



INTRODUCTION

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act or the Act), together with Section 13(b) of the Federal Trade Commission Act and Section 15 of the Clayton Act, enables the Federal Trade Commission (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 subject of the numerous enforcement actions brought in fiscal year 2011¹ 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 2011, 1,450 transactions were reported under the HSR Act, representing about a 24% increase from the 1,166 transactions reported in fiscal year 2010 and about a 22% increase from the 1,187 transactions reported in fiscal year 2002, the first full fiscal year under the revised reporting thresholds.² (See Figure 1 below.)



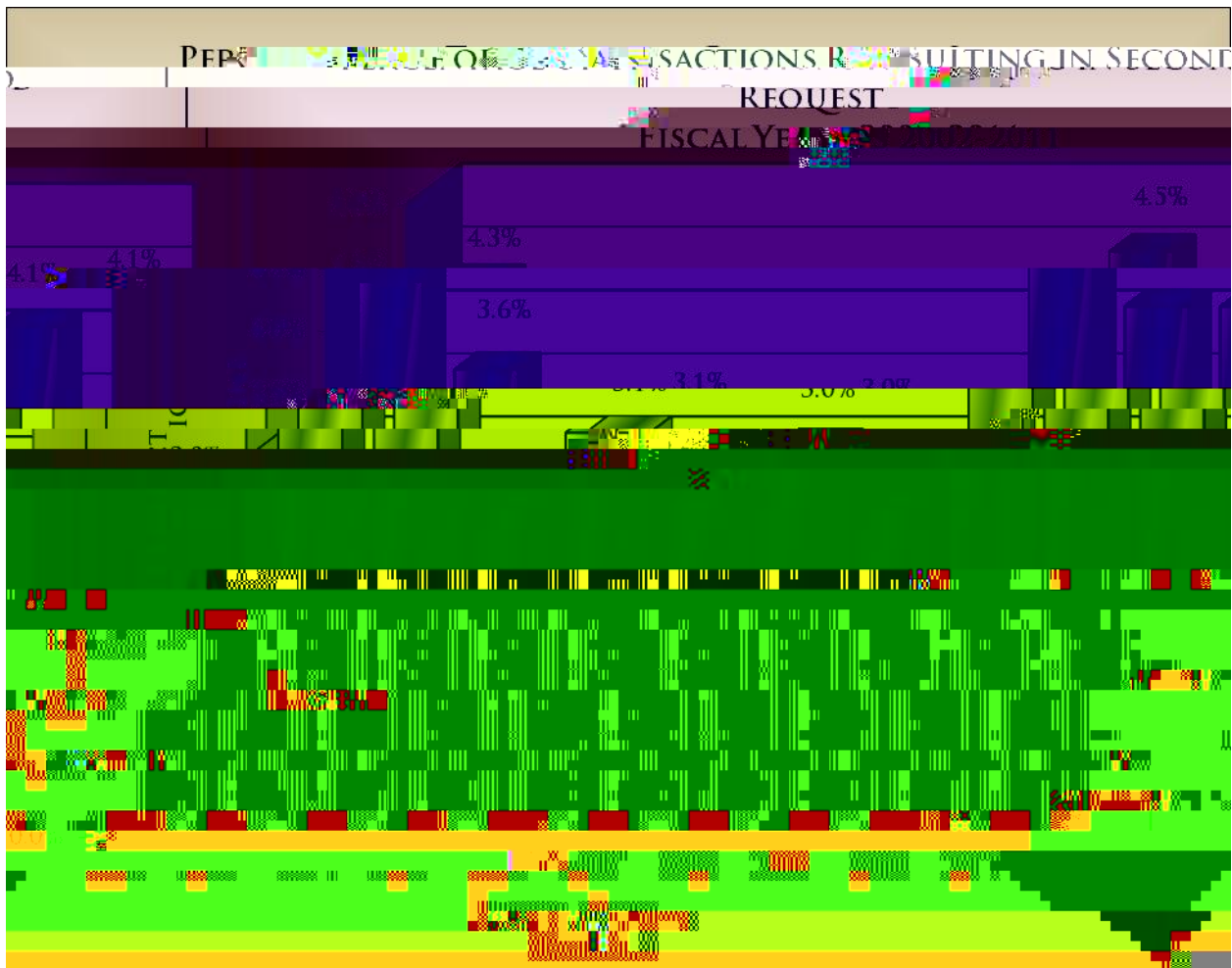
¹ The fiscal year covers the period of Oc

During the year, the Commission challenged 17 transactions, leading to nine consent orders, three administrative complaints, along with attendant requests for preliminary injunctions in federal district courts, and five transactions that were abandoned or restructured after the SDUWLHV OHDUQHGRIRW. These actions spanned several markets, including pharmaceuticals, hospitals, industrial goods, retail outlet centers, and energy. In addition to these new enforcement actions, the Commission continued to pursue litigation begun in previous fiscal years (Polypore International/Daramic LLC and Lundbeck (Ovation) Pharmaceuticals, Inc.). As mentioned above, the Commission initiated actions in federal court in three matters seeking to preserve competition among health care providers that would otherwise have been lost as a result of acquisitions. These matters involved the sale of clinical laboratory testing services to physician groups (Lab Corp/Westcliff Medical Services) and consolidations of hospitals providing general acute

2011, the court issued a decision permanently enjoining the merger. In another notable challenge, after the Division informed the parties it was prepared to file suit challenging their proposed transaction, NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. abandoned their joint bid to acquire NYSE Euronext. NYSE and NASDAQ operate the major U.S. stock exchanges, and are the only competitors in several businesses vital to the success of U.S. equity markets, including provision of stock listing services, opening and closing stock auction services, off-exchange stock trade reporting services, and ~~direct~~ proprietary equity data products. The Division concluded that the transaction, had it been allowed to proceed, would have substantially eliminated competition for those services, which are crucial to the investing public and to new and established companies ~~and~~ access to U.S. stock markets.

In fiscal year 2011

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2011 increased 24% from the number of transactions reported in fiscal year 2010. In fiscal year 2011, 1,450 transactions were reported, while 1,166 were reported in fiscal year 2010.⁶ The statistics in Appendix A also show that the number of merger investigations in which second requests were issued in fiscal year 2011 increased 26% from the number of merger investigations in which second requests were issued in fiscal year 2010. Second requests were issued in 58 merger investigations in fiscal year 2011 (24 issued by the FTC and 34 issued by the Division), while second requests were issued in 46 merger investigations in fiscal year 2010 (20 issued by the FTC and 26 issued by the Division). The percentage of transactions resulting in second requests was 4.1% in fiscal year 2011, unchanged from fiscal year 2010. (See Figure 2 below.)



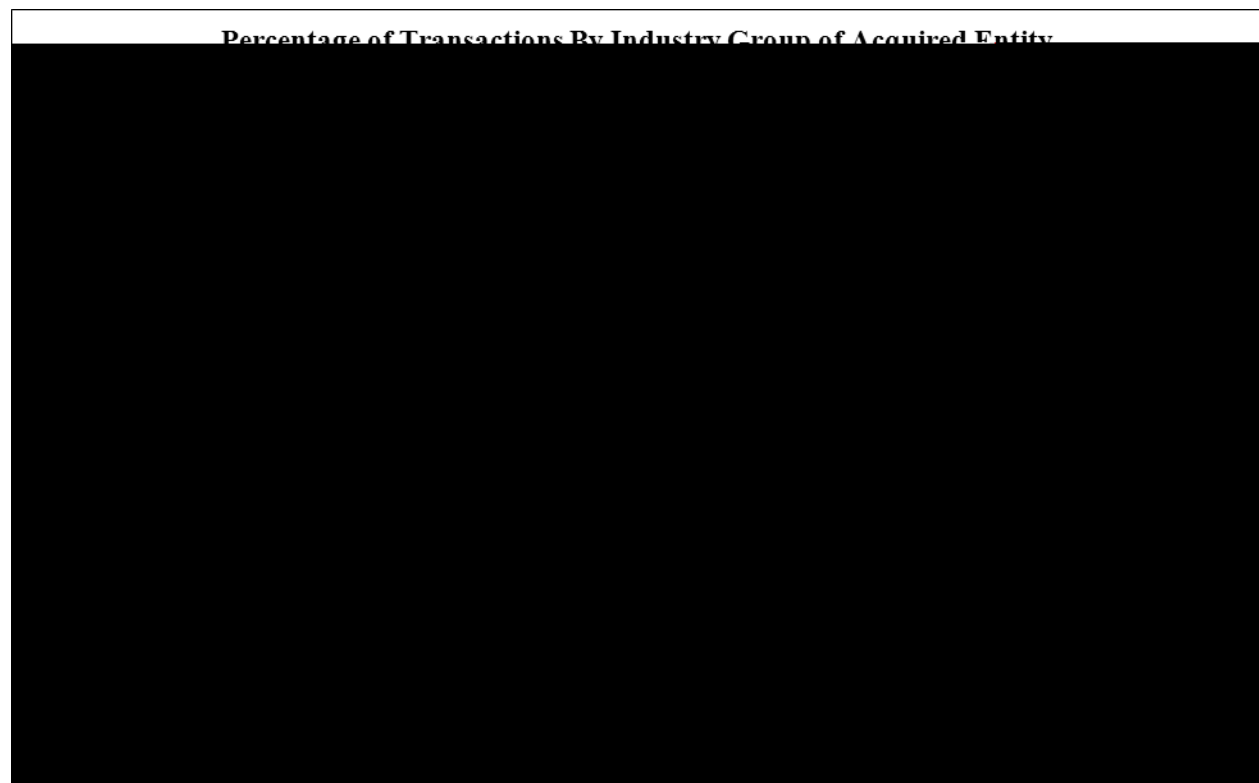
The statistics in Appendix A also show that early termination of the waiting period was requested in the majority of transactions. In fiscal year 2011, early termination was requested in 82% (1,157) of the transactions reported. In fiscal year 2010, early termination was requested in 84%

⁶ This Report, like previous Reports, also includes a calculation of that data). There were 14 adjusted transactions in FY 2011 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.

(953) of the transactions reported. The percentage of requests granted out of the total requested increased from 74% in fiscal year 2000 to 77% in fiscal year 2011.

The tables (Tables M K U R X J K ; , L Q ([K L E L W \$ F R Q W D L Q L Q I R U P D enforcement activities for transactions reported in fiscal year 2011. The tables provide, for various categories of transactions, the number and percentage of transactions in which clearance to investigate were granted by one antitrust agency to the other and the number of merger investigations in which second requests were issued. Table III of Exhibit A shows that, in fiscal year 2011, clearance was granted to one or the other of the agencies for the purpose of conducting an initial investigation in 18.2% 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.

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 2011 based on the D F T X L U H G H Q W L W \ | V R S H U D W L R Q V



The total dollar value of reported transactions rose dramatically from fiscal years 1996 to 2000, from about \$677.4 billion to about \$3 trillion. After the statutory thresholds were raised, the dollar value declined to about \$565.4 billion in fiscal year 2002, and \$406.8 billion in fiscal year 2003. This was followed by an increase in the dollar value of reported transactions over the next four years: about \$630 billion in fiscal year 2004, \$1.1 trillion in fiscal year 2005, \$1.3 trillion in fiscal year 2006, and almost \$2 trillion in 2007. The total dollar value of reported

⁷ 7 K H 3 2 W K H U ' F D W H J R U \ F R Q V L V W V R I L Q Educational services, H Q W V W K D W performing arts, recreation, and nonclassifiable establishments.

During fiscal year 201, 16 corrective filings for violations were received and the agencies

informed decisionmaking by facilitating the exchange of information between the agencies; minimize the risk of divergent outcomes; enhance the efficiency of investigations; reduce burdens on merging parties and their parties; and increase the overall transparency of the merger review process.

MERGER ENFORCEMENT ACTIVITY ¹⁴

1. The Department of Justice

specific pricing and volume, and other commercially sensitive information to ensure compliance with the MFN guarantee. The decree also required firewalls to prevent confidential competitor data from being shared by Conoco and Seadrift. During the term of the decree, GrafTech must also provide the Division with copies of all supply agreements with Conoco and copies of business documents relating to Seadrift. The court entered the decree on March 24, 2011.

In [United States v. L.B. Foster Company and Portec Rail Products, Inc.](#)¹⁷, the Division alleged that the transaction, as originally proposed, likely would have substantially lessened competition in two product markets

extensively to coordinate their reviews and create remedies that were consistent and comprehensive.

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alleged that the proposed acquisition would likely substantially lessen competition in the market for digital do-it-yourself tax preparation products, resulting in higher prices and reduced innovation and quality for products utilized yearly by millions of American taxpayers to prepare and file federal and state income taxes. Three companies account for 90 percent of all sales of these products, and the merger would have combined the second and third largest. The complaint alleged that the proposed acquisition would eliminate aggressive to head competition between H&R Block and TaxACT and increase the likelihood that the two remaining significant providers would substantially reduce competition through successful coordination. Trial began on September 6, 2011, and ended on October 3, 2011. On October 31,

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subsidiary of Deutsche Telekom. The complaint alleged that the proposed \$39 billion transaction would substantially lessen competition for mobile wireless telecommunications services nationwide resulting in higher prices, poorer quality services, fewer choices and fewer innovative products for consumers. The transaction would have combined two of the four nationwide providers of these services, eliminating from the market T-Mobile, which has historically been a value provider, offering particularly aggressive pricing. AT&T Mobile competes head-to-head with KHDG QDWLRQZLGH LQFOXGLQJ LQ RI WKH QDW area, and compete nationwide to attract business and government customers. Seven states (New York, Washington, California, Illinois, Massachusetts, Ohio and Pennsylvania) and Puerto Rico VXEVTXHQWO\ MRLQHG WKH 'LYLVLRQ TV ODZVXLW 2Q 'HF abandoning the proposed acquisition. On December 20, 2011, the Division and plaintiff states filed a motion to dismiss.

In [United States v. Cumulus Media Inc. and Citadel Broadcasting Corporation](#),²⁸ the

has structured the deal in a way that uses the Hospital Authority of Albany County in an attempt to shield the anticompetitive acquisition from federal antitrust scrutiny under the Sherman Act.³ V W D W H D F W L R C o m m o n S e n s e W U L Q H 7 K H

In [Irving / Exxon Mobil](#),³⁷ the Commission required Irving Oil Terminals Inc. and Irving Oil Limited (collectively, Irving) to relinquish the rights to terminal and pipeline assets in Maine that Irving had acquired from Exxon Mobil. The original transaction would have substantially increased concentration in certain geographic markets in Maine where Irving and Exxon Mobil are two of only three firms that can independently offer or provide gasoline terminaling services in the Bangor/Penobscot Bay area, and two of only four in the South Portland area. Similarly, they are two of only four firms that can independently offer distillates terminaling services in the Bangor/Penobscot Bay area, and two of six in the South Portland area. The Commission Office on this matter ordered the divestiture to maintain competition in gasoline and distillates terminaling services in the South Portland and Bangor/Penobscot Bay areas and to resolve the Commission's concerns about competitive effects and consumer welfare. On higher gasoline and diesel prices for consumers.

In [Keystone / Compagnie de Saint-Gobain](#),³⁸ the Commission preserved competition in the North American market for alumina wear tile by imposing conditions on Keystone Holdings, LLC and Compagnie de Saint-Gobain. According to the Commission, the deal as originally structured would have reduced competition in the relevant markets by eliminating direct competition between CoorsTek, the Keystone subsidiary that manufactures its tiles, and Saint

LIST OF APPENDICES

- Appendix A - Summary of Transactions, Fiscal Years 2002 - 2011
- Appendix B - Number of Transactions reported and Filings Received by Month for Fiscal Years 2002 - 2011

LIST OF EXHIBITS

APPENDIX A

SUMMARY OF TRANSACTIONS

FISCAL YEARS 2002–2011

APPENDIX A
SUMMARY OF TRANSACTION BY YEAR

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Transactions Reported	1,187	1,014	1,428	1,675	1,768	2,201	1,726	716	1,166	1,450
Filings Received ¹	2,369	2,001	2,825	3,287	3,510	4,378	3,455	1411	2,318	2,882
Adjusted Transactions In Which A Second Request Could Have Been Issued ²	1,142	968	1,377	1,610	1,746	2,108	1,656	684	1,128	1,414
Investigations in Which Second Requests Were Issued	49	35	35	50	45	63	41	31	46	58
FTC ³	27	15	20	25	28	31	21	15	20	24
Percent ⁴	2.4%	1.5%	1.5%	1.6%	1.6%	1.5%	1.3%	2.2%	1.8%	1.7%
DOJ ³	22	20	15	25	17	32	20	16	26	34
Percent ⁴	1.9%	2.1%	1.1%	1.6%	1.0%	1.5%	1.2%	2.3%	2.3%	2.4%
Transactions Involving a Request For Early Termination ⁵	1,042	700	1,241	1,385	1,468	1,840	1,385	575	953	1,157
Granted ⁵	793	606	943	997	1,098	1,402	1,021	396	704	888
Not Granted ⁵	249	94	26	704	888					

Note: The data for FY 2004 and 2005 "Transactions Reported" and for FY 2004-FY 2007 "Filings Received" reflect corrections to some prior Annual reports to account for a coding error.

¹ Usually, two filings are received, one from the acquiring person and one from the acquired person when 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 notified but did not require additional information. These include (1) incomplete transactions (only one party filed a complete notification); (2) transactions reported pursuant to the exemption pro

APPENDIX B

NUMBER OF TRANSACTIONS REPORTED

AND

FILINGS RECEIVED BY MONTH

FOR

FISCAL YEARS 2002- 2011

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

APPENDIX B

TABLE 2.

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EXHIBIT A

STATISTICAL TABLES

FOR

FISCAL YEAR 2011

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

TABLE II
FISCAL YEAR 2011

TABLE III
FISCAL YEAR 2011
TRANSACTIONS INVOLVING THE GRAN

TABLE IV
FISCAL YEAR 2011

TABLE V
FISCAL YEAR 2011
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS				
	NUMBER	PERCENT	NUMBER		PERCENT OF THRESHOLD GROUP			NUMBER				
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL

TABLE VI
 FISCAL YEAR 2011
 TRANSACTION BY ASSETS OF ACQUIRING PERSON

ASSET RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ		SECOND REQUEST INVESTIGATIONS
	NUMBER	PERCENT	NUMBER	PERCENT OF ASSET RANGE GROUP	PERCENT OF ASSET RANGE GROUP

TABLE VII
FISCAL YEAR 2011
TRANSACTION BY SALES OF ACQUIRING PERSON

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS	CLEARANCE GRANTED TO FTC OR DOJ	SECOND REQUEST INVESTIGATIONS
	PERCENT OF		

TABLE VIII
FISCAL YEAR 2011¹
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	241	17.0%	29	8	12.0%	3.3%	15.4%	3	2	1.2%	0.8%	2.1%
50M - 100M	216	15.3%	26	7	12.0%	3.2%	15.3%	3	2	1.4%	0.9%	2.3%
100M - 150M	114	8.1%	13	6	11.4%	5.3%	16.7%	2	2	1.8%	1.8%	3.5%
150M - 200M	88	6.2%	8	6	9.1%	6.8%	15.9%	1	2	1.1%	2.3%	3.4%
200M - 300M	100	7.1%	12	4	12.0%	4.0%	16.0%	0	1	0.0%	1.0%	1.0%
300M - 500M	114	8.1%	17	10	14.9%	8.8%	23.7%	2	2	1.8%	1.8%	3.5%
500M - 1000M	110	7.8%	15	12	13.6%	10.9%	24.5%	5	4	4.5%	3.6%	8.2%

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TABLE X
FISCAL YEAR 2011¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2010 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
332	Fabricated Metal Product Manufacturing	23	1.6%	0.1%	1	0	1	0	0	0
333	Machinery Manufacturing	29	2.1%	0.6%	3	7	10	1	3	4
334	Computer and Electronic Product Manufacturing	45	3.2%	-1.0%	10	3	13	0	0	0
335	Electrical Equipment, Appliance, and Component Manufacturing	13	0.9%	0.2%	1	3	4	0	1	1
336	Transportation Equipment Manufacturing	42	3.0%	-0.1%	3	6	9	0	0	0
339	Miscellaneous Manufacturing	20	1.4%	-0.2%	3	0	3	0	0	0
422	Wholesale Trade, Nondurable Goods	1	0.1%	0.0%	0	0	0	0	0	0
423	Merchant Wholesalers, Durable Goods	115	8.1%	2.5%	12	7	19	2	5	7
424	Merchant Wholesales, Nondurable Goods	78	5.5%	-0.2%	21	2	23	2	0	2
425	Wholesale Electric Markets and Agent and Brokers	2	0.1%	0.1%	1	0	1	0	0	0
441	Motor Vehicle and Parts Dealers	5	0.4%	0.2%	0	0	0	0	0	0
442	Furniture and Home Furnishing Stores	2	0.1%	0.1%	0	0	0	0	0	0
443	Miscellaneous Repair Services	1	0.1%	0.1%	0	0	0	0	0	0
445	Food and Beverage Stores	8	0.6%	0.0%	0	0	0	0	0	0
446	Health and Personal Care Stores	7	0.5%	-0.1%	4	0	4	1	0	1
447	Gasoline Stations	7	0.5%	0.2%	2	0	2	0	0	0
448	Clothing and Clothing Accessories Stores	5	0.4%	-0.1%	0	0	0	0	0	0
452	General Merchandise Stores	2	0.1%	0.1%	0	0	0	0	0	0
453	Miscellaneous Store Retailers	1	0.1%	-0.3%	0	0	0	0	0	0
454	Nonstore Retailers	11	0.8%	-0.5%	1	0	1	1	0	1
481	Air Transportation	4	0.3%	-0.1%	0	3	3	0	3	3

TABLE X
FISCAL YEAR 2011

TABLE X
FISCAL YEAR 2011¹
INDUSTRY GROUP OF ACQUIRING PERSON

3 DIGIT NAICS CODE ¹¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2010 ¹²	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	6	0.4%		0	1	1	0	1	1

TABLE XI

TABLE XI
FISCAL YEAR 2011¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2010 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	
453	Miscellaneous Store Retailers	3	0.2%	-0.1%	0	0	0	0	0	0	2
454	Nonstore Retailers	15	1.1%	0.0%	2	0	2	1	0	1	3
481	Air Transportation	3	0.2%	-0.3%	0	3	3	0	3	3	4
482	Railroad Transportation	1	0.1%	0.0%	0	0	0	0	0	0	0
483	Water Transportation	4	0.3%	0.2%	0	0	0	0	1	1	0
486	Pipeline Transportation	10	0.7%	-0.3%	0	0	0	0	0	0	1
488	Support Activities for Transportation	9	0.6%	0.4%	1	0	1	0	0	0	0
492	Couriers	2	0.1%	0.0%	0	0	0	0	0	0	0
493	Warehousing and Storage	5	0.4%	0.3%	1	0	1	0	0	0	0
511	Publishing Industries (except Internet)	59	4.2%	-0.3%	4	11	15	1	0	1	19
512	Motion Pictures and Sound Recording Industries	6	0.4%	-0.2%	0	0	0	0	0	0	2
514	Information Services and Data Processing Services	1	0.1%	0.0%	0	0	0	0	1	1	0
515	Broadcasting (except Internet)	12	0.8%	0.5%	0	2	2	0	0	0	3
516	Internet Publishing and Broadcasting	10	0.7%	0.2%	0	0	0	0	0	0	1
517	Telecommunications	27	1.9%	-0.3%	0	6	6	0	2	2	17
518	Internet Service Providers, Web Search Portals, and Data Processing Services	34	2.4%	-0.3%	0	2	2	0	1	1	4
519	Other Information Services	5	0.4%	0.4%	0	0	0	1	0	1	0
522	Credit Intermediation and Related Activities	23	1.6%		0	1	1	0	0	0	

TABLE XI
FISCAL YEAR 2011¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

3 DIGIT NAICS CODE ¹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	% POINTS CHANGE FROM FY 2010 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	
531	Real Estate	5	0.4%		2	0	2	0	0	0	

¹Fiscal year 2011 figures include transactions reported between October 1, 2010 and September 30, 2011.

²The 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