We disagree. If Buyer is going to cross the $100 million (as adjusted) threshold, Buyer must file for the $100 million (as adjusted) threshold and pay the fee required for crossing the $100 million (as adjusted) threshold.

A quick question about notification thresholds:
Buyer wants to buy X shares of Corp stock (less than 50%). The transaction will be subject to HSR, but the actual purchase might not happen for several months (although it would occur within a year).
Assume that right now the transaction value (as determined under HSR) is more than $50 million (as adjusted) but is below $100 million (as adjusted).
Based on that transaction value, the filing fee would be $45,000.
However, the value of Corp’s stock has been volatile. Thus, it is entirely possible that the value of X shares could equal or exceed $100 million (as adjusted) as calculated at the time of the actual purchase.
I’d think that Buyer’s HSR filing should reflect the $100 million (as adjusted) notification threshold (because that is the highest notification threshold as to which Buyer might need clearance for this transaction); but the filing fee still would be $45,000 (rather than $125,000) because that’s the filing fee applicable to the size-of-transaction as calculated for the actual HSR filing.
Do you agree?