

**FEDERAL TRADE COMMISSION
BUREAU OF COMPETITION**



**DEPARTMENT OF JUSTICE
ANTITRUST DIVISION**

ANNUAL REPORT TO CONGRESS FISCAL YEAR 2003

**Pursuant to Subsection (j) of Section 7A of the Clayton Act
Hart-Scott-Rodino Antitrust Improvements Act of 1976
(Twenty-Sixth Report)**

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INTRODUCTION

The Commission, with the concurrence of the Assistant Attorney General, promulgated final rules implementing the premerger notification program on July 31, 1978. At that time, a comprehensive Statement of Basis and Purpose was also published, containing a section-by-section analysis of the rules and an item-by-item analysis of the filing form. The program became effective on September 5, 1978. The Commission, with the concurrence of the Assistant Attorney General, has amended the rules and the filing form on several occasions over the years to improve the program's effectiveness and to lessen the burden of complying with the rules.⁶

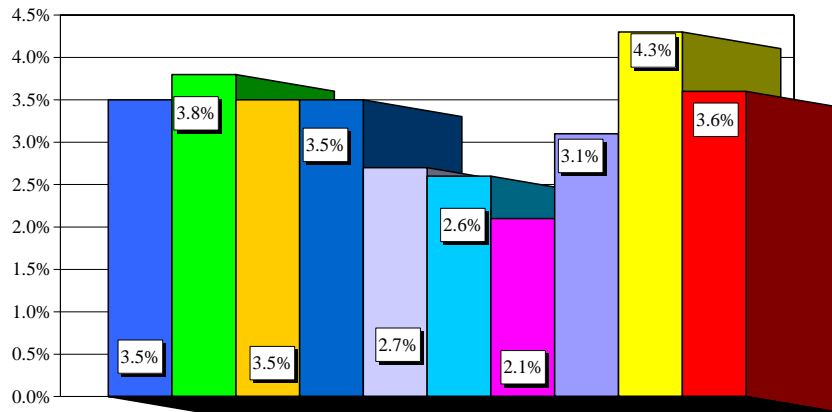
A STATISTICAL PROFILE OF THE PREMERGER NOTIFICATION PROGRAM

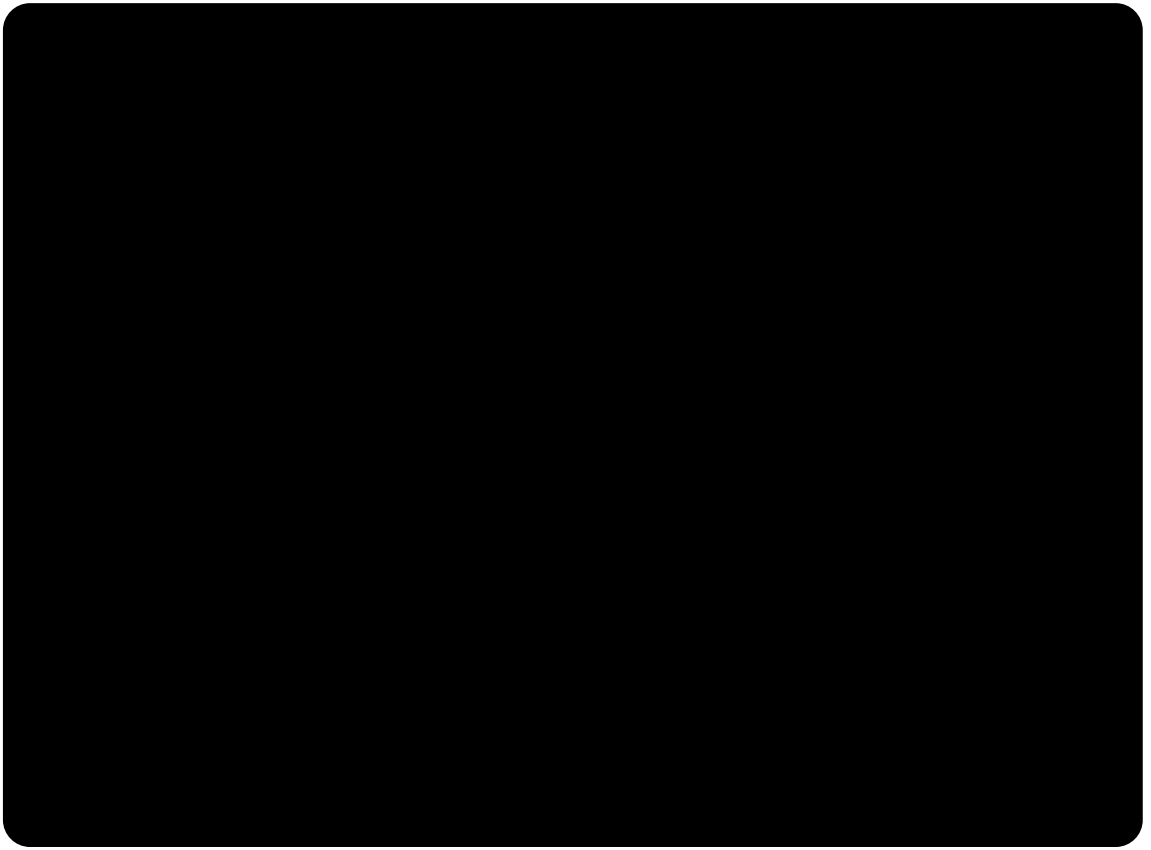
The appendices to this report provide a statistical summary of the operation of the premerger notification program. Appendix A shows, for a ten-year period, the number of transactions⁷ reported, the number of filings received, the number of merger investigations in which second requests were issued, and the number of transactions in which requests for early termination of the waiting period were received, granted, and not granted. Appendix A also shows for fiscal years 1994 through 2003 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 1994 through 2003.

The statistics set out in these appendices show that the number of transactions reported in fiscal year 2003 decreased approximately 15 percent from the number of transactions reported in fiscal year 2002. In fiscal year 2003, 1,014 transactions were reported, while 1,187 were reported in fiscal year 2002. Along with this decrease in the number of transactions reported, the statistics in Appendix A show that the number of merger investigations in which second requests were issued in fiscal year 2003 decreased approximately 29 percent from the number of merger investigations in which second requests were issued in fiscal year 2002. Second requests were issued in 35 merger investigations in fiscal year 2003, while second requests were issued in 49 merger investigations in fiscal year 2002. The percentage of transactions resulting in second requests in fiscal year 2003 declined slightly from last fiscal year. (*See* Figure 2 below.)

⁶ 43 Fed. Reg. 3443 (August 4, 1978); 43 Fed. Reg. 36053 (August 15, 1978); 44 Fed. Reg. (November 21, 1979); 45 Fed. Reg. 14205 (March 5, 1980); 48 Fed. Reg. 34427 (July 29, 1983); 50 Fed. Reg. 46633 (November 12, 1985); 51 Fed. Reg. 10368 (March 26, 1986); 52 Fed. Reg. 7066 (March 6, 1987); 52 Fed. Reg. 20058 (May 29, 1987); 54 Fed. Reg. 214251 (May 18, 1989); 55 Fed. Reg. 31371 (August 2, 1990); 60 Fed. Reg. 40704 (August 9, 1995); 61 Fed. Reg. 13666 (March 28, 1996); 63 Fed. Reg. 34592 (June 25, 1998); 66 Fed. Reg. 8680 (February 1, 2001); 66 Fed. Reg. 8723 (February 1, 2001); 66 Fed. Reg. 16241 (March 23, 2001); 66 Fed. Reg. 23561 (May 9, 2001); 66 Fed. Reg. 35541 (July 6, 2001); 67 Fed. Reg. 11898 (March 18, 2002); 67 Fed. Reg. 11904 (March 18, 2002); 68 Fed. Reg. 2425 (January 17, 2003).

⁷ The term "transaction," as used in Appendices A and B, and Exhibit A to this report, does not refer only to separate mergers or acquisitions. A particular merger, joint venture or acquisition may be structured such that it involves more than one transaction. For example, cash tender offers, options to acquire voting securities from the issuer, or options to acquire voting securities from someone other than the issuer, may result in multiple acquiring or acquired persons that necessitate separate HSR transaction numbers to track the filing parties and waiting periods.





each day the violation continues.⁸ The antitrust agencies examine the circumstances of each violation to determine whether penalties should be sought.⁹

The Antitrust Division brought two cases alleging violations of the HSR Act during fiscal year 2003. In *United States v. Gemstar-TV Guide International, Inc. et al.*,¹⁰ the complaint alleged that Gemstar and TV Guide violated the Act's waiting period requirements and Section 1 of the Sherman Act prior to their merger in July 2000. According to the complaint, during the HSR waiting period, Gemstar and TV Guide secretly agreed to allocate markets and customers between them, agreed on the prices and terms that customers would be offered for interactive program guides ("IPGs"), and began jointly conducting their IPG business. IPGs allow cable and satellite television viewers to use their remote control to view program schedule information and select programs for viewing. A consent decree was filed simultaneously with the complaint and was entered by the court on July 11, 2003. The total civil penalties of \$5.67 million required under the decree, reflecting the maximum civil penalties of \$11,000 per day per company, are the highest penalties to date in an HSR Act enforcement case. The decree also enjoined Gemstar-TV Guide from engaging in similar conduct in the future and gave customers that signed contracts with TV Guide during the premerger period a chance to rescind those contracts.

In *United States v. Smithfield Foods, Inc.*,¹¹ the court

2. *Final Rules*

On February 1, 2001, the Commission published Interim¹² and Proposed Rules¹³ amending the HSR Rules. These amendments were discussed in detail in the fiscal year 2001 Annual Report.¹⁴ The Interim Rules took effect upon publication and implemented amendments to Section 7A of the Clayton Act enacted on December 21, 2000. The Proposed Rules set forth other changes improving and updating the HSR Rules and were revised and made final effective April 17, 2002.¹⁵ Of the Interim Rules, Interim Rule 802.21 was revised and made final in a separate rulemaking effective retroactively to February 2, 2002.¹⁶

The remainder of the Interim Rules became final in fiscal year 2003. In finalizing these Interim Rules, the Commission, with the concurrence of the Assistant Attorney General, promulgated amendments to the Interim Rules and additional revisions to the filing form that became effective January 17, 2003.¹⁷ These highly technical amendments and revisions were made in order to address public comments and were intended to increase the clarity and improve the effectiveness of the Rules and filing form.

MERGER ENFORCEMENT ACTIVITY¹⁸

1. *The Department of Justice*

During fiscal year 2003, the Antitrust Division challenged fifteen merger transactions that it concluded may have substantially lessened competition if allowed to proceed as proposed. In nine of these challenges, the Antitrust Division filed a complaint in U.S. district court. Three of these nine transactions were abandoned: one after the complaint was filed; one after the Division succeeded in obtaining a preliminary injunction; and one after the assets in question were sold to another buyer pursuant to a bankruptcy court order. One of these cases is pending in district court, and five cases were settled by consent decree. In the six other challenges during fiscal year 2003, the Antitrust Division informed the parties to a proposed transaction that it likely would file suit challenging the transaction unless the

¹² 66 Fed. Reg. 8680 (February 1, 2001).

¹³ 66 Fed. Reg. 8723 (February 1, 2001).

¹⁴ See the Annual Report to Congress, Fiscal Year 2001 for a detailed discussion of the substantive changes.

¹⁵ 67 Fed. Reg. 11898 (March 18, 2002).

¹⁶ 67 Fed. Reg. 11904 (March 18, 2002).

¹⁷ 68 Fed. Reg. 2425 (January 17, 2003).

¹⁸ All cases in this report were not necessarily reportable under the premerger notification program. Because of provisions regarding the confidentiality of the information obtained pursuant to the Act, it would be inappropriate to identify which cases were initiated under the program.

parties restructured the proposal to avoid competitive problems or abandoned the proposal altogether.¹⁹ In three of these six proposed transactions, the parties restructured the transactions; in the other three, the parties abandoned the proposed transaction entirely.

In *United States et al. v. Echostar Communications et al.*,²⁰ the Division, along with twenty-three states and the District of Columbia and Puerto Rico, sued to prevent Echostar from acquiring Hughes Electronics Corporation in a cash-and-stock transaction originally valued at \$26 billion. The complaint alleged that the merger would have eliminated competition between the nation's two most significant direct broadcast satellite services, Hughes' DirecTV and Echostar's DISH Network. The merger would have created a monopoly in those areas where cable television is not available, primarily rural areas, and would have reduced competitive choices from three to two for tens of millions of households. The Division gave serious consideration to the efficiencies and new services that the parties claimed would result from the merger, but concluded that the parties could not demonstrate that any efficiencies likely to result from the merger were sufficient to outweigh the substantial adverse impact of the transaction on competition and consumers. On December 10, 2002, the parties abandoned the merger.

In *United States v. UPM-Kymmene Oyj et al.*,²¹ the Division challenged the proposed merger between UPM-Kymmene's Raflatac subsidiary and Bemis Company's MACtac subsidiary. Raflatac and MACtac are the second and third largest producers of pressure-sensitive labelstock in North America. Labelstock is the base material for labels used in a variety of applications, including supermarket scale labels and shipping labels. The complaint alleged that the acquisition would facilitate coordination between the merged company and other North American producers of bulk paper labelstock and lessen competition in the production of bulk paper labelstock, which would result in higher prices. After an evidentiary

¹⁹ In two instances, the Department of Justice issued press releases: April 22, 2003 – ICAP plc's acquisition of BrokerTec LLC (interdealer brokerage services); May 8, 2003 – BB&T's acquisition of First Virginia Banks Inc. – Virginia banks (business banking services).

In the remaining four challenges, the Division informed the parties of its antitrust concerns but did not issue a press release: Veeco Instruments Inc.'s proposed acquisition of FEI Company (semiconductor and data storage components); Onex Corporation's proposed acquisition of Silver Cinemas Acquisition Company (Landmark Theatres) from OCM Opportunities Fund II (motion picture theaters); acquisition of The Aerostructures Corporation by Carlyle Partners III, through its subsidiary Vought Aircraft Industries, Inc. (aerostructures); Allied Waste Industries, Inc.'s proposed acquisition of WCA Partners, LP (nonhazardous waste collection and disposal).

²⁰ *United States and the State of Missouri, State of Arkansas, State of California, State of Connecticut, State of Hawaii, State of Idaho, State of Illinois, State of Iowa, Commonwealth of Kentucky, State of Maine, Commonwealth of Massachusetts, State of Mississippi, State of Montana, State of Nevada, State of New York, State of North Carolina, State of North Dakota, State of Oregon, Commonwealth of Pennsylvania, State of Texas, State of Vermont, State of Washington, State of Wisconsin, District of Columbia, and Commonwealth of Puerto Rico v. Echostar Communications, Hughes Electronics Corp., General Motors Corp., and DirecTV Enterprises, Inc.*, No. 1:02CV02138 (D.D.C. filed Oct. 31, 2002).

²¹ *United States v. UPM-Kymmene Oyj, Raflatac, Inc., Bemis Company, Inc., and Morgan Adhesives Company*, No. 03C 2528 (N.D. Ill. filed Apr. 15, 2003).

payload competitors and by refusing to sell, or selling at disadvantageous terms, its payload to competing prime contractors. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. Under the terms of the decree, Northrop was required to act in a nondiscriminatory manner when choosing payload providers for satellite programs and supplying its payload to contractors competing with Northrop for satellite programs. Northrop also must maintain its payload business separate from its satellite prime contractor business and work with a Compliance Officer, chosen by the Secretary of Defense, who will monitor Northrop's compliance with the decree. The Division worked closely with the Department of Defense throughout the investigation and in fashioning relief. The Court entered the consent decree on June 10, 2003.

In *United States v. Univision Communications, Inc. et al.*,²⁵ the Division challenged Univision's \$3 billion acquisition of Hispanic Broadcasting Corporation (HBC). Univision owned thirty percent of the stock of, and had significant governance rights in, Entravision Communications Corporation, which is HBC's principal competitor in Spanish-language radio in many geographic areas. Accordingly, the complaint alleged that the acquisition, as originally proposed, would have reduced competition in the sale of advertising time on many Spanish-language radio stations. The Division filed a proposed consent decree simultaneously with the complaint, settling the suit. Under the terms of the decree, Univision was required to divest a significant portion of its stake in Entravision and to relinquish certain governance rights, including its right to two seats on Entravision's Board of Directors. The Court entered the consent decree on December 22, 2003.

In *United States et al. v. Waste Management, Inc. et al.*,²⁶ Northrop entered into a consent decree with the Department of Justice on June 10, 2003. In

medical equipment products and services. The complaint alleged that the transaction, as originally proposed, would have lessened competition in the markets for monitors used for patients requiring critical care and mobile C-arms, which are full-size, fluoroscopic x-ray machines that provide continuous, real-time viewing of patients during basic surgical and vascular procedures. GE and Instrumentarium were two of only a few competitors that provided healthcare providers with these devices; they competed head-to-head on price, product features and service. The Division filed a proposed consent decree simultaneously with the complaint, requiring divestiture of Instrumentarium's Spacelabs patient monitor business and its Ziehm C-arm business. The Court entered the consent decree on February 23, 2004.

In *United States v. Alcan, Inc. et al.*,²⁸ the Division challenged Alcan's proposed \$4.6 billion cash tender acquisition of Pechiney. The complaint alleged that the acquisition, as originally proposed, would have lessened competition in the development, production, and sale of brazing sheet, an aluminum alloy used in fabricating the major components of heat exchangers for motor vehicles, including oil coolers, heaters, air conditioning units, and radiators. Alcan was a recent entrant into the brazing sheet market in North America, and its entry had sparked an intense competitive rivalry, resulting in lower prices and higher quality. The complaint alleged that Alcan's acquisition of Pechiney would reduce the number of North American manufacturers of brazing sheet from four to three and increase the prospect of future cooperative brazing sheet price increases, to the detriment of consumers. The Division filed a consent decree simultaneously with the complaint, requiring the divestiture of certain aluminum rolling assets. The decree is pending with the Court. The Division cooperated closely with the European Commission and the Canadian Competition Bureau in its review of the transaction.

During fiscal year 2003, the Division investigated two bank merger transactions for which divestiture was required prior to or concurrently with the acquisition and one other in which conditions were imposed. A "not significantly adverse" letter conditioned upon a letter agreement between the parties and the Division was sent to the appropriate bank regulatory agency in all instances.²⁹

Sept. 16, 2003).

²⁸ *United States v. Alcan, Inc., Alcan Aluminum Corp., Pechiney, S.A. and Pechiney Rolled Products, LLC*, No. 1:03CV02012 (D.D.C. filed Sept. 29, 2003).

²⁹ The three letters were: February 28, 2003 letter to the Comptroller of the Currency regarding the application of South Texas National Bank of Laredo, Tex., to acquire the Eagle Pass branch of Sterling Bank, Houston, Tex.; May 7, 2003 letter to the Board of Governors of the Federal Reserve System regarding the application by BB&T Corporation, Winston-Salem, N.C., to acquire First Virginia Banks Inc., Falls Church, Va.; September 23, 2003 letter to the Comptroller of the Currency regarding the application by Wells Fargo & Company, San Francisco, Cal., to acquire Pacific Northwest Bancorp, Seattle, Wash..

2. *The Federal Trade Commission*

The Commission challenged twenty-one transactions that it concluded would have lessened competition if allowed to proceed as proposed during fiscal year 2003,³⁰ leading to seven consent orders, one administrative complaint, and ten abandonments. In three of the twenty-one matters the Commission authorized staff to seek injunctive relief; of these, in one case the parties abandoned the transaction after the Commission filed a complaint seeking a preliminary injunction in district court, in one case a consent order was negotiated prior to the Commission's filing of the motion for a preliminary injunction, and in one case the matter

through Pinnacle Foods, operated the Vlasic business, which was the nation's largest pickle producer. Claussen, which produced and sold primarily refrigerated pickles, was operated by Kraft's Oscar Mayer Foods, a division of Philip Morris. Claussen was the dominant producer of refrigerated pickles and Vlasic served as the primary price constraint. Together, the two companies controlled approximately 70% of the refrigerated pickle market in the United States. Subsequent to the merger, the two companies continued to operate as separate entities.

became final in fiscal year 2004.³⁵

In *Wal-Mart Stores, Inc./Supermercados Amigo, Inc.*,³⁶ the complaint alleged that Wal-Mart's acquisition of Supermercados Amigo would have substantially lessened competition in the retail sale of food and grocery products in full-service supermarkets, supercenters, and club stores in certain geographic markets in Puerto Rico. According to the complaint, Supermercados Amigo was the largest supermarket chain in Puerto Rico, and Wal-Mart operated nine traditional Wal-Mart Stores, one Wal-Mart Supercenter and eight SAM's Clubs in Puerto Rico. The proposed merger would have eliminated the direct competition between the supercenters and club stores owned by Wal-Mart and the supermarkets owned by Supermercados Amigo, thereby increasing the likelihood of increased prices for food, groceries, and services provided by these stores. To remedy the anticompetitive effects of the proposed transaction, Wal-Mart was required to divest four Supermercados Amigo supermarkets in Cidra, Ponce, Manati, and Vega Baja, Puerto Rico to Supermercados Maximo.

In *Baxter International Inc./Wyeth*,³⁷ the complaint alleged that Baxter's acquisition of Wyeth's human generic injectable pharmaceutical business, operated by Wyeth's ESI Lederle division, would have substantially lessened competition in the market for the manufacture and sale of the following products in the United States: neuromuscular blocking agents pancuronium and vecuronium; metoclopramide, an antiemetic agent; propofol, a general

In *Dainippon Ink and Chemicals, Incorporated*,³⁸ the complaint alleged that Dainippon's acquisition, through its Sun Chemical Corporation subsidiary, of Bayer Corporation's high performance organic pigment business would have substantially lessened competition in the market for the research, development, manufacture, and sale of perylenes, a class of high performance organic pigments used to impart unique shades of red to a number of products, including coatings, plastics, and fibers. Perylenes are often used in automotive coatings to help prevent colors from fading and ensure that coatings endure prolonged exposure to sunlight and weather. According to the complaint, Dainippon and Bayer were two of only four viable suppliers of perylenes in the world. The proposed acquisition would have eliminated the vigorous head-to-head competition between Sun Chemical and Bayer, likely resulting in higher perylenes prices and reduced innovation and service within the market. To remedy the anticompetitive effects of the proposed merger, the consent order required Dainippon to divest its Sun Chemical perylene business to Ciba Specialty Chemicals, a diversified specialty chemicals company that was a leading supplier for pigments but did not manufacture or sell perylenes.

In *Quest Diagnostics Incorporated/Unilab Corporation*,³⁹ the complaint alleged that the proposed merger of Quest and Unilab would have substantially lessened competition in

ED market, with its well-known product, Viagra. The parties were also the two leading U.S. suppliers of branded over-the-counter hydrocortisone creams and ointments. Additionally, the markets for the research, development, manufacture and sale of extended release prescription drugs for OAB, combination HRT products, dry cow and lactating cow mastitis drugs, over-the-counter motion sickness medication, and over-the-counter cough drops were highly concentrated. The loss of Pharmacia as an independent competitor would have likely resulted in higher prices for consumers. To remedy the anticompetitive effects of the proposed merger, the parties were required to divest assets in each of the relevant product markets to Commission-approved buyers.

In *Southern Union Company/CMS Energy Corporation*,⁴¹ the complaint alleged that Southern Union's proposed acquisition of Panhandle Eastern Pipeline Company from CMS Energy would have substantially lessened competition in the market for the transportation of

afterwards as well, where achievement of effective post-acquisition relief was not practicable). Because the premerger notification program requires reporting before consummation, this problem has been significantly reduced.

Always cognizant of the program's impact and effectiveness, the enforcement

LIST OF APPENDICES

- Appendix A - Summary of Transactions, Fiscal Years 1994 - 2003
- Appendix B - Number of Transactions Reported and Filings Received by Month for Fiscal Years 1994 - 2003

LIST OF EXHIBITS

- Exhibit A - Statistical Tables for Fiscal Year 2003, Presenting Data Profiling Hart-Scott-Rodino Premerger Notification Filings and Enforcement Interest

APPENDIX A

SUMMARY OF TRANSACTIONS

FISCAL YEARS 1994 - 2003

Appendix A										
Summary of Transaction by Year										
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Transactions Reported	2,305	2,816	3,087	3,702	4,728	4,642	4,926	2,376	1,187	1,014
Filings Received ¹	4,403	5,439	6,001	7,199	9,264	9,151	9,941	4,800	2,369	2001
Adjusted Transactions In Which A Second Request Could Have Been Issued²	2,128	2,612	2,864	3,438	4,575	4,340	4,749	2,237	1,142	968
Investigations in Which Second Requests Were Issued	73	101	99	122	125	113	98	70	49	35
FTC ³	46	58	36	45	46	45	43	27	27	15
Percent ⁴	2.2%	2.2%	1.3%	1.3%	1.0%	1.0%	0.9%	1.2%	2.4%	1.5%
DOJ ³	27	43	63	77	79	68	55	43	22	20
Percent ⁴	1.3%	1.6%	2.2%	2.2%	1.7%	1.6%	1.2%	1.9%	1.9%	2.1%
Transactions Involving a Request For Early Termination⁵	2,081	2,471	2,861	3,363	4,323	4,110	4,324	2,063	1,042	700
Granted ⁵	1,508	1,869	2,044	2,513	3,234	3,103	3,515	1,603	793	606
Not Granted ⁵	573	602	817	850	1,089	1,007	809	460	249	94

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; and (3) transactions which were found to be non-reportable. 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 for one threshold and later 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 of 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 statistics presented in most prior annual reports.

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

⁴ Second Requests investigations are a percentage of the total number of adjusted transactions.

⁵ These statistics are based on the date of the H-S-R filing and not the date action was taken on request.

APPENDIX B

NUMBER OF TRANSACTIONS REPORTED

AND

FILINGS RECEIVED BY MONTH

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Appendix B

Table 1. Number of Transactions Reported by Months for the Fiscal Years 1994 - 2003

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
October	184	273	238	296	424	333	376	360	89	77
November	221	309	273	332	387	359	428	451	105	104
December	222	216	249	267	426	394	468	345	95	78
January	156	180	238	263	306	282	335	245	111	93
February	149	170	231	250	336	330	440	66	87	71
March	167	229	277	315	392	427	455	120	109	74
April	167	177	252	302	384	364	343	94	99	92
May	220	281	304	328	401	438	398	153	111	83
June	182	252	253	319	442	445	494	190	88	80
July	208	225	265	389	435	444	351	94	121	86
August	226	237	264	318						

Appendix B

Table 2. Number of Filings Received¹ by Month for Fiscal Years 1994 - 2003

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
October	332	505	450	561	818	662	777	751	190	148
November	428	614	520	636	749	686	839	920	211	206
December	427	419	474	521	836	785	922	686	183	150
January	293	360	445	514	614	548	677	499	224	179
February	295	326	480	483	650	658	867	144	174	146
March	326	432	528	614	766	828	959	243	230	144
April	321	350	498	599	763	719	695	188	203	182
May	421	534	584	640	787	851	859	296	212	168
June	362	496	502	620	862					

EXHIBIT A

STATISTICAL TABLES

FOR

FISCAL YEAR 2003

DATA PROFILING HART-SCOTT-RODINO PREMERGER

NOTIFICATION FILINGS AND ENFORCEMENT INTEREST

**TABLE I
FISCAL YEAR 2003¹
ACQUISITIONS BY SIZE OF TRANSACTION (BY SIZE RANGE)²**

TRANSACTION RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ					SECOND REQUEST INVESTIGATIONS ³				
	NUMBER ⁴	PERCENT	NUMBER		PERCENT OF TRANSACTION RANGE GROUP			NUMBER		PERCENT OF TRANSACTION RANGE GROUP		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
Below 50M	0	0.0%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
50M - 100M	359	37.1%	40	22	11.1%	6.1%	17.2%	1	4	0.3%	1.1%	1.4%
100M - 150M	183	18.9%	35	8	19.1%	4.4%	23.5%	3	1	1.6%	0.5%	2.1%
150M - 200M	89	9.2%	15	11	16.9%	12.4%	29.3%	3	3	3.4%	3.4%	6.8%
200M - 300M	115	11.9%	21	11	18.3%	9.6%	27.9%	1	0	0.9%	0.0%	0.9%
300M - 500M	99	10.2%	21	6	21.2%	6.1%	27.3%	3	1	3.0%	1.0%	4.0%
500M - 1000M	49	5.1%	6	6	12.2%	12.2%	24.4%	2	4	4.1%	8.2%	12.3%
Over 1000M	74	7.6%	10	19	13.5%	25.7%	39.2%	2	7	2.7%	9.5%	12.2%
<i>ALL TRANSACTIONS</i>	968	100.0%	148	83	15.3%	8.6%	23.9%	15	20	1.5%	2.1%	3.6%

**TABLE II
FISCAL YEAR 2003¹
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 GRANTED			NUMBER		PERCENT		
			FTC	DOJ	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 50	0	0.0%	0	0	0.0%	0.0%	0.0%	0	0	0.0%	0.0%	0.0%
LESS THAN 100	359	37.1%	40	22	17.3%	9.5%	26.8%	1	4	2.9%	11.4%	14.3%
LESS THAN 150	542	56.0%	75	30	32.5%	13.0%	45.5%	4	5	11.4%	14.3%	25.7%
LESS THAN 200	631	65.2%	90	41	39.0%	17.7%	56.7%	7	8	20.0%	22.9%	42.9%
LESS THAN 300	746	77.1%	111	52	48.1%	22.5%	70.6%	8	8	22.9%	22.9%	45.8%
LESS THAN 500	845	87.3%	132	58	57.1%	25.1%	82.2%	11	9	31.4%	25.7%	57.1%
LESS THAN 1000	894	92.4%	138	64	59.7%	27.7%	87.4%	13	13	37.1%	37.1%	74.2%
ALL TRANSACTIONS	968		148	83	64.1%	35.9%	100.0%	15	20	42.9%	57.1%	100.0%

**TABLE III
FISCAL YEAR 2003¹
TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY**

TRANSACTION RANGE (\$ MILLIONS)	CLEARANCE GRANTED TO AGENCY			CLEARANCE GRANTED AS A PERCENTAGE OF								
				TOTAL NUMBER OF TRANSACTIONS			TOTAL NUMBER OF CLEARANCES PER AGENCY			TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	FTC	DOJ	TOTAL	
50M - 100M	40	22	62	4.1%	2.3%	6.4%	27.0%	26.5%	17.3%	9.5%	26.8%	
100M - 150M	35	8	43	3.6%	0.8%	4.4%	23.6%	9.6%	15.2%	3.5%	18.7%	
150M - 200M	15	11	26	1.5%	1.1%	2.6%	10.1%	13.3%	6.5%	4.8%	11.3%	
200M - 300M	21	11	32	2.2%	1.1%	3.3%	14.2%	13.3%	9.1%	4.8%	13.9%	
300M - 500M	21	6	27	2.2%	0.6%	2.8%	14.2%	7.2%	9.1%	2.6%	11.7%	
500M - 1000M	6	6	12	0.6%	0.6%	1.2%	4.1%	7.2%	2.6%	2.6%	5.2%	
Over 1000M	10	19	29	1.0%	2.0%	2.4%	6.8%	22.9%	4.3%	8.2%	12.5%	
<i>ALL CLEARANCES</i>	148	83	231	15.3%	8.6%	23.9%	100.0%	100.0%	64.1%	35.9%	100.0%	

INVESTIGATIONS IN WHICH SECOND REQUEST WERE ISSUED				TABLE 1 FISCAL YEAR 2015 INVESTIGATIONS IN WHICH SECOND REQUEST WERE ISSUED		PERCENTAGE OF SECOND REQUESTS ISSUED AS A PERCENTAGE OF:					
TRANSACTION RANGE (MILLIONS)	INVESTIGATIONS IN WHICH SECOND REQUEST WERE ISSUED ³			TOTAL NUMBER OF TRANSACTIONS	DOJ AS A PERCENTAGE OF TOTAL TRANSACTIONS	TRANSACTIONS IN EACH TRANSACTION RANGE GROUP			TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS		
	FTC	DOJ	TOTAL			FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
0 - 100M	1	4	5	1	0.4%	0.3%	1.1%	1.4%	2.9%	11.4%	14.3%
101 - 150M	3	1	4	1	0.1%	1.6%	0.5%	2.1%	8.6%	2.9%	11.4%
151 - 200M	3	3	6	1	0.3%	3.4%	3.4%	6.8%	8.6%	8.6%	17.2%
201 - 300M	1	0	1	1	0.0%	0.9%	0.0%	0.9%	2.9%	0.0%	2.9%
301 - 500M	3	1	4	1	0.1%	3.0%	1.0%	4.0%	8.6%	2.9%	11.4%
501 - 1000M	2	4	6	1	0.4%	4.1%	8.2%	12.3%	5.7%	11.4%	17.1%
1000M AND ABOVE	2	7	9	1	0.7%	2.7%	9.5%	12.2%	5.7%	20.0%	25.7%
TOTAL TRANSACTIONS	15	20	35	1	2.1%	1.5%	2.1%	3.6%	43.0%	57.1%	100.0%

**TABLE V
FISCAL YEAR 2003¹
ACQUISITIONS BY REPORTING THRESHOLD**

HSR TRANSACTIONS

CLEARANCE GRANTED TO FTC OR DOJ

SECOND REQUEST INVESTIGATIONS

TABLE VI
FISCAL YEAR 2003¹
TRANSACTIONS BY ASSETS OF ACQUIRING PERSON

	HSR TRANSACTIONS	CLEARANCE GRANTED TO FTC OR DOJ	SECOND REQUEST INVESTIGATIONS³		
		NUMBER		NUMBER	

**TABLE VII
FISCAL YEAR 2003¹
TRANSACTIONS BY SALES OF ACQUIRING PERSON**

SALES RANGE (\$MILLIONS)	HSR TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ		SECOND REQUEST INVESTIGATIONS ³	
	NUMBER	PERCENT	NUMBER	PERCENTAGE OF SALES	NUMBER	PERCENTAGE OF
			FTC	RANGE GROUP		
			78942	35		

**TABLE IX
FISCAL YEAR 2003
TRANSACTIONS BY SALES OF ACQUIRED ENTITIES⁷**

HSR TRANSACTIONS

CLEARANCE GRANTED TO FTC OR DOJ

TABLE X
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRING PERSONS

<u>3-DIGIT NAICS CODE⁹</u>	INDUSTRY DESCRIPTION	NUMBER⁴	PERCENT OF TOTAL	CHANGE FROM FY	CLEARANCE GRANTED TO FTC OR DOJ	SECOND REQUEST INVESTIGATIONS³
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**TABLE X
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRING PERSONS**

**CLEARANCE GRANTED
TO FTC OR DOJ.98 -10.98 0 139.14 569.22 Tm016 0.84001 0**

TABLE X

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**TABLE X
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRING PERSONS**

<u>3-DIGIT NAICS CODE⁹</u>	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2002 ¹⁰	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³		
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
622	GENERAL MEDICAL AND SURGICAL; PSYCHIATRIC AND SUBSTANCE ABUSE HOSPITALS	20	2.1%	0.7%	1	0	1	0	0	0
624	SOCIAL SERVICES	3	0.3%	0.2%	0	0	0	0	0	0
711	REAL ESTATE	3	0.3%	-0.1%	0	0	0	0	0	0
713	AMUSEMENT AND RECREATION SERVICES	5	0.5%	0.1%	4	0	4	0	0	0
721	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	1	0.1%	-0.3%	0	0	0	0	0	0
722	EATING AND DRINKING PLACES	8	0.8%	-0.4%	2	0	2	0	0	0
811	GENERAL AUTOMOTIVE REPAIR	3	0.3%	NC	0	0	0	0	0	0
812	PERSONAL SERVICES	4	0.4%	0.2%	0	0	0	0	0	0
813	MEMBERSHIP ORGANIZATIONS	0	0.0%	-0.1%	0	0	0	0	0	0
923	ADMINISTRATION OF HUMAN RESOURCE PROGRAMS	0	0.0%	NC	0	0	0	0	0	0
924	ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	0	0.0%	NC	0	0	0	0	0	0
999	NON-CLASSIFIABLE ESTABLISHMENTS	0	0.0%	NC	0	0	0	0	0	0
000	NOT AVAILABLE ¹¹	72	7.4%	2.5%	3	2	5	2	0	2
	ALL TRANSACTIONS	968			143	83	226	15	20	35

TABLE XI
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRED

TABLE XI
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRED ENTITIES

<u>3-DIGIT NAICS CODE</u> ⁹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2002 ¹⁰	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹²
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
332	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT	19	2.0%	0.2%	4	2	6	0	0	0	11
333	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	17	1.8%	-0.3%	1	3	4	0	0	0	12
334	MEASURING, ANALYZING AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC, MEDICAL AND OPTICAL GOODS; WATCHES AND CLOCKS	44	4.5%	2.2%	6	9	15	2	2	4	31
335	ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT	6	0.6%	-0.3%	0	0	0	0	0	0	4

**TABLE XI
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRED ENTITIES**

<u>3-DIGIT NAICS CODE</u> ⁹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2002 ¹⁰	CLEARANCE GRANTED TO FTC OR DOJ	SECOND REQUEST INVESTIGATIONS ³	
					F	TOTAL	

**TABLE XI
FISCAL YEAR 2003¹
INDUSTRY GROUP OF ACQUIRED O8S-TIES**

3-DIGIT NAICS CODE ⁹	INDUSTRY DESCRIPTION	NUMBER ⁴	PERCENT OF TOTAL	CHANGE FROM FY 2002 ¹⁰	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS ³			NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS ¹²
					FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
481	TRANSPORTATION BY AIR	0	0.0%	-0.3%	0	0	0	0	0	0	0
482	RAILROAD TRANSPORTATION	1	0.1%	0.1%	0	0	0	0	0	0	0
483	WATER TRANSPORTATION	4	0.4%	0.1%	0	1	1	0	1	1	2
484	MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	3	0.3%	NC	0	1	1	0	1	1	2
485	LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION	0	0.0%	NC	0	0	0	0	0	0	0
486	PIPELINES, EXCEPT NATURAL GAS	10	1.0%	-1.0%	4	0	4	1	0	1	7

488 AIR TRAFFIC 95.88 9 0 393.72 95.88 Tm-0(N)Tj0 9 -91 0

SECOND REQUEST INVESTIGATIONS³	NUMBER OF 3-DIGIT INTRA-INDUSTRY TRANSACTIONS¹²

622	GENERAL MEDICAL AND SURGICAL; PSYCHIATRIC AND SUBSTANCE ABUSE HOSPITALS	
623	NURSING AND R	

¹ Fiscal Year 2003 figures include transactions reported between October 1, 2002 and September 30, 2003.

² The size-of-transactions is based on the aggregate total amount of voting securities and/or assets to be held by the acquiring person as a result of the transaction and is taken from the response to Item 3(b)(ii) and 3(c) of the notification form.