



FEDERAL TRADE COMMISSION
BUREAU OF COMPETITION



DEPARTMENT OF JUSTICE
ANTITRUST DIVISION

HART-SCOTT-RODINO ANNUAL REPORT

FISCAL YEAR 2018

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

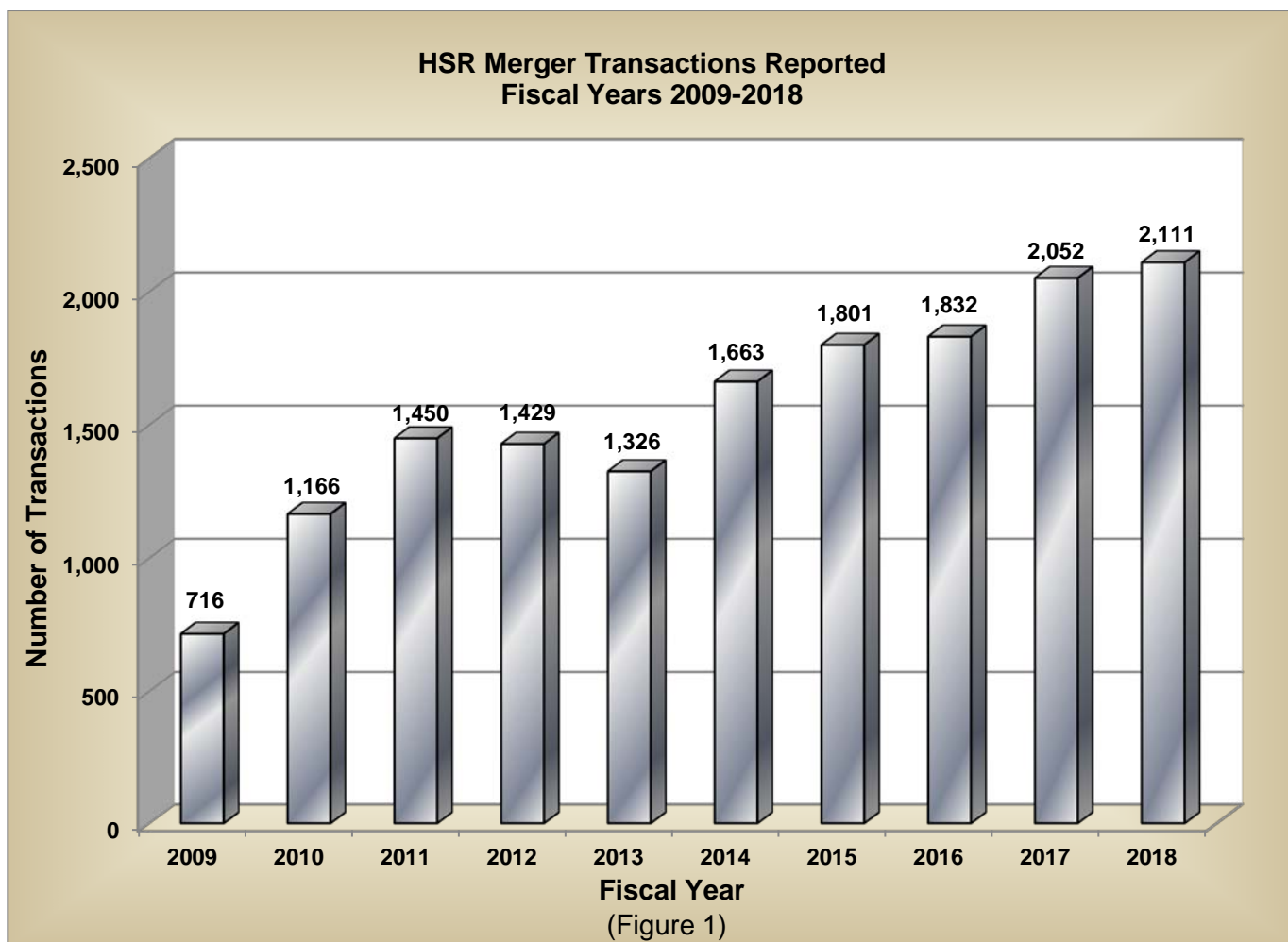
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INTRODUCTION

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 2018¹ to protect consumers—individuals, businesses, 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 2018, 2,111 transactions were reported under the HSR Act, representing about a 2.9 percent increase from the 2,052 transactions reported in fiscal year 2017. (See Figure 1 below.)



¹ Fiscal year 2018 covered the period of October 1, 2017 through September 30, 2018.

During fiscal year 2018, the Commission brought 22 merger enforcement challenges.² In 12 matters, the Commission accepted consent orders for public comment, all of which resulted in final orders. Five were abandoned or restructured as a result of antitrust concerns raised during the investigation. And in five cases, 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.

Again this year, the Commission resolved most merger enforcement actions by a negotiated settlement. For instance, the Commission took action to preserve competition related to Northrop Grumman's proposed merger with Orbital ATK. Northrop supplies the U.S. government with missile systems, including tactical missiles, strategic missiles, and missile defense interceptors. Orbital ATK is the premier supplier of solid rocket motors, an essential input for missile systems. The FTC required a firewall and non-discrimination provisions to prevent the vertical merger from reducing competition for missile systems, which would have resulted in less innovation and higher prices for taxpayers. In another settlement, the Commission also moved to preserve competition in local retail fuel markets, challenging 7-Eleven's proposed \$3.3 billion acquisition of approximately 1,100 retail fuel outlets from Sunoco. The complaint alleged that, without divestitures, the acquisition would increase the likelihood that 7-Eleven could have unilaterally raised prices or the small number of remaining competitors could have increased prices by coordinating their actions in more than 20 markets. The FTC required 7-Eleven to divest 26 7-Eleven retail fuel stations to Sunoco and for Sunoco to retain 33 fuel stations it otherwise would have sold to 7-Eleven.

The Commission successfully blocked two proposed acquisitions by obtaining a preliminary injunction in federal court; two other proposed mergers were abandoned after the Commission voted to challenge them. In February, the FTC issued an administrative complaint and authorized staff to seek a preliminary injunction to prevent the merger of Wilhelmsen Maritime and Drew Marine, the two largest suppliers of water treatment chemicals and services used by large ships to maintain their on-board ship equipment. The Commission issued an administrative complaint and sought a preliminary injunction in federal court alleging that the combined firm would control at least 60 percent of the global marine water treatment chemical and service market. After the U.S. District Court for the District of Columbia granted a preliminary injunction, the parties abandoned the merger.

In December 2017, the Commission issued an administrative complaint challenging Tronox Limited's proposed acquisition of Cristal. The firms were the two largest suppliers of chloride process titanium dioxide, a white pigment used in a variety of products including paint, industrial coatings, plastics, and paper. According to the complaint, the transaction would have increased the likelihood of coordination among the remaining competitors in the industry, as well as the likelihood that Tronox could exercise market power to reduce future output and prices. After an administrative hearing on the merits concluded in June 2018, changed circumstances led the FTC to file a motion for a preliminary injunction in federal court to enjoin the transaction pending the outcome of the administrative proceeding. In September 2018, the district court granted the FTC's request for a preliminary injunction. In December 2018, the administrative law judge issued an initial decision

² To avoid double-counting, this Report includes only those merger enforcement actions in which the Commission or the Antitrust Division took its first public action during fiscal year 2018.

upholding the FTC's complaint. Tronox and Cristal agreed to settle the charges by divesting Cristal's North American titanium dioxide assets. The Commission's final order requiring divestiture of these assets ended the litigation over the proposed transaction.

During fiscal year 2018, the Antitrust Division challenged 17 merger transactions. The Division resolved eight of these 17 cases by filing a complaint and proposed settlement simultaneously in U.S. district court, and the Division brought suit to enjoin one transaction. Of the remaining eight challenges, in four the parties abandoned the proposed transaction, and in the remaining four the parties restructured the transaction to resolve the Division's concerns.

The Division resolved the numerous horizontal and vertical concerns raised by Bayer AG's \$66 billion acquisition of Monsanto Company by negotiating a divestiture package of businesses and assets valued at approximately \$9 billion. Bayer and Monsanto were two of the largest agricultural companies in the world and the acquisition would have substantially lessened competition in 17 distinct agricultural markets. Under the terms of the final judgment filed simultaneously with the complaint, the parties agreed to sell the divestiture businesses and assets to BASF SE, an experienced chemical company with a substantial crop protection business.

The Division also challenged a consummated transaction, highlighting the importance of remedying anticompetitive behavior whenever it is uncovered. The Division required TransDigm Group Incorporated to unwind its acquisition of its only meaningful competitor for certain restraint systems for commercial aircraft. TransDigm's acquisition of SCHROTH Safety Products GmbH and substantially all the assets of Takata Protection Systems, Inc. (collectively, SCHROTH) from Takata Corporation eliminated all head-to-head competition between the two companies in the development, manufacture, and sale of restraint systems used on commercial airplanes worldwide, which would have resulted in higher prices for several types of restraint systems used on commercial airplanes and diminished innovation in the development of new airplane restraints. Under the terms of the final judgment filed simultaneously with the complaint, TransDigm agreed to divest all of the SCHROTH assets it acquired from Takata.

The Division also worked to ensure that the Federal government and state governments fostered competitive procurement markets. The Division expressed concerns earlier this year, for example, about the proposed merger between Ultra Electronics Holdings plc and Sparton Corporation, after which the parties abandoned their transaction. Ultra and Sparton are the only suppliers of sonobuoys to the United States Navy. Since 2009, Ultra and Sparton have produced sonobuoys through their joint venture, known as ERAPSCO, and have responded to the Navy's sonobuoy acquisition contracts with a sole ERAPSCO bid. However, after a joint investigation and consultation with the Division, the Navy informed the companies that it was moving to a competitive acquisition strategy and would seek to have the companies compete against each other for sonobuoy procurement. The Division then informed the parties that their proposed merger raised significant competitive concerns. Shortly thereafter, the parties abandoned their planned merger.

Similarly, the Division challenged three transactions where the proposed acquisitions would likely have resulted in higher prices for Department of Transportation (DOT) qualified aggregate. The Division, along with the states attorneys general, challenged, (1) Vulcan Materials Company's acquisition of Aggregates USA, LLC (Aggregates USA), which would have combined the only two

potential suppliers of DOT-qualified aggregate in parts of Tennessee and Virginia; (2) Martin Marietta Materials, Inc.'s proposed acquisition of Bluegrass Materials Company, LLC, which would have substantially lessened competition for DOT-qualified aggregate in parts of Georgia and Maryland; and (3) CRH Americas Materials, Inc.'s proposed acquisition of quarry assets from Pounding Mill Quarry Corporation, which would have combined two of only three competitive sources of DOT-qualified aggregate in southern West Virginia and would have strengthened CRH Americas' virtual monopoly in the supply of asphalt concrete in southern West Virginia.

In fiscal year 2018, 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 PNO continued to provide information necessary for the notification process on its PNO website,³ which serves as an HSR practitioner's primary source of information on the HSR form and instructions for completing it, 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 includes a catalog of informal interpretation letters, giving practitioners 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.⁴ 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 (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 was published, containing a section-by-section analysis of the rules and an item-by-item analysis of the filing form.⁵ 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.⁶

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

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

⁵ 43 Fed. Reg. 33450 (July 31, 1978).

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

The primary purpose of the statutory scheme, as the legislative history makes clear, is to provide the antitrust enforcement agencies with the opportunity to review mergers and acquisitions before they occur. The premerger notification program, with its filing and waiting period requirements, provides the agencies with both the time and the information necessary to conduct this antitrust review. Much of the information for a preliminary antitrust evaluation is included in the HSR form and the accompanying documents 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 reviewing agency is authorized by Section 7A(e) of the Clayton Act to issue a request for additional information and documentary material (Second Request).⁷ 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. For the ten-year period covering fiscal years 2009-2018, Appendix A shows 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.⁸ 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 2009 through 2018.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2018 increased 2.9 percent from the number of transactions reported in fiscal year 2017. In fiscal year 2018, 2,111 transactions were reported, whereas 2,052 were reported in fiscal year 2017.⁹ Of the 2,111 reported transactions, Second Requests could have been issued in 2,028 of them.

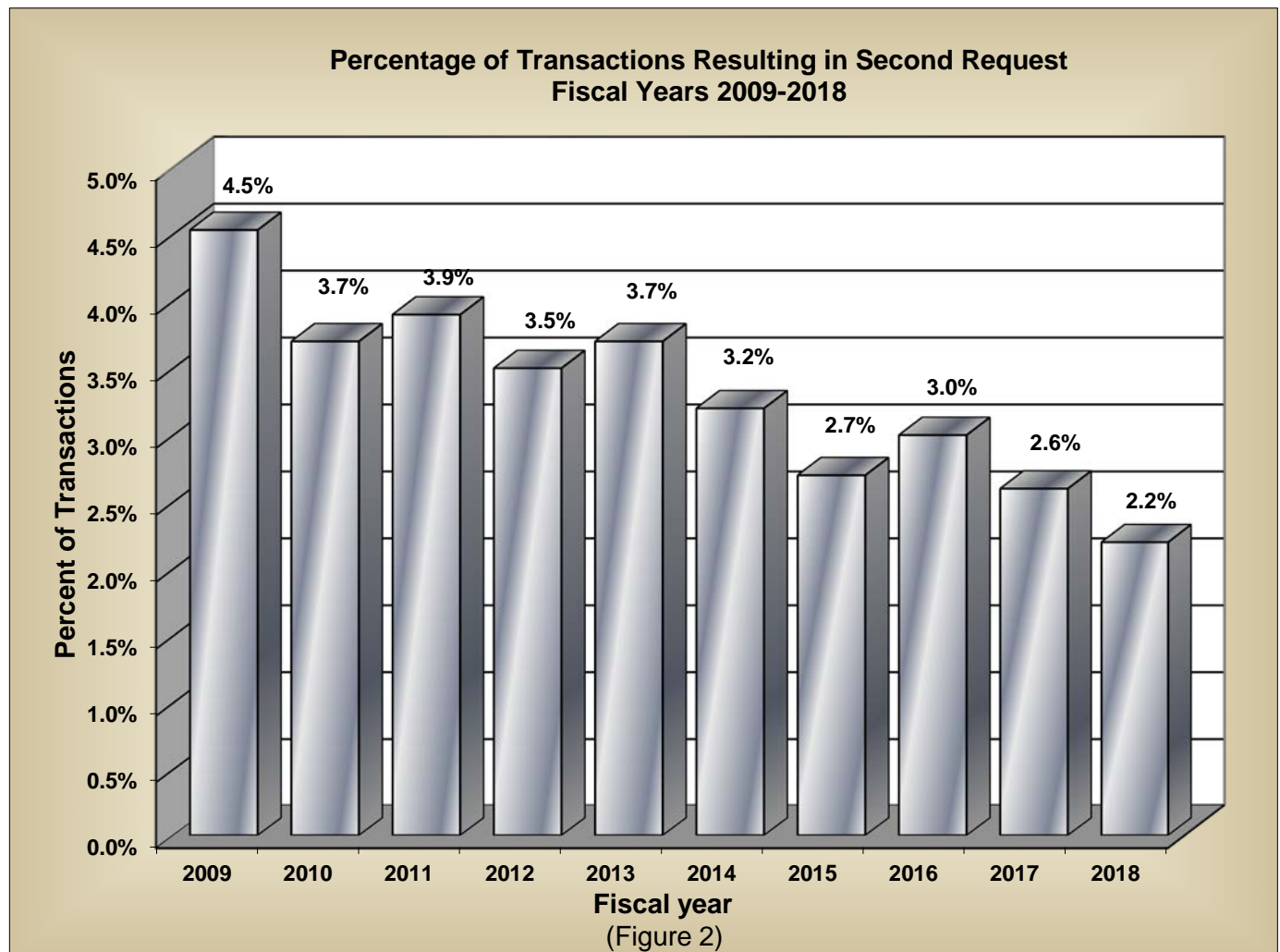
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⁷ 15 U.S.C. §18a(e)(1)(a) (“The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period)...require the submission of additional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

⁸ 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.

⁹ 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 2,028 adjusted transactions in fiscal year 2018, and the data presented in the Tables and the percentages discussed in the text of

The statistics in Appendix A show that the number of merger investigations in which Second Requests were issued in fiscal year 2018 decreased from the previous year. Second Requests were issued in 45 merger investigations in fiscal year 2018 (26 issued by the FTC and 19 issued by the Antitrust Division); Second Requests were issued in 51 merger investigations in fiscal year 2017 (33 issued by the FTC and 18 issued by the Antitrust Division). The percentage of transactions in which a Second Request was issued decreased from 2.6 percent in fiscal year 2017 to 2.2 percent in fiscal year 2018. See Figure 2 below.

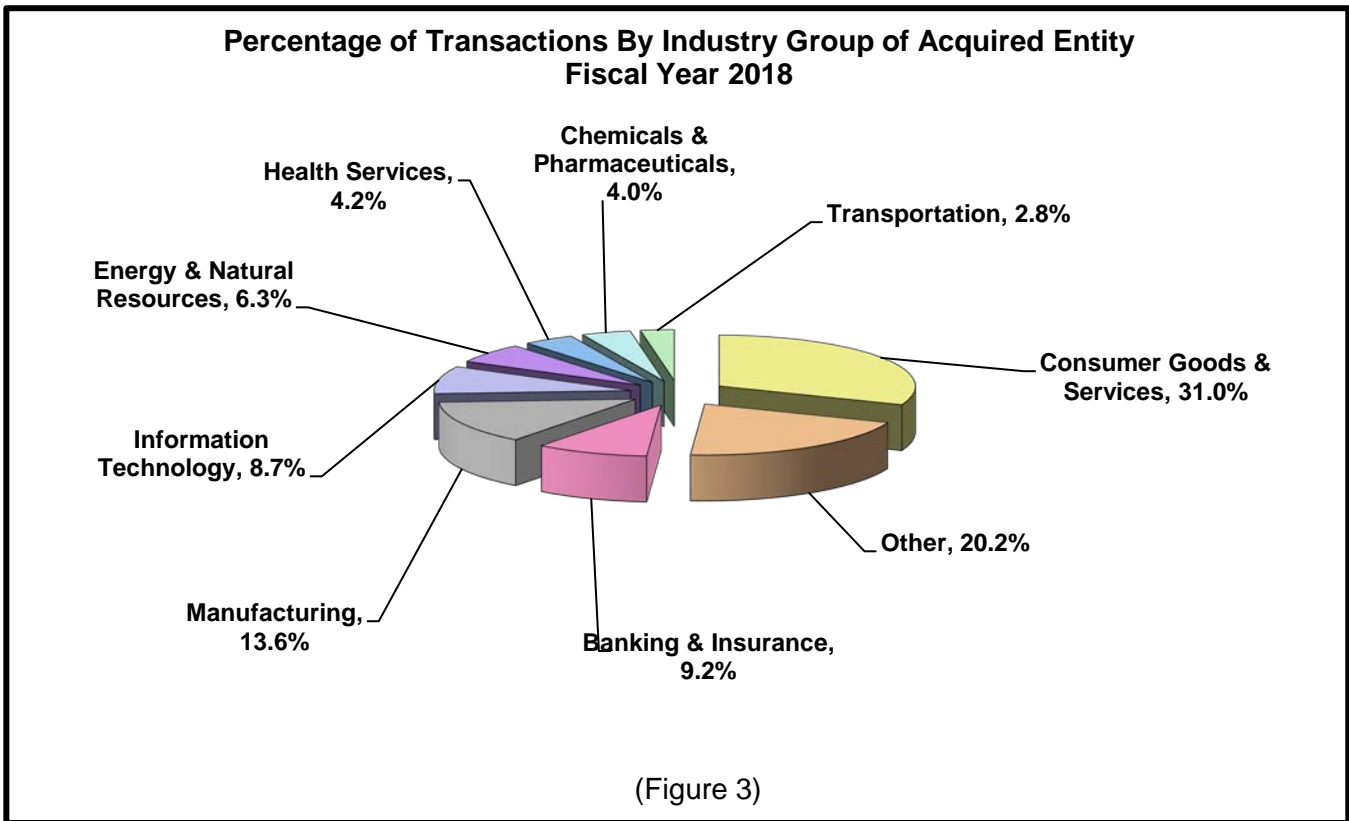


The statistics in Appendix A also show that early termination of the waiting period is requested in the majority of transactions. In fiscal year 2018, early termination was requested in 74.0 percent (1,500) of the adjusted transactions reported. In fiscal year 2017, early termination was requested in 77.9 percent (1,552) of the transactions reported. The percentage of requests granted out of the total requested decreased from 78.6 percent in fiscal year 2017 to 78.0 percent in fiscal year 2018.

this Report (e.g., percentage of transactions resulting in Second Requests) are based on this figure.

The tables (Tables I through XI) in Exhibit A contain information regarding the agencies' enforcement activities for transactions reported in fiscal year 2018. The tables include information showing 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 a Second Request. For instance, Table III of Exhibit A shows that in fiscal year 2018, the agencies received clearance to conduct an initial investigation in 14.1 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 2018, the aggregate dollar value of reported transactions was \$2.2 trillion.¹⁰

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 2018 based on the acquired entity's operations.¹¹



¹⁰ The information on the value of reported adjusted transactions for fiscal year 2018 is drawn from a database maintained by the Premerger Notification Office.

¹¹ 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 29, 2018, the Commission published a notice¹² to reflect adjustment of the reporting thresholds as required by the 2000 amendments¹³ 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 \$80.8 million to \$84.4 million, became effective February 28, 2018.

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 2018. 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 \$41,484 for each day the violation continues.¹⁴ The antitrust agencies examine the circumstances of each violation to determine whether to seek penalties.¹⁵ During fiscal year 2018, 33 post-consummation "corrective" filings were received; however, the agencies did not bring any enforcement actions.

¹² 83 Fed. Reg. 4,050 (Jan. 29, 2018).

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

¹⁴ 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 \$41,484 effective January 22, 2018 (83 Fed. Reg. 2902 (Jan. 22, 2017)).

¹⁵ 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.

MERGER ENFORCEMENT ACTIVITY¹⁶

1. The Department of Justice

During fiscal year 2018, the Antitrust Division challenged 17 merger transactions that it concluded would substantially lessen competition if allowed to proceed as proposed. In nine of these challenges, the Antitrust Division filed a complaint in the U.S. district court. In eight of these court challenges, the Division filed settlement papers simultaneously with the complaint. The other court challenge was litigated in the U.S. district court and, after a trial on its merits, the court found in favor of the Defendants. Of the eight fiscal year 2018 challenges where the Division did not file suit, the parties abandoned the proposed transaction in four instances and in the remaining four, the parties restructured the transaction, resolving the Division's concerns.¹⁷

In *United States v. CenturyLink, Inc. and Level 3 Communications, Inc.*,¹⁸ the Division challenged the proposed acquisition of Level 3 Communications, Inc. by CenturyLink, Inc. The complaint alleged that the transaction, as originally structured, would substantially lessen competition for particular enterprise and wholesale telecommunications services in three Metropolitan Statistical Areas (MSA)¹⁹ by eliminating Level 3 as one of only three providers of fiber-based local connectivity telecommunications services. The transaction also would have substantially lessened competition for the sale of intercity dark fiber in 30 pairs of cities by creating a duopoly in some cities and a monopoly in the remaining city pairs. A proposed final judgment filed simultaneously with the complaint on October 2, 2017, required CenturyLink to divest Level 3's entire fiber-based metropolitan area network in Albuquerque, New Mexico; Boise City-Nampa, Idaho; and Tucson, Arizona. The settlement also required CenturyLink to transfer the IRU (Indefensible Right of Use) for 24 strands of dark fiber on 30 specified routes. The Court entered the final judgement on March 6, 2018.

In *United States v. Entercom Communications Corporation and CBS Corporation*,²⁰ the Division challenged Entercom Communications Corporation's proposed acquisition of certain broadcast radio stations from CBS Corporation. The complaint alleged that the transaction, as originally structured, would eliminate the substantial head-to-head competition

¹⁶ 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.

¹⁷ (1) Knorr-Bremse AG's proposed acquisition of Haldex AB; (2) Delta Air Lines Inc.'s proposed joint venture and acquisition of an increased stake in Grupo Aeroméxico SAB de CV; (3) Proposed Schlumberger Ltd. and Weatherford PLC OneStim Joint Venture; (4) Proposed merger between Ultra Electronics Holdings plc and Spartan Corporation; (5) Sinclair Television Group, Inc.'s proposed acquisitions of Tribune Media Company and Bonten Media Group, Inc.; (6) First Horizon National Corporation's proposed acquisition of Capital Financial Bank Corporation; (7) First Financial Bancorp's proposed acquisition of Mainsource Financial Group, Inc.; and (8) Proposed combination of Ygreen Energy Fund Inc. and Renovate America, Inc.

¹⁸ *United States v. CenturyLink, Inc. and Level 3 Communications, Inc.*, No.1:17-cv-02028 (D.D.C. filed Oct. 2, 2017).

¹⁹ An MSA is a geographic region defined by the Office of Management and Budget for use by federal statistical agencies, such as the Census Bureau. It is based on the concept of a core urban area with a large concentrated population, plus adjacent communities having close economic social ties to the core.

²⁰ *United States v. Entercom Communications Corporation and CBS Corporation*, No. 1:17-cv-2268 (D.D.C. filed Nov. 1, 2017).

between Entercom and CBS in the sale of radio advertising to advertisers targeting English-language listeners in the Boston, Sacramento, and San Francisco Designated Market Areas (DMAs)²¹ (collectively, the Local Markets). This loss in competition likely would have resulted in higher prices to advertisers in the Local Markets. At the same time the complaint was filed, on November 1, 2017, the Division filed a proposed final judgment requiring the parties to divest certain radio stations in the Local Markets. The court entered the final judgment on January 31, 2018.

In *United States v. AT&T Inc., DirectTV Group Holdings, LLC and Time Warner Inc.*,²² the Division filed suit to enjoin AT&T Inc. from acquiring Time Warner Inc. The complaint alleged that the transaction would provide AT&T with the incentive and ability to charge its rival multichannel video programming distributors (MVPDs) supra-competitive prices for TimeWarner networks which would result in reduced competition in the market for pay TV and thus higher prices and less innovation for consumers. The complaint also alleged that the merger would increase the likelihood of anticompetitive coordination that would lessen competition from innovative providers of pay TV. On June 12, 2018, after a trial on its merits, the U.S. District Court for the District of Columbia ruled in favor of the Defendants. On February 26, 2019, the United States Court of Appeals for the District of Columbia affirmed the district court's decision.

In *United States v. TransDigm Group Incorporated*,²³ the Division challenged TransDigm Group Inc.'s consummated acquisition of SCHROTH Safety Products GmbH from Takata Corporation. The complaint alleged that the consummated transaction combined TransDigm subsidiary, AmSafe Inc., the dominant supplier of restraint systems for commercial aircraft, with its only meaningful competitor, SCHROTH. As a result, the complaint alleged that the acquisition would likely lessen competition substantially for the development, manufacture, and sale of restraint systems used on commercial airplanes worldwide. This loss of competition likely would have resulted in higher prices for several types of restraint systems used on commercial airplanes and diminished innovation in the development of new airplane restraints. On December 21, 2017, at the same time the complaint was filed, the Division filed a proposed final judgment requiring TransDigm to divest all of the SCHROTH assets it acquired from Takata. The court entered the final judgment on April 4, 2018.

In *United States and State of Tennessee v. Vulcan Materials Company, SPO Partners II, L.P. and Aggregates USA, LLC*,²⁴ the Division along with the State of Tennessee challenged the proposed acquisition of SPO Partners II, L.P.'s aggregates business, Aggregates USA, LLC, by Vulcan Materials Company. The complaint alleged that the acquisition, as originally structured, would combine the only two potential suppliers of

²¹ DMAs are industry-recognized geographic boundaries used in evaluating radio audience size and demographic composition.

²² *United States v. AT&T Inc., DirectTV Group Holdings, LLC and Time Warner Inc.*, No. 1:17-cv-2511 (D.D.C. filed Nov. 20, 2017).

²³ *United States v. TransDigm Group Incorporated*, No. 1:17-cv-2735 (D.D.C. filed Dec. 21, 2017).

²⁴ *United States v. Vulcan Materials Company, SPO Partners II, L.P. and Aggregates USA, LLC*, No. 1:17-cv-2761 (D.D.C. filed Dec. 22, 2017).

Tennessee and Virginia DOT-qualified aggregate in the Knoxville, Tennessee, Tri-Cities, Tennessee, and Abingdon, Virginia markets. This combination likely would have substantially lessened competition in these markets for DOT-qualified aggregate resulting in higher prices and poorer customer service for aggregate customers in these areas. Under the terms of a proposed final judgment filed simultaneously with the complaint on December 22, 2017, the parties agreed to divest 13 active quarries and yards and four inactive quarries in east Tennessee and southwest Virginia. The court entered the final judgment on April 6, 2018.

In *United States and State of Maryland v. Martin Marietta Materials, Inc., LG Panadero, L.P., Panadero Corp., Panadero Aggregates Holdings, LLC, and Bluegrass Materials Company, LLC*,²⁵ the Division and the State of Maryland challenged Martin Marietta Materials, Inc.'s proposed acquisition of Bluegrass Materials Company, LLC. The complaint alleged that the acquisition, as initially structured, would eliminate head-to-head competition between Martin Marietta and Bluegrass in supplying DOT-qualified aggregate to customers in and immediately around Forsyth County and north Fulton County, Georgia, and in and immediately around Washington County, Maryland. This loss of competition likely would have resulted in increased prices and decreased customer service for aggregate customers in these areas. A proposed final judgment, filed simultaneously with the complaint on April 25, 2018, required Martin Marietta to divest quarries and related assets in Georgia and Maryland. On July 16, 2018, the court entered the final judgment.

In *United States v. CRH PLC, CRH Americas Materials, Inc., and Pounding Mill Quarry Corporation*,²⁶ the Division challenged CRH America Materials Inc.'s proposed acquisition of quarry assets from Pounding Mill Quarry Corporation. The complaint alleged that, as originally structured, the acquisition would combine two of only three competitive sources of DOT-qualified aggregate in southern West Virginia resulting in higher prices for aggregate customers in the area. The complaint also alleged that the acquisition would strengthen CRH's virtual monopoly in the supply of asphalt concrete in southern West Virginia by eliminating Pounding Mill as a source of aggregate for its competitor. This loss in competition would have provided CRH with the ability and incentive to disadvantage its competitor by denying it access to aggregate, reliable delivery and competitive prices, resulting in higher prices for the sale of asphalt concrete in the area. The Division filed a complaint and proposed final judgment on June 22, 2018. The decree required CRH to divest Pounding Mill's quarry in Rocky Gap, Virginia. The court entered the final judgment on November 28, 2019.

In *United States v. Bayer AG and Monsanto Company*,²⁷ the Division challenged Bayer AG's proposed \$66 billion acquisition of Monsanto Company. Bayer and Monsanto were two of the largest agricultural companies in the world. The complaint alleged that the acquisition would substantially lessen competition in 17 agricultural product markets within

²⁵ *United States v. Martin Marietta Materials, Inc., LG Panadero, L.P., Panadero Corp., Panadero Aggregates Holdings, LLC, and Bluegrass Materials Company, LLC*, No. 1:18-cv-973 (D.D.C. filed Apr. 25, 2018).

²⁶ *United States v. CRH PLC, CRH Americas Materials, Inc., and Pounding Mill Quarry Corporation*, No. 1:18-cv-1473 (D.D.C. filed June 22, 2018).

²⁷ *United States v. Bayer AG and Monsanto Company*, No.1:18-cv-1241 (D.D.C. filed May 29, 2018).

the following four broad categories: (1) genetically modified seeds and traits; (2) foundational herbicides; (3) seed treatments; and (4) vegetable seeds. The loss of competition in each of the affected markets would have resulted in higher prices, less innovation, fewer choices, and lower-quality products for American farmers and customers. On May 29, 2018, the Division filed a proposed final judgment simultaneously with the complaint. Under the terms of the decree, Bayer agreed to divest businesses and assets valued at approximately \$9 billion to BASF. The required divestitures included the Bayer businesses that competed with Monsanto; the Bayer seed treatment businesses that, when combined with Monsanto's seed business, would have given the company the incentive and ability to harm competition by raising the prices it charged rival seed companies, intellectual property and research capabilities and additional assets that were needed to give BASF the scale and scope to compete with the combined company. On February 8, 2019, the court entered the final judgment.

In *United States v. The Walt Disney Company and Twenty-First Century Fox, Inc.*,²⁸ the Division challenged the acquisition by The Walt Disney Company of certain assets and businesses of Twenty-First Century Fox, Inc., including Fox's ownership of, or interests in, its regional sports networks (RSNs), FX cable networks, National Geographic cable networks, television studio, Hulu, film studio, and internal television businesses. The complaint alleged that the acquisition would eliminate the head-to-head competition between Disney's ESPN franchise of networks and Fox's portfolio of twenty-two RSNs in the licensing of cable sports programming to multichannel video programming distributors (MVPD) in 25 Designated Marketing Areas (DMA) across the United States. This loss in competition likely would have resulted in increased MVPD licensing fees in each DMA market, and because licensing fees typically are passed onto consumers, higher subscription fees for MVPD customers. On June 27, 2018, the Division filed a complaint and proposed final judgment requiring the parties to divest all of Fox's interests in its 22 RSNs.

2. *The Federal Trade Commission*

During fiscal year 2018, the Commission challenged 22 merger enforcement transactions that it concluded would substantially lessen competition if allowed to proceed as proposed. In five cases, the Commission initiated administrative or federal court litigation.

In *Wilhelmsen Maritime Services/Drew Marine*,²⁹ the Commission filed an administrative complaint challenging Wilhelmsen Maritime Services' \$400 million proposed acquisition of Drew Marine Group, and authorized FTC staff to seek a preliminary injunction in federal court to maintain the status quo pending the outcome of its administrative proceeding. The complaint alleged that the proposed merger would likely reduce competition for certain marine water treatment chemicals and services used by global fleets, including tankers, container ships, bulk carriers, cruise ships, and military support vessels to maintain

²⁸ *United States v. The Walt Disney Company and Twenty-First Century Fox, Inc.*, No. 1:18-cv-5800 (S.D.N.Y. filed June 27, 2018).

²⁹ *In the Matter of Wilhelm Wilhelmsen and Drew Marine Intermediate II B.V. and Drew Marine Group, Inc.*, FTC Dkt. C-9380 (complaint filed on Feb. 22, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0161/wilhelm-wilhelmsendrew-marine>.

critical on-board ship equipment. Wilhelmsen Maritime Services and Drew Marine Group, respectively, were the largest and second-largest suppliers of water treatment chemicals and services and each other's closest competitors. If consummated, the merger would have resulted in a company with at least 60 percent of the global marine water treatment chemical and service market. On July 21, 2018, the U.S. District Court for the District of Columbia granted a preliminary injunction. Shortly thereafter, Wilhelmsen and Drew abandoned their proposed merger and the Commission dismissed its administrative complaint.

In *Tronox/Cristal*,³⁰ the Commission filed an administrative complaint challenging Tronox's \$1.67 billion proposed acquisition of Cristal and authorized FTC staff to seek a preliminary injunction to maintain the status quo pending the outcome of its administrative proceeding. The Commission's complaint alleged that the proposed merger would likely reduce competition in the North American market for chloride process titanium dioxide (TiO₂). The combined firm and the other top supplier, Chemours, would have controlled the vast majority of chloride TiO₂ sales in North America. If consummated, the acquisition would have increased the risk of coordinated interaction among the remaining competitors and the risk of future anticompetitive output reductions by Tronox. On September 5, 2018, the U.S. District Court for the District of Columbia granted the FTC's request for a preliminary injunction pending the outcome of the administrative trial. On December 14, Chief Administrative Law Judge Chappell ruled in favor of FTC staff, holding that the proposed acquisition would substantially lessen competition in the relevant market for the sale of chloride process titanium dioxide. The Commission accepted a settlement that required Tronox to divest Cristal's North American titanium dioxide assets; the final order requiring divestiture issued on May 28, 2019.

In *J.M. Smucker/Conagra*,³¹ the Commission filed an administrative complaint challenging Smucker's \$285 million proposed acquisition of Conagra's Wesson cooking oil brand and authorized FTC staff to seek a preliminary injunction to maintain the status quo pending the outcome of its administrative proceeding. The Commission's complaint alleged that the proposed merger would likely lessen competition between Smucker's Crisco brand and Wesson's canola and vegetable cooking oils. According to the complaint, documents suggested that Crisco and Wesson compete intensely for sales to retailers and the merger would eliminate price competition between the two brands. Shortly after the Commission filed its complaint, the parties abandoned the transaction.

In *CDK/Auto/Mate*,³² the Commission filed an administrative complaint challenging CDK's \$190 million proposed acquisition of Auto/Mate and authorized FTC staff to seek a preliminary injunction to maintain the status quo pending the outcome of its administrative proceeding. The complaint alleged that by acquiring Auto/Mate, CDK would become the largest provider of Dealer Management System software in the United States. Car dealerships

³⁰ *In the Matter of Tronox Limited and National Industrialization Company*, FTC Dkt. C-9377 (complaint filed on Dec. 5, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/171-0085/tronoxcristal-usa>.

³¹ *In the Matter of J.M. Smucker Co. and Conagra Brands, Inc.*, FTC Dkt. C-9831 (complaint filed on Mar. 5, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0182/jm-smuckerconagra-matter>.

³² *In the Matter of CDK Global, Inc. and Auto/Mate, Inc.*, FTC Dkt. C-9382 (complaint filed on Mar. 19, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0156/cdk-global-automate-matter>.

use this software to manage all aspects of their business. According to the complaint, although smaller than CDK and Reynolds & Reynolds, Auto/Mate had been winning new business by offering dealers lower prices, free software, flexible contract terms, and high quality customer service. The proposed merger would have eliminated this beneficial competition. Shortly after the Commission filed its complaint, the parties abandoned the transaction.

In *Otto Bock/Freedom Innovations*,³³ the Commission filed an administrative complaint challenging the consummated merger of two prosthetics manufacturers that are top sellers of prosthetic knees equipped with microprocessors. According to the complaint, Otto Bock's consummated acquisition of FHI Group Holdings (Freedom Innovations) harmed competition in the United States for microprocessor prosthetic knees by eliminating head-to-head competition between the two companies. On May 6, 2019, Chief Administrative Law Judge Chappell ruled in favor of FTC staff. He found that the direct competition between Otto Bock and FHI in the microprocessor prosthetic knee market had enabled clinic customers to negotiate lower prices and spurred innovation. As a result, the acquisition would have significantly increased concentration in the MPK market, giving rise to a presumption that it would have lessened competition. The ALJ ordered Otto Bock to divest FHI's assets to a Commission-approved buyer. This matter is before the Commission on appeal.

The Commission also accepted for public comment and finalized consent orders in the following 12 merger matters.

In *Becton, Dickinson/C.R. Bard*,³⁴ the Commission challenged Becton, Dickinson's \$24 billion proposed acquisition of C.R. Bard. The complaint alleged that the proposed merger would likely harm competition in two medical device markets: tunneled home drainage catheter systems and soft tissue core needle biopsy devices. Becton, Dickinson and C.R. Bard were the top two suppliers in the United States for these devices. The Commission issued a consent order requiring Becton, Dickinson to divest its soft tissue core needle biopsy device business and C.R. Bard's tunneled home drainage catheter system business to Utah-based medical device supplier Merit Medical Systems. Following a public comment period, the Commission approved the final order on January 19, 2018.

In *Agrium/Potash*,³⁵ the Commission challenged Agrium's \$13.8 billion proposed acquisition of Potash. The complaint alleged that the proposed merger would likely harm competition in two markets: the North American market for SPA, a highly concentrated form of phosphoric acid that contains the essential crop nutrient phosphate, and the market for 65-67 percent concentration nitric acid sold to customers near and to the east of the parties' nitric

³³ *In the Matter of Otto Bock HealthCare North America*, FTC Dkt. C-9378 (complaint filed on Dec. 20, 2017), <https://www.ftc.gov/enforcement/cases-proceedings/171-0231/otto-bock-healthcarefreedom-innovations>.

³⁴ *In the Matter of Becton, Dickinson and Company and C.R. Bard, Inc.*, FTC Dkt. C-4637 (final order issued on Jan. 19, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0140/becton-dickinson-company-cr-bard-inc-matter-company-cr-bard-inc-matter>.

³⁵ *In the Matter of Agrium Inc. and Potash Corporation*, FTC Dkt. C-4638 (final order issued on Feb. 5, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/161-0232/agrium-inc-potash-corporation-nutrien-ltd>.

acid plants in Ohio. Without a remedy, the merger would have eliminated the head-to-head competition between Agrium and Potash for the sales of SPA and nitric acid. The Commission issued a consent order requiring Agrium to divest two facilities located in Idaho and Ohio. Following a public comment period, the Commission approved the final order on February 5, 2018.

In *Seven & i/Sunoco*,³⁶ the Commission challenged 7-Eleven's (Seven & i is 7-Eleven's parent company) \$3.3 billion proposed acquisition of approximately 1,100 Sunoco retail fuel outlets. According to the complaint, the proposed merger would likely harm competition in 76 local markets across 20 metropolitan statistical areas. The complaint alleged that without a remedy, the acquisition increased the likelihood that 7-Eleven could have unilaterally raised prices or that the small number of remaining competitors could increase prices by coordinating their actions. The Commission issued a consent order requiring 7-Eleven to divest 26 retail fuel outlets it owned to Sunoco. The order also required Sunoco to retain 33 fuel outlets that 7-Eleven otherwise would have acquired. Following a public comment period, the Commission approved the final order on March 26, 2018.

In *Red Ventures/Bankrate*,³⁷ the Commission challenged Red Ventures' \$1.4 billion proposed acquisition of Bankrate. The Commission's complaint alleged that the proposed merger would likely harm competition in the market for third-party paid referral services for senior living facilities. According to the complaint, two of Red Ventures' largest shareholders jointly owned A Place for Mom.com (APFM), the largest provider of such services, and they also owned a 34 percent stake, plus significant management rights, in the owner of APFM's most significant competitor, Caring.com. The Commission alleged that the combination of interests gave the firms the ability and incentive to reduce competition between APFM and Caring.com. To remedy these concerns and maintain competition, the Commission issued a consent order requiring the parties to divest Caring.com no later than six months after the acquisition and provide transition services to the buyer. The parties were also required to establish firewalls related to Caring.com's confidential business information. Following a public comment period, the Commission approved the final order on March 1, 2018.

In *Alimentation Couche-Tard/Holiday*,³⁸ the Commission challenged Alimentation Couche-Tard's \$1.6 billion proposed acquisition of 380 retail fuel outlets owned by Holiday Companies. The complaint alleged that the proposed merger would likely reduce the number of independent market participants from three to two or from four to three in ten local markets, increasing the likelihood that ACT could act unilaterally or in coordination with the remaining firms to reduce competition. To remedy these concerns, the Commission issued a consent order requiring ACT to identify a buyer or buyers and divest ten fuel stations in Minnesota and Wisconsin. Following a public comment period, the Commission approved

³⁶ *In the Matter of Seven & I Holdings Co., LTD and Sunoco LP*, FTC Dkt. C-4641 (final order issued on Mar. 26, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0126-c-4641/seven-i-holdings-7-eleven-sunoco>.

³⁷ *In the Matter of Red Ventures Holdco, LP and Bankrate, Inc.*, FTC Dkt. C-4627 (final order issued on Mar. 1, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/file-no-1710196/red-ventures-holdco-bankrate>.

³⁸ *In the Matter of Alimentation Couche-Tard Inc. and CrossAmerica Partners LP*, FTC Dkt. C-4635 (final order issued on Feb. 15, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/1710184/alimentation-couche-tard-crossamerica-partners-matter>.

the final order on February 15, 2018.

In *Alimentation Couche-Tard/Jet-Pep*,³⁹ the Commission challenged Alimentation Couche-Tard's proposed acquisition of 120 Jet-Pep retail fuel outlets. The complaint alleged that without a remedy, ACT's acquisition of Jet-Pep would likely reduce the number of independent market participants in three local markets to three or fewer participants and would have increased the likelihood that ACT could have exercised market power. To remedy these concerns, the Commission issued a consent order requiring ACT to divest one retail fuel outlet in Brewton, one in Monroeville, and one in Valley, Alabama. Following a public comment period, the Commission approved the final order on January 5, 2018.

In *Grifols/Biotest*,⁴⁰ the Commission challenged Grifols' \$286 million proposed acquisition of Biotest's U.S. operations. The complaint alleged that the proposed merger would likely harm competition in the markets for the collection of human blood plasma in Lincoln, Nebraska, Augusta, Georgia, and Youngstown, Ohio. Grifols and Biotest were the only companies operating collection centers in these markets and the proposed merger would have resulted in a merger-to-monopoly in these cities. To remedy these concerns, the Commission issued a consent order requiring Grifols to divest blood plasma collection centers in each of these cities. Under the terms of the consent order, Grifols divested its plasma collection centers to KedPlasma. The complaint also alleges that, absent a remedy, the acquisition would harm the U.S. market for hepatitis B immune globulin (HBIG), a plasma-derived injectable medicine that provides hepatitis B antibodies for preventing hepatitis B infections. When Grifols announced the proposed acquisition in December 2017, Biotest US owned 41 percent of ADMA Biologics, Inc., which has the largest share in the U.S. market for HBIG and competes with Grifols and one other supplier. Biotest US had transferred its ownership share in ADMA to The Biotest Divestiture Trust, the parent company of Biotest US. Because Grifols was only seeking to acquire Biotest US and not its parent, Grifols did not acquire any ownership interest in ADMA under the proposed acquisition. The order prohibited Grifols from acquiring, without prior notification, any ownership interest in ADMA or obtaining any rights to nominate or obtain representation on the ADMA Board of Directors. Following a public comment period, the Commission approved the final order on September 17, 2018.

In *Northrop Gruman/Orbital*,⁴¹ the Commission challenged Northrop's \$7.8 billion proposed acquisition of Orbital, an aerospace and defense contractor. The complaint alleged that the proposed merger would likely reduce competition in the solid rocket motor (SRM) market. Orbital is the premier supplier of SRMs that propel missiles to their targets and are essential for missile systems sold to the Department of Defense. According to the complaint,

³⁹ *In the Matter of Alimentation Couche-Tard Inc. and CrossAmerica Partners LP*, FTC Dkt. C-4631 (final order issued on Jan. 5, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/1710207/alimentation-couche-tard-crossamerica-partners>.

⁴⁰ *In the Matter of Grifols, S.A.*, FTC Dkt. C-4654 (final order issued on Sept. 17, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/181-0081/grifols-sa-grifols-shared-services-north-america-inc-matter>.

⁴¹ *In the Matter of Northrop Gruman Corporation and Orbital ATK*, FTC Dkt. C-4652 (final order issued on Dec. 3, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/181-0005-c-4652/northrop-grumman-orbital-atk>.

Northrop would have had the incentive to withhold access to SRMs or increase prices of SRMs to its competitors. As a result, competitors would have been forced to increase prices, or decide not to compete at all, which would have decreased the competitive pressure on Northrop. To remedy these concerns, the Commission issued a consent order requiring Northrop to separate the operation of its SRM business from the rest of the company's operations with a firewall. The order also appointed a compliance officer from the Department of Defense to oversee Northrop's conduct pursuant to this consent order. Following a public comment period, the Commission approved the final order on December 3, 2018.

In *CRH/Ash Grove*,⁴² the Commission challenged CRH's \$3.5 billion proposed acquisition of Ash Grove Cement Company. The complaint alleged that the proposed merger would likely harm competition in the markets for portland cement in Montana; sand and gravel in Omaha, Nebraska, and Council Bluffs, Iowa; and crushed limestone in the Johnson County, Kansas area. According to the complaint, the proposed merger would reduce the number of significant competitors in each of these markets, thereby increasing the likelihood that the merged company could have unilaterally exercised market power. To remedy these concerns, the Commission issued a consent order requiring CRH to divest its cement plant and quarry in Three Forks, Montana; a sand-and-gravel operation in Omaha, Nebraska; and two hot-mix asphalt plants and three limestone quarries in Olathe and Louisburg, Kansas. Following a public comment period, the Commission approved the final order on August 1, 2018.

In *Penn National Gaming/Pinnacle*,⁴³ the Commission challenged Penn National's \$2.8 billion proposed acquisition of Pinnacle. The complaint alleged that the proposed merger would likely harm competition for casino services in St. Louis, Missouri; Kansas City, Missouri; and Cincinnati, Ohio. Casino services include gaming services such as slots and table games, as well as related lodging, entertainment, and food and beverage services. According to the complaint, the proposed merger would reduce direct competition in these markets because Penn and Pinnacle were close and vigorous competitors. The combination would increase the likelihood that Penn could have exercised market power, leading to higher prices and reduced quality for consumers of casino services. To remedy these concerns, the Commission issued a consent order requiring Pinnacle to divest its Ameristar St. Charles property in St. Louis, Pinnacle's Ameristar Kansas City property, and both Pinnacle properties in Cincinnati (Belterra Park and Belterra Resort). Following a public comment period, the Commission approved the final order on February 21, 2019.

In *Amneal/Impax*,⁴⁴ the Commission challenged Amneal's \$1.45 billion proposed acquisition of Impax. The complaint alleged that the proposed merger would likely harm

⁴² *In the Matter of CRH plc and Ash Grove Cement Company*, FTC Dkt. C-4653 (final order issued on Aug. 1, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0230-c-4653/crh-plc>.

⁴³ *In the Matter of Penn National Gaming, Inc., and Pinnacle Entertainment, Inc.*, FTC Dkt. C-4658 (final order issued on Feb. 21, 2019), <https://www.ftc.gov/enforcement/cases-proceedings/181-0011/penn-national-gaming-pinnacle-entertainment-matter>.

⁴⁴ *In the Matter of Amneal Holdings and Impax Laboratories*, FTC Dkt. C-4650 (final order issued on June 29, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/181-0017-c-4650/amneal-holdings-impax-laboratories-matter>.

competition for ten generic drug products. The generic drug products in question treat a variety of conditions including depression, epilepsy, attention-deficit disorder, and gastrointestinal issues. According to the complaint, entry into the market from new competitors would not be timely, likely, or sufficient in magnitude to deter or counteract any anticompetitive effects of the acquisition. To remedy these concerns, the Commission issued a consent order requiring Amneal and Impax to divest rights and assets to these ten products to three other companies: ANI, Perrigo, and G&W Laboratories. Following a public comment period, the Commission approved the final order on June 29, 2018.

In *Air Medical Group/AMR*,⁴⁵ the Commission challenged Air Medical's \$2.4 billion proposed acquisition of AMR. Both companies operate air ambulance services. The complaint alleged that the proposed merger would likely harm competition for air ambulance transportation services between medical facilities in Hawaii. According to the complaint, Air Medical and AMR were the only two providers of these services in Hawaii. Without a remedy, the proposed merger would have created a monopoly for inter-facility air services in Hawaii. To remedy these concerns, the Commission issued a consent order requiring AMR to sell its inter-facility air ambulance business to AIRMD, a company that provides these services on the mainland but did not have operations in Hawaii. Following a public comment period, the Commission approved the final order on April 24, 2018.

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

⁴⁵ *In the Matter of Air Medical Group Holdings, Inc.*, FTC Dkt. C-4642 (final order issued on Apr. 24, 2018), <https://www.ftc.gov/enforcement/cases-proceedings/171-0217-c-4642/air-medical-group-kkr-northamerica-amr-holdco>.

transactions that may substantially lessen competition.

LIST OF APPENDICES

Appendix A: Summary of Transactions, Fiscal Years 2009 - 2018

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LIST OF EXHIBITS

Exhibit A: Statistical Tables for Fiscal Year 2018 – Data Profiling Hart-Scott- Rodino Notification Filings and Enforcement Interests

APPENDIX A
SUMMARY OF TRANSACTIONS
FISCAL YEARS 2009 – 2018

APPENDIX A
SUMMARY OF TRANSACTIONS BY FISCAL YEAR

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Transactions Reported	716	1,166	1,450	1,429	1,326	1,663	1,801	1,832	2,052	2,111
Filings Received ¹	1,411	2,318	2,882	2,829	2,628	3,307	3,585	3,674	4,083	4,188
Adjusted Transactions In Which A Second Request Could Have Been Issued ²	684	1,128	1,414	1,400	1,286	1,618	1,754	1,772	1,992	2,028
Investigations in Which Second Requests Were Issued	31	42	55	49	47	51	47	54	51	45
FTC ³	15	20	24	20	25	30	20	25	33	26
Percent ⁴	2.2%	1.8%	1.7%	1.4%	1.9%	1.9%	1.1%	1.4%	1.7%	1.3%
DOJ ³	16	22	31	29	22	21	27	29	18	19
Percent ⁴	2.3%	2.0%	2.2%	2.1%	1.7%	1.3%	1.5%	1.6%	0.9%	0.9%
Transactions Involving a Request For Early Termination ⁵	575	953	1,157	1,094	990	1,274	1,366	1,374	1,552	1,500
Granted ⁵	396	704	888	902	797	1,020	1,086	1,102	1,220	1,170
Not Granted ⁵	179	249	269	192	193	254	280	272	332	330

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.

¹ Usually, two filings are received, one from the acquiring person and one from the acquired person when a transaction is reported. Only one application is received when an acquiring party files for an exemption under Section 7A (c)(6) or (c)(8) of the Clayton Act.

² These figures omit from the total number of transactions reported all transactions for which the agencies were not authorized to request additional information. These include (1) incomplete transactions (only one party filed a complete notification); (2) transactions reported pursuant to the exemption provisions of Sections 7A (c)(6) and 7A(c)(8) of the Act; (3) transactions which were found to be non-reportable; and (4) transactions withdrawn before the waiting period began. In addition, where a party filed more than one notification in the same year to acquire voting securities of the same corporation, e.g., filing one threshold and later filing for a higher threshold, only a single consolidated transaction has been counted because as a practical matter the agencies do not issue more than one Second Request in such a case. These statistics also omit from the total number the transactions reported secondary acquisitions filed pursuant to §801.4 of the Premerger Notification rules. Secondary acquisitions have been deducted in order to be consistent with the statistics presented in most of the prior annual reports.

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

⁴ Second Request investigations are a percentage of the total number of adjusted transactions. The total percentage reflected in Figure 2 may not equal the sum of reported component values due to rounding.

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

APPENDIX B

NUMBER OF TRANSACTIONS REPORTED

AND

FILINGS RECEIVED BY MONTH

FOR

FISCAL YEARS 2009 - 2018

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

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
October	91	66	128	122	127	124	144	168	163	174
November	85	135	217	169	260	159	157	243	215	207
December	37	84	91	95	92	108	122	157	148	160
January	42	62	97	104	78	125	118	117	153	170
February	32	61	81	90	82	114	140	127	153	141
March	42	116	97	111	87	100	128	125	146	178
April	60	92	96	96	77	140	131	129	150	140
May	58	108	142	117	117	157	152	168	209	222
June	51	108	117	142	90	150	155	150	191	177
July	62	94	120	130	91	162	170	140	146	180
August	77	120	164	133	122	151	216	166	219	223
September	79	120	100	120	103	173	168	142	159	139
TOTAL	716	1,166	1,450	1,429	1,326	1,663	1,801	1,832	2,052	2,111

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

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
October	185	146	252	242	255	247	289	345	329	336
November	165	242	422	332	511	325	322	483	416	417
December	79	177	193	188	180	211	239	314	297	319
January	77	126	188	203	151	244	244	236	307	316
February	63	116	157	185	169	236	257	249	298	304
March	81	232	195	215	172	195	252	265	302	338
April	119	182	190	193	151	271	265	249	290	285
May	114	216	284	231	228	315	305	331	402	424
June	99	213	231	275	181	304	322	304	388	365
July	121	187	240	269	186	323	327	284	291	364
August	149	238	329	259	240	292	425	339	446	433
September	159	243	201	237	204	344	338	275	317	287
TOTAL	1,411	2,318	2,882	2,829	2,628	3,307	3,585	3,674	4,083	4,188

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

EXHIBIT A
STATISTICAL TABLES
FOR
FISCAL YEAR 2018

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

TABLE I
FISCAL YEAR 2018¹
ACQUISITIONS BY SIZE OF TRANSACTION (BY SIZE RANGE)²

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER ⁴	PERCENT	NUMBER		PERCENT OF TRANSACTION RANGE GROUP			NUMBER		PERCENT OF TRANSACTION RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
50M - 100M	114	5.6%	7	5	6.1%	4.4%	10.5%	0	0	0.0%	0.0%	0.0%
100M - 150M	320	15.8%	17	8	5.3%	2.5%	7.8%	1	0	0.3%	0.0%	0.3%
150M - 200M	284	14.0%	20	6	7.0%	2.1%	9.2%	1	1	0.4%	0.4%	0.7%
200M - 300M	232	11.4%	29	3	12.5%	1.3%	13.8%	3	0	1.3%	0.0%	1.3%
300M - 500M	274	13.5%	26	7	9.5%	2.6%	12.0%	4	1	1.5%	0.4%	1.8%
500M - 1000M	529	26.1%	55	20	10.4%	3.8%	14.2%	6	2	1.1%	0.4%	1.5%
Over 1000M	275	13.6%	54	29	19.6%	10.5%	30.2%	11	15	4.0%	5.5%	9.5%
<i>ALL TRANSACTIONS</i>	2,028	100.0%	208	78	10.3%	3.8%	14.1%	26	19	1.3%	0.9%	2.2%

TABLE II
FISCAL YEAR 2018¹
ACQUISITIONS BY SIZE OF TRANSACTION² (CUMULATIVE)

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER ⁴	PERCENT	NUMBER		PERCENTAGE OF TOTAL NUMBER OF CLEARANCES			NUMBER		PERCENTAGE OF TOTAL NUMBER OF SECOND REQUESTS		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 50M⁵	0	0.0%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
LESS THAN 100M	114	5.6%	7	5	2.4%	1.7%	4.2%	0	0	0.0%	0.0%	0.0%
LESS THAN 150M	434	21.4%	24	13	8.4%	4.5%	12.9%	1	0	2.2%	0.0%	2.2%
LESS THAN 200M	718	35.4%	44	19	15.4%	6.6%	22.0%	2	1	4.4%	2.2%	6.7%
LESS THAN 300M	950	46.8%	73	22	25.5%	7.7%	33.2%	5	1	11.1%	2.2%	13.3%
LESS THAN 500M	1,224	60.4%	99	29	34.6%	10.1%	44.8%	9	2	20.0%	4.4%	24.4%
LESS THAN 1000M	1,744	86.0%	151	49	52.8%	17.1%	69.9%	15	4	33.3%	8.9%	42.2%
ALL TRANSACTIONS	2,028		208	78	72.7%	27.3%	100.0%	26	19	57.8%	42.2%	100.0%

**TABLE III
FISCAL YEAR 2018¹
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	
50M - 100M	7	5	12	6.1%	4.4%	10.5%	3.4%	6.4%	2.4%	1.7%	4.2%	
100M - 150M	17	8	25	5.3%	2.5%	7.8%	8.2%	10.3%	5.9%	2.8%	8.7%	
150M - 200M	20	6	26	7.0%	2.1%	9.2%	9.6%	7.7%	7.0%	2.1%	9.1%	
200M - 300M	29	3	32	12.5%	1.3%	13.8%	13.9%	3.8%	10.1%	1.0%	11.2%	
300M - 500M	26	7	33	9.5%	2.6%	12.0%	12.5%	9.0%	9.1%	2.4%	11.5%	
500M - 1000M	55	20	75	10.4%	3.8%	14.2%	26.4%	25.6%	19.2%	7.0%	26.2%	
Over 1000M	54	29	83	19.6%	10.5%	30.2%	26.0%	37.2%	18.9%	10.1%	29.0%	
<i>ALL TRANSACTIONS</i>	208	78	286	10.3%	3.8%	14.1%	100.0%	100.0%	72.7%	27.3%	100.0%	

**TABLE IV
FISCAL YEAR 2018¹
TRANSACTIONS IN WHICH SECOND REQUESTS WERE ISSUED**

TRANSACTION RANGE (\$MILLIONS)	INVESTIGATIONS IN WHICH A SECOND REQUEST WAS ISSUED ³			SECOND REQUESTS ISSUED AS A PERCENTAGE OF:								
				TOTAL NUMBER OF TRANSACTIONS			TRANSACTIONS IN EACH TRANSACTION RANGE GROUP			TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
50M - 100M	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
100M - 150M	1	0	1	0.0%	0.0%	0.0%	0.3%	0.0%	0.3%	2.2%	0.0%	2.2%
150M - 200M	1	1	2	0.0%	0.0%	0.1%	0.4%	0.4%	0.7%	2.2%	2.2%	4.4%
200M - 300M	3	0	3	0.1%	0.0%	0.1%	1.3%	0.0%	1.3%	6.7%	0.0%	6.7%
300M - 500M	4	1	5	0.2%	0.0%	0.2%	1.5%	0.4%	1.8%	8.9%	2.2%	11.1%
500M - 1000M	6	2	8	0.3%	0.1%	0.4%	1.1%	0.4%	1.5%	13.3%	4.4%	17.8%
Over 1000M	11	15	26	0.5%	0.7%	1.3%	4.0%	5.5%	9.5%	24.4%	33.3%	57.8%
<i>ALL TRANSACTIONS</i>	26	19	45	1.3%	0.9%	2.2%	1.3%	0.9%	2.2%	57.8%	42.2%	100.0%

TABLE V
FISCAL YEAR 2018¹
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD ⁶	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF THRESHOLD GROUP			NUMBER		PERCENT OF THRESHOLD GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
\$50M (as adjusted)	140	6.9%	4	3	2.9%	2.1%	5.0%	0	0	0.0%	0.0%	0.0%
\$100M (as adjusted)	226	11.1%	16	4	7.1%	1.8%	8.8%	0	0	0.0%	0.0%	0.0%
\$500M (as adjusted)	40	2.0%	1	1	2.5%	2.5%	5.0%	0	1	0.0%	2.5%	2.5%
25%	7	0.3%	0	1	0.0%	14.3%	14.3%	0	0	0.0%	0.0%	0.0%
50%	897	44.2%	112	47	12.5%	5.2%	17.7%	15	15	1.7%	1.7%	3.3%
ASSETS ONLY	206	10.2%	37	4	18.0%	1.9%	19.9%	0	0	0.0%	0.0%	0.0%
NCI	512	25.2%	38	18	7.4%	3.5%	10.9%	11	3	2.1%	0.6%	2.7%
ALL TRANSACTIONS	2,028	100.0%	208	78	10.3%	3.8%	14.1%	26	19	1.3%	0.9%	2.2%

TABLE VI
FISCAL YEAR 2018¹
TRANSACTION BY ASSETS OF ACQUIRING PERSON

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF ASSET RANGE GROUP			NUMBER		PERCENT OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	272	13.4%	12	5	4.4%	1.8%	6.3%	2	1	0.7%	0.4%	1.1%
50M - 100M	33	1.6%	3	1	9.1%	3.0%	12.1%	0	0	0.0%	0.0%	0.0%
100M - 150M	46	2.3%	1	1	2.2%	2.2%	4.3%	0	0	0.0%	0.0%	0.0%
150M - 200M	123	6.1%	5	1	4.1%	0.8%	4.9%	0	1	0.0%	0.8%	0.8%
200M - 300M	69	3.4%	5	1	7.2%	1.4%	8.7%	0	0	0.0%	0.0%	0.0%
300M - 500M	107	5.3%	6	2	5.6%	1.9%	7.5%	0	0	0.0%	0.0%	0.0%
500M - 1000M	194	9.6%	14	4	7.2%	2.1%	9.3%	1	0	0.5%	0.0%	0.5%
Over 1000M	1,184	58.4%	162	63	13.7%	5.3%	19.0%	23	17	1.9%	1.4%	3.4%
ALL TRANSACTIONS	2,028	100.0%	208	78	10.3%	3.8%	14.1%	26	19	1.3%	0.9%	2.2%

**TABLE VII
FISCAL YEAR 2018¹
TRANSACTION BY SALES OF ACQUIRING PERSON**

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF SALES RANGE GROUP			NUMBER		PERCENT OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	224	11.0%	9	3	4.0%	1.3%	5.4%	0	1	0.0%	0.4%	0.4%
50M - 100M	91	4.5%	2	1	2.2%	1.1%	3.3%	1	0	1.1%	0.0%	1.1%
100M - 150M	46	2.3%	3	1	6.5%	2.2%	8.7%	0	0	0.0%	0.0%	0.0%
150M - 200M	67	3.3%	4	1	6.0%	1.5%	7.5%	0	1	0.0%	1.5%	1.5%
200M - 300M	87	4.3%	10	2	11.5%	2.3%	13.8%	0	0	0.0%	0.0%	0.0%
300M - 500M	124	6.1%	4	6	3.2%	4.8%	8.1%	0	0	0.0%	0.0%	0.0%
500M - 1000M	198	9.8%	15	4	7.6%	2.0%	9.6%	3	2	1.5%	1.0%	2.5%
Over 1000M	986	48.6%	154	57	15.6%	5.8%	21.4%	21	15	2.1%	1.5%	3.7%
Sales Not Available⁷	205	10.1%	7	3	3.4%	1.5%	4.9%	1	0	0.5%	0.0%	0.5%
ALL TRANSACTIONS	2,028	100.0%	208	78	10.3%	3.8%	14.1%	26	19	1.3%	0.9%	2.2%

**TABLE VIII
FISCAL YEAR 2018¹
TRANSACTION BY ASSETS OF ACQUIRED ENTITIES⁸**

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF ASSET RANGE GROUP			NUMBER		PERCENT OF ASSET RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	304	15.0%	27	3	8.9%	1.0%	9.9%	1	0	0.3%	0.0%	0.3%
50M - 100M	247	12.2%	18	10	7.3%	4.0%	11.3%	1	0	0.4%	0.0%	0.4%
100M - 150M	167	8.2%	14	4	8.4%	2.4%	10.8%	0	1	0.0%	0.6%	0.6%
150M - 200M	121	6.0%	11	3	9.1%	2.5%	11.6%	0	0	0.0%	0.0%	0.0%
200M - 300M	131	6.5%	7	4	5.3%	3.1%	8.4%	1	1	0.8%	0.8%	1.5%
300M - 500M	160	7.9%	20	2	12.5%	1.3%	13.8%	4	0	2.5%	0.0%	2.5%
500M - 1000M	205	10.1%	30	8	14.6%	3.9%	18.5%	2	0	1.0%	0.0%	1.0%
Over 1000M	466	23.0%	50	30	10.7%	6.4%	17.2%	11	13	2.4%	2.8%	5.2%
Assets Not Available⁸	227	11.2%	31	14	13.7%	6.2%	19.8%	6	4	2.6%	1.8%	4.4%
ALL TRANSACTIONS	2,028	100.0%	208	78	10.3%	3.8%	14.1%	26	19	1.3%	0.9%	2.2%

TABLE IX
FISCAL YEAR 2018¹
TRANSACTION BY SALES OF ACQUIRED ENTITIES ⁹

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER	PERCENT	NUMBER		PERCENT OF SALES RANGE GROUP			NUMBER		PERCENT OF SALES RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	336	16.6%	27	9	8.0%	2.7%	10.7%	4	0	1.2%	0.0%	1.2%
50M - 100M	304	15.0%	20	10	6.6%	3.3%	9.9%	1	1	0.3%	0.3%	0.7%
100M - 150M	194	9.6%	12	4	6.2%	2.1%	8.2%	1	1	0.5%	0.5%	1.0%
150M - 200M	130	6.4%	11	5	8.5%	3.8%	12.3%	2	0	1.5%	0.0%	1.5%
200M - 300M	209	10.3%	23	3	11.0%	1.4%	12.4%	1	1	0.5%	0.5%	1.0%
300M - 500M	184	9.1%	22	6	12.0%	3.3%	15.2%	1	0	0.5%	0.0%	0.5%
500M - 1000M	193	9.5%	24	7	12.4%	3.6%	16.1%	1	2	0.5%	1.0%	1.6%
Over 1000M	405	20.0%	53	33	13.1%	8.1%	21.2%	13	14	3.2%	3.5%	6.7%
Sales not Available ¹⁰	73	3.6%	16	1	21.9%	1.4%	23.3%	2	0	2.7%	0.0%	2.7%
ALL TRANSACTIONS	2,028	100.0%	208	78	10.3%	3.8%	14.1%	26	19	1.3%	0.9%	2.2%

**TABLE X
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
000 ¹³	Not Available	239	11.8%	1.3%	7	3	10	1	0	1
111	Crop Production	2	0.1%	0.1%	0	0	0	0	0	0
211	Oil and Gas Extraction	20	1.0%	-0.4%	1	0	1	0	0	0
212	Mining (except Oil and Gas)	9	0.4%	0.1%	2	1	3	0	0	0
213	Support Activities for Mining	13	0.6%	-0.4%	0	0	0	0	0	0
221	Utilities	40	2.0%	0.4%	0	4	4	0	0	0
236	Construction of Buildings	4	0.2%	0.0%	0	0	0	0	0	0
237	Heavy and Civil Engineering Construction	8	0.4%	-0.2%	1	0	1	1	0	1
238	Specialty Trade Contractors	14	0.7%	-0.2%	3	1	4	0	1	1
311	Food and Kindred Products	49	2.4%	0.6%	12	3	15	0	0	0
312	Beverage and Tobacco Product Manufacturing	7	0.3%	-0.6%	1	0	1	0	0	0
313	Textile Mills	1	0.0%	-0.1%	0	0	0	0	0	0
314	Textile Products	4	0.2%	0.1%	0	0	0	0	0	0
315	Apparel Manufacturing	1	0.0%	-0.3%	0	0	0	0	0	0
321	Wood Product Manufacturing	7	0.3%	0.1%	2	1	3	0	0	0
322	Paper Manufacturing	11	0.5%	-0.4%	0	3	3	0	1	1
323	Printing and Related Support Activities	7	0.3%	0.1%	1	0	1	0	0	0
324	Petroleum and Coal Products Manufacturing	17	0.8%	-0.3%	6	0	6	2	0	2
325	Chemical Manufacturing	109	5.4%	-1.6%	28	0	28	6	0	6
326	Plastics and Rubber Manufacturing	35	1.7%	0.6%	3	1	4	0	0	0
327	Nonmetallic Mineral Product Manufacturing	10	0.5%	-0.1%	1	1	2	0	0	0

**TABLE X
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
331	Primary Metal Manufacturing	10	0.5%	-0.2%	0	1	1	0	0	0
332	Fabricated Metal Product Manufacturing	23	1.1%	0.0%	3	1	4	0	1	1
333	Machinery Manufacturing	34	1.7%	0.2%	4	0	4	0	0	0
334	Computer and Electronic Product Manufacturing	50	2.5%	-0.6%	7	2	9	2	1	3
335	Electrical Equipment, Appliance, and Component Manufacturing	20	1.0%	0.2%	1	2	3	0	0	0
336	Transportation Equipment Manufacturing	52	2.6%	-0.1%	5	6	11	1	3	4
337	Furniture and Related Product Manufacturing	7	0.3%	0.1%	0	0	0	0	0	0
339	Miscellaneous Manufacturing	17	0.8%	-0.4%	6	0	6	0	0	0
423	Merchant Wholesalers, Durable Goods	79	3.9%	0.1%	5	1	6	0	0	0
424	Merchant Wholesales, Nondurable Goods	99	4.9%	0.3%	20	1	21	3	0	3
425	Wholesale Electric Markets and Agent and Brokers	5	0.2%	-0.2%	1	0	1	1	0	1
441	Motor Vehicle and Parts Dealers	15	0.7%	-0.2%	0	0	0	0	0	0
442	Furniture and Home Furnishing Stores	2	0.1%	-0.3%	0	0	0	0	0	0
443	Miscellaneous Repair Services	1	0.0%	-0.1%	0	0	0	0	0	0
444	Electronics and Appliance Stores	3	0.1%	-0.1%	0	0	0	0	0	0
445	Food and Beverage Stores	8	0.4%	0.2%	1	0	1	0	0	0
446	Health and Personal Care Stores	9	0.4%	0.0%	2	1	3	0	1	1
447	Gasoline Stations	2	0.1%	-0.1%	0	0	0	0	0	0
448	Clothing and Clothing Accessories Stores	8	0.4%	0.0%	0	1	1	0	0	0
452	General Merchandise Stores	3	0.1%	-0.3%	0	0	0	0	0	0
453	Miscellaneous Store Retailers	4	0.2%	0.1%	0	0	0	0	0	0

TABLE X
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
454	Nonstore Retailers	13	0.6%	0.2%	3	0	3	0	0	0
481	Air Transportation	1	0.0%	-0.3%	0	0	0	0	0	0
483	Water Transportation	2	0.1%	-0.2%	0	0	0	0	0	0
484	Truck Transportation	4	0.2%	-0.1%	1	0	1	0	0	0
486	Pipeline Transportation	9	0.4%	-0.4%	1	0	1	0	0	0
488	Support Activities for Transportation	8	0.4%	0.0%	0	1	1	0	0	0
493	Warehousing and Storage	3	0.1%	-0.1%	1	1	2	0	0	0
511	Publishing Industries (except Internet)	72	3.6%	0.7%	3	7	10	0	0	0
512	Motion Pictures and Sound Recording Industries	8	0.4%	-0.2%	0	1	1	0	0	0
515	Broadcasting (except Internet)	12	0.6%	-0.1%	0	5	5	0	3	3
517	Telecommunications	29	1.4%	-1.0%	1	4	5	0	2	2
518	Internet Service Providers, Web Search Portals, and Data Processing Services	31	1.5%	-0.2%	2	4	6	0	0	0
519	Other Information Services	19	0.9%	0.1%	0	0	0	1	0	1
522	Credit Intermediation and Related Activities	37	1.8%	0.0%	0	3	3	0	2	2
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	202	10.0%	0.3%	10	4	14	0	2	2
524	Insurance Carriers and Related Activities	71	3.5%	0.2%	5	2	7	2	1	3
525	Funds, Trusts, and Other Financial Vehicles	95	4.7%	1.4%	0	0	0	0	0	0
531	Real Estate	4	0.2%	-0.6%	2	0	2	0	0	0
532	Rental and Leasing Services	10	0.5%	0.1%	3	0	3	1	0	1
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	8	0.4%	-0.1%	2	0	2	0	0	0
541	Professional, Scientific, and Technical Services	133	6.6%	0.6%	8	7	15	0	0	0

**TABLE X
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRING PERSON**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
551	Management Companies and Enterprises	1	0.0%	-0.1%	0	0	0	0	0	0
561	Administrative and Support Services	38	1.9%	0.1%	3	4	7	0	0	0
562	Waste Management and Remediation Services	8	0.4%	0.2%	0	0	0	0	0	0
611	Educational Services	6	0.3%	0.1%	0	0	0	0	0	0
621	Ambulatory Health Care Services	38	1.9%	0.1%	9	0	9	2	0	2
622	Hospitals	30	1.5%	-0.1%	17	0	17	1	0	1
623	Nursing Care Facilities	4	0.2%	0.1%	1	0	1	0	0	0
624	Social Assistance	7	0.3%	0.0%	0	0	0	0	0	0
711	Performing Arts, Spector Sports, and Related Industries	2	0.1%	-0.2%	0	0	0	0	0	0
713	Amusement, Gambling, and Recreation Industries	14	0.7%	0.5%	4	1	5	1	1	2
721	Accommodation	17	0.8%	0.5%	4	0	4	1	0	1
722	Food Services and Drinking Places	21	1.0%	-0.4%	5	0	5	0	0	0
811	Repairs and Maintenance	10	0.5%	0.0%	0	0	0	0	0	0
812	Personal and Laundry Services	1	0.0%	-0.3%	0	0	0	0	0	0
813	Religious, Grantmaking, Civic, Professional, and Similar Organizations	2	0.1%	0.1%	0	0	0	0	0	0
		2,028	100.0%		208	78	286	26	19	45

**TABLE XI
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
000 ¹	Not Available	79	3.9%	-1.1%	14	1	15	1	0	1	0
111	Crop Production	1	0.0%	-0.1%	0	0	0	0	0	0	1
112	Animal Production	1	0.0%	-0.1%	0	0	0	0	0	0	0
115	Support Activities for Agriculture and Forestry	1	0.0%	0.0%	0	0	0	0	0	0	0
211	Oil and Gas Extraction	35	1.7%	-0.2%	0	0	0	0	0	0	14
212	Mining (except Oil and Gas)	15	0.7%	-0.3%	1	2	3	0	0	0	6
213	Support Activities for Mining	12	0.6%	-0.3%	0	0	0	0	0	0	4
221	Utilities	60	3.0%	0.4%	0	4	4	0	0	0	29
236	Construction of Buildings	2	0.1%	-0.1%	0	0	0	0	0	0	1
237	Heavy and Civil Engineering Construction	16	0.8%	0.5%	0	0	0	0	0	0	4
238	Specialty Trade Contractors	11	0.5%	-0.3%	1	0	1	0	0	0	1
311	Food and Kindred Products	61	3.0%	0.5%	11	3	14	0	0	0	34
312	Beverage and Tobacco Product Manufacturing	11	0.5%	-0.3%	3	0	3	0	0	0	4
313	Textile Mills	6	0.3%	0.2%	0	0	0	0	0	0	1
314	Textile Products	1	0.0%	-0.1%	0	0	0	0	0	0	0
315	Apparel Manufacturing	1	0.0%	-0.2%	0	0	0	0	0	0	1
316	Leather and Allied Product Manufacturing	1	0.0%	-0.1%	0	0	0	0	0	0	0
321	Wood Product Manufacturing	14	0.7%	0.5%	7	1	8	0	0	0	6
322	Paper Manufacturing	11	0.5%	-0.2%	0	2	2	0	1	1	7
323	Printing and Related Support Activities	6	0.3%	-0.1%	0	0	0	0	0	0	1
324	Petroleum and Coal Products Manufacturing	5	0.2%	-0.6%	0	0	0	0	0	0	1

**TABLE XI
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
325	Chemical Manufacturing	82	4.0%	-1.9%	18	0	18	2	0	2	34
326	Plastics and Rubber Manufacturing	42	2.1%	0.7%	3	1	4	0	0	0	12
327	Nonmetallic Mineral Product Manufacturing	9	0.4%	-0.2%	2	0	2	1	0	1	2
331	Primary Metal Manufacturing	13	0.6%	-0.4%	0	2	2	0	1	1	6
332	Fabricated Metal Product Manufacturing	18	0.9%	-0.8%	1	0	1	0	0	0	3
333	Machinery Manufacturing	41	2.0%	0.5%	3	0	3	0	0	0	11
334	Computer and Electronic Product Manufacturing	49	2.4%	-0.5%	7	3	10	1	3	4	12
335	Electrical Equipment, Appliance, and Component Manufacturing	18	0.9%	0.1%	1	2	3	0	0	0	6
336	Transportation Equipment Manufacturing	42	2.1%	-0.5%	4	3	7	1	1	2	18
337	Furniture and Related Product Manufacturing	6	0.3%	0.0%	0	0	0	0	0	0	3
339	Miscellaneous Manufacturing	36	1.8%	-0.2%	6	0	6	0	0	0	12
423	Merchant Wholesalers, Durable Goods	112	5.5%	0.7%	12	1	13	0	0	0	27
424	Merchant Wholesales, Nondurable Goods	98	4.8%	1.0%	22	2	24	7	0	7	32
425	Wholesale Electric Markets and Agent and Brokers	4	0.2%	-0.1%	0	0	0	0	0	0	1
441	Motor Vehicle and Parts Dealers	14	0.7%	-0.1%	0	0	0	0	0	0	7
442	Furniture and Home Furnishing Stores	2	0.1%	-0.2%	0	0	0	0	0	0	0
444	Electronics and Appliance Stores	4	0.2%	0.0%	0	0	0	0	0	0	0
445	Food and Beverage Stores	2	0.1%	-0.2%	0	0	0	0	0	0	1
446	Health and Personal Care Stores	15	0.7%	0.6%	3	0	3	0	0	0	2
447	Gasoline Stations	4	0.2%	0.0%	1	0	1	0	0	0	1
448	Clothing and Clothing Accessories Stores	5	0.2%	-0.3%	0	0	0	0	0	0	1

**TABLE XI
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
452	General Merchandise Stores	4	0.2%	0.1%	0	0	0	0	0	0	0
453	Miscellaneous Store Retailers	2	0.1%	0.0%	0	0	0	0	0	0	0
454	Nonstore Retailers	21	1.0%	-0.1%	3	0	3	0	0	0	2
481	Air Transportation	3	0.1%	-0.1%	0	0	0	0	0	0	0
482	Railroad Transportation	1	0.0%	0.0%	0	0	0	0	0	0	0
483	Water Transportation	3	0.1%	-0.1%	0	0	0	0	0	0	2
484	Truck Transportation	5	0.2%	-1.0%	1	0	1	0	0	0	2
485	Transit and Ground Transportation	3	0.1%	0.0%	0	0	0	0	0	0	0
486	Pipeline Transportation	24	1.2%	-0.3%	4	0	4	0	0	0	6
487	Scenic and Sightseeing Transportation	1	0.0%	0.0%	0	0	0	0	0	0	0
488	Support Activities for Transportation	16	0.8%	0.2%	0	0	0	0	0	0	1
492	Couriers	4	0.2%	0.0%	1	0	1	0	0	0	0
493	Warehousing and Storage	10	0.5%	-0.1%	2	1	3	0	0	0	2
511	Publishing Industries (except Internet)	127	6.3%	1.9%	3	9	12	0	0	0	26
512	Motion Pictures and Sound Recording Industries	13	0.6%	0.0%	0	2	2	1	2	3	3
515	Broadcasting (except Internet)	14	0.7%	0.1%	0	6	6	0	3	3	6
517	Telecommunications	31	1.5%	-0.4%	0	3	3	0	2	2	7
518	Internet Service Providers, Web Search Portals, and Data Processing Services	68	3.4%	-1.0%	1	5	6	0	1	1	5
519	Other Information Services	29	1.4%	-0.1%	3	3	6	1	0	1	3
522	Credit Intermediation and Related Activities	52	2.6%	0.3%	0	3	3	0	2	2	22
523	Securities, Commodity Contracts, and Other Financial Investments and Related Activities	46	2.3%	0.0%	0	2	2	0	1	1	18

TABLE XI
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTION ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
524	Insurance Carriers and Related Activities	71	3.5%	1.0%	2	2	4	0	1	1	28
525	Funds, Trusts, and Other Financial Vehicles	1	0.0%	-0.1%	0	0	0	0	0	0	0
531	Real Estate	22	1.1%	0.5%	2	0	2	1	0	1	0
532	Rental and Leasing Services	15	0.7%	-0.1%	4	0	4	1	0	1	5
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	17	0.8%	0.3%	3	0	3	1	0	1	1
541	Professional, Scientific, and Technical Services	215	10.6%	1.3%	8	10	18	0	1	1	48
551	Management Companies and Enterprises	1	0.0%	0.0%	0	0	0	0	0	0	0
561	Administrative and Support Services	52	2.6%	0.0%	4	4	8	0	0	0	12
562	Waste Management and Remediation Services	13	0.6%	0.2%	1	0	1	0	0	0	5
611	Educational Services	17	0.8%	0.4%	0	1	1	0	0	0	2
621	Ambulatory Health Care Services	50	2.5%	-0.3%	13	0	13	3	0	3	14
622	Hospitals	33	1.6%	0.0%	18	0	18	2	0	2	24
623	Nursing Care Facilities	1	0.0%	-0.3%	1	0	1	0	0	0	0
624	Social Assistance	2	0.1%	0.0%	0	0	0	0	0	0	1
711	Performing Arts, Spector Sports, and Related Industries	8	0.4%	0.2%	1	0	1	0	0	0	0
713	Amusement, Gambling, and Recreation Industries	20	1.0%	0.4%	3	0	3	1	0	1	4
721	Accommodation	9	0.4%	0.1%	4	0	4	1	0	1	4
722	Food Services and Drinking Places	23	1.1%	-0.1%	2	0	2	0	0	0	10
811	Repairs and Maintenance	9	0.4%	0.0%	2	0	2	0	0	0	1
812	Personal and Laundry Services	6	0.3%	0.0%	2	0	2	1	0	1	1

**TABLE XI
FISCAL YEAR 2018¹
INDUSTRY GROUP OF ACQUIRED ENTITIES**

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2017 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST ³ INVESTIGATIONS			NUMBER OF 3 DIGIT INTRA- INDUSTRY TRANSACTIONS ¹⁴
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
		2,028	100.0%		208	78	286	26	19	45	571

¹ Fiscal year 2018 figures include transactions reported between October 1, 2017 and September 30, 2018.

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

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

⁴ During fiscal year 2018, 2,111 transactions were reported under the HSR Premerger Notification program. The smaller number, 2,028, reflects the adjustments to eliminate the following types of transactions: (1) transactions reported under Section 7A(c)(6) and (c)(8) (transactions involving certain regulated industries and financial businesses); (2) transactions deemed non-reportable; (3) incomplete transactions (only one party in each transaction filed a compliant notification); and (4) transactions withdrawn before the waiting period began. The table does not, however, exclude competing offers or multiple HSR transactions resulting from a single business transaction (where there are multiple acquiring persons or acquired persons).

⁵ The total number of filings under \$50 million submitted in fiscal year 2018 reflects corrective filings.

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

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

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

⁹ Sales of an acquired entity are taken from responses to Item 4(a) and (b) (SEC documents and annual reports) or item 5 (dollar revenues) of the Premerger Notification and Report Form.

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

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

¹² This represents the deviation from the fiscal year 2016 percentage.

¹³ This category includes transactions by newly-formed entities.

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