutical products. The four products, which consist of three oral contraceptives and an osteoporosis treatment, are generic Femcon FE; Lo Loestrin 24 FE and its generic equivalents; Lo Loestrin FE and its generic equivalents; and Atelvia and its generic equivalents. According to the Commission, Actavis and Warner Chilcott are the only significant manufacturers of generic Femcon FE, and the proposed acquisition would eliminate current competition between them in the market for this drug. For pharmaceutical products, price generally decreases as the number of competitors increases; thus, the reduction in the number of suppliers likely would have a direct and substantial effect on pricing. In the other three markets, Warner Chilcott sells the branded drugs, but no company sells a generic version of Loestrin 24 FE, Loestrin FE, or Atelvia. The Commission alleged that Actavis was likely to be the first generic supplier to compete with Warner Chilcott's branded versions of these drugs. As a result, the proposed acquisition would likely lead to higher prices for U.S. consumers, because the merged firm would have the ability to delay the entry of Actavis's generic product in each of the three markets. To resolve these concerns, the Commission issued a consent order that required Actavis to sell all rights and assets to the four drugs at issue to Amneal Pharmaceuticals L.L.C. The order also required Actavis to enter into an agreement to supply generic versions of Femcon FE and Lo Loestrin 24 FE to Amneal for two years, after which Amneal may extend the agreement to two more years. Finally, Actavis must relinquish its claim to first-filer marketing exclusivity for generic Lo Loestrin FE and Atelvia to preserve the incentive of the firms currently leading patent litigation against Warner Chilcott related to those products. By relinquishing its first-filer status, the merged firm cannot act to delay the introduction of a generic version of these two products.

In *Honeywell/Intermec*,⁴⁷ the Commission challenged Honeywell International, Inc.'s proposed \$600 million acquisition of Intermec Inc. Both Honeywell and Intermec designed, manufactured, and sold two-dimensional scan engines, which are hardware components that include a two-dimensional image sensor and translate a barcode into a digital format that computer processors can interpret and analyze. The Commission alleged that Honeywell's acquisition of Intermec would combine two of the three most significant participants in the highly concentrated U.S. two-dimensional scan engine market, and result in an effective duopoly. To remedy these concerns and replace the competition that otherwise would be eliminated by the acquisition, the Commission issued a consent order that required Honeywell to license the Honeywell and Intermec U.S. patents necessary to manufacture two-dimensional scan engines and related devices to Datalogic IPTECH s.r.l., a subsidiary of Datalogic S.p.A.

⁴⁶ *In the Matter of Actavis*, FTC Dkt. No. C-4414 (final order issued Dec. 4, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/12/actavis-inc-warner-chilcott-plc-matter>.

⁴⁷ *In the Matter of Honeywell Int'l*, FTC Dkt. No. C-4418 (final order issued Nov. 22, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/11/honeywell-international-inc-matter>.

In *Mylan/Agila*,⁴⁸ the Commission challenged Mylan, Inc.’s proposed \$1.85 billion acquisition of Agila Specialties Global Pte. Limited and Agila Specialties Private Limited (collectively, “Agila”) from Strides Arcolab Limited, alleging that the acquisition would cause significant anticompetitive harm to U.S. consumers in eleven generic injectable pharmaceutical product markets either by eliminating current or potential competition in concentrated existing markets, or by eliminating potential competition among a limited number of likely competitors in a future market. The eleven injectable products at issue treat a variety of medical concerns, including several types of pediatric cancers, certain autoimmune diseases, severe hypertension, and urinary tract damage caused by a particular chemotherapy drug. According to the Commission, in each of the eleven product markets, Mylan and Agila were two of only a limited number of current or likely future suppliers of the drugs in the U.S., and their combination likely would have caused U.S. consumers to pay significantly higher prices for these products. To remedy these concerns, the Commission issued a consent order that required the divestiture of the following Mylan and Agila/Strides products: (1) Mylan’s fluorouracil injection and methotrexate sodium preservative-free injection to Intas Pharmaceuticals Ltd.; (2) Mylan’s etomidate injection, ganciclovir injection, meropenem injection, and mycophenolate mofetil injection, as well as Agila/Strides’ amiodarone hydrochloride injection and fomepizole injection to JHP Pharmaceuticals, LLC; and (3) Agila/Strides’ acetylcysteine injection and mensa injection to Sagent Pharmaceuticals, Inc. Also under the order, Mylan must release all of its rights relating to labetalol hydrochloride injection to Gland Pharma Ltd. The order included several supply and technology provisions to ensure that the approved acquirers can immediately and effectively compete in the marketplace, and thus maintain the competitive environment that existed prior to the acquisition.

In addition to these new merger enforcement actions, the FTC also concluded litigation initiated in prior fiscal years, including cases against Polypore International/Daramic LLC⁴⁹ and Phoebe Putney Health System/Palmyra Park Hospital,⁵⁰ and continued to pursue litigation initiated in fiscal year 2011 (ProMedica Health System/St. Luke’s Hospital).⁵¹ In December 2013, the Commission approved Polypore’s application to divest Microporous Products, L.P., a competitor it acquired five years earlier. The case began in February 2008 when Polypore acquired rival battery separator manufacturer Microporous Products, L.P. The Commission issued an administrative complaint challenging the transaction and alleging that the merger led to decreased competition and higher prices in several North American markets for battery separators. After a trial on the merits, the FTC’s administrative law judge ruled in February

⁴⁸ *In the Matter of Mylan Inc.*, FTC Dkt. No. C-4413 (final order issued Dec. 12, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/12/mylan-inc-corporation-agila-specialties-global>.

⁴⁹ *In the Matter of Polypore Int’l*, FTC Dkt. No. 9327 (final order issued Nov. 5, 2010; divestiture application approved Dec. 18, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/12/polypore-international-inc-corporation-matter>.

⁵⁰ *In the Matter of Phoebe Palmyra Health Sys.*, FTC Dkt. No. 9348 (proposed order announced Aug. 22, 2013), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2013/08/matter-phoebe-putney-health-system-inc-phoebe-putney>.

⁵¹ *In the Matter of ProMedica Health Sys.*, FTC Dkt. No. 9346 (compl. issued Jan. 6, 2011), available at <http://www.ftc.gov/enforcement/cases-and-proceedings/cases/2012/06/matter-promedica-health-system-inc-corporation>.

2010 that the acquisition was illegal and ordered divestiture of the acquired assets. The Commission unanimously upheld the administrative law judge's decision in November 2010, and in July 2012, the U.S. Court of Appeals for the Eleventh Circuit upheld the Commission's final decision and order, thus leading to the divestiture of Microporous.⁵² In the Phoebe Putney/Palyra Park Hospital matter, on February 19, 2013, the U.S. Supreme Court ruled in a unanimous opinion that the state action doctrine did not immunize Phoebe Putney's acquisition of its sole rival in Albany, Georgia, Palmyra Park Hospital, from the federal antitrust laws, and remanded the case for further proceedings.⁵³ In August 2013, the Commission accepted for public comment a consent order that has not been finalized. In April 2014, the U.S. Court of Appeals for the Sixth Circuit upheld the Commission's March 2012 ruling that the ProMedica Health System, Inc.'s consummated acquisition of rival St. Luke's Hospital in Lucas County, Ohio, was anticompetitive and would allow ProMedica to raise the prices of general acute care inpatient hospital services.⁵⁴

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 previous annual reports, the HSR program ensures that the antitrust agencies review virtually every relatively large merger and acquisition that affects U.S. consumers 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 those relatively large mergers that are likely to harm consumers *before* injury can arise. Prior to the premerger notification program, businesses could, and often did, consummate transactions that raised significant antitrust concerns before the agencies had an opportunity to consider adequately their competitive effects. This practice forced the agencies to engage in lengthy post-acquisition litigation, during the course of which the transaction's anticompetitive effects continued to harm consumers (and afterwards as well, where the achievement of effective post-acquisition relief was not practicable). Because the premerger notification program requires reporting before consummation, the agencies' ability to obtain timely, effective relief to prevent anticompetitive effects has vastly improved.

The antitrust enforcement agencies regularly examine the premerger notification program's effectiveness and impact, and continually seek ways to speed up and improve the review process and minimize regulatory burdens. Thus, as they have in the past, the agencies will continue their ongoing assessment of the HSR program to increase accessibility, promote transparency, and reduce the burden on the filing parties without compromising the agencies'

⁵² In June 2013, the U.S. Supreme Court denied Polypore's petition for a writ of certiorari.

⁵³ *FTC v. Actavis, Inc.*, 570 U.S. 756 (2013), available at <http://www.ftc.gov/system/files/documents/cases/130617actavisopinion.pdf>.

⁵⁴ *FTC v. ProMedica Health System, Inc.*, No. 12-3583, 2014 U.S. App. LEXIS 7500 (6th Cir. Apr. 22, 2014), available at http://www.ftc.gov/system/files/documents/cases/140422promedicaopinion_0.pdf.

ability to investigate and interdict proposed transactions that may substantially lessen competition.

LIST OF APPENDICES

Appendix A: Summary of Transactions, Fiscal Years 2004 -2013

Appendix B: Number of Transactions Reported and Filings Received by Month for Fiscal Years 2004- 2013

LIST OF EXHIBITS

Exhibit A: Statistical Tables for Fiscal Year 2013 – Data Profiling Hart-Scott-Rodino Notification Filings and Enforcement Interests

APPENDIX A

SUMMARY OF TRANSACTIONS

FISCAL YEARS 2004 – 2013

APPENDIX A
SUMMARY OF TRANSACTIONS BY FISCAL YEAR

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Transactions Reported	1,428	1,675	1,768	2,201	1,726	716	1,166	1,450	1,429	1,326
Filings Received ¹	2,825	3,287	3,510	4,378	3,455	1,411	2,318	2,882	2,829	2,628
Adjusted Transactions In Which A Second Request Could Have Been Issued ²	1,377	1,610	1,746	2,108	1,656	684	1,128	1,414	1,400	1,286
Investigations in Which Second Requests Were Issued	35	50	45	63	41	31	42	55	49	47
FTC ³	20	25	28	31	21	15	20	24	20	25
Percent ⁴	1.5%	1.6%	1.6%	1.5%	1.3%	2.2%	1.8%	1.7%	1.4%	1.9%
DOJ ³	15	25	17	32	20	16	22	31	29	22
Percent ⁴	1.1%	1.6%	1.0%	1.5%	1.2%	2.3%	2.0%	2.2%	2.1%	1.7%
Transactions Involving a Request For Early Termination ⁵	1,241	1,385	1,468	1,840	1,385	575	953	1,157	1,094	990
Granted ⁵	943	997	1,098	1,402	1,021	396	704	888	902	797
Not Granted ⁵	298	388	370	438	364	179	249	269	192	193

Note: The data for FY 2004 and FY 2005 “Transactions Reported” and for FY 2004 – FY 2007 “Filings Received” reflect corrections to some prior Annual reports to account for a coding error. Additionally, the data for FY 2010 and FY 2011 reflect corrections to some prior annual reports and the DOJ number of investigations in which second requests were issued and the percentage of transactions in which second requests were issued by DOJ.

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 Section 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; (3) transactions which were found to be non-reportable; and (4) transactions withdrawn before the waiting period began. 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 the 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 Second Request was issued and 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 and not the date action was taken on the request.

APPENDIX B

NUMBER OF TRANSACTIONS REPORTED

AND

FILINGS RECEIVED BY MONTH

FOR

FISCAL YEARS 2004 - 2013

APPENDIX B
TABLE 1. NUMBER OF TRANSACTIONS REPORTED BY MONTH FOR FISCAL YEARS

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
October	93	139	130	201	158	91	66	128	122	127
November	127	160	148	189	191	85	135	217	169	260
December	143	126	137	151	172	37	84	91	95	92
January	85	138	142	143	158	42	62	97	104	78
February	109	99	124	157	119	32	61	81	90	82
March	137	121	150	194	131	42	116	97	111	87
April	127	121	125	156	128	60	92	96	96	77
May	125	171	158	250	150	58	108	142	117	117
June	117	153	172	202	146	51	108	117	142	90
July	123	118	141	219	128	62	94	120	130	91
August	134	170	186	200	126	77	120	164	133	122
September	108	159	155	139	119	79	120	100	120	103
TOTAL	1,428	1,675	1,768	2,201	1,726	716	1,166	1,450	1,429	1,326

Note: The data for FY 2004 and FY 2005 “Transactions Reported” reflect corrections to some prior Annual reports to account for a coding error.

APPENDIX B
TABLE 2. NUMBER OF FILINGS RECEIVED¹ BY MONTH FOR FISCAL YEARS

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
October	185	277	261	401	319	185	146	252	242	255
November	254	324	311	376	380	165	242	422	332	511
December	280	238	260	294	343	79	177	193	188	180
January	161	259	279	288	316	77	126	188	203	151
February	207	201	257	317	246	63	116	157	185	169
March	277	239	309	381	242	81	232	195	215	172
April	245	242	270	312	272	119	182	190	193	151
May	258	337	300	481	294	114	216	284	231	228
June	241	297	346	403	293	99	213	231	275	181
July	234	236	255	441	259	121	187	240	269	186
August	270	328	367	396	251	149	238	329	259	240
September	213	309	295	288	240	159	243	201	237	204
TOTAL	2,825	3,287	3,510	4,378	3,455	1,411	2,318	2,882	2,829	2,628

Note: The data for FY 2004 – FY 2007 “Filings Received” reflect corrections to some prior Annual reports to account for a coding error.

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

EXHIBIT A

STATISTICAL TABLES

FOR

FISCAL YEAR 2013

DATA PROFILING HART-SCOTT-RODINO PREMERGER

NOTIFICATION FILINGS AND ENFORCEMENT INTERESTS

TABLE I
FISCAL YEAR 2013¹
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 50M⁵	4	0.3%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50M - 100M	209	16.3%	17	10	8.1%	4.8%	12.9%	1	3	0.5%	1.4%	1.9%
100M - 150M	262	20.4%	25	6	9.5%	2.3%	11.8%	3	0	1.1%	0.0%	1.1%
150M - 200M	123	9.6%	12	6	9.8%	4.9%	14.6%	3	1	2.4%	0.8%	3.3%
200M - 300M	129	10.0%	11	2	8.5%	1.6%	10.1%	2	1	1.6%	0.8%	2.3%
300M - 500M	166	12.9%	27	12	16.3%	7.2%	23.5%	1	3	0.6%	1.8%	2.4%
500M - 1000M	251	19.5%	23	17	9.2%	6.8%	15.9%	5	7	2.0%	2.8%	4.8%
Over 1000M	142	11.0%	30	19	21.1%	13.4%	34.5%	10	7	7.0%	4.9%	12.0%
ALL TRANSACTIONS	1,286	100.0%	145	72	11.3%	5.6%	16.9%	25	22	1.9%	1.7%	3.7%

TABLE II
FISCAL YEAR 2013¹
ACQUISITIONS BY SIZE OF TRANSACTION²(CUMULATIVE)

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER ⁴	PERCENT	NUMBER		PERCENTAGE OF TOTAL NUMBER OF CLEARANCES			NUMBER		PERCENTAGE OF TOTAL NUMBER OF SECOND REQUESTS		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 50M ⁵	4	0.3%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
LESS THAN 100M	213	16.6%	17	10	7.8%	4.6%	12.4%	1	3	2.1%	6.4%	8.5%
LESS THAN 150M	475	36.9%	42	16	19.4%	7.4%	26.7%	4	3	8.5%	6.4%	14.9%
LESS THAN 200M	598	46.5%	54	22	24.9%	10.1%	35.0%	7	4	14.9%	8.5%	23.4%
LESS THAN 300M	727	56.5%	65	24	30.0%	11.1%	41.0%	9	5	19.1%	10.6%	29.8%
LESS THAN 500M	893	69.4%	92	36	42.4%	16.6%	59.0%	10	8	21.3%	17.0%	38.3%
LESS THAN 1000M	1,137	88.4%	115	53	53.0%	24.4%	77.4%	15	15	31.9%	31.9%	63.8%
ALL TRANSACTIONS	1,286		145	72	66.8%	33.2%	100.0%	25	22	53.2%	46.8%	100.0%

TABLE III
FISCAL YEAR 2013¹
TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY

TRANSACTION RANGE (\$MILLIONS)	CLEARANCES GRANTED TO AGENCY			CLEARANCE GRANTED AS A PERCENTAGE OF:							
				TRANSACTIONS IN EACH TRANSACTION RANGE GROUP			TOTAL NUMBER OF CLEARANCES PER AGENCY		TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M ⁵	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
50M - 100M	17	10	27	8.1%	4.8%	12.9%	11.7%	13.9%	7.8%	4.6%	12.4%
100M - 150M	25	6	31	9.5%	2.3%	11.8%	17.2%	8.3%	11.5%	2.8%	14.3%
150M - 200M	12	6	18	9.8%	4.9%	14.6%	8.3%	8.3%	5.5%	2.8%	8.3%
200M - 300M	11	2	13	8.5%	1.6%	10.1%	7.6%	2.8%	5.1%	0.9%	6.0%
300M - 500M	27	12	39	16.3%	7.2%	23.5%	18.6%	16.7%	12.4%	5.5%	18.0%
500M - 1000M	23	17	40	9.2%	6.8%	15.9%	15.9%	23.6%	10.6%	7.8%	18.4%
Over 1000M	30	19	49	21.1%	13.4%	34.5%	20.7%	26.4%	13.8%	8.8%	22.6%
ALL TRANSACTIONS	145	72	217	11.3%	5.6%	16.9%	100.0%	100.0%	66.8%	33.2%	100.0%

TABLE IV
FISCAL YEAR 2013¹
TRANSACTIONS 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
Below 50M ⁵	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
50M - 100M	1	3	4	0.1%	0.2%	0.3%	0.5%	1.4%	1.9%	2.1%	6.4%	8.5%
100M - 150M	3	0	3	0.2%	0.0%	0.2%	1.1%	0.0%	1.1%	6.4%	0.0%	6.4%
150M - 200M	3	1	4	0.2%	0.1%	0.3%	2.4%	0.8%	3.3%	6.4%	2.1%	8.5%
200M - 300M	2	1	3	0.2%	0.1%	0.2%	1.6%	0.8%	2.3%	4.3%	2.1%	6.4%
300M - 500M	1	3	4	0.1%	0.2%	0.3%	0.6%	1.8%	2.4%	2.1%	6.4%	8.5%
500M - 1000M	5	7	12	0.4%	0.5%	0.9%	2.0%	2.8%	4.8%	10.6%	14.9%	25.5%
Over 1000M	10	7	17	0.8%	0.5%	1.3%	7.0%	4.9%	12.0%	21.3%	14.9%	36.2%
ALL TRANSACTIONS	25	22	47	1.9%	1.7%	3.7%	1.9%	1.7%	3.7%	53.2%	46.8%	100.0%

TABLE V
FISCAL YEAR 2013¹
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD ⁶	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF THRESHOLD GROUP			NUMBER		PERCENT OF THRESHOLD GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
\$50M (as adjusted)	77	6.0%	1	0	1.3%	0.0%	1.3%	0	0	0.0%	0.0%	0.0%
\$100M (as adjusted)	97	7.5%	1	3	1.0%	3.1%	4.1%	0	1	0.0%	1.0%	1.0%
\$500M (as adjusted)	34	2.6%	2	1	5.9%	2.9%	8.8%	0	0	0.0%	0.0%	0.0%
ASSETS ONLY	459	35.7%	58	27	12.6%	5.9%	18.5%	8	5	1.7%	1.1%	2.8%
25%	3	0.2%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50%	616	47.9%	83	41	13.5%	6.7%	20.1%	17	16	2.8%	2.6%	5.4%
ALL TRANSACTIONS	1,286	100.0%	145	72	11.3%	5.6%	16.9%	25	22	1.9%	1.7%	3.7%

TABLE VI
FISCAL YEAR 2013¹
TRANSACTION BY ASSETS OF ACQUIRING PERSON

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF ASSET RANGE GROUP			NUMBER		PERCENT OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	156	12.1%	4	3	2.6%	1.9%	4.5%	0	0	0.0%	0.0%	0.0%
50M - 100M	21	1.6%	2	0	9.5%	0.0%	9.5%	0	0	0.0%	0.0%	0.0%
100M - 150M	28	2.2%	1	0	3.6%	0.0%	3.6%	1	0	3.6%	0.0%	3.6%
150M - 200M	23	1.8%	1	1	4.3%	4.3%	8.7%	0	0	0.0%	0.0%	0.0%
200M - 300M	42	3.3%	5	0	11.9%	0.0%	11.9%	0	0	0.0%	0.0%	0.0%
300M - 500M	61	4.7%	4	2	6.6%	3.3%	9.8%	0	0	0.0%	0.0%	0.0%
500M - 1000M	129	10.0%	14	4	10.9%	3.1%	14.0%	2	1	1.6%	0.8%	2.3%
Over 1000M	826	64.2%	114	62	13.8%	7.5%	21.3%	22	21	2.7%	2.5%	5.2%
ALL TRANSACTIONS	1,286	100.0%	145	72	11.3%	5.6%	16.9%	25	22	1.9%	1.7%	3.7%

TABLE VII
FISCAL YEAR 2013¹
TRANSACTION BY SALES OF ACQUIRING PERSON

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF SALES RANGE GROUP			NUMBER		PERCENT OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	128	10.0%	4	1	3.1%	0.8%	3.9%	1	0	0.8%	0.0%	0.8%
50M - 100M	34	2.6%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
100M - 150M	22	1.7%	2	1	9.1%	4.5%	13.6%	0	0	0.0%	0.0%	0.0%
150M - 200M	26	2.0%	3	0	11.5%	0.0%	11.5%	0	0	0.0%	0.0%	0.0%
200M - 300M	63	4.9%	4	0	6.3%	0.0%	6.3%	0	0	0.0%	0.0%	0.0%
300M - 500M	88	6.8%	4	3	4.5%	3.4%	8.0%	0	1	0.0%	1.1%	1.1%
500M - 1000M	135	10.5%	13	5	9.6%	3.7%	13.3%	2	0	1.5%	0.0%	1.5%
Over 1000M	700	54.4%	114	60	16.3%	8.6%	24.9%	22	21	3.1%	3.0%	6.1%
Sales Not Available⁷	90	7.0%	1	2	1.1%	2.2%	3.3%	0	0	0.0%	0.0%	0.0%
ALL TRANSACTIONS	1,286	100.0%	145	72	11.3%	5.6%	16.9%	25	22	1.9%	1.7%	3.7%

TABLE VIII
FISCAL YEAR 2013¹
TRANSACTION BY ASSETS OF ACQUIRED ENTITIES⁸

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF ASSET RANGE GROUP			NUMBER		PERCENT OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	194	15.1%	18	4	9.3%	2.1%	11.3%	0	0	0.0%	0.0%	0.0%
50M - 100M	173	13.5%	16	8	9.2%	4.6%	13.9%	2	2	1.2%	1.2%	2.3%
100M - 150M	119	9.3%	17	3	14.3%	2.5%	16.8%	1	1	0.8%	0.8%	1.7%
150M - 200M	66	5.1%	7	6	10.6%	9.1%	19.7%	1	1	1.5%	1.5%	3.0%
200M - 300M	86	6.7%	12	3	14.0%	3.5%	17.4%	3	1	3.5%	1.2%	4.7%
300M - 500M	114	8.9%	14	12	12.3%	10.5%	22.8%	2	4	1.8%	3.5%	5.3%
500M - 1000M	102	7.9%	11	9	10.8%	8.8%	19.6%	2	2	2.0%	2.0%	3.9%
Over 1000M	265	20.6%	25	18	9.4%	6.8%	16.2%	7	9	2.6%	3.4%	6.0%
Assets Not Available⁸	167	13.0%	25	9	15.0%	5.4%	20.4%	7	2	4.2%	1.2%	5.4%
ALL TRANSACTIONS	1,286	100.0%	145	72	11.3%	5.6%	16.9%	25	22	1.9%	1.7%	3.7%

TABLE IX
FISCAL YEAR 2013¹
TRANSACTION BY SALES OF ACQUIRED ENTITIES ⁹

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF SALES RANGE GROUP			NUMBER		PERCENT OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	223	17.3%	27	6	12.1%	2.7%	14.8%	3	0	1.3%	0.0%	1.3%
50M - 100M	182	14.2%	18	3	9.9%	1.6%	11.5%	1	2	0.5%	1.1%	1.6%
100M - 150M	138	10.7%	15	7	10.9%	5.1%	15.9%	0	2	0.0%	1.4%	1.4%
150M - 200M	65	5.1%	3	3	4.6%	4.6%	9.2%	0	0	0.0%	0.0%	0.0%
200M - 300M	129	10.0%	19	9	14.7%	7.0%	21.7%	1	1	0.8%	0.8%	1.6%
300M - 500M	124	9.6%	12	8	9.7%	6.5%	16.1%	4	1	3.2%	0.8%	4.0%
500M - 1000M	115	8.9%	11	10	9.6%	8.7%	18.3%	2	5	1.7%	4.3%	6.1%
Over 1000M	253	19.7%	33	14	13.0%	5.5%	18.6%	10	6	4.0%	2.4%	6.3%
Sales not Available ¹⁰	57	4.4%	7	12	12.3%	21.1%	33.3%	4	5	7.0%	8.8%	15.8%
ALL TRANSACTIONS	1,286	100.0%	145	72	11.3%	5.6%	16.9%	25	22	1.9%	1.7%	3.7%

TABLE X
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
000 ¹³	Not Available	109	8.5%	1.4%	1	2	3	1	0	1
211	Oil and Gas Extraction	19	1.5%	0.1%	0	0	0	0	0	0
212	Mining (except Oil and Gas)	8	0.6%	0.1%	0	0	0	0	0	0
213	Support Activities for Mining	13	1.0%	0.1%	0	1	1	0	0	0
221	Utilities	26	2.0%	-0.4%	1	1	2	0	0	0
236	Construction of Buildings	1	0.1%	-0.1%	0	0	0	0	0	0
237	Heavy and Civil Engineering Construction	15	1.2%	0.6%	0	0	0	0	0	0
238	Specialty Trade Contractors	5	0.4%	0.3%	0	0	0	0	0	0
311	Food and Kindred Products	37	2.9%	0.9%	4	3	7	0	1	1
312	Beverage and Tobacco Product Manufacturing	4	0.3%	-0.4%	3	0	3	0	0	0
313	Textile Mills	1	0.1%	0.0%	0	0	0	0	0	0
314	Textile Products	4	0.3%	0.3%	2	0	2	0	0	0
315	Apparel Manufacturing	2	0.2%	0.1%	1	0	1	0	0	0
316	Leather and Allied Product Manufacturing	1	0.1%	0.0%	0	0	0	0	0	0
321	Wood Product Manufacturing	7	0.5%	0.4%	0	3	3	0	2	2
322	Paper Manufacturing	8	0.6%	-0.3%	0	1	1	0	0	0
323	Printing and Related Support Activities	4	0.3%	0.2%	2	0	2	0	0	0
324	Petroleum and Coal Products Manufacturing	15	1.2%	0.8%	0	0	0	1	0	1
325	Chemical Manufacturing	74	5.8%	-1.0%	32	0	32	3	1	4
326	Plastics and Rubber Manufacturing	14	1.1%	-0.3%	2	2	4	0	0	0
327	Nonmetallic Mineral Product Manufacturing	6	0.5%	0.0%	1	0	1	1	0	1

TABLE X
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
331	Primary Metal Manufacturing	15	1.2%	-0.2%	1	3	4	0	0	0
332	Fabricated Metal Product Manufacturing	16	1.2%	0.0%	2	1	3	0	0	0
333	Machinery Manufacturing	31	2.4%	0.2%	0	5	5	0	3	3
334	Computer and Electronic Product Manufacturing	40	3.1%	0.5%	8	1	9	2	0	2
335	Electrical Equipment, Appliance, and Component Manufacturing	7	0.5%	0.1%	1	0	1	0	0	0
336	Transportation Equipment Manufacturing	34	2.6%	-0.3%	4	2	6	2	1	3
337	Furniture and Related Product Manufacturing	5	0.4%	0.4%	2	0	2	1	0	1
339	Miscellaneous Manufacturing	18	1.4%	-0.9%	4	0	4	0	0	0
423	Merchant Wholesalers, Durable Goods	55	4.3%	-0.2%	4	4	8	1	1	2
424	Merchant Wholesales, Nondurable Goods	68	5.3%	0.1%	12	0	12	0	0	0
425	Wholesale Electric Markets and Agent and Brokers	2	0.2%	0.1%	0	0	0	0	0	0
441	Motor Vehicle and Parts Dealers	6	0.5%	0.1%	1	0	1	0	0	0
444	Electronics and Appliance Stores	1	0.1%	0.0%	1	0	1	0	0	0
445	Food and Beverage Stores	5	0.4%	0.0%	3	0	3	1	0	1
446	Health and Personal Care Stores	10	0.8%	0.1%	2	0	2	0	0	0
447	Gasoline Stations	3	0.2%	-0.2%	0	0	0	0	0	0
448	Clothing and Clothing Accessories Stores	10	0.8%	0.7%	1	1	2	0	0	0
451	Sporting Goods, Hobby, Book, and Music Stores	2	0.2%	-0.1%	0	0	0	0	0	0
452	General Merchandise Stores	2	0.2%	0.1%	1	0	1	0	0	0
453	Miscellaneous Store Retailers	5	0.4%	0.2%	1	0	1	1	0	1
454	Nonstore Retailers	6	0.5%	-0.4%	0	0	0	0	0	0

TABLE X
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
481	Air Transportation	3	0.2%	0.1%	0	3	3	0	2	2
482	Railroad Transportation	2	0.2%	0.2%	1	0	1	0	0	0
483	Water Transportation	5	0.4%	0.1%	0	0	0	0	0	0
484	Truck Transportation	1	0.1%	0.0%	0	1	1	0	0	0
486	Pipeline Transportation	3	0.2%	-0.3%	2	0	2	1	0	1
488	Support Activities for Transportation	4	0.3%	-0.1%	0	0	0	0	0	0
511	Publishing Industries (except Internet)	36	2.8%	-0.8%	0	2	2	0	2	2
512	Motion Pictures and Sound Recording Industries	8	0.6%	0.2%	0	1	1	0	1	1
515	Broadcasting (except Internet)	20	1.6%	0.7%	0	5	5	0	2	2
517	Telecommunications	29	2.3%	-0.1%	0	16	16	0	3	3
518	Internet Service Providers, Web Search Portals, and Data Processing Services	4	0.3%	-0.4%	1	1	2	1	0	1
519	Other Information Services	11	0.9%	-0.5%	1	1	2	0	0	0
522	Credit Intermediation and Related Activities	34	2.6%	0.7%	0	0	0	0	0	0
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	135	10.5%	0.0%	1	4	5	0	0	0
524	Insurance Carriers and Related Activities	46	3.6%	-0.1%	1	0	1	1	1	2
525	Funds, Trusts, and Other Financial Vehicles	30	2.3%	1.0%	0	0	0	0	0	0
531	Real Estate	12	0.9%	0.4%	1	0	1	0	0	0
532	Rental and Leasing Services	4	0.3%	-0.4%	1	0	1	0	0	0
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	3	0.2%	-0.3%	0	0	0	0	0	0
541	Professional, Scientific, and Technical Services	53	4.1%	-2.0%	8	3	11	2	0	2
551	Management Companies and Enterprises	3	0.2%	0.1%	0	0	0	0	0	0

TABLE X
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
561	Administrative and Support Services	25	1.9%	-0.5%	3	0	3	0	1	1
562	Waste Management and Remediation Services	4	0.3%	-0.2%	0	2	2	0	0	0
611	Educational Services	7	0.5%	-0.1%	0	0	0	0	0	0
621	Ambulatory Health Care Services	15	1.2%	0.1%	5	0	5	0	0	0
622	Hospitals	44	3.4%	0.9%	21	3	24	4	1	5
623	Nursing Care Facilities	10	0.8%	0.5%	0	0	0	0	0	0
711	Performing Arts, Spector Sports, and Related Industries	2	0.2%	0.1%	0	0	0	0	0	0
713	Amusement, Gambling, and Recreation Industries	4	0.3%	-0.3%	0	0	0	0	0	0
721	Accommodation	1	0.1%	-0.2%	1	0	1	1	0	1
722	Food Services and Drinking Places	12	0.9%	-0.5%	0	0	0	0	0	0
811	Repairs and Maintenance	1	0.1%	0.0%	0	0	0	0	0	0
812	Personal and Laundry Services	1	0.1%	-0.3%	1	0	1	1	0	1
		1,286	100.0%		145	72	217	25	22	47

TABLE XI
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
000 ¹	Not Available	44	3.4%	-1.3%	6	12	18	1	1	2	0
111	Crop Production	1	0.1%	0.1%	0	0	0	0	0	0	0
211	Oil and Gas Extraction	31	2.4%	0.6%	1	0	1	0	0	0	12
212	Mining (except Oil and Gas)	7	0.5%	0.3%	0	0	0	0	0	0	3
213	Support Activities for Mining	32	2.5%	1.2%	0	0	0	0	0	0	6
221	Utilities	33	2.6%	0.0%	1	1	2	0	0	0	19
237	Heavy and Civil Engineering Construction	14	1.1%	0.3%	0	0	0	0	0	0	5
238	Specialty Trade Contractors	5	0.4%	0.0%	0	0	0	0	0	0	1
311	Food and Kindred Products	29	2.3%	0.3%	4	3	7	0	1	1	14
312	Beverage and Tobacco Product Manufacturing	8	0.6%	-0.2%	4	0	4	0	0	0	3
313	Textile Mills	1	0.1%	0.0%	0	0	0	0	0	0	0
314	Textile Products	1	0.1%	0.0%	0	0	0	0	0	0	0
315	Apparel Manufacturing	1	0.1%	-0.1%	0	0	0	0	0	0	0
321	Wood Product Manufacturing	8	0.6%	0.4%	1	2	3	0	1	1	4
322	Paper Manufacturing	10	0.8%	-0.2%	0	2	2	0	1	1	4
323	Printing and Related Support Activities	6	0.5%	0.2%	1	0	1	0	0	0	1
324	Petroleum and Coal Products Manufacturing	4	0.3%	-0.6%	0	0	0	0	0	0	1
325	Chemical Manufacturing	78	6.1%	1.7%	20	0	20	3	1	4	27
326	Plastics and Rubber Manufacturing	19	1.5%	-0.5%	1	1	2	0	0	0	7
327	Nonmetallic Mineral Product Manufacturing	7	0.5%	-0.1%	2	0	2	1	0	1	2
331	Primary Metal Manufacturing	12	0.9%	-0.2%	1	1	2	0	0	0	4

TABLE XI
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
332	Fabricated Metal Product Manufacturing	20	1.6%	0.2%	1	2	3	0	0	0	3
333	Machinery Manufacturing	30	2.3%	-1.1%	1	3	4	1	3	4	11
334	Computer and Electronic Product Manufacturing	49	3.8%	-0.5%	11	3	14	1	1	2	20
335	Electrical Equipment, Appliance, and Component Manufacturing	12	0.9%	0.0%	1	0	1	0	0	0	3
336	Transportation Equipment Manufacturing	37	2.9%	-0.1%	2	2	4	2	1	3	17
337	Furniture and Related Product Manufacturing	7	0.5%	0.4%	2	0	2	1	0	1	3
339	Miscellaneous Manufacturing	30	2.3%	0.7%	7	0	7	0	0	0	7
423	Merchant Wholesalers, Durable Goods	68	5.3%	0.0%	7	4	11	0	0	0	21
424	Merchant Wholesales, Nondurable Goods	58	4.5%	-0.8%	16	0	16	0	0	0	20
441	Motor Vehicle and Parts Dealers	4	0.3%	-0.2%	1	0	1	0	0	0	2
442	Furniture and Home Furnishing Stores	2	0.2%	0.1%	0	0	0	0	0	0	0
443	Miscellaneous Repair Services	1	0.1%	-0.1%	0	0	0	0	0	0	0
444	Electronics and Appliance Stores	1	0.1%	-0.1%	1	0	1	0	0	0	0
445	Food and Beverage Stores	7	0.5%	0.0%	3	0	3	1	0	1	4
446	Health and Personal Care Stores	5	0.4%	-0.2%	1	0	1	0	0	0	0
447	Gasoline Stations	4	0.3%	-0.3%	0	0	0	0	0	0	1
448	Clothing and Clothing Accessories Stores	7	0.5%	0.0%	0	0	0	0	0	0	0
451	Sporting Goods, Hobby, Book, and Music Stores	3	0.2%	0.2%	0	0	0	0	0	0	0
452	General Merchandise Stores	3	0.2%	-0.6%	1	0	1	0	0	0	1
453	Miscellaneous Store Retailers	6	0.5%	0.1%	1	0	1	1	0	1	2
454	Nonstore Retailers	14	1.1%	0.0%	0	0	0	0	0	0	1

TABLE XI
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
481	Air Transportation	3	0.2%	0.2%	0	3	3	0	2	2	3
482	Railroad Transportation	1	0.1%	-0.1%	0	0	0	0	0	0	0
483	Water Transportation	3	0.2%	0.1%	0	1	1	0	0	0	2
484	Truck Transportation	4	0.3%	0.1%	0	0	0	0	0	0	0
486	Pipeline Transportation	9	0.7%	-0.4%	1	0	1	2	0	2	2
488	Support Activities for Transportation	11	0.9%	0.4%	0	1	1	0	0	0	2
492	Couriers	2	0.2%	0.1%	0	0	0	0	0	0	0
493	Warehousing and Storage	2	0.2%	0.1%	0	0	0	0	0	0	0
511	Publishing Industries (except Internet)	47	3.7%	-1.1%	0	1	1	0	0	0	15
512	Motion Pictures and Sound Recording Industries	9	0.7%	0.2%	0	2	2	0	1	1	2
514	Information Services and Data Processing Services	1	0.1%	0.1%	0	0	0	0	0	0	0
515	Broadcasting (except Internet)	21	1.6%	0.8%	0	4	4	0	3	3	11
516	Internet Publishing and Broadcasting	1	0.1%	0.0%	0	0	0	0	0	0	0
517	Telecommunications	30	2.3%	0.3%	0	10	10	0	3	3	14
518	Internet Service Providers, Web Search Portals, and Data Processing Services	25	1.9%	-0.5%	2	1	3	1	0	1	2
519	Other Information Services	14	1.1%	-0.5%	1	3	4	1	0	1	4
522	Credit Intermediation and Related Activities	36	2.8%	1.2%	0	0	0	0	0	0	18
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	32	2.5%	0.1%	0	2	2	0	0	0	16
524	Insurance Carriers and Related Activities	41	3.2%	0.1%	1	1	2	0	1	1	17
525	Funds, Trusts, and Other Financial Vehicles	2	0.2%	0.1%	0	0	0	0	0	0	1
531	Real Estate	5	0.4%	0.0%	0	0	0	0	0	0	1

TABLE XI
FISCAL YEAR 2013¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2012 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
532	Rental and Leasing Services	13	1.0%	0.4%	1	0	1	0	0	0	2
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	5	0.4%	-0.6%	1	0	1	0	0	0	2
541	Professional, Scientific, and Technical Services	90	7.0%	-0.9%	9	2	11	1	1	2	26
561	Administrative and Support Services	30	2.3%	-0.2%	3	1	4	0	0	0	6
562	Waste Management and Remediation Services	5	0.4%	-0.3%	0	2	2	0	0	0	1
611	Educational Services	7	0.5%	0.3%	0	0	0	0	0	0	1
621	Ambulatory Health Care Services	19	1.5%	-0.1%	5	0	5	2	0	2	5
622	Hospitals	48	3.7%	1.6%	20	2	22	4	1	5	30
623	Nursing Care Facilities	3	0.2%	-0.1%	0	0	0	0	0	0	1
624	Social Assistance	1	0.1%	0.1%	0	0	0	0	0	0	0
711	Performing Arts, Spector Sports, and Related Industries	7	0.5%	0.0%	0	0	0	0	0	0	0
713	Amusement, Gambling, and Recreation Industries	11	0.9%	0.3%	0	0	0	0	0	0	2
721	Accommodation	7	0.5%	0.2%	1	0	1	1	0	1	1
722	Food Services and Drinking Places	10	0.8%	-0.6%	0	0	0	0	0	0	4
811	Repairs and Maintenance	4	0.3%	-0.2%	0	0	0	0	0	0	0
812	Personal and Laundry Services	7	0.5%	0.2%	1	0	1	1	0	1	1
999	Nonclassifiable Establishments	1	0.1%	0.1%	1	0	1	0	0	0	0
		1,286	100.0%		145	72	217	25	22	47	421

¹ Fiscal year 2013 figures include transactions reported between October 1, 2012 and September 30, 2013.

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

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

⁴ During fiscal year 2013, 1326 transactions were reported under the HSR Premerger Notification program. The smaller number, 1286, 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 HSR transactions resulting from a single business transaction (where there are multiple acquiring persons or acquired persons).

⁵ The total number of filings under \$50M submitted in Fiscal Year 2013 reflects corrective filings.

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

⁷ The category labeled “Sales Not Available” includes newly-formed acquiring persons, foreign acquiring person with no United States revenues, and acquiring persons who had not derived any revenues from their investments at the time of filing.

⁸ Assets of an acquired entity are not available when the acquired entity’s financial data is consolidated within its ultimate parent.

⁹ 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.

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

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

¹² This represents the deviation from the fiscal year 2012 percentage.

¹³ This category includes transactions by newly-formed entities.

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