



**FEDERAL TRADE COMMISSION**  
BUREAU OF COMPETITION



**DEPARTMENT OF JUSTICE**  
ANTITRUST DIVISION

# HART-SCOTT-RODINO ANNUAL REPORT

## FISCAL YEAR 2017

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

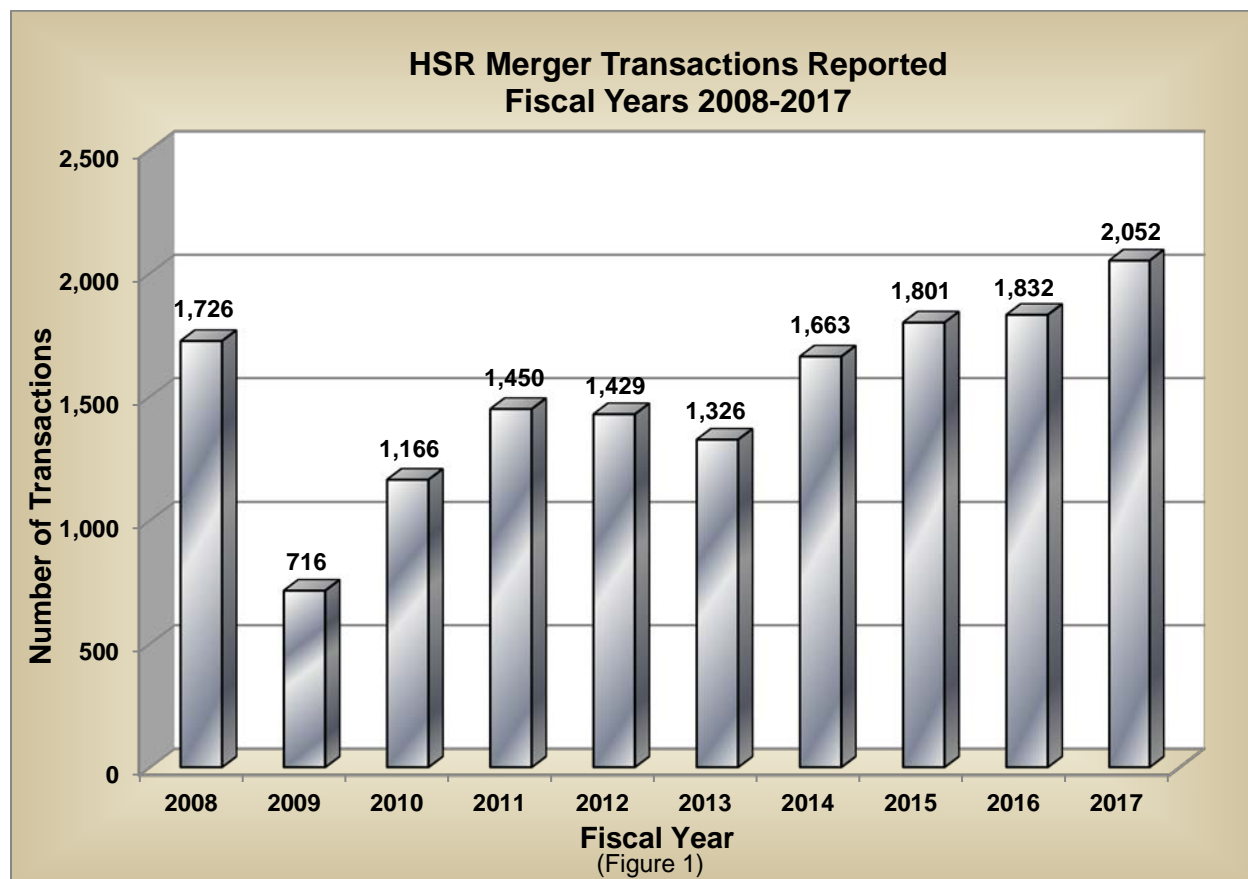
**Maureen K. Ohlhausen**  
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## INTRODUCTION

The Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435 (“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 2017<sup>1</sup> 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 2017, 2,052 transactions were reported under the HSR Act, representing about a 12.0 percent increase from the 1,832 transactions reported in fiscal year 2016. (See Figure 1 below.) Over the past five years, the number of HSR reportable transactions has increased significantly – in FY2013, 1,326 HSR transactions were reported and in FY2017, 2,052 HSR transactions were reported, an increase of over 50%. This is in the face of flat, or effectively decreasing, budgets and restrictions on hiring.



<sup>1</sup> Fiscal year 2017 covered the period of October 1, 2016 through September 30, 2017.

During fiscal year 2017, the Commission brought 23 merger enforcement challenges,<sup>2</sup> including 15 in which it accepted consent orders for public comment, all of which resulted in final orders; six in which the transaction was abandoned or restructured as a result of antitrust concerns raised during the investigation; and two in which the Commission initiated administrative or federal court litigation. These enforcement actions preserved competition in numerous sectors of the economy, including consumer goods and services, pharmaceuticals, healthcare, high tech and industrial goods, and energy.

Of note, the Commission successfully concluded its merger challenge of DraftKings and FanDuel, the two largest daily fantasy sports sites. The Commission initiated an administrative action and, together with attorney generals from six states, sought a temporary restraining order and a preliminary injunction in federal court, alleging that the combined firm would control more than 90 percent of the U.S. market for paid daily fantasy sports contests. Shortly after the Commission filed its complaint, the parties abandoned the merger.

Again this year, most of the Commission's merger enforcement actions were resolved by a negotiated settlement. For instance, the Commission required divestitures to resolve competitive concerns arising from Sherwin-Williams Co.'s proposed \$11.3 billion acquisition of Valspar Corporation. The Commission's complaint alleged that the proposed acquisition would have reduced competition in the North American market for industrial wood coatings used to make furniture, kitchen cabinets, and building products, where Sherwin-Williams and Valspar were two of the top three industrial wood coatings manufacturers. The Commission also moved to preserve competition in local gasoline and diesel markets, challenging Alimentation Couche-Tard Inc.'s proposed \$4.4 billion acquisition of CST Brands, Inc. Alimentation Couche-Tard operates convenience stores and retail fuel stations worldwide, including nearly 4,700 in United States, primarily under the Circle K and Kangaroo Express banners. CST operates 1,146 convenience stores and retail fuel stations in the United States under the Corner Store banner. The Commission's order required divestitures in 71 local markets located in Arizona, Colorado, Florida, Georgia, Louisiana, New Mexico, Ohio, and Texas.

The Commission also took action to preserve competition in the worldwide market for fibre channel switches, which are part of storage area networks that transfer data between servers and storage arrays in data centers. To resolve concerns that semiconductor manufacturer Broadcom Limited's vertical acquisition of Brocade Communications Systems, Inc. would reduce competition or slow innovation for fibre channel switches, the Commission's order prevents Broadcom's business unit from sharing the confidential information of its customer, Cisco Systems, Inc., with Brocade, Cisco's rival.

During fiscal year 2017, the Antitrust Division challenged 18 merger transactions, including 11 with filed complaints in U.S. district court. In nine of these 11, the Division simultaneously filed a proposed settlement. In the remaining two, the complaint was initiated as litigation. In six of the remaining challenges, the parties abandoned the proposed transaction, and in the last, the parties restructured the transaction to resolve the Division's concerns.

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<sup>2</sup> 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 2017.

In one of the two filed litigation complaints, the Division sued to block EnergySolutions Inc.'s (ES) proposed acquisition of Waste Control Specialists LLC from Andrews County Holdings, Inc. The U.S. District Court for the District of Delaware found in favor of the Division and blocked ES's proposed acquisition because the proposed merger would have substantially lessened competition in the markets for disposal of higher-activity low-level radioactive waste (LLRW) and lower-activity LLRW, in violation of Section 7 of the Clayton Act. The parties abandoned the transaction and agreed to reimburse the Division for more than \$165,000 in litigation costs.

In two significant matters, the Division challenged transactions where contractual relationships with a third-party, not the parties' overlapping assets, increased the likelihood that the proposed acquisitions would substantially lessen competition. In the first, the Division challenged Alaska Air Group Inc.'s proposed acquisition of Virgin America Inc. because Alaska's extensive codeshare relationship with American Airlines would have decreased Alaska's incentive to compete against American post-merger on the routes on which Virgin and American competed. Under the terms of the final judgment filed simultaneously with the complaint, Alaska agreed to significantly reduce the scope of its codeshare agreement with American. In the second matter, the Division challenged Danone S.A.'s acquisition of The WhiteWave Foods Company Inc. Post-merger, Danone's long-term strategic partnership and supply and licensing agreements with WhiteWave's primary competitor, CROPP Cooperative, would have provided incentives and opportunities for cooperative behavior between the two leading purchasers of raw organic milk in the northeastern United States and the producers of the only three national fluid organic milk brands. Under the terms of the final judgment filed simultaneously with the complaint, Danone agreed to divest its Stonyfield Farms business, which included all its contracts with CROPP.

The Division's investigation also led to a competition-protecting outcome when Lam Research Corporation and KLA-Tencor Corporation abandoned their plans to merge. In that matter, the Division informed the parties that it had serious concerns about the impact the transaction would have on competition: KLA-Tencor's leading position in several semiconductor metrology and inspection markets could have allowed Lam Research to foreclose its competitors by reducing their timely access to key KLA-Tencor equipment and related services.

Finally, the Division reinforced the importance of parties' compliance with the terms of a proposed final judgment in its challenge to General Electric Co.'s (GE) proposed acquisition of Baker Hughes Inc. Under the terms of a proposed final judgment filed simultaneously with the complaint, GE agreed to divest its refinery process chemicals and services unit by the end of September 2017, or if it was granted an extension, the end of 2017. However, after it consummated its merger with Baker Hughes, GE informed the United States that it would be unable to complete the divestiture by the agreed-upon deadline due to complications with international aspects of divestitures. On October 16, 2017, the court entered a modified final judgment that added two provisions imposing financial obligations upon GE, including incentive payments to encourage quick divestiture and attorneys' fees to the Division to cover the costs associated with modifying and enforcing the decree, until the divestiture is completed.

In fiscal year 2017, the Commission's Premerger Notification Office (PNO) continued to respond to thousands of questions 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 PNO continued to provide information necessary for the notification process on its PNO website,<sup>3</sup> which serves as a HSR practitioners' primary source of information on the HSR form and instructions for completing the form, rules, current filing thresholds, notices of grants of early termination, filing fee instructions, and procedures for submitting post-consummation filings. The website also provides training materials for new practitioners, information on scheduled HSR events, frequently asked questions regarding HSR filing requirements, and contact information for PNO staff. In addition, the website also includes a catalog of informal interpretation letters, giving the public ready access to PNO staff interpretations of the HSR Act and rules. Finally, PNO staff continued to provide tips for HSR practitioners in blog posts on the Commission's *Competition Matters* blog.<sup>4</sup> As always, PNO staff is available to help HSR practitioners comply with HSR notification requirements.

## **BACKGROUND OF THE HSR ACT**

Section 201 of the 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, non-corporate interests, 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 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.<sup>5</sup> 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 many occasions over the years to improve the program's effectiveness and to lessen the burden of complying with the rules.<sup>6</sup>

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

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<sup>3</sup> See <https://www.ftc.gov/enforcement/premerger-notification-program>.

<sup>4</sup> See <https://www.ftc.gov/news-events/blogs/terms/368>.

<sup>5</sup> 43 Fed. Reg. 33450 (July 31, 1978).

<sup>6</sup> See <https://www.ftc.gov/enforcement/premerger-notification-program/statute-rules-and-formal-interpretations/statements-basis-purpose>.

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 reviewing 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).<sup>7</sup> 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.

## **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 2008-2017, the number of transactions reported; the number of filings received; the number of merger investigations in which Second Requests were issued; and the number of transactions in which requests for early termination of the waiting period were received, granted, and not granted.<sup>8</sup> 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 2008 through 2017.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2017 increased 12.0 percent from the number of transactions reported in fiscal year 2016. In fiscal year 2017, 2,052 transactions were reported, while 1,832 were reported in fiscal year 2016.<sup>9</sup> The statistics in Appendix A also show that the number of merger investigations in which Second Requests were issued in fiscal year 2017 decreased from the previous year. Second Requests were issued in 51 merger investigations in fiscal year 2017 (33 issued by the

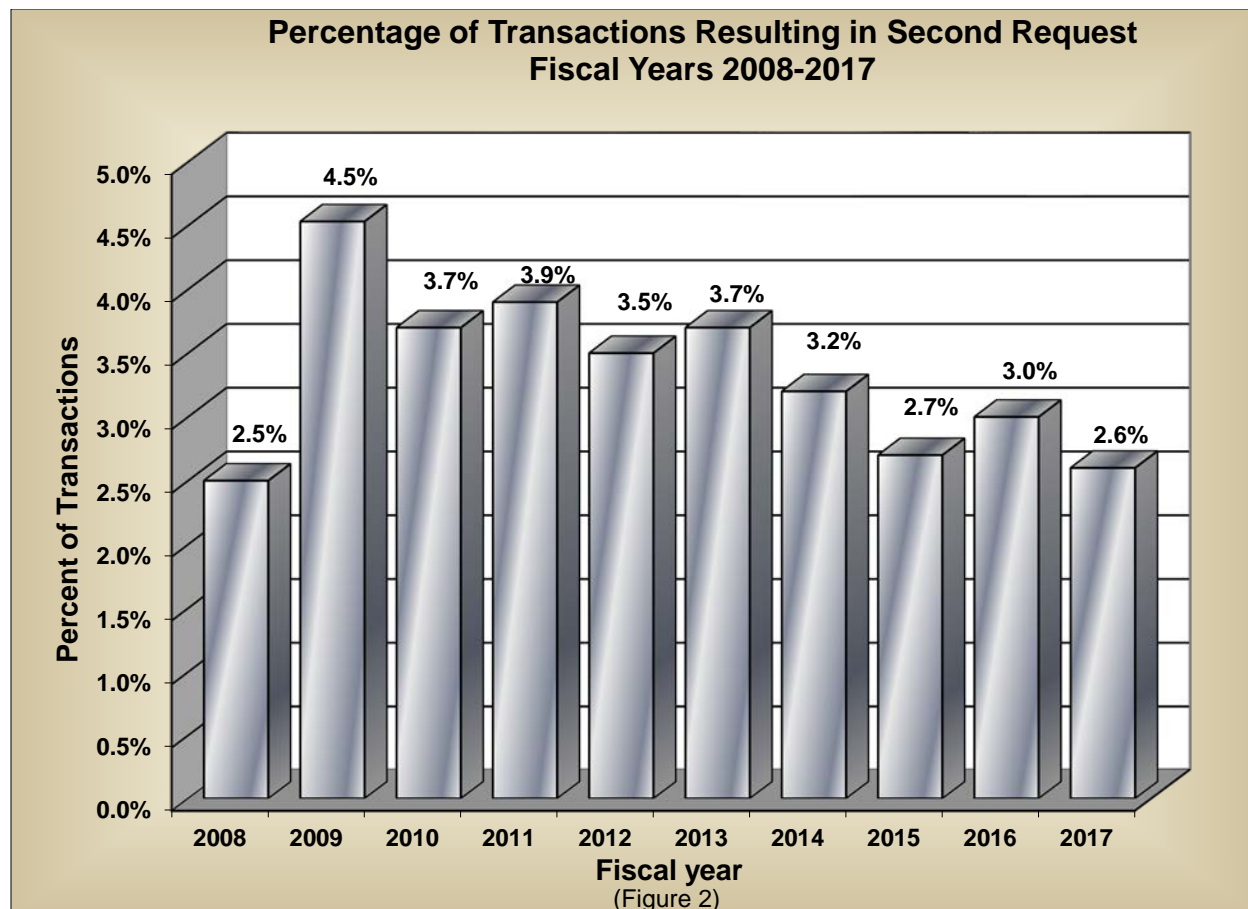
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<sup>7</sup> 15 U.S.C. §18a(e)(1)(a) (“The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period)...require the submission of additional information or documentary material relevant to the proposed acquisition”).

<sup>8</sup> 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.

<sup>9</sup> 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 & Appendix A n.2 (explaining calculation of that data). There were 1,992 adjusted transactions in fiscal year 2017, 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.

FTC and 18 issued by the Antitrust Division), while Second Requests were issued in 54 merger investigations in fiscal year 2016 (25 issued by the FTC and 29 issued by the Antitrust Division). The percentage of transactions in which a Second Request was issued decreased from 3.0 percent in fiscal year 2016 to 2.6 percent in fiscal year 2017. See Figure 2 below.



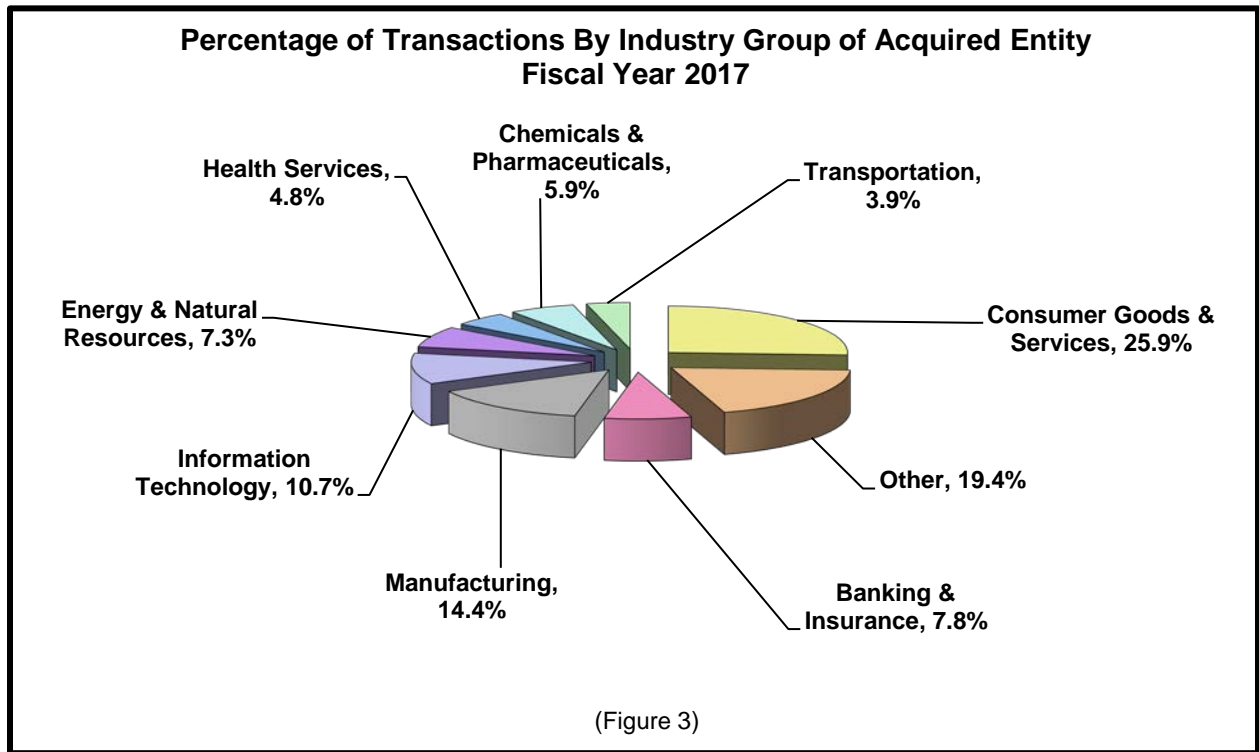
The statistics in Appendix A also show that early termination of the waiting period is requested in the majority of transactions. In fiscal year 2017, early termination was requested in 77.9 percent (1,552) of the adjusted transactions reported. In fiscal year 2016, early termination was requested in 77.5 percent (1,374) of the transactions reported. The percentage of requests granted out of the total requested decreased from 80.2 percent in fiscal year 2016 to 78.6 percent in fiscal year 2017.

The tables (Tables I through XI) in Exhibit A contain information regarding the agencies' enforcement activities for transactions reported in fiscal year 2017. The tables provide, for example, various characteristics of transactions, the number and percentage of transactions in which one antitrust agency granted the other clearance to commence an investigation, and the number of merger investigations in which either agency issued Second Requests. Table III of Exhibit A shows that in fiscal year 2017, the agencies received clearance to conduct an initial investigation in 13.9 percent 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 2017, the aggregate dollar value of reported transactions was \$1.8 trillion.<sup>10</sup>

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 2017 based on the acquired entity's operations.<sup>11</sup>



<sup>10</sup> The information on the value of reported adjusted transactions for fiscal year 2017 is drawn from a database maintained by the Premerger Notification Office.

<sup>11</sup> The category designated as "Other" consists of industry segments that include construction, educational services, performing arts, recreation, and other non-classifiable businesses.



## **DEVELOPMENTS WITHIN THE PREMERGER PROGRAM**

### 1. *Threshold Adjustments*

The 2000 amendments to the HSR Act require the Commission to publish adjustments to the Act's jurisdictional and filing fee thresholds in the Federal Register annually, for each fiscal year beginning on September 30, 2004, based on the change in the gross national product, in accordance with Section 8(a)(5) of the Clayton Act. 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 Commission publishes the revised thresholds annually in January, and they become effective 30 days after publication.

On January 26, 2017, the Commission published a notice<sup>12</sup> to reflect adjustment of the reporting thresholds as required by the 2000 amendments<sup>13</sup> 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 \$78.2 million to \$80.8 million, became effective February 27, 2017.

### 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 2017. The agencies use several methods to oversee compliance, including monitoring news outlets and industry publications for transactions that may not have been reported in accordance with the HSR Act's requirements. Industry sources, such as competitors, customers, and suppliers, interested members of the public, and, in certain cases, the parties themselves, also 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 \$40,654 for each day the violation continues.<sup>14</sup> The antitrust agencies examine the circumstances of each violation to determine whether to seek penalties.<sup>15</sup> During fiscal year 2017, 50 post-consummation "corrective" filings were received, and the agencies brought four enforcement actions, resulting in \$2.2 million in civil penalties.

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<sup>12</sup> 82 Fed. Reg. 8,524 (Jan. 26, 2017).

<sup>13</sup> 15 U.S.C. § 18a(a). See Pub. L. No. 106-553, 114 Stat. 2762.

<sup>14</sup> Dollar amounts specified in civil monetary penalty provisions within the Commission's jurisdiction are adjusted for inflation in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-7 (Nov. 2, 2015). 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)), to \$16,000 effective February 10, 2009 (74 Fed. Reg. 857 (Jan. 9, 2009)), to \$40,000 effective August 1, 2016 (81 Fed. Reg. 42476 (June 30, 2016)), and to \$40,654 effective January 24, 2017 (81 Fed. Reg. 8135 (Jan. 24, 2017)).

<sup>15</sup> 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.

In *United States v. Duke Energy Corp.*,<sup>16</sup> the complaint alleged that Duke Energy Corporation violated the HSR Act when, after agreeing to purchase the Osprey Energy Center from Calpine Corporation, Duke took control of Osprey's business before filing required HSR Act notifications and waiting for the expiration of the mandatory waiting period. At the same time that Duke had agreed to purchase Osprey, Duke entered into a so-called "tolling agreement" that immediately gave Duke control over Osprey's output and gave Duke the right to receive the day-to-day profits and losses from Osprey's business. As a result, from the moment the tolling agreement went into effect, Osprey ceased to be an independent competitor. Under the terms of a proposed final judgment filed January 18, 2017, Duke Energy agreed to pay a \$600,000 civil penalty to resolve the lawsuit. On April 7, 2017, the court entered the final judgment.

In *United States v. Mitchell P. Rales*,<sup>17</sup> the complaint alleged that investor Mitchell P. Rales violated the HSR Act in October 2011 by failing to report voting shares valued in excess of \$131.9 million that his wife acquired in Colfax. The complaint also alleged that Mr. Rales violated the HSR Act in January 2008, by failing to report voting shares valued in excess of \$597.9 million that he acquired in Danaher. Although Mr. Rales contended that the violations were inadvertent, the Commission determined to seek penalties because, as noted in the complaint, Mr. Rales had paid civil penalties to settle an earlier HSR enforcement action brought by the Department of Justice in 1991. Under the terms of a proposed final judgment filed at the same time as the complaint, Mr. Rales agreed to pay a \$720,000 civil penalty to resolve the lawsuit. On April 12, 2017, the court entered the final judgment.

In *United States v. Ahmet H. Okumus*,<sup>18</sup> the complaint alleged that hedge fund founder Ahmet H. Okumus violated the HSR Act in June 2016 by failing to report voting shares valued in excess of \$156.3 million that his hedge fund, Okumus Opportunistic Value Fund, Ltd., acquired in Web.com. Although the Commission found Mr. Okumus's HSR violation to be inadvertent, it sought penalties because, as noted in the complaint, this was Mr. Okumus's second HSR violation in two years regarding Web.com. Under the terms of a proposed final judgment filed at the same time as the complaint, Mr. Okumus agreed to pay a \$180,000 civil penalty to resolve the lawsuit. On April 21, 2017, the court entered the final judgment.

In *United States v. Fayez Sarofim*,<sup>19</sup> the complaint alleged that Fayez Sarofim violated the HSR Act in 2001, 2006 and 2012 by failing to report voting shares of Kinder Morgan, valued in excess of \$15 million in 2001, \$113.4 million in 2006 and \$682.1 million in 2012. The complaint also alleged that Mr. Sarofim violated the HSR Act in May 2007, by failing to report voting shares valued in excess of \$59.8 million that he acquired in Unitrin, which later changed its name to Kemper. The Commission found that Mr. Sarofim was not entitled to rely upon the "investment-only" exemption, which exempts acquisitions of up to ten percent of voting

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<sup>16</sup> *United States v. Duke Energy Corporation*, No. 1:17-cv-00116 (D.D.C. filed Jan. 18, 2017), available at <https://www.justice.gov/atr/case/us-v-duke-energy-corporation>.

<sup>17</sup> *United States v. Mitchell P. Rales*, No. 1:17-cv-00103 (D.D.C. filed Jan. 17, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0135/mitchell-p-rales>.

<sup>18</sup> *United States v. Ahmet H. Okumus*, No. 1:17-cv-00104 (D.D.C. filed Jan. 17, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0189/ahmet-h-okumus>.

<sup>19</sup> *United States v. Fayez Sarofim*, No. 1:16-cv-02156 (D.D.C. filed Oct. 28, 2016), available at <https://www.ftc.gov/enforcement/cases-proceedings/151-0064/united-states-federal-trade-commission-v-fayez-sarofim>.

securities if they are made solely for investment purposes. This exemption, however, is not available to individuals who serve on the board of directors of the issuer at the time the shares are acquired, and Mr. Sarofim served on Kinder Morgan's and Unitrin's board before he made the securities purchases at issue. Under the terms of a proposed final judgment filed at the same time as the complaint, Mr. Sarofim agreed to pay a \$720,000 civil penalty to resolve the lawsuit. On January 26, 2017, the court entered the final judgment.

## **MERGER ENFORCEMENT ACTIVITY**<sup>20</sup>

### 1. *The Department of Justice*

During fiscal year 2017, the Antitrust Division challenged 18 merger transactions that it concluded would have substantially lessened competition if allowed to proceed as proposed. In 11 of these challenges, the Antitrust Division filed a complaint in U.S. district court. In nine of these court challenges, the Division filed settlement papers simultaneously with the complaint. The remaining two court challenges were initiated as litigation. In one, after a trial on its merits, the court found in favor of the Division and blocked the merger. In the other, the parties reached a settlement with the Division before the trial commenced. Of the seven fiscal 2017 challenges where the Division did not file suit, the parties abandoned the proposed transaction in six instances, and in the remaining instance, the parties restructured the transaction, resolving the Division's concerns.<sup>21</sup>

In [\*United States v. Westinghouse Air Brake Technologies Corp. and Faiveley Transport S.A. and Faiveley Transport North America\*](#),<sup>22</sup> the Division challenged the proposed acquisition of Faiveley Transport S.A., including its wholly-owned subsidiary Faiveley Transport North America (collectively, Faiveley) by Westinghouse Air Brake Technologies Corporation (Wabtec). The complaint alleged that the transaction, as originally structured, would have substantially lessened competition for the development, manufacture, and sale of various freight railcar brake components by eliminating Faiveley as one of only three major companies supplying freight car brake components in the U.S. The transaction would have also eliminated future competition for control valves by preventing Faiveley's entry into this market, and would have thus maintained a century-old duopoly between Wabtec and its only other control valve rival. A proposed final judgment filed simultaneously with the complaint on October 26, 2016, required Wabtec to divest Faiveley's entire U.S. freight car brakes business, including all assets relating to Faiveley's freight car control valve development project (known as the FTEN) to

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<sup>20</sup> 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.

<sup>21</sup> (1) Lam Research Corporation's proposed acquisition of KLA-Tencor Corporation (semiconductor fabrication tools); (2) Proposed slots exchange between American Airlines and United Airlines; (3) Republic Airways Holding Inc. proposed restructuring from bankruptcy by granting equity shares to American Airlines Group Inc., Delta Air Lines Inc., and United Continental Holdings Inc.; (4) Qatar Airways proposed acquisition of a stake in American Airlines; (5) Proposed joint venture between First Data Corporation and FleetCor Technologies, Inc. (prepaid card processing); (6) tronc, Inc.'s (owner of the Chicago Tribune) proposed acquisition of the Chicago Sun-Times from Wrapparts, Inc; and (7) Raycom Media Inc.'s proposed acquisition of certain broadcast television stations from Calkins Media, Inc.

<sup>22</sup> *United States v. Westinghouse Air Brake Technologies Corp., Faiveley Transport S.A., and Faiveley Transport North America*, No. 1:16-cv-02147 (D.D.C. filed Oct. 26, 2016).

Amsted Rail Company, Inc. The divestiture was completed on November 30, 2016, and the Court entered the final judgment on April 10, 2017.

In *United States v. Energy Solutions, Inc., Rockwell Holdco, Inc., Andrews County Holdings, Inc. and Waste Control Specialists, LLC*,<sup>23</sup> the Division filed suit to enjoin Energy Solutions, Inc. (ES), a wholly-owned subsidiary of Rockwell Holdco, Inc., from acquiring Waste Control Specialists LLC (WCS), a wholly-owned subsidiary of Andrews County Holdings, Inc. The complaint alleged that the transaction would have combined the only two licensed commercial low-level radioactive waste (LLRW) disposal facilities for 36 states, Puerto Rico and the District of Columbia. There are only four licensed LLRW disposal facilities in the United States. Two of these facilities, however, did not accept LLRW from the relevant states. The complaint alleged that ES's Clive facility in Utah and WCS's Andrews facility in Texas were the only two significant disposal alternatives available in the relevant states for the commercial disposal of higher-activity and lower-activity LLRW. At trial, one of the defenses asserted by the defendants was that that WCS was a failing firm and, absent the transaction, its assets would imminently exit the market. The Division argued that the defendants did not show that WCS's assets would in fact imminently exit the market given its failure to make good-faith efforts to elicit reasonable alternative offers that might be less anticompetitive than its transaction with ES. On June 21, 2017, after a 10-day trial, the U.S. District Court for the District of Delaware ruled in favor of the Division.

In *United States v. Alaska Air Group, Inc. and Virgin America Inc.*,<sup>24</sup> the Division challenged Alaska Air Group Inc.'s proposed acquisition of Virgin America Inc. While the combined company would have become only the fifth-largest domestic airline, Alaska's codeshare agreement with American Airlines Group Inc., threatened to curb important competition supplied by Virgin on routes where it competed with American once these routes became part of Alaska's network. A codeshare agreement allows each airline to market tickets for certain flights operated by the other airline. The complaint alleged that the codeshare agreement with American would have incentivized Alaska to cooperate rather than compete with American on each of the twenty nonstop routes on which Virgin and American competed, resulting in a reduction of service, decreased service quality, increased prices, and/or ceased operations on the Virgin-American overlap routes. Under the terms of a proposed final judgment filed simultaneously with the complaint on December 6, 2016, Alaska agreed to significantly reduce the scope of its codeshare agreement with American. The proposed final judgment prohibited Alaska and American from codesharing on routes where Alaska offered competing nonstop service with American, on routes where Virgin and American competed pre-merger, and on routes where Alaska would otherwise be likely to launch new service in competition with American following the merger. On June 23, 2017, the court entered the final judgment.

In *United States v. AMC Entertainment Holdings, Inc. and Carmike Cinemas, Inc.*,<sup>25</sup> the Division challenged AMC Entertainment Holdings, Inc.'s proposed acquisition of Carmike

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<sup>23</sup> *United States v. Energy Solutions, Inc., Rockwell Holdco, Inc., Andrews County Holdings, Inc. and Waste Control Specialists, LLC*, No. 1:16-cv-01056 (D. Del. filed Nov. 16, 2016).

<sup>24</sup> *United States v. Alaska Air Group, Inc. and Virgin America Inc.*, No. 1:16-cv-02377 (D.D.C. filed Dec. 6, 2016).

<sup>25</sup> *U.S. v. AMC Entertainment Holdings, Inc. and Carmike Cinemas, Inc.*, No. 1-16-cv-02475 (D.D.C. filed Dec. 20, 2016).

Cinemas, Inc. AMC and Carmike were the second-largest and fourth-largest movie theatre chains, respectively, in the United States. Additionally, AMC owned significant equity in National CineMedia, LLC (NCM) and Carmike owned significant equity in SV Holdco, LLC, a holding company that owns and operates Screenvision Exhibition, Inc. NCM and Screenvision are the country's predominant preshow cinema advertising networks, covering over 80 percent of movie theatre screens in the United States. The complaint alleged that the proposed acquisition would have provided AMC with direct control of one of its most significant movie theatre competitors, and in some cases, its only competitor, in 15 local markets in nine states. As a result, moviegoers likely would have experienced higher ticket and concession prices and lower quality services in these local markets. The complaint further alleged that the acquisition would have allowed AMC to hold sizable interests in both NCM and Screenvision post-transaction, resulting in increased prices and reduced services for advertisers and theatre exhibitors seeking preshow services. On December 20, 2016, a proposed final judgment was filed simultaneously with the complaint settling the lawsuit. Under the terms of the decree, AMC agreed to (1) divest theatres in the 15 local markets; (2) reduce its equity stake in NCM to 4.99 percent; (3) relinquish its seats on NCM's Board of Directors and all of its other governance rights in NCM; (4) transfer 24 theatres with a total of 384 screens to the Screenvision cinema advertising network; and (5) implement and maintain "firewalls" to inhibit the flow of competitively sensitive information between NCM and Screenvision. The court entered the final judgment on March 7, 2017.

In [\*United States v. Clear Channel Outdoor Holdings, Inc. and Fairway Media Group, LLC\*](#),<sup>26</sup> the Division challenged a proposed asset exchange between Clear Channel Outdoor Holdings, Inc. and Fairway Media Group, LLC. Clear Channel sought to acquire certain Fairway billboards located in Atlanta, Georgia, and Fairway sought to acquire certain Clear Channel billboards located in Indianapolis, Indiana, along with billboards in other metropolitan areas. The complaint alleged that, as initially structured, the transaction would have eliminated the substantial head-to-head competition between Clear Channel and Fairway in Atlanta and Indianapolis, resulting in higher prices and lower quality services for advertisers who purchased outdoor advertising in those markets. A proposed final judgment, filed simultaneously with the complaint on December 22, 2016, required the parties to divest 13 billboard structures in Indianapolis to Circle City Outdoor, LLC, and 44 billboard structures in Atlanta to Link Media Georgia, LLC. The divestitures were completed and on March 7, 2017, the court entered the final judgment.

In [\*United States v. Smiths Group, PLC, Safran S.A., Morpho Detection, LLC and Morpho Detection International, LLC\*](#),<sup>27</sup> the Division challenged Smiths Group plc's proposed acquisition of the global explosive detection business of Morpho Detection, LLC and Morpho Detection International (collectively Morpho) from Safran S.A. Smiths and Morpho were two of the three leading providers of desktop explosive trace detection (ETD) devices and related services in the United States. ETD devices are used to detect trace amounts of explosives or narcotics on persons or objects in airports and other high-risk critical infrastructure sites. The complaint, filed

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<sup>26</sup> *United States v. Clear Channel Outdoor Holdings, Inc. and Fairway Media Group, LLC*, No. 1:16-cv-02497 (D.D.C. filed Dec. 22, 2016).

<sup>27</sup> *United States v. Smiths Group, PLC, Safran S.A., Morpho Detection, LLC and Morpho Detection International, LLC*, No. 1:17-cv-00580 (D.D.C. filed Mar. 30, 2017).



on March 30, 2017, alleged that the transaction, as initially structured, would have eliminated competition between Smiths and Morpho for desktop ETD devices sold for passenger air travel or air cargo transport applications in the United States. This loss in competition likely would have given Smiths the ability and incentive to raise prices, decrease the quality of service, and lessen innovation for customers, including the Department of Homeland Security, in the United States. Under the terms of a proposed final judgment, filed simultaneously with the complaint, Smiths agreed to divest Morpho’s global ETD business, which included desktop, handheld and portal ETD devices. On June 23, 2017, the final judgment was entered by the court. The Division cooperated closely with the European Commission throughout the course of its investigation.

In *United States v. Danone S.A. and The WhiteWave Foods Company*,<sup>28</sup> the Division challenged Danone S.A.’s proposed acquisition of The WhiteWave Foods Company, Inc. Danone, a leading U.S. manufacturer of organic yogurt, had participated in the raw organic milk and fluid organic milk markets for the past two decades through a strategic partnership and supply and licensing agreements with WhiteWave’s closest competitor, CROPP Cooperative. As a result, Danone’s acquisition of WhiteWave would have effectively combined WhiteWave and CROPP, the top purchasers of raw organic milk in the Northeast and the producers of the three leading brands of fluid organic milk in the United States. The complaint alleged that the transaction, as originally structured, likely would have resulted in less favorable contract terms for Northeast farmers for the purchase of their raw organic milk and would have aligned the interests of the producers of the only three national fluid organic milk brands—Stonyfield, Horizon and Organic Valley—risking higher prices and fewer choices for U.S. customers. A proposed final judgment, filed simultaneously with the complaint on April 3, 2017, required Danone to divest Stonyfield Farm, Inc., including the supply and licensing agreements with CROPP. On July 13, 2017, the court entered the final judgment.

In *United States v. General Electric Co. and Baker Hughes Incorporated*,<sup>29</sup> the Division challenged the proposed acquisition of Baker Hughes Incorporated (“Baker Hughes”) by General Electric Co. Baker Hughes and GE were two of the leading providers of refinery process chemicals in the United States, covering over 50 percent of the market. Refineries process crude oil and natural gas extracted from wells into finished products like gasoline. GE and Baker Hughes were two of a few firms with the technical capabilities and expertise to provide refinery process chemicals and services in the United States and competed vigorously in price, service quality, and product development. On June 12, 2017, the Division filed a proposed final judgment simultaneously with the complaint. Under the terms of the decree, GE agreed to divest its Water & Process Technologies business unit, which included its refinery process chemicals and services unit, to SUEZ, S.A. by approximately the end of September 2017, or, if the United States exercised its discretion to grant an extension, by approximately the end of 2017. After consummating the GE/Baker Hughes merger, GE informed the United States that it would be unable to complete the divestiture by the agreed-upon deadline. GE explained that in 19 foreign jurisdictions, there were legal and other barriers to SUEZ operating the assets, and that GE would not be able to complete the divestiture until 2018. On October 16, 2017, the court entered

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<sup>28</sup> *United States v. Danone S.A. and The WhiteWave Foods Co.*, No. 1:17-cv-00592 (D.D.C. filed Apr. 3, 2017).

<sup>29</sup> *United States v. General Electric Co. and Baker Hughes Inc.*, No. 1:17-cv-1146 (D.D.C. filed June 12, 2017).

a modified final judgment that added two provisions to the final judgment designed to encourage GE to complete the divestiture promptly. The modified final judgment required GE to begin making daily incentive payments as of January 1, 2018, until the divestiture is completed and also included GE's agreement to reimburse the United States for attorney's fees and costs incurred in addressing the delay. The Division cooperated closely with its counterparts in several jurisdictions, including the European Commission, Canada and Australia throughout the course of its investigation.

In [\*United States, et al. v. The Dow Chemical Company and E.I. Du Pont De Nemours and Company\*](#),<sup>30</sup> the Division along with the attorney generals of Iowa, Mississippi and Montana, challenged the proposed merger of The Dow Chemical Company and E.I. DuPont de Nemours and Company. Dow and DuPont were two of the leading companies in both crop-protection chemicals and traited seeds in the United States. Each company also manufactured a number of petrochemicals, including high-pressure ethylene derivatives that are crucial inputs to a number of important products and industries. The complaint alleged that the proposed merger would likely reduce or eliminate competition in the markets for broadleaf herbicides for winter wheat and chewing pest insecticides, and tend to create a monopoly in the markets for acid copolymers and ionomers in the United States, resulting in higher prices and reduced services and innovation in these markets. On June 15, 2017, a proposed final judgment was filed simultaneously with the complaint. The final judgment requires DuPont to divest its Finesse-formulated herbicide products and its Rynaxypyr-formulated insecticide products, along with the assets used to develop, manufacture, and sell those products. Dow Chemical also was required to divest its Freeport, Texas, acid copolymers and ionomers manufacturing unit and associated assets. The court entered the final judgment on October 19, 2017. The Division cooperated closely with the European Commission throughout the course of its investigation.

In [\*United States v. Parker-Hannifin Corporation and CLARCOR Inc.\*](#),<sup>31</sup> the Division sued to unwind Parker-Hannifin Corporation's acquisition of its only U.S. competitor in aviation fuel filtration systems and filter elements, CLARCOR Inc. Aviation fuel must be filtered properly to remove particulate contaminants and water droplets before such fuel is delivered into commercial or military aircraft. U.S. airlines mandate the use of aviation filtration products that meet Energy Institute (EI) specifications.<sup>32</sup> Prior to the acquisition, Parker-Hannifin and CLARCOR were the only suppliers of EI-qualified aviation fuel filtration systems and filter elements to U.S. customers. The Division's complaint, filed on September 26, 2017, alleged that Parker's acquisition eliminated all head-to-head competition between the only two domestic manufacturers of these products, effectively creating a monopoly in the United States. On December 18, 2017, the Division filed a proposed final judgment requiring Parker-Hannifin to divest its Facet filtration business, including the aviation fuel filtration assets that it acquired from CLARCOR. The Division will move to enter the final judgment upon completion of the Tunney Act period.

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<sup>30</sup> *United States, et al. v. The Dow Chemical Co. and E.I. Du Pont De Nemours and Co.*, No. 1-17-cv-01176 (D.D.C. filed June 15, 2017).

<sup>31</sup> *United States v. Parker-Hannifin Corp. and CLARCOR Inc.*, No. 1:17-cv-01354-UNA (D. Del. Sept. 26, 2017).

<sup>32</sup> EI is an independent, international professional organization for the energy sector that publishes performance and testing standards for aviation fuel filtration products.



In *United States v. Showa Denko K.K., SGL Carbon SE and SGL GE Carbon Holding LLC (USA)*,<sup>33</sup> the Division challenged Showa Denko K.K.'s (SDK) proposed acquisition of SGL Carbon SE's global graphite electrodes business. SDK and SGL Carbon were two of the three leading suppliers of large ultra-high power (UHP) graphite electrodes used in electric arc furnaces (EAFs) at steel mills in the United States. The complaint alleged that the acquisition would eliminate head-to-head competition between SDK and SGL Carbon to supply large UHP graphite electrodes to U.S. EAF steel mills, resulting in higher prices and decreased quality of delivery and service. A proposed final judgment filed simultaneously with the complaint on September 27, 2017, required the parties to divest SGL Carbon's graphite electrode business to Tokai Carbon Co., Ltd. SDK completed the divestiture on November 7, 2017, and the court entered the final judgment on January 9, 2018.

## 2. *The Federal Trade Commission*

*The Sanford matter was inadvertently omitted from the original release of this report.*

In *Sanford Health/Mid Dakota Clinic*,<sup>34</sup> the Commission filed an administrative complaint challenging Sanford Health's proposed acquisition of a rival medical practice, Mid Dakota Clinic. The Commission alleged that the acquisition would violate the antitrust laws by significantly reducing competition for adult primary care physician services, pediatric services, obstetrics and gynecology services, and general surgery physician services in the greater Bismarck and Mandan, North Dakota metropolitan area. Sanford Health is a healthcare system that operates more than 40 hospitals and 250 clinics in nine U.S. states and several countries. In the Bismarck-Mandan area, it operates a 217-bed general acute care hospital and a network of primary care and specialty clinics, employing 160 physicians and 100 non-physician healthcare providers. Mid Dakota provides primary care services, and specialty medical and surgical services primarily in Bismarck, North Dakota. Mid Dakota employs 61 physicians and 19 advanced practice practitioners and operates six clinics in Bismarck, as well as a Center for Women and an ambulatory surgery center. The complaint alleged that the transaction would create a group of physicians with at least 75 to 85 percent share in the provision of adult primary care physician services, pediatric services, and obstetrics and gynecology services in the greater Bismarck and Mandan metropolitan area. The combined medical practice would be the only physician group offering general surgery physician services in the affected area. The Commission authorized staff to seek a temporary restraining order and preliminary injunction in federal court to maintain the status quo pending the outcome of the administrative proceeding. On December 13, 2017, the U.S. District Court for the District of North Dakota granted a preliminary injunction. Currently, the case is on appeal to the 8<sup>th</sup> Circuit.

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<sup>33</sup> *United States v. Showa Denko K.K., SGL Carbon SE and SGL GE Carbon Holding LLC (USA)*, No. 1:17-cv-01992 (D.D.C. filed Sept. 27, 2017).

<sup>34</sup> *In the Matter of Sanford Health, Sanford Bismarck and Mid Dakota Clinic, P.C.*, FTC Dkt. 9376 (complaint filed June 23, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/171-0019/sanford-healthsanford-bismarckmid-dakota-clinic>.

In *DraftKings/FanDuel*,<sup>35</sup> the Commission filed an administrative complaint challenging the merger of DraftKings and FanDuel, two providers of paid daily fantasy sports contests. The Commission's complaint alleged that the transaction would be anticompetitive because the merger would have combined the two largest daily fantasy sports websites, which controlled more than 90 percent of the U.S. market for paid daily fantasy sports contests. The Commission alleged that consumers of paid daily fantasy sports were unlikely to view season-long fantasy sports contests as a meaningful substitute for paid daily fantasy sports, due to the length of season-long contests, the limitations on number of entrants, and several other issues. Shortly after the Commission filed its complaint, the parties abandoned the merger on July 13, 2017, and the Commission dismissed its administrative complaint.

The Commission also accepted for public comment and finalized consent orders in the following 15 merger matters:

*The Valeant matter was inadvertently omitted from the original release of this report.*

In *Valeant Pharmaceuticals/Paragon Holdings I*,<sup>36</sup> the Commission challenged Valeant Pharmaceutical's May 2015 acquisition of Paragon Holdings I, Inc. The Commission's complaint alleged that the acquisition reduced competition for polymer discs, or “buttons” used to make rigid gas permeable, or “GP,” contact lenses. Both Valeant and Paragon produced FDA-approved buttons for three types of GP lenses: (1) orthokeratology lenses, worn to reshape the cornea; (2) large-diameter scleral lenses, which cover the white of the eye and are used after eye surgery, for corneal transplants, and to treat eye disease; and (3) general vision correction lenses. The acquisition combined the two largest manufacturers of GP buttons, accounting for more than 70 percent of U.S. sales across all three button types. According to the complaint, post-acquisition, Valeant would exercise market power unilaterally in each button market by increasing prices, reducing volume discounts, decreasing innovation, and reducing product distribution options. To remedy these concerns, the Commission issued a consent order requiring Valeant to divest Paragon in its entirety to a newly created entity, Paragon Companies LLC. Following a public comment period, the Commission approved the final order on February 8, 2017.

In *Abbott Laboratories/St. Jude Medical*,<sup>37</sup> the Commission challenged Abbott Laboratories' proposed \$25 billion acquisition of St. Jude Medical, Inc. The Commission's complaint alleged that the proposed merger would have harmed competition in the U.S. markets for vascular closure devices, which are used to close holes in arteries from the insertion of catheters, and for “steerable” sheaths, which are used to guide catheters for treating heart arrhythmias. To remedy these concerns and maintain competition, the Commission issued a consent order requiring the parties to divest all rights and assets related to St. Jude’s vascular

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<sup>35</sup> *In the Matter of DraftKings, Inc., and FanDuel Ltd.*, FTC Dkt. C-9375 (complaint filed on June 19, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0174/draft-kings-inc-fanduel-limited>.

<sup>36</sup> *In the Matter of Valeant Pharmaceuticals International, Inc.*, FTC Dkt. 4602 (final order issued on Feb. 8, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/151-0236-161-0028/valeant-pharmaceuticals-international-inc>.

<sup>37</sup> *In the Matter of Abbott Laboratories, and St. Jude Medical, Inc.*, FTC Dkt. C-4600 (final order issued on Feb. 23, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0126/abbott-laboratories-st-jude-medical-matter>.

closure device business and Abbott's steerable sheath business to Terumo Corporation and to help Terumo establish manufacturing capabilities for these products. The consent order also required Abbott to notify the Commission if it intended to acquire lesion-assessing ablation catheter assets from Advanced Cardiac Therapeutics (ACT). Abbott and ACT formed a partnership to develop these types of catheters. Currently, only St. Jude and one other company provide lesion-assessing ablation catheters in the United States. After the acquisition of St. Jude, if Abbott acquired lesion-assessing ablation catheter assets from ACT, it could eliminate additional competition. Following a public comment period, the Commission approved the final order on February 23, 2017.

In *CentraCare Health/SCMG*,<sup>38</sup> the Commission challenged CentraCare Health's proposed acquisition of St. Cloud Medical Group P.A (SCMG). The Commission's complaint alleged that the proposed merger would have combined the two largest providers of adult primary care, pediatric, and OB/GYN services in the St. Cloud, Minnesota area. By eliminating SCMG as a potential alternative in the St. Cloud area, the acquisition would have increased CentraCare Health's bargaining power vis-à-vis commercial health plans, allowing it to raise reimbursement rates and secure more favorable payment terms. Prior to the proposed acquisition, however, SCMG was failing financially, had lost a number of physicians from its practice and was likely to lose more physicians if the merger did not close. Over the course of a multi-year search, SCMG was unable to identify an alternative purchaser to CentraCare Health. However, at least one local provider had expressed interest in expanding its practice by hiring some of SCMG's physicians. To remedy these concerns regarding the proposed merger and maintain competition, the Commission issued a consent order requiring CentraCare Health to lift non-compete provisions and permit some adult primary care, pediatric, and OB/GYN physicians to leave the health system and work for other local providers or establish a new practice in the area. Following a public comment period, the Commission approved the final order on January 9, 2017.

In *C.H. Boehringer Sohn/Sanofi*,<sup>39</sup> the Commission challenged C.H. Boehringer Sohn's proposed \$13.5 billion animal health products asset swap with Sanofi. The Commission's complaint alleged that the proposed asset swap would likely have harmed competition in U.S. markets for various vaccines for companion animals and certain parasite control products for cattle and sheep. Specifically, the merger as proposed would likely substantially reduce competition in five markets: (1) canine vaccines; (2) feline vaccines; (3) rabies vaccines; (4) products to prevent and control outbreaks of parasites in cattle; and (5) products to prevent and control outbreaks of parasites in sheep. To remedy these concerns and maintain competition, the Commission issued a consent order requiring Boehringer to divest its companion animal vaccines to Eli Lilly and Co., and divest its Elanco Animal Health division, and the parasite control products to Bayer AG. Following a public comment period, the Commission approved the final order on February 24, 2017.

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<sup>38</sup> *In the Matter of CentraCare Health System*, FTC Dkt. C-4594 (final order issued on Jan. 9, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0096/centracare-health-system>.

<sup>39</sup> *In the Matter of C.H. Boehringer Sohn AG & Co. KG*, FTC Dkt. 4601 (final order issued on Feb. 24, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0077/ch-boehringer-sohn-matter>.

In *Enbridge/Spectra Energy*,<sup>40</sup> the Commission challenged Enbridge Inc.'s proposed \$28 billion acquisition of Spectra Energy Corporation. The Commission's complaint alleged that Enbridge's proposed merger would have harmed competition in the market for the pipeline transportation of natural gas in three production areas off the coast of Louisiana. According to the Commission's complaint, the merger likely would have reduced natural gas pipeline competition in three offshore natural gas producing areas in the Gulf of Mexico—Green Canyon, Walker Ridge and Keathley Canyon—leading to higher prices for natural gas pipeline transportation from those areas. In portions of the affected areas, the merging parties' pipelines (Enbridge's Walker Ridge Pipeline, and Spectra's 40 percent interest in the Discovery Pipeline) were the two pipelines located closest to certain wells and, as a result, were likely the lowest cost pipeline transportation options for these wells. Furthermore, the merger would have given Enbridge an ownership interest in both pipelines, which would have given it access to competitively sensitive information of the Discovery Pipeline, as well as significant voting rights over it, providing Enbridge with the incentive and opportunity to unilaterally increase pipeline transportation costs for natural gas producers located in the affected areas. The acquisition would have also increased the likelihood of tacit or explicit anticompetitive coordination between the Walker Ridge Pipeline and the Discovery Pipeline. To remedy these concerns, the Commission issued a consent order requiring Enbridge to establish firewalls to limit its access to non-public information about the Discovery Pipeline. Board members of the Spectra-affiliated companies holding a 40 percent share in the Discovery Pipeline had to recuse themselves from any vote involving the pipeline, with two limited exceptions. Enbridge was also required to notify the Commission before acquiring an ownership interest in any natural gas pipeline operating in the Green Canyon, Walker Ridge, and Keathley Canyon areas, or increasing its 40 percent ownership interest of Spectra affiliate DCP Midstream Partners, LP, in the Discovery Pipeline. The consent order, which is to remain in effect for 20 years, allowed the Commission to appoint a monitor to ensure Enbridge's compliance. Following a public comment period, the Commission approved the final order on March 24, 2017.

In *China National Chemical Corp./Syngenta AG*,<sup>41</sup> the Commission challenged China National Chemical Corporation's (ChemChina) proposed \$43 billion acquisition of Syngenta. The Commission's complaint alleged that the proposed merger would have reduced competition for three pesticides: (1) the herbicide paraquat, which is used to clear fields prior to the growing season; (2) the insecticide abamectin, which protects primarily citrus and tree nut crops by killing mites, psyllid, and leafminers; and (3) the fungicide chlorothalonil, which is used mainly to protect peanuts and potatoes. According to the complaint, Syngenta owned the branded version of these three pesticides, giving it significant market shares in the United States. ChemChina's subsidiary, ADAMA, was either the first- or second-largest generic supplier in the United States for these three pesticides. To remedy these concerns, the Commission issued a consent order requiring ChemChina to sell all rights and assets of ADAMA's U.S.'s paraquat, abamectin and chlorothalonil crop protection businesses to AMVAC, an agrochemical company. Following a public comment period, the Commission approved the final order on June 16, 2017.

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<sup>40</sup> *In the Matter of Enbridge Inc., a corporation, and Spectra Energy Corp.*, FTC Dkt. C-4604 (final order issued on Mar. 24, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0215/enbridge-spectra-energy>.

<sup>41</sup> *In the Matter of China National Chemical Corporation, ADAMA Agricultural Solutions Ltd., and Makhteshim Agan of North America, Inc.*, FTC Dkt. C-4610 (final order issued on June 16, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/1610093/china-national-chemical-corporation-et-al>.

In *DaVita Inc./RV Management/Renal Ventures*,<sup>42</sup> the Commission challenged DaVita Inc.'s proposed \$358 million acquisition of Renal Ventures Management LLC. The Commission's complaint alleged that the proposed merger would have reduced competition for outpatient dialysis services. At the time of the merger, DaVita was the second-largest provider of outpatient dialysis services in the United States and Renal Ventures was the seventh largest. According to the complaint, competition between dialysis clinics happened at the local level, and the acquisition would have led to significant anticompetitive effects in the New Jersey markets of Brick, Clifton, Somerville, Succasunna, and Trenton, and in the Dallas-area markets of Denton and Frisco. To remedy these concerns and maintain competition, the Commission issued a consent order requiring DaVita to divest its ownership interest in seven clinics, five in New Jersey and two in Texas to a Commission-approved buyer. Following a public comment period, the Commission approved the final order on June 14, 2017.

In *Emerson Electric/Pentair*,<sup>43</sup> the Commission challenged Emerson Electric Co.'s proposed \$3.15 billion acquisition of Pentair plc. The Commission's complaint alleged that the proposed merger would have harmed competition for switchboxes, the devices used to monitor and control valves that regulate the flow of liquids and gases in industrial facilities. According to the complaint, the acquisition would have combined the two leading manufacturers of switchboxes in the United States – which together controlled about 60 percent of the U.S. market. Emerson's TopWorx and Pentair's Westlock switchboxes were the most widely-used brands nationwide and, for many customers, the only acceptable brands of switchboxes. To remedy these concerns, the Commission issued a consent order requiring Emerson to divest Westlock Controls Corporation, the Pentair subsidiary, to Crane Co. within 10 days after Emerson acquired Pentair. Following a public comment period, the Commission approved the final order on June 30, 2017.

In *Sherwin-Williams/Valspar*,<sup>44</sup> the Commission challenged Sherwin-Williams Co.'s proposed \$11.3 billion acquisition of Valspar Corporation. The Commission's complaint alleged that the proposed acquisition would have reduced competition in the North American market for industrial wood coatings used to make furniture, kitchen cabinets, and building products, where Sherwin-Williams and Valspar were two of the top three industrial wood coatings manufacturers. Industrial wood coatings, which include stains, topcoats, and sealants, provide better resistance to abrasion and water than consumer wood coatings. To remedy these concerns, the Commission issued a consent order requiring Sherwin-Williams to divest two Valspar industrial wood coatings plants, one in High Point, North Carolina, and the other in Cornwall, Ontario, to Axalta Coating Systems Ltd., a leading supplier of coatings to large automotive and industrial original equipment manufacturers. Following a public comment period, the Commission approved the final order on July 28, 2017.

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<sup>42</sup> *In the Matter of DaVita Inc., RV Management Corp., Renal Ventures Partners, LLC, Renal Ventures Limited, LLC, and Renal Ventures Management, LLC*, FTC Dkt. C-4616 (final order issued on June 14, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/151-0204/davita-rv-management-renal-ventures>.

<sup>43</sup> *In the Matter of Emerson Electric Company, and Pentair plc*, FTC Dkt. C-4615 (final order issued on June 30, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0221/emerson-electric-pentair>.

<sup>44</sup> *In the Matter of The Sherwin-Williams Company and The Valspar Corporation*, FTC Dkt. C-4621 (final order issued on July 28, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0116/sherwin-williamsvalspar-matter>.



In *Alimentation Couche-Tard/CST Brands*,<sup>45</sup> the Commission challenged Alimentation Couche-Tard Inc.'s proposed \$4.4 billion acquisition of CST Brands, Inc. The Commission's complaint alleged that the proposed merger would have reduced competition for the retail sales of gasoline and diesel in 71 local markets. At the time of the merger, Alimentation Couche-Tard operated convenience stores and retail fuel stations worldwide, including nearly 4,700 in United States. Its convenience stores primarily operate under the Circle K and Kangaroo Express banners, and the retail fuel sells under numerous brands. CST operated 1,146 convenience stores and retail fuel stations in the United States. Its convenience stores primarily operated under the Corner Store banner, while its fuel stations generally use the Valero brand. According to the complaint, the geographic markets for the retail sale of gasoline and diesel were local and generally ranged from a few blocks to a few miles. The complaint alleged that without a remedy the merger would have increased market concentration for the retail sales of gasoline or diesel in each of the 71 local markets, resulting in a monopoly in ten markets and reduced the number of competitors in the rest from three to two competitors. To remedy these concerns, the Commission issued a consent order requiring Alimentation Couche-Tard to divest 70 CST fuel stations to Empire Petroleum Partners. The divested fuel stations were located in Arizona, Colorado, Florida, Georgia, Louisiana, New Mexico, Ohio, and Texas. Following a public comment period, the Commission approved the final order on August 14, 2017.

In *Broadcom/Brocade Communications Systems*,<sup>46</sup> the Commission challenged Broadcom Limited's proposed \$5.9 billion acquisition of Brocade Communications Systems, Inc. The Commission's complaint alleged that the proposed merger would have been anticompetitive because of Broadcom's access to the confidential business information of Brocade's major competitor, Cisco Systems. Such information could be used to restrain competition or slow innovation in the worldwide market for fibre channel switches. According to the complaint, Brocade and Cisco were the only two competitors in the worldwide market for fibre channel switches, and Broadcom supplied both companies with application-specific integrated circuits to make fibre channel switches. The complaint further alleged that as the new owner of Brocade, Broadcom could have used Cisco's confidential business information to unilaterally exercise market power or to coordinate action among Brocade and Cisco, increasing the likelihood that customers would pay higher prices for fibre channel switches. To remedy these concerns, the Commission issued a consent order preventing Broadcom from using Cisco's competitively sensitive confidential information for any purpose other than designing, manufacturing, and selling fibre channel application-specific integrated circuits for Cisco. To assure compliance, the Commission appointed a monitor for five years. The Commission cooperated with its counterparts in a number of jurisdictions that also reviewed the transaction, including the European Commission, China, and Japan. Following a public comment period, the Commission approved the final order on August 17, 2017.

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<sup>45</sup> *In the Matter of Alimentation Couch-Tard Inc. and CST Brands, Inc.*, FTC Dkt. C-4618 (final order issued on August 14, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/file-no-161-0207-docket-no-c-4618/alimentation-couche-tard-cst-brands>.

<sup>46</sup> *In the Matter of Broadcom Ltd. and Brocade Communications Systems, Inc.*, FTC Dkt. C-4622 (final order issued on August 17, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/171-0027/broadcom-limitedbrocade-communications-systems>.

In *Abbott Laboratories/Alere*,<sup>47</sup> the Commission challenged Abbott Laboratories' proposed \$8.3 billion acquisition of Alere, Inc., over concerns that the proposed merger would have harmed competition in the United States for the sale of two types of medical devices: point-of-care blood gas testing systems and point-of-care cardiac marker testing systems. Point-of-care blood gas testing systems measure blood pH, oxygen, carbon dioxide, and electrolyte levels in the blood. Point-of-care cardiac marker testing systems measure specific proteins in the blood to access whether a patient is having a heart attack. To remedy these concerns, the Commission issued a consent order requiring Alere to divest its blood gas testing systems to Siemens Aktiengesellschaft and its cardiac marker testing systems to Quidel Corporation. Following a public comment period, the Commission approved the final order on November 14, 2017.

In *Integra Lifesciences/Johnson & Johnson*,<sup>48</sup> the Commission challenged Integra's proposed \$1 billion acquisition of Johnson & Johnson's Codman Neuro division. The Commission's complaint alleged that the proposed merger would have harmed competition in five medical device product market lines used in operative neurosurgery, hydrocephalus management, and neuro-critical care. To remedy these concerns, the Commission issued a consent order requiring Integra to sell these medical device product lines to Natus Medical, Inc. In addition, the consent order required Integra to divest its manufacturing facility in San Diego and supply Natus with cranial access kits until Natus secured its own supply. Following a public comment period, the Commission approved the final order on December 22, 2017.

In *Baxter International/Claris Lifesciences and Arjun Handa*,<sup>49</sup> the Commission challenged Baxter's proposed \$625 million acquisition of Claris' injectable drugs business. The Commission's complaint alleged that the proposed merger would have reduced competition in the market for the antifungal agent fluconazole in saline intravenous bags, as well as future competition in the market for milrinone in dextrose intravenous bags, which dilates blood vessels, lowers blood pressure and allows blood to flow more easily through the cardiovascular system. To remedy these concerns, the Commission issued a consent order requiring the parties to divest all of Claris's rights to these injectable drugs to Renaissance Lakewood Pharmaceuticals. Following a public comment period, the Commission approved the final order on August 30, 2017.

In *Mars, Inc./VCA*,<sup>50</sup> the Commission challenged Mars' proposed \$9.1 billion acquisition of pet care company VCA, alleging that the proposed merger would have harmed competition for certain specialty and emergency veterinary services in ten localities in the United States by eliminating head-to-head competition between Mars and VCA specialists. The Commission issued a consent order requiring the parties to divest clinics in Kansas City, New York, Phoenix,

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<sup>47</sup> *In the Matter of Abbott Laboratories and Alere, Inc.*, FTC Dkt. C-4625 (final order issued on Nov. 14, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/161-0084/abbott-laboratories-alere-inc>.

<sup>48</sup> *In the Matter of Integra Lifesciences Corp. and Johnson & Johnson*, FTC Dkt. C-4624 (final order issued on Dec. 22, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/171-0084/integra-lifesciences-johnson-johnson>.

<sup>49</sup> *In the Matter of Baxter International, Inc., Claris Lifesciences Limited, and Arjun Handa*, FTC Dkt. C-4620 (final order issued on August 30, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/171-0052/baxter-international-inc-claris-lifesciences-limited-arjun>.

<sup>50</sup> *In the Matter of Mars, Inc. and VCA Inc.*, FTC Dkt. C-4633 (final order issued on December 19, 2017), available at <https://www.ftc.gov/enforcement/cases-proceedings/171-0057/mars-incorporated-vca-inc>.



Chicago, Corpus Christi, San Antonio, and two clinics in Seattle. Under the terms of the consent order, Mars was required for ten years to notify the Commission if it planned to acquire any additional specialty or emergency veterinary clinics in certain geographic areas. The consent order also required both Mars and VCA to secure all third-party consents, assignments, and releases permitting the buyers to conduct business at the divested clinics. Following a public comment period, the Commission approved the final order on December 19, 2017.

### **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. The premerger notification program ensures that the antitrust agencies review virtually every relatively large merger and acquisition that affects U.S. consumers before consummation. Prior to the HSR Act, 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 if effective post-acquisition relief was not practicable, the harm continued. Because the premerger notification program requires reporting before consummation, the agencies' ability to obtain timely, effective relief to prevent anticompetitive effects has vastly improved. Thus, 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.

The Commission and the Antitrust Division also regularly examine the premerger notification program's effectiveness and continually seek ways to increase accessibility, promote transparency, and improve the review process to reduce the burden on the filing parties without compromising the agencies' ability to investigate and challenge proposed transactions that may substantially lessen competition.

## **LIST OF APPENDICES**

Appendix A: Summary of Transactions, Fiscal Years 2008 - 2017

Appendix B: Number of Transactions Reported and Filings Received by Month for Fiscal Years 2008 - 2017

## **LIST OF EXHIBITS**

Exhibit A: Statistical Tables for Fiscal Year 2017 – Data Profiling Hart-Scott-Rodino Notification Filings and Enforcement Interests

**APPENDIX A**

**SUMMARY OF TRANSACTIONS**

**FISCAL YEARS 2008 – 2017**

**APPENDIX A**  
**SUMMARY OF TRANSACTIONS BY FISCAL YEAR**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Transactions Reported	1,726	716	1,166	1,450	1,429	1,326	1,663	1,801	1,832	2,052
Filings Received <sup>1</sup>	3,455	1,411	2,318	2,882	2,829	2,628	3,307	3,585	3,674	4,083
Adjusted Transactions In Which A Second Request Could Have Been Issued <sup>2</sup>	1,656	684	1,128	1,414	1,400	1,286	1,618	1,754	1,772	1,992
Investigations in Which Second Requests Were Issued	41	31	42	55	49	47	51	47	54	51
FTC <sup>3</sup>	21	15	20	24	20	25	30	20	25	33
Percent <sup>4</sup>	1.3%	2.2%	1.8%	1.7%	1.4%	1.9%	1.9%	1.1%	1.4%	1.7%
DOJ <sup>3</sup>	20	16	22	31	29	22	21	27	29	18
Percent <sup>4</sup>	1.2%	2.3%	2.0%	2.2%	2.1%	1.7%	1.3%	1.5%	1.6%	0.9%
Transactions Involving a Request For Early Termination <sup>5</sup>	1,385	575	953	1,157	1,094	990	1,274	1,366	1,374	1,552
Granted <sup>5</sup>	1,021	396	704	888	902	797	1,020	1,086	1,102	1,220
Not Granted <sup>5</sup>	364	179	249	269	192	193	254	280	272	332

Note: 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.

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> These statistics are based on the date the Second Request was issued and not the date the investigation was opened.

<sup>4</sup> 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.

<sup>5</sup> 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 2008 - 2017**

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

	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
October	158	91	66	128	122	127	124	144	168	163
November	191	85	135	217	169	260	159	157	243	215
December	172	37	84	91	95	92	108	122	157	148
January	158	42	62	97	104	78	125	118	117	153
February	119	32	61	81	90	82	114	140	127	153
March	131	42	116	97	111	87	100	128	125	146
April	128	60	92	96	96	77	140	131	129	150
May	150	58	108	142	117	117	157	152	168	209
June	146	51	108	117	142	90	150	155	150	191
July	128	62	94	120	130	91	162	170	140	146
August	126	77	120	164	133	122	151	216	166	219
September	119	79	120	100	120	103	173	168	142	159
<b>TOTAL</b>	<b>1,726</b>	<b>716</b>	<b>1,166</b>	<b>1,450</b>	<b>1,429</b>	<b>1,326</b>	<b>1,663</b>	<b>1,801</b>	<b>1,832</b>	<b>2,052</b>

**APPENDIX B**  
**TABLE 2. NUMBER OF FILINGS RECEIVED<sup>1</sup> BY MONTH FOR FISCAL YEARS**

	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
October	319	185	146	252	242	255	247	289	345	329
November	380	165	242	422	332	511	325	322	483	416
December	343	79	177	193	188	180	211	239	314	297
January	316	77	126	188	203	151	244	244	236	307
February	246	63	116	157	185	169	236	257	249	298
March	242	81	232	195	215	172	195	252	265	302
April	272	119	182	190	193	151	271	265	249	290
May	294	114	216	284	231	228	315	305	331	402
June	293	99	213	231	275	181	304	322	304	388
July	259	121	187	240	269	186	323	327	284	291
August	251	149	238	329	259	240	292	425	339	446
September	240	159	243	201	237	204	344	338	275	317
<b>TOTAL</b>	<b>3,455</b>	<b>1,411</b>	<b>2,318</b>	<b>2,882</b>	<b>2,829</b>	<b>2,628</b>	<b>3,307</b>	<b>3,585</b>	<b>3,674</b>	<b>4,083</b>

<sup>1</sup> 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 2017**

**DATA PROFILING HART-SCOTT-RODINO PREMERGER  
NOTIFICATION FILINGS AND ENFORCEMENT INTERESTS**

**TABLE I**  
**FISCAL YEAR 2017<sup>1</sup>**  
**ACQUISITIONS BY SIZE OF TRANSACTION (BY SIZE RANGE)<sup>2</sup>**

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER <sup>4</sup>	PERCENT	NUMBER		PERCENT OF TRANSACTION RANGE GROUP			NUMBER		PERCENT OF TRANSACTION RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
<b>Below 50M<sup>5</sup></b>	1	0.1%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
<b>50M - 100M</b>	145	7.3%	7	4	4.8%	2.8%	7.6%	0	0	0.0%	0.0%	0.0%
<b>100M - 150M</b>	346	17.4%	26	6	7.5%	1.7%	9.2%	3	1	0.9%	0.3%	1.2%
<b>150M - 200M</b>	271	13.6%	17	3	6.3%	1.1%	7.4%	2	0	0.7%	0.0%	0.7%
<b>200M - 300M</b>	250	12.6%	33	14	13.2%	5.6%	18.8%	4	1	1.6%	0.4%	2.0%
<b>300M - 500M</b>	255	12.8%	23	5	9.0%	2.0%	11.0%	1	2	0.4%	0.8%	1.2%
<b>500M - 1000M</b>	469	23.5%	47	17	10.0%	3.6%	13.6%	6	5	1.3%	1.1%	2.3%
<b>Over 1000M</b>	255	12.8%	52	23	20.4%	9.0%	29.4%	17	9	6.7%	3.5%	10.2%
<b>ALL TRANSACTIONS</b>	1,992	100.0%	205	72	10.3%	3.6%	13.9%	33	18	1.7%	0.9%	2.6%

**TABLE II**  
**FISCAL YEAR 2017<sup>1</sup>**  
**ACQUISITIONS BY SIZE OF TRANSACTION<sup>2</sup>(CUMULATIVE)**

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER <sup>4</sup>	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
<b>LESS THAN 50M<sup>5</sup></b>	1	0.1%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
<b>LESS THAN 100M</b>	146	7.3%	7	4	2.5%	1.4%	4.0%	0	0	0.0%	0.0%	0.0%
<b>LESS THAN 150M</b>	492	24.7%	33	10	11.9%	3.6%	15.5%	3	1	5.9%	2.0%	7.8%
<b>LESS THAN 200M</b>	763	38.3%	50	13	18.1%	4.7%	22.7%	5	1	9.8%	2.0%	11.8%
<b>LESS THAN 300M</b>	1,013	50.9%	83	27	30.0%	9.7%	39.7%	9	2	17.6%	3.9%	21.6%
<b>LESS THAN 500M</b>	1,268	63.7%	106	32	38.3%	11.6%	49.8%	10	4	19.6%	7.8%	27.5%
<b>LESS THAN 1000M</b>	1,729	86.8%	149	49	53.8%	17.7%	71.5%	15	9	29.4%	17.6%	47.1%
<b>ALL TRANSACTIONS</b>	1,992		205	72	74.0%	26.0%	100.0%	33	18	64.7%	35.3%	100.0%

**TABLE III  
FISCAL YEAR 2017<sup>1</sup>  
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	
<b>Below 50M</b> <sup>5</sup>	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
<b>50M - 100M</b>	7	4	11	4.8%	2.8%	7.6%	3.4%	5.6%	2.5%	1.4%	4.0%	
<b>100M - 150M</b>	26	6	32	7.5%	1.7%	9.2%	12.7%	8.3%	9.4%	2.2%	11.6%	
<b>150M - 200M</b>	17	3	20	6.3%	1.1%	7.4%	8.3%	4.2%	6.1%	1.1%	7.2%	
<b>200M - 300M</b>	33	14	47	13.2%	5.6%	18.8%	16.1%	19.4%	11.9%	5.1%	17.0%	
<b>300M - 500M</b>	23	5	28	9.0%	2.0%	11.0%	11.2%	6.9%	8.3%	1.8%	10.1%	
<b>500M - 1000M</b>	47	17	64	10.0%	3.6%	13.6%	22.9%	23.6%	17.0%	6.1%	23.1%	
<b>Over 1000M</b>	52	23	75	20.4%	9.0%	29.4%	25.4%	31.9%	18.8%	8.3%	27.1%	
<b>ALL TRANSACTIONS</b>	205	72	277	10.3%	3.6%	13.9%	100.0%	100.0%	74.0%	26.0%	100.0%	

**TABLE IV  
FISCAL YEAR 2017<sup>1</sup>  
TRANSACTIONS IN WHICH SECOND REQUESTS WERE ISSUED**

TRANSACTION RANGE (\$MILLIONS)	INVESTIGATIONS IN WHICH A SECOND REQUEST WAS ISSUED <sup>3</sup>			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
<b>Below 50M<sup>5</sup></b>	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>50M - 100M</b>	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>100M - 150M</b>	3	1	4	0.2%	0.1%	0.2%	0.9%	0.3%	1.2%	5.9%	2.0%	7.8%
<b>150M - 200M</b>	2	0	2	0.1%	0.0%	0.1%	0.7%	0.0%	0.7%	3.9%	0.0%	3.9%
<b>200M - 300M</b>	4	1	5	0.2%	0.1%	0.3%	1.6%	0.4%	2.0%	7.8%	2.0%	9.8%
<b>300M - 500M</b>	1	2	3	0.1%	0.1%	0.2%	0.4%	0.8%	1.2%	2.0%	3.9%	5.9%
<b>500M - 1000M</b>	6	5	11	0.3%	0.3%	0.6%	1.3%	1.1%	2.3%	11.8%	9.8%	21.6%
<b>Over 1000M</b>	17	9	26	0.9%	0.5%	1.3%	6.7%	3.5%	10.2%	33.3%	17.6%	51.0%
<b><i>ALL TRANSACTIONS</i></b>	33	18	51	1.7%	0.9%	2.6%	1.7%	0.9%	2.6%	64.7%	35.3%	100.0%

**TABLE V**  
**FISCAL YEAR 2017<sup>1</sup>**  
**ACQUISITIONS BY REPORTING THRESHOLD**

THRESHOLD <sup>6</sup>	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER	PERCENT	NUMBER		PERCENT OF THRESHOLD GROUP			NUMBER		PERCENT OF THRESHOLD GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
<b>\$50M (as adjusted)</b>	137	6.9%	2	5	1.5%	3.6%	5.1%	0	0	0.0%	0.0%	0.0%
<b>\$100M (as adjusted)</b>	210	10.5%	6	4	2.9%	1.9%	4.8%	0	0	0.0%	0.0%	0.0%
<b>\$500M (as adjusted)</b>	26	1.3%	1	3	3.8%	11.5%	15.4%	0	0	0.0%	0.0%	0.0%
<b>25%</b>	5	0.3%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
<b>50%</b>	868	43.6%	115	44	13.2%	5.1%	18.3%	24	12	2.8%	1.4%	4.1%
<b>ASSETS ONLY</b>	271	13.6%	56	7	20.7%	2.6%	23.2%	6	2	2.2%	0.7%	3.0%
<b>NCI</b>	475	23.8%	25	9	5.3%	1.9%	7.2%	3	4	0.6%	0.8%	1.5%
<b>ALL TRANSACTIONS</b>	1,992	100.0%	205	72	10.3%	3.6%	13.9%	33	18	1.7%	0.9%	2.6%

**TABLE VI**  
**FISCAL YEAR 2017<sup>1</sup>**  
**TRANSACTION BY ASSETS OF ACQUIRING PERSON**

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER	PERCENT	NUMBER		PERCENT OF ASSET RANGE GROUP			NUMBER		PERCENT OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
<b>Below 50M</b>	250	12.6%	5	0	2.0%	0.0%	2.0%	0	0	0.0%	0.0%	0.0%
<b>50M - 100M</b>	24	1.2%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
<b>100M - 150M</b>	30	1.5%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
<b>150M - 200M</b>	103	5.2%	3	1	2.9%	1.0%	3.9%	0	0	0.0%	0.0%	0.0%
<b>200M - 300M</b>	84	4.2%	5	3	6.0%	3.6%	9.5%	2	1	2.4%	1.2%	3.6%
<b>300M - 500M</b>	123	6.2%	2	5	1.6%	4.1%	5.7%	0	0	0.0%	0.0%	0.0%
<b>500M - 1000M</b>	192	9.6%	14	4	7.3%	2.1%	9.4%	2	1	1.0%	0.5%	1.6%
<b>Over 1000M</b>	1,186	59.5%	176	59	14.8%	5.0%	19.8%	29	16	2.4%	1.3%	3.8%
<b>ALL TRANSACTIONS</b>	1,992	100.0%	205	72	10.3%	3.6%	13.9%	33	18	1.7%	0.9%	2.6%

**TABLE VII  
FISCAL YEAR 2017<sup>1</sup>  
TRANSACTION BY SALES OF ACQUIRING PERSON**

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER	PERCENT	NUMBER		PERCENT OF SALES RANGE GROUP			NUMBER		PERCENT OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
<b>Below 50M</b>	206	10.3%	4	2	1.9%	1.0%	2.9%	0	0	0.0%	0.0%	0.0%
<b>50M - 100M</b>	63	3.2%	2	2	3.2%	3.2%	6.3%	1	0	1.6%	0.0%	1.6%
<b>100M - 150M</b>	56	2.8%	1	4	1.8%	7.1%	8.9%	0	0	0.0%	0.0%	0.0%
<b>150M - 200M</b>	41	2.1%	0	1	0.0%	2.4%	2.4%	0	0	0.0%	0.0%	0.0%
<b>200M - 300M</b>	79	4.0%	2	0	2.5%	0.0%	2.5%	0	0	0.0%	0.0%	0.0%
<b>300M - 500M</b>	156	7.8%	8	2	5.1%	1.3%	6.4%	0	2	0.0%	1.3%	1.3%
<b>500M - 1000M</b>	206	10.3%	18	9	8.7%	4.4%	13.1%	4	2	1.9%	1.0%	2.9%
<b>Over 1000M</b>	1000	50.2%	168	52	16.8%	5.2%	22.0%	28	14	2.8%	1.4%	4.2%
<b>Sales Not Available<sup>7</sup></b>	185	9.3%	2	0	1.1%	0.0%	1.1%	0	0	0.0%	0.0%	0.0%
<b>ALL TRANSACTIONS</b>	1,992	100.0%	205	72	10.3%	3.6%	13.9%	33	18	1.7%	0.9%	2.6%



**TABLE VIII**  
**FISCAL YEAR 2017<sup>1</sup>**  
**TRANSACTION BY ASSETS OF ACQUIRED ENTITIES<sup>8</sup>**

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER	PERCENT	NUMBER		PERCENT OF ASSET RANGE GROUP			NUMBER		PERCENT OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
<b>Below 50M</b>	315	15.8%	17	7	5.4%	2.2%	7.6%	1	1	0.3%	0.3%	0.6%
<b>50M - 100M</b>	219	11.0%	17	4	7.8%	1.8%	9.6%	2	0	0.9%	0.0%	0.9%
<b>100M - 150M</b>	153	7.7%	16	6	10.5%	3.9%	14.4%	1	1	0.7%	0.7%	1.3%
<b>150M - 200M</b>	123	6.2%	14	2	11.4%	1.6%	13.0%	2	1	1.6%	0.8%	2.4%
<b>200M - 300M</b>	147	7.4%	15	3	10.2%	2.0%	12.2%	3	1	2.0%	0.7%	2.7%
<b>300M - 500M</b>	155	7.8%	23	4	14.8%	2.6%	17.4%	0	2	0.0%	1.3%	1.3%
<b>500M - 1000M</b>	188	9.4%	25	4	13.3%	2.1%	15.4%	1	1	0.5%	0.5%	1.1%
<b>Over 1000M</b>	453	22.7%	46	27	10.2%	6.0%	16.1%	17	7	3.8%	1.5%	5.3%
<b>Assets Not Available<sup>8</sup></b>	239	12.0%	32	15	13.4%	6.3%	19.7%	6	4	2.5%	1.7%	4.2%
<b>ALL TRANSACTIONS</b>	1,992	100.0%	205	72	10.3%	3.6%	13.9%	33	18	1.7%	0.9%	2.6%

**TABLE IX**  
**FISCAL YEAR 2017<sup>1</sup>**  
**TRANSACTION BY SALES OF ACQUIRED ENTITIES <sup>9</sup>**

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS <sup>3</sup>				
	NUMBER	PERCENT	NUMBER		PERCENT OF SALES RANGE GROUP			NUMBER		PERCENT OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
<b>Below 50M</b>	319	16.0%	27	8	8.5%	2.5%	11.0%	5	2	1.6%	0.6%	2.2%
<b>50M - 100M</b>	302	15.2%	21	10	7.0%	3.3%	10.3%	1	1	0.3%	0.3%	0.7%
<b>100M - 150M</b>	179	9.0%	18	7	10.1%	3.9%	14.0%	1	2	0.6%	1.1%	1.7%
<b>150M - 200M</b>	147	7.4%	13	3	8.8%	2.0%	10.9%	2	0	1.4%	0.0%	1.4%
<b>200M - 300M</b>	167	8.4%	15	3	9.0%	1.8%	10.8%	2	2	1.2%	1.2%	2.4%
<b>300M - 500M</b>	199	10.0%	29	4	14.6%	2.0%	16.6%	2	1	1.0%	0.5%	1.5%
<b>500M - 1000M</b>	197	9.9%	23	5	11.7%	2.5%	14.2%	4	1	2.0%	0.5%	2.5%
<b>Over 1000M</b>	388	19.5%	50	27	12.9%	7.0%	19.8%	15	7	3.9%	1.8%	5.7%
<b>Sales not Available <sup>10</sup></b>	94	4.7%	9	5	9.6%	5.3%	14.9%	1	2	1.1%	2.1%	3.2%
<b>ALL TRANSACTIONS</b>	1,992	100.0%	205	72	10.3%	3.6%	13.9%	33	18	1.7%	0.9%	2.6%

**TABLE X  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS <sup>3</sup>		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
000 <sup>13</sup>	Not Available	210	10.5%	-0.4%	4	0	4	0	0	0
113	Forestry and and Logging	2	0.1%	-0.2%	0	0	0	0	0	0
114	Fishing, Hunting and Trapping	1	0.1%	0.1%	0	1	1	0	0	0
115	Support Activities for Agriculture and Forestry	1	0.1%	0.0%	0	0	0	0	0	0
211	Oil and Gas Extraction	27	1.4%	0.5%	2	0	2	0	0	0
212	Mining (except Oil and Gas)	5	0.3%	-0.1%	0	2	2	0	2	2
213	Support Activities for Mining	19	1.0%	0.7%	1	2	3	0	1	1
221	Utilities	32	1.6%	-0.8%	1	0	1	0	0	0
232	Trade Contracting	1	0.1%	0.1%	0	0	0	0	0	0
236	Construction of Buildings	3	0.2%	0.0%	1	0	1	0	0	0
237	Heavy and Civil Engineering Construction	11	0.6%	0.0%	0	0	0	0	0	0
238	Specialty Trade Contractors	18	0.9%	0.3%	0	1	1	0	0	0
311	Food and Kindred Products	36	1.8%	-0.2%	9	0	9	2	1	3
312	Beverage and Tobacco Product Manufacturing	18	0.9%	0.1%	2	1	3	0	0	0
313	Textile Mills	1	0.1%	0.0%	0	0	0	0	0	0
314	Textile Products	1	0.1%	0.0%	0	0	0	0	0	0
315	Apparel Manufacturing	5	0.3%	0.2%	2	0	2	0	0	0
316	Leather and Allied Product Manufacturing	1	0.1%	0.1%	0	0	0	0	0	0
321	Wood Product Manufacturing	4	0.2%	-0.1%	0	0	0	0	0	0
322	Paper Manufacturing	18	0.9%	0.3%	0	2	2	0	0	0
323	Printing and Related Support Activities	4	0.2%	0.0%	0	1	1	0	0	0

**TABLE X  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS <sup>3</sup>		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
324	Petroleum and Coal Products Manufacturing	21	1.1%	-0.1%	7	0	7	2	0	2
325	Chemical Manufacturing	139	7.0%	-0.3%	38	3	41	8	1	9
326	Plastics and Rubber Manufacturing	22	1.1%	-0.3%	0	0	0	0	0	0
327	Nonmetallic Mineral Product Manufacturing	12	0.6%	-0.1%	2	0	2	1	0	1
331	Primary Metal Manufacturing	14	0.7%	0.1%	2	0	2	1	0	1
332	Fabricated Metal Product Manufacturing	21	1.1%	0.0%	3	0	3	0	0	0
333	Machinery Manufacturing	30	1.5%	-0.5%	4	2	6	1	0	1
334	Computer and Electronic Product Manufacturing	62	3.1%	0.6%	8	3	11	2	1	3
335	Electrical Equipment, Appliance, and Component Manufacturing	15	0.8%	0.2%	0	2	2	0	1	1
336	Transportation Equipment Manufacturing	54	2.7%	0.4%	5	4	9	0	2	2
337	Furniture and Related Product Manufacturing	4	0.2%	0.0%	0	0	0	0	0	0
339	Miscellaneous Manufacturing	23	1.2%	-0.2%	12	1	13	3	1	4
423	Merchant Wholesalers, Durable Goods	75	3.8%	-1.2%	5	1	6	1	0	1
424	Merchant Wholesales, Nondurable Goods	92	4.6%	0.2%	17	2	19	1	0	1
425	Wholesale Electric Markets and Agent and Brokers	7	0.4%	0.2%	0	0	0	0	0	0
441	Motor Vehicle and Parts Dealers	18	0.9%	0.1%	0	0	0	0	0	0
442	Furniture and Home Furnishing Stores	7	0.4%	0.2%	0	0	0	0	0	0
443	Miscellaneous Repair Services	2	0.1%	0.0%	0	0	0	0	0	0
444	Electronics and Appliance Stores	4	0.2%	0.1%	0	0	0	0	0	0
445	Food and Beverage Stores	3	0.2%	0.0%	2	0	2	1	0	1
446	Health and Personal Care Stores	8	0.4%	0.1%	2	0	2	0	0	0

**TABLE X  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS <sup>3</sup>		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
447	Gasoline Stations	4	0.2%	-0.2%	2	0	2	4	0	4
448	Clothing and Clothing Accessories Stores	8	0.4%	0.2%	1	0	1	0	0	0
451	Sporting Goods, Hobby, Book, and Music Stores	1	0.1%	-0.1%	1	0	1	1	0	1
452	General Merchandise Stores	8	0.4%	0.2%	0	0	0	0	0	0
453	Miscellaneous Store Retailers	2	0.1%	0.0%	0	0	0	0	0	0
454	Nonstore Retailers	8	0.4%	0.1%	2	0	2	0	0	0
481	Air Transportation	5	0.3%	0.2%	0	4	4	0	0	0
482	Railroad Transportation	1	0.1%	0.1%	0	0	0	0	0	0
483	Water Transportation	5	0.3%	0.1%	0	2	2	0	0	0
484	Truck Transportation	5	0.3%	-0.1%	0	0	0	0	0	0
485	Transit and Ground Transportation	1	0.1%	0.0%	0	0	0	0	0	0
486	Pipeline Transportation	15	0.8%	0.3%	2	0	2	0	0	0
488	Support Activities for Transportation	7	0.4%	-0.1%	0	0	0	0	0	0
493	Warehousing and Storage	3	0.2%	0.1%	0	0	0	0	0	0
511	Publishing Industries (except Internet)	57	2.9%	0.2%	1	4	5	0	0	0
512	Motion Pictures and Sound Recording Industries	11	0.6%	-0.1%	0	0	0	0	0	0
515	Broadcasting (except Internet)	14	0.7%	0.1%	0	6	6	0	3	3
516	Internet Publishing and Broadcasting	1	0.1%	0.1%	0	0	0	0	0	0
517	Telecommunications	47	2.4%	0.4%	0	3	3	0	2	2
518	Internet Service Providers, Web Search Portals, and Data Processing Services	34	1.7%	0.8%	4	1	5	0	0	0
519	Other Information Services	16	0.8%	0.1%	2	2	4	1	0	1

**TABLE X**  
**FISCAL YEAR 2017<sup>1</sup>**  
**INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS <sup>3</sup>		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
521	Monetary Authorities - Central Bank	1	0.1%	0.1%	0	0	0	0	0	0
522	Credit Intermediation and Related Activities	35	1.8%	0.2%	0	1	1	0	1	1
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	194	9.7%	-0.1%	3	3	6	1	0	1
524	Insurance Carriers and Related Activities	66	3.3%	0.3%	4	3	7	0	0	0
525	Funds, Trusts, and Other Financial Vehicles	65	3.3%	-0.5%	0	0	0	0	0	0
531	Real Estate	16	0.8%	0.3%	1	1	2	0	0	0
532	Rental and Leasing Services	8	0.4%	-0.3%	3	0	3	0	0	0
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	10	0.5%	-0.2%	1	0	1	0	0	0
541	Professional, Scientific, and Technical Services	119	6.0%	0.1%	8	7	15	2	1	3
551	Management Companies and Enterprises	1	0.1%	0.0%	0	1	1	0	0	0
561	Administrative and Support Services	35	1.8%	-1.0%	1	2	3	0	1	1
562	Waste Management and Remediation Services	3	0.2%	0.0%	0	0	0	0	0	0
611	Educational Services	3	0.2%	-0.1%	0	0	0	0	0	0
621	Ambulatory Health Care Services	35	1.8%	0.5%	13	1	14	0	0	0
622	Hospitals	32	1.6%	-0.4%	23	0	23	0	0	0
623	Nursing Care Facilities	2	0.1%	-0.1%	0	0	0	0	0	0
624	Social Assistance	5	0.3%	0.2%	1	0	1	1	0	1
711	Performing Arts, Spector Sports, and Related Industries	5	0.3%	0.2%	0	0	0	0	0	0
713	Amusement, Gambling, and Recreation Industries	4	0.2%	0.1%	0	0	0	0	0	0
721	Accommodation	6	0.3%	-0.4%	0	3	3	0	0	0
722	Food Services and Drinking Places	27	1.4%	0.6%	2	0	2	0	0	0

**TABLE X**  
**FISCAL YEAR 2017<sup>1</sup>**  
**INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS <sup>3</sup>		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
811	Repairs and Maintenance	9	0.5%	0.3%	0	0	0	0	0	0
812	Personal and Laundry Services	6	0.3%	0.0%	0	0	0	0	0	0
999	Nonclassifiable Establishments	1	0.1%	0.1%	1	0	1	0	0	0
		1,992	100.0%		205	72	277	33	18	51



**TABLE XI  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST <sup>3</sup> INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION <sup>14</sup>
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
000 <sup>1</sup>	Not Available	100	5.0%	0.3%	9	3	12	1	1	2	0
111	Crop Production	3	0.2%	0.2%	0	0	0	0	0	0	0
112	Animal Production	2	0.1%	0.1%	0	0	0	0	0	0	0
114	Fishing, Hunting and Trapping	2	0.1%	0.1%	0	2	2	0	0	0	1
211	Oil and Gas Extraction	39	2.0%	0.3%	3	0	3	0	0	0	12
212	Mining (except Oil and Gas)	21	1.1%	0.6%	0	2	2	0	2	2	1
213	Support Activities for Mining	18	0.9%	0.3%	0	1	1	0	0	0	10
221	Utilities	50	2.5%	-0.5%	1	0	1	0	0	0	17
236	Construction of Buildings	3	0.2%	-0.1%	0	0	0	0	0	0	0
237	Heavy and Civil Engineering Construction	5	0.3%	-0.5%	0	0	0	0	0	0	1
238	Specialty Trade Contractors	16	0.8%	0.1%	1	1	2	0	0	0	1
311	Food and Kindred Products	50	2.5%	0.3%	7	0	7	1	1	2	18
312	Beverage and Tobacco Product Manufacturing	17	0.9%	-0.4%	5	1	6	0	0	0	11
313	Textile Mills	1	0.1%	0.1%	0	0	0	0	0	0	0
314	Textile Products	2	0.1%	0.0%	0	0	0	0	0	0	0
315	Apparel Manufacturing	4	0.2%	0.1%	2	0	2	0	0	0	1
316	Leather and Allied Product Manufacturing	2	0.1%	0.1%	0	0	0	0	0	0	0
321	Wood Product Manufacturing	4	0.2%	0.1%	0	0	0	0	0	0	1
322	Paper Manufacturing	14	0.7%	0.1%	0	1	1	0	0	0	7
323	Printing and Related Support Activities	7	0.4%	0.0%	0	3	3	0	0	0	1
324	Petroleum and Coal Products Manufacturing	17	0.9%	0.5%	4	0	4	2	0	2	5

**TABLE XI  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST <sup>3</sup> INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION <sup>14</sup>
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
325	Chemical Manufacturing	118	5.9%	0.3%	23	2	25	7	0	7	38
326	Plastics and Rubber Manufacturing	28	1.4%	0.1%	0	0	0	0	0	0	3
327	Nonmetallic Mineral Product Manufacturing	12	0.6%	-0.1%	1	0	1	0	0	0	4
331	Primary Metal Manufacturing	20	1.0%	0.3%	1	0	1	0	0	0	7
332	Fabricated Metal Product Manufacturing	33	1.7%	0.4%	6	0	6	2	0	2	5
333	Machinery Manufacturing	31	1.6%	-0.6%	1	3	4	0	1	1	7
334	Computer and Electronic Product Manufacturing	58	2.9%	-0.8%	9	4	13	1	2	3	11
335	Electrical Equipment, Appliance, and Component Manufacturing	16	0.8%	-0.3%	1	1	2	0	1	1	4
336	Transportation Equipment Manufacturing	51	2.6%	0.7%	3	2	5	0	1	1	13
337	Furniture and Related Product Manufacturing	5	0.3%	0.1%	0	0	0	0	0	0	0
339	Miscellaneous Manufacturing	39	2.0%	0.1%	13	0	13	3	0	3	7
423	Merchant Wholesalers, Durable Goods	96	4.8%	0.0%	9	0	9	1	0	1	15
424	Merchant Wholesales, Nondurable Goods	76	3.8%	-2.6%	16	3	19	3	2	5	21
425	Wholesale Electric Markets and Agent and Brokers	5	0.3%	-0.3%	0	0	0	0	0	0	1
441	Motor Vehicle and Parts Dealers	16	0.8%	0.0%	0	0	0	0	0	0	6
442	Furniture and Home Furnishing Stores	5	0.3%	-0.1%	0	0	0	0	0	0	1
443	Miscellaneous Repair Services	1	0.1%	-0.1%	0	0	0	0	0	0	0
444	Electronics and Appliance Stores	3	0.2%	0.2%	0	0	0	0	0	0	0
445	Food and Beverage Stores	6	0.3%	-0.1%	2	0	2	1	0	1	1
446	Health and Personal Care Stores	3	0.2%	-0.2%	2	0	2	0	0	0	2
447	Gasoline Stations	3	0.2%	-0.2%	3	0	3	4	0	4	1

**TABLE XI  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST <sup>3</sup> INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION <sup>14</sup>
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
448	Clothing and Clothing Accessories Stores	10	0.5%	0.1%	1	0	1	0	0	0	3
451	Sporting Goods, Hobby, Book, and Music Stores	1	0.1%	-0.1%	1	0	1	1	0	1	1
452	General Merchandise Stores	2	0.1%	0.0%	0	0	0	0	0	0	0
453	Miscellaneous Store Retailers	2	0.1%	-0.4%	0	0	0	0	0	0	0
454	Nonstore Retailers	22	1.1%	-0.1%	2	1	3	0	1	1	2
481	Air Transportation	5	0.3%	0.0%	0	4	4	0	0	0	5
482	Railroad Transportation	1	0.1%	0.0%	0	0	0	0	0	0	0
483	Water Transportation	4	0.2%	0.0%	0	1	1	0	0	0	3
484	Truck Transportation	25	1.3%	1.0%	0	0	0	0	0	0	2
485	Transit and Ground Transportation	2	0.1%	0.1%	0	0	0	0	0	0	0
486	Pipeline Transportation	29	1.5%	0.1%	7	0	7	0	0	0	7
488	Support Activities for Transportation	12	0.6%	-0.5%	0	0	0	0	0	0	1
492	Couriers	3	0.2%	-0.1%	0	0	0	0	0	0	0
493	Warehousing and Storage	12	0.6%	0.3%	1	0	1	1	0	1	0
511	Publishing Industries (except Internet)	87	4.4%	-0.4%	2	7	9	1	0	1	23
512	Motion Pictures and Sound Recording Industries	13	0.7%	0.2%	0	0	0	0	0	0	5
515	Broadcasting (except Internet)	11	0.6%	0.2%	0	6	6	0	4	4	7
517	Telecommunications	38	1.9%	0.4%	0	4	4	0	1	1	15
518	Internet Service Providers, Web Search Portals, and Data Processing Services	87	4.4%	1.0%	5	5	10	0	1	1	11
519	Other Information Services	30	1.5%	-0.3%	5	1	6	2	0	2	4
522	Credit Intermediation and Related Activities	46	2.3%	-0.2%	0	0	0	0	0	0	18

**TABLE XI  
FISCAL YEAR 2017<sup>1</sup>  
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST <sup>3</sup> INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION <sup>14</sup>
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	46	2.3%	-0.3%	1	4	5	0	0	0	20
524	Insurance Carriers and Related Activities	50	2.5%	0.0%	0	1	1	0	0	0	25
525	Funds, Trusts, and Other Financial Vehicles	2	0.1%	-0.1%	0	0	0	0	0	0	0
531	Real Estate	12	0.6%	0.0%	0	0	0	0	0	0	1
532	Rental and Leasing Services	16	0.8%	0.1%	4	0	4	1	0	1	5
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	11	0.6%	-0.1%	2	0	2	0	0	0	1
541	Professional, Scientific, and Technical Services	186	9.3%	0.6%	10	6	16	1	0	1	48
561	Administrative and Support Services	51	2.6%	0.1%	2	1	3	0	0	0	10
562	Waste Management and Remediation Services	9	0.5%	-0.1%	0	0	0	0	0	0	3
611	Educational Services	9	0.5%	0.2%	0	0	0	0	0	0	2
621	Ambulatory Health Care Services	56	2.8%	0.3%	13	0	13	0	0	0	16
622	Hospitals	32	1.6%	-0.3%	24	0	24	0	0	0	22
623	Nursing Care Facilities	6	0.3%	0.2%	0	0	0	0	0	0	1
624	Social Assistance	2	0.1%	0.0%	1	0	1	0	0	0	0
711	Performing Arts, Spector Sports, and Related Industries	3	0.2%	-0.1%	0	0	0	0	0	0	0
713	Amusement, Gambling, and Recreation Industries	12	0.6%	-0.1%	0	1	1	0	0	0	3
721	Accommodation	6	0.3%	-0.2%	0	1	1	0	0	0	2
722	Food Services and Drinking Places	25	1.3%	0.4%	2	0	2	0	0	0	8
811	Repairs and Maintenance	9	0.5%	-0.1%	0	0	0	0	0	0	0
812	Personal and Laundry Services	5	0.3%	-0.1%	0	0	0	0	0	0	0

**TABLE XI**  
**FISCAL YEAR 2017<sup>1</sup>**  
**INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE <sup>11</sup>	INDUSTRY DESCRIPTION	NUMBER <sup>4</sup>	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2016 <sup>12</sup>	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST <sup>3</sup> INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTIONS <sup>14</sup>
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
		1,992	100.0%		205	72	277	33	18	51	508

<sup>1</sup> Fiscal year 2017 figures include transactions reported between October 1, 2016 and September 30, 2017.

<sup>2</sup> 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.

<sup>3</sup> These statistics are based on the date the Second Request was issued.

<sup>4</sup> During fiscal year 2017, 2,052 transactions were reported under the HSR Premerger Notification program. The smaller number, 1,992, 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).

<sup>5</sup> The total number of filings under \$50M submitted in Fiscal Year 2017 reflects corrective filings.

<sup>6</sup> In February 2001, legislation raised the size of transaction from \$15 million to \$50 million with annual adjustments beginning in February 2005. As of FY 2017, the threshold categories include non-corporate interests (NCI), encompassing transactions in which the acquiring entity acquires 50% or more of the non-corporate interests of the acquired entity.

<sup>7</sup> 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.

<sup>8</sup> Assets of an acquired entity are not available when the acquired entity's financial data is consolidated within its ultimate parent.

<sup>9</sup> 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.

<sup>10</sup> 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.

<sup>11</sup> 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.

<sup>12</sup> This represents the deviation from the fiscal year 2016 percentage.

<sup>13</sup> This category includes transactions by newly-formed entities.

<sup>14</sup> 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.