



FEDERAL TRADE COMMISSION

ANNUAL REPORT TO CONGRESS

FOR FISCAL YEAR 1996

PURSUANT TO SECTION 201 OF THE

HART-SCOTT-RODINO ANTITRUST

IMPROVEMENTS ACT OF 1976

(NINETEENTH REPORT)

INTRODUCTION

Fiscal year 1996 marked the 20th anniversary of the passage of the HSR Act which has become an essential component of antitrust enforcement.¹ Prior to its passage, mergers often were consummated and operations combined before the antitrust agencies learned of the transactions. It was then difficult, if not impossible, to "unscramble the eggs" and restore the benefits of a competitive market. The Act provides the antitrust agencies with a meaningful opportunity to conduct an investigation and take action, if necessary, before the acquisitions take place.²

There has been tremendous growth in merger activity since enactment of the statute. During fiscal year 1996, the number of premerger transactions reported increased for the fifth year in a row and totaled 3,087, marking the first time in the history of the program that filings exceeded 3,000. This represents a 10-percent increase over the number reported during fiscal year 1995 and a 102-percent increase over the 1,529 filings recorded in fiscal year 1991.³ In addition to the Commission and the Antitrust Division reviewing a record level of filings, the Commission's Premerger Notification Office responded to an estimated 40,000 telephone calls seeking information concerning reportability of transactions under the HSR Act and the details involved in completing and filing premerger forms.

The premerger program was instrumental in facilitating numerous enforcement actions in fiscal 1996 to protect consumers and businesses against anticompetitive mergers. The Commission challenged or threatened to challenge 27 transactions, leading to 20 consent orders, four abandoned transactions and three preliminary injunction proceedings authorized.⁴ The Antitrust Division challenged 30 transactions, leading to nine consent decrees, one transaction that was approved by a regulatory

¹ Pub. L. No. 94-435, 90 Stat. 1383 (1976). The premerger notification provisions are located in § 7A of the Clayton Act, 15 U.S.C. § 18a.

² See pp. 34 *infra*.

³ See Appendix A.

⁴ See pp. 20-33 *infra*.

agency, and an additional twenty transactions that were restructured or abandoned after the Antitrust Division informed the parties that it intended to sue.⁵

The Commission and the Antitrust Division also took steps to eliminate filings and reduce burden for transactions that are unlikely to have a significant anticompetitive impact. The agencies adopted five new rules exempting certain types of transactions from the reporting and waiting period requirements. The new rules, which reduce the number of reportable transactions by an estimated 10 percent, generally exempt transfers of goods or realty in the "ordinary course of business," certain acquisitions of real property assets such as hotels and shopping centers, the acquisition of oil and natural gas reserves valued at \$500 million or less, the acquisition of coal reserves valued at \$200 million or less, the acquisition of realty acquired solely for rental or investment purpose and the acquisition of securities whose underlying value is represented solely by those kinds of exempt assets.⁶

The HSR Act, together with section 13 (b) of the FTC Act and section 15 of the Clayton Act, give the Commission and the Antitrust Division the opportunity to obtain effective preliminary relief against anticompetitive mergers and to prevent interim harm to competition and consumers. Swift and efficient review of proposed mergers is possible only if the parties comply with the Act's requirements and provide complete information. When parties fail to file notification, or file a materially deficient notification form, the HSR Act provides that the courts may impose civil penalties. During fiscal year 1996, Commission investigations resulted in a record \$7.65 million in civil penalties collected pursuant to consent decrees in actions alleging violations of the HSR Act. These settlements included

- Sara Lee Corporation, \$3.10 million;
- Automatic Data Processing, Inc., \$2.97 million;
- Foodmaker, Inc., \$1.45 million; and

⁵ See pp. 12-20 *infra*.

⁶ See pp. 11-12 *infra*.

-- Titan Wheel International, Inc., \$0.13 million.⁷

BACKGROUND

Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435, amended the Clayton Act by adding a new Section 7A, 15 U.S.C. Section 18a ("the Act"). Subsection (j) of Section 7A provides as follows:

Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and the need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section.

This is the nineteenth annual report to Congress pursuant to this provision. It covers October 1995 - September 1996.

In general, the Act requires that certain proposed acquisitions of stock or assets must be reported to the Federal Trade Commission and the Antitrust Division of the Department of Justice prior to consummation. The parties must then wait a specified period, usually thirty days (fifteen days in the case of a cash tender offer and ten or fifteen days in the case of a bankruptcy sale⁸), before they may complete the transaction. Whether a particular acquisition is subject to these requirements

⁷ See pp. 8-11 *infra*.

⁸ The Bankruptcy Reform Act of 1994 amended § 363 of the Bankruptcy Code providing in part that the waiting period required for certain transactions involving an acquired person in bankruptcy be fifteen days. The provision applies to entities that filed for bankruptcy on or after October 22, 1994. Bankruptcy Reform Act, Pub. L. No. 103-394 [H.R. 5116], § 109, 108 Stat. 4106 (1994).

depends upon the value of the acquisition and the size of the parties, as measured by their sales and assets. Small acquisitions, acquisitions involving small parties and other classes of acquisitions that are less likely to raise antitrust concerns are excluded from the Act's coverage.

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 needed for a preliminary antitrust evaluation is included in the notification filed with the agencies by the parties to proposed transactions and thus is immediately available for review during the waiting period.

If either agency determines during the waiting period that further inquiry is necessary, it is authorized by Section 7A(e) of the Act to request additional information or documentary materials from either or both of the parties to a reported transaction (a "second request"). A second request extends the waiting period for a specified period, usually twenty days (ten days in the case of a cash tender offer), after the parties have complied with the request (or in the case of a tender offer, 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 violate the antitrust laws, it may seek an injunction in federal district court to prohibit consummation of the transaction.

Final rules implementing the premerger notification program were promulgated by the Commission, with the concurrence of the Assistant Attorney General, on July 31, 1978.⁹ At that time, a

⁹ 43 Fed. Reg. 33,450 (1978). The rules also appear in 16 C.F.R. Parts 801 through 803. For more information concerning the development of the rules and operating procedures of the

(continued...)

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 Premerger Notification and Report Form. The program became effective on September 5, 1978. In 1983, the Commission, with the concurrence of the Assistant Attorney General, made several changes in the premerger notification rules. Those amendments became effective on August 29, 1983.¹⁰ Additional amendments were published in the Federal Register on March 6, 1987,¹¹ and May 29, 1987.¹²

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 transactions reported,¹³ 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

(...continued)

premerger notification program, see the second, third and seventh annual reports covering the years 1978, 1979 and 1983, respectively.

¹⁰ 48 Fed. Reg. 34,427 (1983) (codified at 16 C.F.R. Parts 801 through 803).

¹¹ 52 Fed. Reg. 7,066 (1987) (codified at 16 C.F.R. Parts 801 through 803).

¹² 52 Fed. Reg. 20,058 (1987) (codified at 16 C.F.R. Parts 801 through 803).

¹³ The term "transactions", as used in Appendices A, B, and C, and Exhibit A to this report, does not refer to separate mergers or deals; rather, it refers to types of structures such as cash tender offers, options to acquire voting securities from the issuer, options to acquire voting securities from someone other than the issuer, and multiple acquiring or acquired persons that necessitate separate HSR identification numbers to track the filing parties and waiting periods. A particular merger, joint venture or deal may involve more than one transaction. Indeed, some have involved as many as four or five transactions.

the waiting period were received, granted, and not granted. Appendix A also shows for fiscal years 1987 through 1996 the number of transactions in which second requests could have been issued. (This information appears in Appendix C and is explained in footnote 1 of that appendix.) Appendix B provides a month-by-month comparison of the number of transactions reported (Table 1) and the number of filings received (Table 2) for fiscal years 1987 through 1996. Appendix C shows, for fiscal years 1987 through 1996, the number of transactions in which the agencies could have issued second requests, the number of merger investigations in which second requests were issued, and the percentage of transactions in which second requests were issued. Appendix C may provide a more meaningful measure of the second request rate than Appendix A because Appendix C eliminates from the total number of transactions certain transactions in which the agencies could not, or as a practical matter would not, issue second requests.¹⁴

The statistics set out in these appendices show that the number of transactions reported in 1996 increased approximately 9.6 percent from the number of transactions reported in 1995 (3087 transactions were reported in 1996 while 2,816 were reported in 1995). The statistics in Appendix A also show that the number of merger investigations in which second requests were issued in 1996 decreased approximately 2.0 percent from the number of merger investigations in which second requests were issued in 1995 (second requests were issued in 99 merger investigations in 1996 while second requests were issued in 101

¹⁴ See Appendix C, note 1. As we explained in previous annual reports, the information regarding second requests in Appendices A and C differs from that reported in those appendices in the annual reports for fiscal years 1979-1987. Appendix A and C in the 1979-1987 reports identified the number of transactions in which a second request was issued, while Appendices A and C in the present report show the number of merger investigations in which second requests were issued. A merger investigation may include several transactions. We believe that reporting the number of merger investigations in which second requests were issued better reflects the agencies' enforcement activities because it represents the number of mergers or acquisitions that were investigated to this extent under the Act by the agencies.

merger investigations in 1995). These numbers also indicate a slight decrease in the number of second requests issued as a percentage of reported transactions from 1995 to 1996 (from 3.6 percent in 1995 to 3.2 percent in 1996 based on Appendix A, and from 3.9 percent in 1995 to 3.5 percent in 1996, based on Appendix C).

The statistics in Appendix A also show that in recent years, early termination was requested for most transactions. In 1996, early termination was requested in 92.7 percent (2,861) of the transactions reported while in 1995 it was requested in 87.7 percent (2,471) of the transactions reported. The number of requests granted increased in 1996 compared to 1995 (from 1,869 in 1995 to 2,044 in 1996). The percentage of requests granted out of the total requested, however, decreased (from 75.6 percent in 1995 to 71.4 percent in 1996).

We have also included in the report, as Exhibit A, statistical tables (Tables I - XI) containing information about the agencies' enforcement interest in transactions reported in fiscal year 1996. The tables provide, for various statistical breakdowns, the number and percentage of transactions in which clearances to investigate were granted by one antitrust agency to the other and the number of merger investigations in which second requests were issued; the number of transactions based on the dollar value of transactions reported and the reporting threshold indicated in the notification; the number of transactions based on the sales or assets of the acquiring person or the sales or assets of the acquired entity; and the number of transactions based on the industry group (2-digit SIC code) in which the acquiring person or the acquired entity derived revenue.

The tables in Exhibit A show that, in 1996, clearance was granted to one or the other of the agencies for the purpose of conducting an initial investigation in 17.8 percent of the total number of transactions in which a second request could have been issued. In 1995, clearance was granted in 14.5 percent of the transactions (see Exhibit A to the Eighteenth Annual Report).

DEVELOPMENTS IN FISCAL YEAR 1996 RELATING TO PREMERGER
NOTIFICATION RULES AND PROCEDURES

1. Compliance

The Commission and the Department of Justice continue to monitor compliance with the premerger notification program's filing requirements and initiated a number of investigations of compliance in fiscal year 1996. The agencies monitor compliance through a variety of methods, including the review of newspapers and industry publications for announcements of transactions that may not have been reported in accordance with the requirements of the Act. Industry sources, such as competitors, customers and suppliers, and interested members of the public often provide the agencies with information about transactions and possible violations of the filing requirements.

Under Section 7A(g) (1) of the Act, any person or company that fails to comply with the Act's notification and waiting period requirements is liable for a civil penalty of up to \$11,000 for each day the violation continues.¹⁵ As a result of the agencies' efforts to assure compliance, four cases alleging a violation of the Act were filed by the Department of Justice at the Commission's request in fiscal year 1996.

In *United States v. Sara Lee Corp.*,¹⁶ the complaint alleged that Sara Lee violated the Act when it acquired the worldwide shoe-care business of Reckitt & Colman plc. Prior to the

¹⁵ Effective November 20, 1996, dollar amounts specified in civil monetary penalty provisions within the Commission's jurisdiction were adjusted for inflation in accordance with the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134 (April 26, 1996). The adjustments included, in part, an increase from \$10,000 to \$11,000 for each day during which a person is in violation under Section 7A(g) (1), 15 U.S.C. 18a(g) (1). 61 Fed. Reg. 54548 (October 21, 1996), corrected at 61 Fed. Reg. 55840 (October 29, 1996).

¹⁶ *United States v. Sara Lee Corp.*, Cv. No. 1:96CV00196 (D.D.C. complaint filed February 6, 1996); 1996-1 Trade Cases ¶ 71,301.

transaction, Sara Lee manufactured "Kiwi," the leading shoe-care brand in the United States. Reckitt & Colman manufactured products under the "Meltonian," "Griffin," and "Magix" brands. At the time of the acquisition, Sara Lee had a market share of approximately 90 percent of shoe polish sold through mass marketers, and Reckitt and Colman was one of the few remaining competitors. According to the complaint, Sara Lee officials sought to complete the transaction without filing premerger notification because of their concern that the acquisition of Reckitt and Colman's United States assets would be challenged by one of the antitrust enforcement agencies.¹⁷ Sara Lee, despite valuing the United States assets substantially more than the foreign assets, split the total \$25.8 million purchase price into two contracts with approximately the same purchase price for each -- \$13.1 million for the United States assets and \$12.7 million for the foreign assets. The complaint alleged that Sara Lee did not determine in good faith the fair market value of the United States assets it purchased, as is required by the rules, and that the value exceeded \$15 million. The complaint also alleged, in the alternative, that Sara Lee's allocation of approximately \$13 million for the United States assets, together with its failure to make a good faith determination of the fair market value of those assets, was a device for avoidance within the meaning of § 801.90 of the rules. Under the terms of the final judgment, Sara Lee agreed to pay a civil penalty of \$3.1 million to settle the charges.

In *United States v. Automatic Data Processing, Inc.*,¹⁸ the complaint alleged that Automatic Data Processing, Inc. ("ADP"), violated the Act when it acquired certain assets of AutoInfo Inc. Both parties provided computerized transaction processing, data communication and information services to the automotive salvage industry. According to the complaint, ADP failed to provide

¹⁷ The acquisition itself raised antitrust concerns. The Commission required Sara Lee to divest in order to restore competition. *Kiwi Brands Inc. and Sara Lee Corporation*, Docket No. C-3523 (issued August 24, 1994); see Seventeenth Annual Report for Fiscal Year 1994.

¹⁸ *United States v. Automatic Data Processing, Inc.*, Cv. No. 95-0606 (D.D.C. April 10, 1996); 1996-1 Trade Cas. ¶ 71,361.

required documents in response to Item 4(c) of the report form when it filed notification with the Commission and Antitrust Division.¹⁹ The initial 30-day waiting period expired without any challenge from the agencies, and the acquisition was consummated. However, the Commission reopened its investigation following complaints from automotive salvage yards. In response to a subpoena, Commission staff discovered documents required by Item 4(c) that ADP had failed to provide with its filing form. The complaint alleges that ADP made little effort to locate Item 4(c) documents, that ADP's failure to submit the required documents hindered the ability of the antitrust enforcement agencies to analyze the competitive effects of the acquisition, and that the antitrust enforcement agencies would likely have issued a second request had the documents properly been submitted. ADP agreed to pay a civil penalty of \$2.97 million to settle the charges.

In *United States v. Titan Wheel International, Inc.*,²⁰ the complaint alleged that Titan Wheel violated the Act when it took possession of a Des Moines tire plant of Pirelli Armstrong Tire Corporation ("Pirelli Armstrong") from Pirelli S.p.A. before expiration of the statutory waiting period. According to the complaint, an agreement between the parties, which transferred to Titan immediate possession and operational control of Pirelli Armstrong assets, had the effect of transferring beneficial ownership of those assets to Titan before premerger notification was given to the enforcement agencies. After inquiry from the Commission's Premerger Notification Office, Titan and Pirelli Armstrong promptly amended their asset purchase agreement to transfer ownership back to Pirelli Armstrong. Under the terms of

¹⁹ Item 4(c) requires parties to submit certain types of competitive documents, including studies, surveys, analyses and reports prepared by or for company officers and directors for the purpose of evaluating the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets.

²⁰ *United States v. Titan Wheel International, Inc.*, Cv. No. 1:96CV01040 (D.D.C. complaint filed May 10, 1996); 1996-1 Trade Cas. ¶ 71,406.

the final judgment, Titan agreed to pay a civil penalty of \$130,000 to settle the charges.

In *United States v. Foodmaker, Inc.*,²¹ the complaint alleged that Foodmaker violated the Act when it acquired 100 percent of the voting securities of Consul Restaurant Corporation ("Consul"), one of its franchisees. According to the complaint, Foodmaker knew that an HSR filing was required by the Act but decided to make the acquisition without notifying the enforcement agencies. Under the terms of the final judgment, Foodmaker agreed to pay a civil penalty of \$1.45 million to settle the charges.

2. Amendments to the Rules

In fiscal year 1996, the Commission, with the concurrence of the Assistant Attorney General, adopted five amendments to the rules that define or create exemptions from the requirements imposed by the Act.²² The rules exempt: (1) certain acquisitions of goods transferred in the ordinary course of business; (2) certain acquisitions of real property assets such as hotels and shopping centers; (3) acquisitions of oil and natural gas reserves valued at \$500 million or less, and of coal reserves valued at \$200 million or less; (4) acquisitions of voting securities of companies that hold assets described in 7A(c)(2) of the Act, real property or carbon-based mineral reserves the direct acquisition of which would be exempt; and (5) acquisitions of realty acquired solely for rental or investment purposes.

The amendments were designed to reduce the compliance burden on the business community by eliminating the application of the notification and waiting requirements to a significant number of

²¹ *United States v. Foodmaker, Inc.*, Cv. No. 1:96CVO1879 (D.D.C. complaint filed August 13, 1996).

²² 61 Fed. Reg. 13666 (March 28, 1996). The rules became effective on April 29, 1996.

transactions that are unlikely to violate the antitrust laws.²³ They were also intended to allow the enforcement agencies to focus their resources more effectively on those transactions that present the potential for competitive harm.

The amendments adopted in fiscal year 1996 were drafted in cooperation with the Department of Justice, and reflect extensive analysis of public comments received on the proposed exemptions that were published in fiscal year 1995 and described in the Eighteenth Annual Report. The final amendments contain revisions to the proposed rules that address certain commenters' concerns, and exclude from the reporting requirements additional transactions that the Commission and the Assistant Attorney General found were unlikely to violate the antitrust laws.

MERGER ENFORCEMENT ACTIVITY DURING FISCAL YEAR 1996²⁴

1. Department of Justice

The Antitrust Division challenged thirty merger transactions that it concluded could lessen competition if allowed to proceed as proposed during fiscal year 1996. In nine of these instances, the Antitrust Division filed a complaint in U.S. District Court.²⁵ All of these cases have been settled by consent decree.

²³ It is estimated that the amendments will reduce the number of reported transactions by 10 percent.

²⁴ The cases in this report were not necessarily reportable under the premerger notification program. Because of the Act's provisions regarding the confidentiality of the information obtained pursuant to this program, it would be inappropriate to identify which cases were initiated under the premerger notification program.

²⁵ United States and State of Florida v. Reuter Recycling of Florida, Inc., and Waste Management Inc. of Florida, Cv. No. 1:95CV01982 (D.D.C. filed October 20, 1995); United States and State of Texas v. Kimberly-Clark Corporation and Scott Paper Company, Cv. No. 3:95CV3055-P (N.D. Tex. filed December 12, 1995); United States v. Pacific Scientific Company, Cv. No.

(continued...)

In the other twenty-one cases, the Antitrust Division informed the parties to a proposed transaction that it would file suit challenging the transaction unless the parties restructured the proposal to avoid competitive problems or abandoned the proposal altogether.²⁶ In sixteen instances, the parties

²⁵ (...continued)

1:96CV00165 (D.D.C. filed January 30, 1996); United States v. Georgia-Pacific Corporation, Cv. No. 96-164 (D. Del. filed March 29, 1996); United States v. American Skiing Company and S-K-I Limited, Cv. No. 1:96CV01308 (D.D.C. filed June 11, 1996); United States, State of California, State of Connecticut, State of Illinois, Commonwealth of Massachusetts, State of New York, State of Washington and State of Wisconsin v. The Thomson Corporation and West Publishing Company, Cv. No. 1:96CV01415 (D.D.C. filed June 19, 1996); United States v. Jacor Communications, Inc. and Citicasters, Inc., Cv. No. C-1-96-757 (S.D. Ohio filed August 5, 1996); United States, State of Texas and Commonwealth of Pennsylvania v. USA Waste Services, Inc., and Sanifill, Inc., Cv. No. 1:96:CZ02031 (D.D.C. filed August 30, 1996); and United States and State of Connecticut v. Oldcastle Northeast, Inc., CRH plc, Tilcon, Inc., and BTR plc, Cv. No. 396-CV-01749 (D. Conn. filed September 3, 1996).

²⁶ In fifteen instances noted below, the Department of Justice issued press releases: October 31, 1995 -- acquisition of Shawmut National Corporation by Fleet Financial Group (banking service business in New England); December 11, 1995 -- U.S. Bancorp/West One Bancorp merger (banking service business in the Pacific Northwest); January 16, 1996 -- purchase of Capital Cities/ABC Inc. by Walt Disney Company (sale of advertising at KCAL-TV Los Angeles television station); February 28, 1996 -- Wells Fargo/First Interstate Bank merger (61 branches in California); May 29, 1996 -- acquisition of CFC Aviation Service, L.P. by UNC Inc. (TFE 731 turbofan engines and jet engine heavy maintenance); April 12, 1996 -- merger of Union Pacific Corporation and Southern Pacific Rail Corporation; June 5, 1996 -- acquisition of Anchor Drilling Fluids of Norway by Smith International Inc. (drilling fluid business); June 13, 1996 -- acquisition of Ingram Cactus Company by Cooper Cameron Corporation (geothermal wellheads and valves industry); June 17, (continued...)

restructured the proposed transactions, and, in four instances, the parties abandoned the proposed transactions. One transaction involving the merger of Union Pacific and Southern Pacific Rail Corporation was litigated before the Surface Transportation Board, and, on July 3, 1996, the Board approved the \$5.4 billion merger.

In *United States and State of Florida v. Reuter Recycling of Florida, Inc., and Waste Management Inc. of Florida* ("WMF"), the Division challenged the proposed acquisition of Reuter Recycling

²⁶ (...continued)

1996 -- acquisition of Johnstown Corporation by Park Corporation (steel industry); June 18, 1996 -- Bank of Boston/BayBanks merger (divestiture of more than 20 branch offices in the Boston, Massachusetts metropolitan area); July 1, 1996 -- acquisition of Solvay S.A. by Genecor International Inc. (enzyme business); August 12, 1996 -- acquisition of the Outdoor Division of Gannett Company by Outdoor Systems Inc. (Denver, Colorado, billboard business); August 29, 1996 -- acquisition of Zimmerman International Corporation by Ingersoll Rand Company (air balances and the elimination of an exclusive licensing agreement); August 30, 1996 -- acquisition of Vapor Corporation's parent Mark IV Industries by Westinghouse Air Brake Company (rail car door systems business); September 13, 1996 -- acquisition of Gruma S.A. de C.V. by Archer-Daniels-Midland Co. (masa flour, the primary ingredient in tortillas).

In addition to the fifteen instances in which it issued press releases, the Department, in six instances, informed the respective parties that their proposed acquisition was likely to have anticompetitive effects: merger between Monsanto and Calgene (genetically altered tomatoes, plant oils and cottonseed and seed); acquisition of Meridian Bancorp by Corestates Financial (banking service business in Reading and Lebanon, Pennsylvania); acquisition of Modesto Tallow Company by Darling International Inc. (tallow/rendering industry); acquisition of River City Broadcasting L.P. by the Sinclair Broadcasting Group, Inc. (television stations in Columbus, Ohio); acquisition of Mrs. Smith's, Inc. by ConAgra (frozen pie industry); and acquisition of Pandrol Jackson's tamper business by Fairmount Tamper (tamper industry).

of Florida, Inc. by WMF and alleged that the acquisition violated Section 7 of the Clayton Act in the waste disposal industry in Dade and Broward Counties, Florida. A proposed consent decree was filed simultaneously settling the suit. The decree allowed the two companies to merge providing they kept a waste transfer station that WMF acquired as part of the transaction open to other waste disposal competitors. The consent decree was entered on January 22, 1996.

In *United States and State of Texas v. Kimberly-Clark Corporation and Scott Paper Company*, the Division challenged the proposed acquisition by Kimberly-Clark Corporation of Scott Paper Company. The acquisition threatened to raise prices and harm consumers in two markets: facial tissue and baby wipes. A combination of Kimberly-Clark and Scott would have controlled almost 60 percent of the sales of facial tissue and more than 55 percent of sales of baby wipes. A proposed consent decree was filed simultaneously settling the suit. Under the decree, the parties agreed to divest Scott's baby wipes and facial tissue brands; Scott's Dover, Delaware, plant used to make Scott baby wipes and other products; and a maximum of two of four tissue mills, i.e., Scott's mills in Marinette, Wisconsin, and Ft. Edward, New York; and Kimberly-Clark's Lakeview mill and Badger-Globe mill, both in Neenah, Wisconsin. The consent decree was entered on April 4, 1996.²⁷

In *United States v. Pacific Scientific Company*, the Division challenged the proposed acquisition by Pacific Scientific of Met One. Both parties competed head-to-head in the highly concentrated market for drinking water particle counters, devices used to protect drinking water against contamination by deadly micro-organisms. A proposed consent decree was filed simultaneously settling the suit. Under the decree, Pacific Scientific of Newport, California, agreed to divest its drinking water particle counter business as a condition of acquiring Met One Inc. of Grants Pass, Oregon. The consent decree was entered on April 18, 1996.

In *United States v. Georgia-Pacific Corporation*, the Division challenged the acquisition by Georgia-Pacific

²⁷ All divestitures have occurred.

Corporation of the gypsum business of Domtar Inc., a Canadian corporation, the fourth and third largest producers and sellers of gypsum products in the northeast region of the United States. Gypsum board (sometimes called "drywall," "sheetrock" or "wallboard") is used in the construction and repair of interior walls and ceilings in residential and commercial buildings in the United States. In 1995, Georgia-Pacific's United States gypsum board sales totaled about \$251 million and Domtar's about \$221 million. The acquisition threatened to raise prices and harm consumers of gypsum board in Washington, DC, and the states of Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Delaware, Massachusetts, New York, New Jersey, Pennsylvania, Maryland and Virginia in violation of Section 7 of the Clayton Act. A proposed consent decree was filed simultaneously settling the suit. The decree required Georgia-Pacific to divest drywall plants in Wilmington, Delaware, and Buchanan, New York. Lafarge's proposal to purchase the two gypsum plants was approved and the decree was entered by the court on July 30, 1996.

In *United States v. American Skiing Company and S-K-I Limited*, the Division challenged the \$137 million acquisition by American Skiing Company of S-K-I Limited, and charged that the acquisition would raise prices and eliminate discounts to Maine residents for day skiing trips, and for residents of Maine, eastern Massachusetts, eastern Connecticut and Rhode Island for week-end ski excursions. American Skiing Company (formerly LBO Resort Enterprises Corporation), a major owner and operator of ski resorts in New England, was informed that it could proceed with the acquisition of S-K-I Ltd. as long as the New Hampshire ski resorts at Waterville Valley and Mount Cranmore were sold. Without the divestiture, American Skiing would have controlled eight of the largest ski resorts serving skiers residing in the eastern portions of New England. A proposed consent decree was filed simultaneously settling the suit. S-K-I owned ski resorts in Killington and Mount Snow/Haystack, Vermont, a majority stake in Sugarloaf in Maine and Waterville Valley in New Hampshire. All of those resorts were to be sold to American Skiing subject to its commitment to divest the Waterville Valley and Mount Cranmore resorts. In 1995, S-K-I's revenues at these resorts totaled about \$110 million. About \$400 million was spent last year on skiing in New England. The consent decree was entered on October 31, 1996, and the divestiture closed on November 27, 1996.

In *United States, State of California, State of Connecticut, State of Illinois, Commonwealth of Massachusetts, State of New York, State of Washington and State of Wisconsin v. The Thomson Corporation and West Publishing Company*, the Division challenged the \$3.4 billion merger of two of the nation's largest legal publishers, Thomson Corporation, headquartered in Toronto, Canada, and West Publishing and charged that the acquisition would lessen competition in nine markets for enhanced primary law -- legal publications of statutes or court decisions in which commentary is offered -- and in more than 50 markets for secondary law products -- treatises and legal guides -- and in the online services market. A proposed consent decree was filed simultaneously settling the suit. The proposed decree would require the divestiture of more than 50 products by Thomson, guarantee access to important data bases, require Thomson to license openly, for a capped fee, to other law publishers the right to use the pagination of individual pages in West's National Reporter System in their products, and give options to three states to reopen bidding for certain contracts. This was the seventh and largest joint federal and state antitrust action filed in the past two years. Modifications were made to the consent decree in response to comments and the court's December 1996 opinion. The consent decree was entered by the court on March 7, 1997, and the divestitures required by the decree have occurred.

In *United States v. Jacor Communications, Inc. and Citicasters, Inc.*, the Division challenged the \$770 million merger between Jacor Communications, Inc. ("Jacor") and Citicasters, Inc., two of the nation's largest radio station owners. The complaint alleged that the combination would control more than 50 percent of the sales of radio advertising time in Cincinnati, and could enable the companies to increase prices to advertisers and substantially reduce competition in the \$80 million Cincinnati radio advertising market. A proposed consent decree was filed simultaneously settling the suit. Jacor and Citicasters agreed to divest WKRQ-FM, a leading Cincinnati contemporary music station, to an independent buyer. Jacor Communications and Citicasters are both headquartered in Cincinnati. Jacor owned 21 radio stations in seven states and Citicasters owned 19 radio stations in seven states. The Jacor/Citicasters acquisition was one of the first of many radio industry transactions announced following passage of the

Telecommunications Reform Act of 1996, which relaxed previous limits on radio ownership. The consent decree was entered by the court on December 31, 1996.

In *United States, State of Texas and Commonwealth of Pennsylvania v. USA Waste Services, Inc., and Sanifill, Inc.*, the Division challenged the \$1.5 billion proposed merger between USA Waste Services, Inc. ("USA Waste") and Sanifill, Inc. USA Waste and Sanifill are two of the largest waste hauling and disposal companies in North America. The deal was permitted to proceed after the companies agreed to divestitures and other conditions to eliminate antitrust concerns. Under the restructured deal, restaurants and stores will continue to have the benefits of competition for commercial hauling and landfill disposal services in Houston, Texas, and Johnstown, Pennsylvania. In Houston, the parties competed in landfill disposal services and are two of only a few competitive waste haulers. In Johnstown, they competed in waste hauling. USA Waste is the third largest hauling and disposal company in North America, with operators in 24 states and sales of \$730 million in 1995. Sanifill is among the top 10 companies in North America and has operations in 23 states, the District of Columbia, Puerto Rico, Mexico and Canada. In 1995, it had sales of \$257 million. The consent decree was entered on December 17, 1996.

In *United States and State of Connecticut v. Oldcastle Northeast, Inc., CRH plc, Tilcon, Inc. and BTR plc*, the Division challenged the \$270 million deal between two asphalt companies. The transaction, as originally proposed, would have allowed Oldcastle Northeast ("Oldcastle") to become the dominant asphalt concrete company in the greater Hartford area market with the power to increase prices. Both companies compete in the production of asphalt concrete, which is also known as blacktop and is used mainly for constructing or resurfacing roads, driveways and parking lots. A proposed consent decree was filed simultaneously settling the suit. The decree required Oldcastle to divest an East Granby, Connecticut, quarry and two of the three asphalt plants located at the quarry. Oldcastle, a subsidiary of CRH plc of the Republic of Ireland, had sales of about \$314 million in 1995. Tilcon, a subsidiary of BTR plc of the United Kingdom, had sales of about \$349 million in 1995. The consent decree was entered on December 23, 1996.

Also, on February 28, 1996, the Division filed a notice of dismissal in *U.S. v. AT&T Corporation and McCaw Cellular Communications, Inc.* (D.D.C. filed July 15, 1994) because before the judgment was entered, the Telecommunication Act of 1996 was passed, effectively mooting the decree.²⁸

On September 21, 1996, oral arguments were heard in *U.S. v. Engelhard Corporation, et al.*, (M.D. Ga. filed June 12, 1995).²⁹ On March 10, 1997, the district court entered judgment for defendants, and the government has appealed.

On October 27, 1995, the district court entered judgment for the defendants in *United States v. Mercy Health Services, et.al.* 902 F. Supp. 968 (N.D. Iowa 1995), denying the government's requested injunction of the proposed merger of Mercy Health Center and Finley Hospital.³⁰ The government appealed the court's geographic market determination, and defendants cross-appealed on several issues, including the court's rejection of their efficiencies defense. The appeals were argued on October 24, 1996. On January 15, 1997, before the appeals were decided, Finley Hospital announced that it had abandoned its proposed merger with Mercy. Based on Finley's actions, the Eighth Circuit held the case moot and declined to rule on the merits of the appeals, vacated the district court's decision and judgment, and remanded with instructions to dismiss the case as moot (107 F.3d 632 (8th Cir. 1997)). On May 5, 1997, the district court dismissed the case.

During fiscal year 1996, the Division investigated eight bank merger transactions for which divestiture was required prior to or concurrently with the acquisition. A "not significantly adverse" letter conditioned on divestiture prior to or

²⁸ See the 1994 Annual Report to Congress for a description of this case.

²⁹ See the 1995 Annual Report to Congress for a description of this case.

³⁰ See the 1994 Annual Report to Congress for a description of this case.

concurrently with consummation of the transaction was sent to the appropriate bank regulatory agency in all instances.³¹

2. Federal Trade Commission

The Commission authorized its staff to seek injunctive relief in three merger cases during fiscal year 1996, two of

³¹ On October 31, 1995, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by Fleet Financial Group, Providence, Rhode Island, to acquire Shawmut National Corporation, Hartford, Connecticut; on November 13, 1995, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by Nations Bank Corporation, Charlotte, North Carolina, to acquire Bank South Corporation, Atlanta, Georgia, and a letter was sent to the Comptroller of the Currency regarding the application by Nations Bank of Georgia National Association, Atlanta, Georgia, to acquire Bank South, Atlanta, Georgia; on December 13, 1995, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by Boatmen's Bancshares, St. Louis, Missouri, to acquire Fourth Financial Corporation, Wichita, Kansas; on December 8, 1995, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by U.S. Bancorp, Portland, Oregon, to acquire West One Bancorp, Boise, Idaho; on March 1, 1996, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by Wells Fargo & Company, San Francisco, California, to acquire First Interstate Bancorp of Los Angeles, California; on March 21, 1996, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by CoreStates Financial Corporation, Philadelphia, Pennsylvania, to acquire Meridian Bancorp, Reading, Pennsylvania; on March 20, 1996, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by Norwest Corporation, Minneapolis, Minnesota, to acquire Victoria Bankshares, Inc., Victoria, Texas; and on July 2, 1996, a "not significantly adverse" letter was sent to the Board of Governors regarding the application by Bank of Boston Corporation, Boston, Massachusetts, to acquire BayBanks, Inc., Boston, Massachusetts.

which were filed in district court. In two of the three cases, the parties abandoned the transactions.³²

In *Butterworth Hospital/Blodgett Memorial Medical Center*,³³ the Commission filed for a preliminary injunction in January 1996 alleging that Butterworth's proposed acquisition of Blodgett Hospital would lessen competition substantially in the provision of acute care inpatient hospital services in the Grand Rapids, Michigan, area. On September 26, 1996, the district court denied the request for a preliminary injunction finding that, although the Commission had demonstrated that the merged entity would have substantial market power and established its prima facie case that the transaction would violate Section 7 of the Clayton Act,

³² On December 27, 1995, the Commission filed for a preliminary injunction alleging that the proposed acquisition by Questar Corporation of a 50 percent ownership interest in Kern River Gas Transmission Company from Tenneco, Inc., would lessen competition substantially for the transmission of natural gas to industrial customers in the Salt Lake City, Utah, area. According to the complaint, the parties were the only competitors in the relevant market. Subsequently, the parties abandoned the transaction, and the investigation was closed on February 9, 1996. *United States vs. Questar Corporation*, Civ. No. 2:95CV1127S (D. Utah filed December 27, 1995).

On April 17, 1996, the Commission authorized an action to enjoin the proposed acquisition by Rite Aid Corporation of Revco D.S., Inc. The press release issued at the time reported that the Commission had reason to believe that the transaction would lessen competition for the retail sale of prescription drugs in numerous eastern and midwestern metropolitan areas. According to the press release, the acquisition would have combined the two largest drug store chains in the United States. Subsequently, the parties abandoned the transaction, and the investigation was closed on August 9, 1996.

³³ *Federal Trade Commission v. Butterworth Health Corporation*, Civ. No. 1:96CV49 (W.D. Mich. filed January 23, 1996); preliminary injunction denied September 26, 1996 (1996-2 Trade Cas. ¶ 71,571); FTC Docket No. 9283 complaint issued November 18, 1996)

the parties were unlikely to exercise market power to the detriment of all consumers. As a condition to the merger, the court ruled that the hospitals must sign a proposed consent decree containing certain terms. In November 1996, the Commission announced that it would appeal the district court decision and pursue administrative litigation. The 6th Circuit affirmed the district court on July 8, 1997.

The Commission accepted consent agreements for public comment in 20 other merger cases in fiscal year 1996. A complaint and decision and order were issued in 15 of those matters during the fiscal year, and consent agreements in five of these cases became final after September 30, 1996.

In *Service Corporation International*,³⁴ the complaint alleged that the proposed acquisition by Service Corporation International ("SCI") of Gibraltar Mausoleum Corporation would lessen competition substantially in the provision of funerals, perpetual care cemetery services and crematory services in certain areas of Florida and Texas. According to the complaint, SCI, the largest owner of funeral homes in North America, and Gibraltar, one of its primary competitors, both operate funeral establishments, cemeteries and crematories in Brevard and Lee Counties, Florida, and in Amarillo, Texas. Under the order, SCI is required to divest seven properties in the relevant geographic markets.³⁵

In *The Upjohn Company and Pharmacia Aktiebolag*,³⁶ the complaint alleged that Upjohn's proposed acquisition of Pharmacia

³⁴ Service Corporation International, No. C-3646 (issued March 21, 1996).

³⁵ In April 1996, the Commission approved the divestiture to CFS Funeral Services, Inc., of five funeral homes and two cemetery/crematories, including two funeral homes and one cemetery in Amarillo; one funeral home and one cemetery in Titusville, Florida; and one funeral establishment in both Cape Coral and Ft. Myers, Florida.

³⁶ The Upjohn Company and Pharmacia Aktiebolag, Docket No. C-3638 (issued February 8, 1996).

Aktiebolag ("Pharmacia") would lessen competition substantially in the research, development, manufacture and sale of topoisomerase I inhibitors in the United States. According to the complaint, Upjohn and Pharmacia were two of only a very small number of companies in the advanced stages of developing the chemotherapeutic drug which is used for the treatment of colorectal cancer. The order permitted the transaction, but required Upjohn to divest Pharmacia's topoisomerase I inhibitor, known as "9-Aminocamptothecin," to a Commission-approved buyer.³⁷

In *The Stop & Shop Companies, Inc., and SSC Associates, L.P.*,³⁸ the complaint alleged that Stop & Shop's proposed acquisition of Purity Supreme, Inc., would lessen competition substantially for the retail sale of food and grocery products sold at supermarkets in five geographic markets of eastern Massachusetts. According to the complaint, the parties operate competing supermarkets in the Boston metropolitan area, Barnstable County (Cape Cod), the South Shore area, Bedford and Brockton. The order required Stop & Shop to divest a total of 17 supermarkets, including 16 Purity stores and one Stop & Shop store to a Commission-approved buyer. In addition, the order required that all seven Cape Cod supermarkets be divested to one acquirer in order to permit a new entrant to operate at the scale necessary to support a viable distribution system.³⁹

In *Devro International plc and Devro Inc.*,⁴⁰ the complaint alleged that Devro's proposed acquisition of Teepak International, Inc., would lessen competition substantially in

³⁷ In May 1997, the Commission approved the parties' application to divest the research and development assets related to "9-AC" to IDEC Pharmaceuticals Company.

³⁸ *The Stop & Shop Companies, Inc., and SSC Associates, L.P.*, Docket No. C-3649 (issued April 2, 1996).

³⁹ In November 1996, the Commission approved the application of Stop & Shop to divest its supermarket at 550 Arsenal Street in Watertown, Massachusetts, to J&T Enterprises, Inc.

⁴⁰ *Devro International plc and Devro Inc.*, No. C-3650 (issued April 3, 1996).

the manufacture and sale of collagen sausage casings in the United States and the world. Sausage casings are used by sausage makers to form, size and bind ingredients used to manufacture or process smoked meat or poultry products such as frankfurters, sausages, salami and jerky. Collagen sausage casings are distinguished from other types because they are edible. According to the complaint, the parties are the nation's largest of only four firms worldwide that produce collagen sausage casings. The order required Devro to divest its collagen sausage casings production and distribution operations in the United States and Canada to a firm not already engaged in the business.⁴¹

In *Johnson & Johnson*,⁴² the complaint alleged that the proposed acquisition by Johnson & Johnson ("J&J") of Cordis Corporation would lessen competition substantially in the manufacture and sale of neurological shunts. Neurological shunts are medical devices used to treat hydrocephalus, a brain disorder that primarily afflicts young children. According to the complaint, the combined company would control over 85 percent of the market. Under the order, J&J is required to divest Cordis Innovative Systems, Inc., to a Commission-approved purchaser.⁴³

In *Praxair, Inc.*,⁴⁴ the complaint alleged that Praxair's proposed acquisition of CBI Industries, Inc. ("CBI"), would lessen competition substantially in the production of merchant atmospheric gases, including nitrogen, oxygen and argon, in liquid or cylinder form. According to the complaint, the acquisition would reduce competition in the merchant nitrogen and oxygen markets in both northern and southern California, as well

⁴¹ In August 1996, the Commission approved the application of Devro to divest its collagen sausage casings business to Nitta Gelatin, Inc., of Japan.

⁴² *Johnson & Johnson*, No. C-3645 (issued March 19, 1996).

⁴³ In March 1997, the Commission approved the application of J&J to divest Cordis' neuroscience business to Elekta AB, a Swedish corporation.

⁴⁴ *Praxair, Inc.*, Docket No. C-3648 (issued April 1, 1996).

as eastern Connecticut and western Wisconsin/southeastern Minnesota; and in the merchant argon market in eastern Connecticut and western Wisconsin/southeastern Minnesota. Nitrogen is used to create inert environments in applications such as heat treating, chemical blanketing and freezing food. Oxygen is required for combustion and oxidization purposes in applications such as foundries, steel and glass production, and also for medical purposes. Argon is employed primarily for welding purposes. Under the order, Praxair is required to divest four of CBI's atmospheric gas production facilities in Vacaville and Irwindale, California; Bozrah, Connecticut; and Madison, Wisconsin, to a Commission-approved purchaser.⁴⁵

In *Illinois Tool Works Inc.*,⁴⁶ the complaint alleged that the proposed acquisition by Illinois Tool Works ("ITW") of Hobart Brothers Company would lessen competition substantially in the United States market for industrial power sources and industrial engine drives used to generate power for arc welding systems. ITW, through Miller Electric Mfg. Co., and Hobart were two of only three competitors producing these industrial products. The order required ITW to divest Hobart's industrial power sources and industrial engine drives businesses, including an exclusive five-year license of the Hobart trade name to Prestolite Electric Incorporated or to another Commission-approved acquirer.

In *Hughes Danbury Optical Systems, Inc., Hughes Electronics Corporation and General Motors Corporation*,⁴⁷ the complaint alleged that the acquisition by Hughes Danbury Optical Systems ("Hughes"), a subsidiary of General Motors, of the Itek Optical Systems Division ("Itek") of Litton Industries, Inc., would

⁴⁵ In October 1996, the Commission approved Praxair's application to divest four industrial gas producing facilities located in Bozrah, Connecticut; Madison, Wisconsin; and Irwindale and Vacaville, California, to AGA Gas, Inc.

⁴⁶ *Illinois Tool Works, Inc.*, Docket No. C-3651 (issued April 23, 1996).

⁴⁷ *Hughes Danbury Optical Systems, Inc., Hughes Electronics Corporation and General Motors Corporation*, Docket No. C-3652 (issued April 30, 1996).

lessen competition substantially for the research, development, manufacture and sale of an airborne laser system for use in the United States Air Force's Phillips Laboratory Airborne Laser ("ABL") Program. The ABL program is the premier anti-missile plan in the Department of Defense's Theater Missile Defense System.⁴⁸ Both Hughes and Itek were involved in the ABL program through participation on competing teams contracted by the Air Force to develop the program's demonstrator concept design. The parties were responsible for supplying an adaptive optics system for their respective teams, including deformable mirrors which allow an anti-missile system to correct for distortions in the atmosphere. Itek and Xinetics, Inc., the only two firms with the ability to design and fabricate the mirrors, each had an exclusive agreement with one of the two teams; namely, The Boeing Company/Lockheed Martin Corporation/Itek ("Boeing team") and Rockwell International Corporation/Hughes/Xinetics team, respectively. According to the complaint, Hughes, through the acquisition, would be engaged in the supply of deformable mirrors to both teams. Under the order, Hughes is prohibited from enforcing the exclusivity provision in its contract with Xinetics to ensure that the Boeing team has a source alternative to Hughes/Itek for its mirrors. The order also prohibits Hughes from accessing proprietary information from Itek regarding the Boeing team's ABL project.

In *Litton Industries, Inc.*,⁴⁹ the complaint alleged that the proposed acquisition by Litton Industries, Inc., of PRC Inc., a subsidiary of Black and Decker, would lessen competition substantially in the United States market for systems engineering and technical assistance ("SETA") services for the Navy's Aegis destroyer program. Litton is one of two defense contractors that

⁴⁸ As envisioned, the ABL program will utilize a 747 aircraft, equipped with a high energy laser projector, to fly at high altitudes near the forward edge of a battle area to locate and destroy incoming short-range missiles. The goal of the system is to deter the enemy from launching missiles for fear of contaminating its own territory with nuclear, chemical or biological warheads.

⁴⁹ *Litton Industries, Inc.*, Docket No. C-3656 (issued May 7, 1996).

manufacture Aegis destroyers for the Navy, and PRC is the sole systems engineering and technical assistance contractor for the program. According to the complaint, the acquisition would afford Litton a competitive advantage by providing it with access to competitively sensitive, non-public information about the only other Aegis destroyer producer, General Dynamics. Under the final order, Litton was required to divest PRC's Aegis SETA contract to a purchaser approved by the Commission and the Navy. In addition, the order requires that PRC provide any technical assistance necessary to execute the contract for one year.⁵⁰

In *Saint-Gobain/Norton Industrial Ceramics Corp.*,⁵¹ the complaint alleged that the proposed acquisition by Compagnie de Saint-Gobain of The Carborundum Company from the British Petroleum Company would lessen competition substantially in the United States markets for the manufacture of three products used in industrial furnaces and home appliances: (1) fused cast refractories used to line glass furnaces for melting raw materials; (2) hot surface igniters used as ignition sources in gas appliances; and (3) silicon carbide refractory bricks used in heat-intensive metal refining applications. According to the complaint, the parties were the only two competitors or faced little competition from other firms in each of the relevant markets. Under the order, Saint-Gobain was required to divest Carborundum's Monofrax fused cast refractories business in New York; hot surface igniter business in Puerto Rico; and silicon carbide refractories business in New Jersey.⁵² The order also

⁵⁰ In June 1996, the Commission approved Litton's application to divest the systems engineering and technical assistance contract for the Navy's Aegis destroyer program to Vitro Corporation, a subsidiary of Tracor, Inc.

⁵¹ *Saint-Gobain/Norton Industrial Ceramics Corp.*, Docket No. C-3673 (issued June 12, 1996).

⁵² In December 1996, the Commission approved the application of Saint-Gobain to grant a perpetual license for proprietary Carborundum technology used in the production of silicon carbide refractory bricks to New Castle Refractories Company. In March 1997, the Commission approved Saint-Gobain's

(continued...)

allowed Saint-Gobain to apply for Commission approval to divest its Corhart business, including the company's Louisville, Kentucky, fused cast refractories manufacturing facility as a substitute for divestiture of the Monofrax assets.

In *Lockheed Martin Corporation*,⁵³ the complaint alleged that the proposed acquisition by Lockheed Martin of Loral Corporation would lessen competition substantially in the United States markets for the research, development, manufacture and sale of air traffic control systems; commercial low earth orbit satellites; commercial geosynchronous earth orbit satellites; military aircraft; NITE Hawk systems; simulation and training systems; electronic countermeasures; mission computers; unmanned aerial vehicles; and integrated communications systems; as well as the provision of SETA services. Lockheed Martin and Loral were two of the largest defense and space contractors in the United States. As part of the transaction, Lockheed Martin intended to spin-off Loral's satellite manufacturing assets into a new entity, Loral Space & Communications Ltd. ("Loral Space"). Under the final order, Lockheed Martin was required to divest its Federal Aviation Administration ("FAA") SETA services operations, and was prohibited from disclosing to its air traffic control systems division any non-public information obtained in its capacity as a provider of SETA services to the FAA. The order also prohibits Lockheed Martin from making available to its tactical fighter aircraft and unmanned aerial vehicles divisions any non-public information relating to its competitors' operations. Further, the order precludes any person who is simultaneously a board member or officer of Lockheed Martin and Loral Space from participating in any matter involving Lockheed Martin's space business. Finally, the order prohibits Lockheed Martin's space division from providing any service or support to

⁵² (...continued)
application to divest the hot surface igniters business of Carborundum to Graphite Sales, Inc.

⁵³ Lockheed Martin Corporation, Docket No. C-3685 (issued September 19, 1996).

Loral Space's satellite division, and required Lockheed Martin to reduce its investment in Loral Space to 20 percent.⁵⁴

In *The Loewen Group, Inc., and Loewen Group International, Inc.*,⁵⁵ the complaint alleged that the proposed acquisition by The Loewen Group ("Loewen") of the Garza Memorial Funeral Home, Inc., and Thomae-Garza Funeral Directors, Inc., would lessen competition substantially for the provision of funerals in the Brownsville and Harlingen/San Benito areas of Cameron County, Texas, respectively. According to the complaint, the parties are direct competitors in the relevant markets. Under the order, Loewen was required to divest one of three funeral homes in Brownsville, as well as a large funeral home in San Benito or two smaller funeral homes in Harlingen to a Commission-approved purchaser.⁵⁶

In *The Loewen Group, Inc., and Loewen Group International, Inc.*,⁵⁷ the complaint alleged that Loewen's proposed acquisition of Heritage Family Funeral Services, Inc. ("Heritage"), would lessen competition substantially for the provision of funerals in Castlewood, Virginia. According to the complaint, the transaction would eliminate competition between the only two funeral homes operating in the area. Under the order, Loewen was required to divest Heritage's Castlewood Funeral Home to a Commission-approved acquirer.

⁵⁴ In October 1996, the Commission approved the application of Lockheed Martin to divest its SETA services operations to Washington Consulting Group, Inc.

⁵⁵ The Loewen Group, Inc., and Loewen Group International, Inc., Docket No. C-3677 (issued July 29, 1996).

⁵⁶ Specifically, divestiture is required of either Garza Memorial Funeral Home, Inc., the Darling-Mouser Funeral Home, Inc., or Paragon Family Services, Inc., in Brownsville; and either Thomae-Garza Funeral Directors, Inc., or both the Pitts, Kriedler-Ashcraft Funeral Directors, Inc., and Garza-Elizondo funeral homes in Harlingen.

⁵⁷ The Loewen Group, Inc., and Loewen International, Inc., Docket No. C-3678 (issued July 29, 1996).

In *Raytheon Company*,⁵⁸ the complaint alleged that Raytheon's proposed acquisition of Chrysler Technologies Holding, Inc., ("CTH") would lessen competition substantially for the research, development, manufacture and sale of the Submarine High Data Rate ("HDR") Satellite Communications Terminal in the United States. Both Raytheon and GTE Corporation were competing for the United States Navy's procurement of the HDR satellite communications system to be used on submarines. CTH, through its subsidiary, Electrospace Systems, Inc. ("ESI"), was a second-tier subcontractor to GTE for the project. According to the complaint, the acquisition of CTH would allow Raytheon to gain access to competitively sensitive non-public information concerning GTE's proposal through ESI's capacity as the antenna/terminal control supplier for GTE. The final order prohibited Raytheon from providing any non-public information to ESI concerning Raytheon's proposal in the up-coming procurement, and from obtaining any non-public information concerning GTE's offer until the Navy selects one supplier or cancels its procurement.

In *Fresenius AG and Fresenius USA, Inc.*,⁵⁹ the complaint alleged that Fresenius AG's proposed acquisition of National Medical Care, Inc. ("NMC"), from W.R. Grace & Co. would lessen competition substantially in the United States market for the manufacture and sale of hemodialysis ("HD") concentrate. HD concentrate is a bicarbonate solution used in hemodialysis treatment.⁶⁰ According to the complaint, the transaction would combine two of a small number of HD concentrate producers, and create a firm with a market share of over 50 percent. Under the order, Fresenius was required to divest its Lewisberry, Pennsylvania, HD concentrate manufacturing plant to Di-Chem or another Commission-approved purchaser.

⁵⁸ Raytheon Company, Docket No. C-3681 (issued September 3, 1996).

⁵⁹ Fresenius AG and Fresenius USA, Inc., Docket No. C-3689 (issued October 15, 1996).

⁶⁰ Hemodialysis is the treatment for removing toxic wastes from the bloodstream of patients with chronic kidney failure, known as End State Renal Disease.

In *Koninklijke Ahold nv and Ahold USA, Inc.*,⁶¹ the complaint alleged that the proposed acquisition by Koninklijke Ahold ("Ahold") of Stop & Shop Companies, Inc., would lessen competition substantially for the retail sale of food and grocery products in supermarkets in certain areas of New England. Ahold operated under the "Edwards" trade name in the relevant markets. Under the order, Ahold was required to divest 30 supermarkets in 14 Connecticut, Massachusetts and Rhode Island communities.

In *NGC Corporation*,⁶² the complaint alleged that NGC's proposed acquisition of certain assets from Chevron Corporation would lessen competition substantially in the fractionation of natural gas liquids in Mont Belvieu, Texas. Fractionation plants separate raw mix natural gas liquids into ethane, propane, normal butane, iso-butane and natural gasoline via a series of distillation processes. Producers of raw mix natural gas liquids throughout Texas, New Mexico, western Wyoming and western Colorado have no viable alternative to Mont Belvieu for their fractionation requirements. According to the complaint, NGC had an interest in and operated two of the four fractionation plants in the relevant market: Trident Mont Belvieu I ("Mont Belvieu I") and the Gulf Coast Fractionators ("GCF"). Chevron owned a large fractionation plant, the Warren fractionator, in Mont Belvieu. Under the order, NGC was required to divest its 80 percent interest in Mont Belvieu I, and transfer commercial operator functions and facility operator activities of Mont Belvieu I and GCF to third parties.⁶³

In *Time Warner Inc., Turner Broadcasting System, Inc., Tele-Communications, Inc., and Liberty Media Corporation*,⁶⁴ the

⁶¹ *Koninklijke Ahold nv and Ahold USA, Inc.*, Docket No. C-3687 (issued September 30, 1996).

⁶² *NGC Corporation*, Docket No. C-3697 (issued December 12, 1996).

⁶³ In December 1996, the Commission approved the application of NGC to divest its 80 percent interest in Mont Belvieu I to Koch Industries, Inc.

⁶⁴ *In Time Warner Inc., Turner Broadcasting System, Inc.*,
(continued...)

complaint alleged that Time Warner's acquisition of Turner Broadcasting System, Inc. ("Turner"), would lessen competition substantially in the United States market for the sale of cable television programming services to multichannel video programming distributors. The two companies account for in excess of 40 percent of all cable programming in the country. According to the complaint, the transaction also would link the cable distribution systems of the nation's two leading cable operators, Time Warner and Tele-Communications, Inc. ("TCI"), by giving TCI an ownership interest in Time Warner. The final order (1) required TCI to divest its interest in Time Warner (or accept a maximum of 9.2 percent nonvoting interest); (2) required TCI, Turner and Time Warner to cancel their long-term carriage agreements; (3) barred Time Warner from bundling certain Time Warner and Turner channels; (4) prohibited Time Warner from price discriminating for Turner programming against other companies engaged in distribution; (5) prohibited Time Warner from foreclosing rival programmers from access to its distribution systems; and (6) required Time Warner to add a news channel to its cable distribution systems or expand the distribution of an existing independent news channel.

In *Class Rings, Inc., Castle Harlan Partners II, L.P., and Town & Country Corporation*,⁶⁵ the complaint alleged that the proposed acquisition by Castle Harlan Partners II, L.P. ("Castle"), through Class Rings, Inc., of certain assets of Town & Country Corporation and CJC Holdings, Inc., would lessen competition substantially in the United States market for class rings. According to the complaint, Town & Country and CJC are two of only four major United States manufacturers of class rings which are purchased by students to commemorate their school

⁶⁴(...continued)

Tele-Communications, Inc., and Liberty Media Corporation, Docket No. C-3709 (issued February 3, 1997).

⁶⁵ *Class Rings, Inc., Castle Harlan Partners II, L.P., and Town & Country Corporation*, Docket No. C-3701 (issued December 20, 1996).

graduation.⁶⁶ In addition, the transaction would give the combined firm a market share of over 40 percent of all class rings sold in the country with a market share of over 90 percent of class rings sold through the retail distribution channel. Under the final order, the purchase agreement was modified to exclude the assets of Town & Country's subsidiary, Gold Lance, Inc., from the transaction. In addition, Town & Country was prohibited from acquiring any interest in or assets of Class Rings, Inc., or its parent.

In *Wesley-Jessen Corporation*,⁶⁷ the complaint alleged that the proposed acquisition by Wesley-Jessen of Pilkington Barnes Hind International, Inc. ("PBH"), from Pilkington plc would lessen competition substantially in the United States market for the manufacture and sale of opaque contact lenses. Opaque contact lenses change the apparent color of the eye, e.g., wearing opaque lenses, a brown-eyed person can appear blue-eyed. According to the complaint, Wesley-Jessen and PBH dominate the opaque lens market in the United States, accounting for over 90% of all opaque lens sales. Under the final order, Wesley-Jessen was required to divest the opaque lens business of PBH, and supply PBH's opaque lenses to the acquirer while it obtains FDA approvals.⁶⁸

⁶⁶ Town & Country manufactured and marketed class rings under the Gold Lance and L.G. Balfour brand names; CJC manufactured and marketed class rings primarily under the ArtCarved and R. Johns brand names, as well as Class Rings, Ltd., Keystone and Master Class Rings.

⁶⁷ *Wesley-Jessen Corporation*, Docket No. C-3700 (issued January 3, 1997).

⁶⁸ In March 1997, the Commission approved the application of Wesley-Jessen to divest PBH's opaque contact lens business to The Cooper Companies, Inc. Cooper's wholly-owned subsidiary, CooperVision, Inc., currently markets a wide range of contact lenses but not opaque lenses.

ASSESSMENT OF THE EFFECTS OF THE PREMERGER NOTIFICATION PROGRAM

Although a complete assessment of the impact of the premerger notification program on the business community and on antitrust enforcement is not possible in this limited report, the following observations can be made.

First, as indicated in past annual reports, one of the premerger notification program's primary objectives, eliminating the so-called "midnight merger," has been achieved. The requirement that parties file and wait ensures that virtually all significant mergers or acquisitions occurring in the United States will be reviewed by the antitrust agencies prior to consummation. The agencies generally have the opportunity to challenge unlawful transactions before they occur, thus avoiding the problem of constructing effective post-acquisition relief.

Second, in most cases the parties provide sufficient information to allow the enforcement agencies to determine promptly whether a transaction raises any antitrust problems. In addition, over the years, parties have increasingly supplied information voluntarily to the Commission and the Antitrust Division during the initial waiting period. This cooperation has resulted in fewer second requests than would otherwise have been necessary.

Finally, the existence of the premerger notification program alerts businesses to the antitrust concerns raised by proposed transactions. In addition, the greatly increased probability that antitrust violations will be detected prior to consummation may deter some competitively questionable transactions. Prior to the premerger notification program, businesses could, and frequently did, consummate transactions which raised significant antitrust concerns, before the antitrust agencies had the opportunity to consider adequately their competitive effects. The enforcement agencies were forced to pursue lengthy post-acquisition litigation during the course of which the consummated transaction continued in place (and afterwards as well, where effective post-acquisition relief was not possible or available). Because the premerger notification program requires reporting before consummation, this problem has been significantly reduced.

The Assistant Attorney General of the Antitrust Division concurs with this annual report.

List of Appendices

- Appendix A - Summary of Transactions, Fiscal Years 1987-1996
- Appendix B - Number of Transactions Reported and Filings Received by Month for Fiscal Years 1987-1996.
- Appendix C - Transactions in Which Additional Information Was Requested for Fiscal Years 1987-1996.

List of Exhibits

- Exhibit A - Statistical Tables for Fiscal Year 1996, Presenting Data Profiling Hart-Scott-Rodino Premerger Notification Filings and Enforcement Interest.

Appendix A

Summary of Transactions;

Fiscal Years 1987-1996

Appendix A
Summary of Transactions
Fiscal Years

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
TRANSACTIONS REPORTED	2,533	2,746	2,883	2,262	1,529	1,589	1,846	2,305	2,816	3,087
FILINGS RECEIVED 1/	4,742	5,172	5,530	4,272	2,914	3,030	3,559	4,403	5,410	6,001
TRANSACTIONS IN WHICH A SECOND REQUEST COULD HAVE BEEN ISSUED 2/	2,170	2,391	2,535	1,955	1,376	1,451	1,745	2,128	2,612	2,864
INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED	58	68	64	89	64	44	71	73	101	99
FTC 3/	18	39	35	55	33	26	40	46	58	36
DOJ 2/	40	29	29	34	31	18	31	27	43	63
NUMBER OF TRANSACTIONS INVOLVING A REQUEST FOR EARLY TERMINATION 4/ 5/ GRANTED 4/ NOT GRANTED 4/	2,264	2,440	2,582	1,975	1,321	1,403	1,689	2,081	2,471	2,861
	1,752	1,885	1,937	1,299	907	1,020	1,201	1,508	1,869	2,044
	512	555	645	676	414	383	488	573	602	817

- 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 sections 7A(c)(6) or (c)(8) of the Clayton Act.
- 2 These figures are from Appendix C and are explained in footnote 1 of that Appendix.
- 3 These statistics are based on the date the request was issued and not the date the investigation was opened.
- 4 These statistics are based on the date of the H-S-R filing and not the date action was taken on the request.
- 5 Includes the following number of non-reportable transactions: sixteen in 1987; twenty-four in 1988; fifty-four in 1989; fifty-seven in 1990; twenty-six in 1991; thirty-five in 1992; thirty-eight in 1993; forty in 1994; forty-eight in 1995; and fifty-eight in 1996.

NOTE: Statistics for earlier years were last reported in the Federal Trade Commission Annual Report to Congress for Fiscal Year 1992 (Fifteenth Annual Report).

Appendix B

Number of Transactions Reported

Fiscal Years 1987-1996

and

Filings Received by Month;

Fiscal Years 1987-1996.

Appendix B

Table 1. Number of Transactions Reported by Month for Fiscal Years 1987¹ - 1996

	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
October	290	245	259	267	148	140	163	184	273	238
November	494	216	316	371	198	180	184	221	309	273
December	199	243	267	139	121	155	160	222	216	249
January	96	161	160	160	96	97	100	156	180	238
February	104	204	201	138	97	87	110	149	170	231
March	163	224	236	179	113	135	149	167	229	277
April	162	230	202	168	120	129	131	167	177	252
May	185	228	254	187	130	142	155	220	281	304
June	197	241	264	182	122	116	151	182	252	253
July	218	223	223	156	130	154	172	208	225	265
August	194	310	273	163	156	124	204	226	237	264
September	231	221	228	152	98	130	167	203	267	243
TOTAL	2,533	2,746	2,883	2,262	1,529	1,589	1,846	2,305	2,816	3,087

¹ The number of transactions received in fiscal years 1979 - 1985 was last reported in the Federal Trade Commission Annual Report to Congress for Fiscal Year 1992 (Fifteenth Annual Report).

Appendix B

TABLE 2. Number of Filings Received¹ by Month for Fiscal Years 1987² - 1996

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
October	523	443	550	489	270	253	297	332	505	450
November	921	421	602	693	376	326	341	428	614	520
December	404	455	485	289	236	316	325	427	419	520
January	177	311	350	298	184	194	188	293	360	474
February	193	358	362	269	180	165	239	295	326	445
March	278	437	468	343	216	255	263	326	432	480
April	314	445	371	306	223	244	251	321	350	528
May	351	442	472	351	253	268	301	421	534	498
June	360	453	504	349	228	233	311	362	496	584
July	417	403	423	288	235	286	327	380	439	502
August	376	583	517	315	319	227	393	431	455	515
September	428	421	426	282	194	263	323	387	509	515
TOTAL	4,742	5,172	5,530	4,272	2,914	3,030	3,559	4,403	5,410	6,001

¹ Usually, two filings are received, one from the acquiring person and one from the acquired person when a 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.

² The number of filings received in fiscal years 1979 - 1986 were last reported in the Federal Trade Commission Annual Report to Congress for Fiscal Year 1992 (Fifteenth Annual Report).

Appendix C

Transactions in Which Additional
Information Was Requested;
Fiscal Years 1987-1996.

Appendix C

Investigations Where Additional Information Was Requested
Fiscal Years 1987 1/ - 1996

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Transactions 2/	2,170	2,391	2,535	1,955	1,376	1,451	1,745	2,128	2,612	2,864
Investigations In Which Second Requests Were Issued 1/										
FTC										
Number 4/	18	39	35	55	33	26	40	46	58	36
Percent	0.8	1.6	1.4	2.8	2.4	1.8	2.2	2.2	2.2	1.3
DOJ										
Number 4/	40	29	29	34	31	18	31	27	43	63
Percent	1.8	1.2	1.1	1.7	2.3	1.2	1.8	1.3	1.6	2.2

1 Earlier statistics for calendar years 1981 - 1986 were last reported in the Federal Trade Commission Annual Report to Congress for Fiscal Year 1992 (Fifteenth Annual Report).

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 compliant notification); (2) transactions reported pursuant to the exemption provisions (only one 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 the 15% threshold and later filing for the 25% 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 Section 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 Based on the date the second request was issued, not the date the investigation was opened.

4 Second request investigations as a percentage of the total number of transactions listed in this table.

Exhibit A

Statistical Tables

Fiscal year 1996

Data profiling Hart-Scott-Rodino premerger
notification filings and enforcement interest

TABLE I

FISCAL YEAR 1996 1/
ACQUISITIONS BY SIZE OF TRANSACTION 2/
(BY SIZE RANGE)

TRANSACTION RANGE (\$ MILLIONS)	H-S-R TRANSACTIONS NUMBER 4/PERCENT 5/		CLEARANCE GRANTED TO FTC OR DOJ NUMBER PERCENT 6/				SECOND REQUEST INVESTIGATIONS 3 NUMBER PERCENT 6/					
	NUMBER	PERCENT	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
LESS THAN 15	141	4.9%	9	5	6.4%	3.5%	9.9%	2	2	1.4%	1.4%	2.8%
15 UP TO 25	610	21.3%	43	29	7.0%	4.8%	11.8%	2	5	0.3%	0.8%	1.1%
25 UP TO 50	804	28.1%	66	48	8.2%	6.0%	14.2%	8	12	1.0%	1.5%	2.5%
50 UP TO 100	506	17.7%	57	34	11.3%	6.7%	18.0%	4	12	0.8%	2.4%	3.2%
100 UP TO 150	216	7.5%	24	20	11.1%	9.3%	20.4%	1	7	0.5%	3.2%	3.7%
150 UP TO 200	121	4.2%	13	17	10.7%	14.0%	24.8%	3	3	2.5%	2.5%	5.0%
200 UP TO 300	156	5.4%	19	15	12.2%	9.6%	21.8%	2	2	1.3%	1.3%	2.6%
300 UP TO 500	116	4.1%	20	14	17.2%	12.1%	29.3%	3	8	2.6%	6.9%	9.5%
500 UP TO 1000	85	3.0%	17	9	20.0%	10.6%	30.6%	0	3	0.0%	3.5%	3.5%
1000 AND UP	109	3.8%	32	19	29.4%	17.4%	46.8%	11	9	10.1%	8.3%	18.3%
ALL TRANSACTIONS	2864	100.0%	300	210	10.5%	7.3%	17.8%	36	63	1.3%	2.2%	3.5%

TABLE III

FISCAL YEAR 1996 1/
 TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY

TRANSACTIONS RANGE (\$ MILLIONS)	CLEARANCE GRANTED AS A PERCENTAGE OF:											
	CLEARANCE GRANTED BY AGENCY			TOTAL NUMBER OF TRANSACTIONS 4/			TRANSACTIONS IN EACH TRANSACTION RANGE GROUP 7/			TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
LESS THAN 15	9	5	14	0.3%	0.2%	0.5%	6.4%	3.5%	9.9%	1.8%	1.0%	2.7%
15 UP TO 25	43	29	72	1.5%	1.0%	2.5%	7.0%	4.8%	11.8%	8.4%	5.7%	14.1%
25 UP TO 50	66	48	114	2.3%	1.7%	4.0%	8.2%	6.0%	14.2%	12.9%	9.4%	22.4%
50 UP TO 100	57	34	91	2.0%	1.2%	3.2%	11.3%	6.7%	18.0%	11.2%	6.7%	17.8%
100 UP TO 150	24	20	44	0.8%	0.7%	1.5%	11.1%	9.3%	20.4%	4.7%	3.9%	8.6%
150 UP TO 200	13	17	30	0.5%	0.6%	1.0%	10.7%	14.0%	24.8%	2.5%	3.3%	5.9%
200 UP TO 300	19	15	34	0.7%	0.5%	1.2%	12.2%	9.6%	21.8%	3.7%	2.9%	6.7%
300 UP TO 500	20	14	34	0.7%	0.5%	1.2%	17.2%	12.1%	29.3%	3.9%	2.7%	6.7%
500 UP TO 1000	17	9	26	0.6%	0.3%	0.9%	20.0%	10.6%	30.6%	3.3%	1.8%	5.1%
100 AND UP	32	19	51	1.1%	0.7%	1.8%	29.4%	17.4%	46.8%	6.3%	3.7%	10.0%
ALL CLEARANCES	300	210	510	10.5%	7.3%	17.8%	10.5%	7.3%	17.8%	58.8%	41.2%	100.0%

TABLE IV

FISCAL YEAR 1996 1/
 INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED

TRANSACTION RANGE (\$ MILLIONS)	INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED ^{3/}		SECOND REQUEST INVESTIGATIONS AS A PERCENTAGE OF: ^{3/}						
	FIC	DOJ	TOTAL NUMBER OF TRANSACTIONS ^{4/}		TRANSACTIONS IN EACH TRANSACTION RANGE GROUP ^{7/}		TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS ^{3/}		
			FIC	DOJ	FIC	DOJ	FIC	DOJ	
LESS THAN 15	2	2	0.1%	0.1%	1.4%	1.4%	2.0%	2.0%	4.0%
15 UP TO 25	2	5	0.1%	0.2%	0.3%	0.8%	2.0%	5.1%	7.1%
25 UP TO 50	8	12	0.3%	0.4%	1.0%	1.5%	8.1%	12.1%	20.2%
50 UP TO 100	4	12	0.1%	0.4%	0.8%	2.4%	4.0%	12.1%	16.2%
100 UP TO 150	1	7	0.0%	0.2%	0.5%	3.2%	1.0%	7.1%	8.1%
150 UP TO 200	3	3	0.1%	0.1%	2.5%	2.5%	3.0%	3.0%	6.1%
200 UP TO 300	2	2	0.1%	0.1%	1.3%	1.9%	2.0%	2.0%	4.0%
300 UP TO 500	3	8	0.1%	0.3%	2.6%	6.9%	3.0%	8.1%	11.1%
500 UP TO 1000	0	3	0.0%	0.1%	0.0%	3.5%	0.0%	3.0%	3.0%
1000 AND UP	11	9	0.4%	0.3%	10.1%	8.3%	11.1%	9.1%	20.2%
ALL TRANSACTIONS	36	63	1.3%	2.2%	1.3%	2.2%	36.4%	63.6%	100.0%

TABLE V

FISCAL YEAR 1996 1/
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD	H-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OF DOJ				SECOND REQUEST INVESTIGATIONS 3/					
	NUMBER	PERCENT	NUMBER	FTC	DOJ	TOTAL	PERCENTAGE OF THRESHOLD GROUP	NUMBER	FTC	DOJ	TOTAL	PERCENTAGE OF THRESHOLD GROUP
\$15 MILLION	216	7.5%	8	16	3.7%	7.4%	11.1%	0	0	0.0%	0.0%	0.0%
15%	75	2.6%	7	4	9.3%	5.3%	14.7%	0	1	0.0%	1.3%	1.3%
25%	100	3.5%	6	1	6.0%	1.0%	7.0%	0	0	0.0%	0.0%	0.0%
50%	1342	46.9%	160	117	11.9%	8.7%	20.6%	23	40	1.7%	3.0%	4.7%
ASSETS ONLY	1131	39.5%	119	72	10.5%	6.4%	16.9%	13	22	1.1%	1.9%	3.1%
ALL TRANSACTIONS	2864	100.0%	300	210	10.5%	7.3%	17.8%	36	63	1.3%	2.2%	3.5%

TABLE VI

FISCAL YEAR 1996 1/
TRANSACTIONS BY ASSETS OF ACQUIRING PERSONS

ASSET RANGE (\$ MILLIONS)	H-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/											
	NUMBER	PERCENT	NUMBER	PERCENTAGE OF ASSET RANGE GROUP	NUMBER	PERCENTAGE OF ASSET RANGE GROUP	NUMBER	PERCENTAGE OF ASSET RANGE GROUP	NUMBER	PERCENTAGE OF ASSET RANGE GROUP								
	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ
LESS THAN 15	117	4.1%	2	8	1.7%	6.8%	1	0	0.9%	0.0%	0.9%	0.0%	0.9%	0.0%	0.9%	0.0%	0.9%	0.0%
15 UP TO 25	57	2.0%	1	2	1.8%	3.5%	0	1	0.0%	1.8%	0.0%	1.8%	0.0%	1.8%	0.0%	1.8%	0.0%	1.8%
25 UP TO 50	82	2.9%	8	1	9.8%	1.2%	0	1	0.0%	1.2%	0.0%	1.2%	0.0%	1.2%	0.0%	1.2%	0.0%	1.2%
50 UP TO 100	161	5.6%	11	10	6.8%	6.2%	1	2	0.6%	1.2%	0.6%	1.2%	0.6%	1.2%	0.6%	1.2%	0.6%	1.2%
100 UP TO 150	193	6.7%	18	14	9.3%	7.3%	0	2	0.0%	1.0%	0.0%	1.0%	0.0%	1.0%	0.0%	1.0%	0.0%	1.0%
150 UP TO 200	140	4.9%	11	10	7.9%	7.1%	2	3	1.4%	2.1%	1.4%	2.1%	1.4%	2.1%	1.4%	2.1%	1.4%	2.1%
200 UP TO 300	222	7.8%	20	12	9.0%	5.4%	1	4	0.5%	1.8%	0.5%	1.8%	0.5%	1.8%	0.5%	1.8%	0.5%	1.8%
300 UP TO 500	262	9.1%	24	21	9.2%	8.0%	2	7	0.8%	2.7%	0.8%	2.7%	0.8%	2.7%	0.8%	2.7%	0.8%	2.7%
500 UP TO 1000	385	13.4%	42	29	10.9%	7.5%	3	5	0.8%	1.3%	0.8%	1.3%	0.8%	1.3%	0.8%	1.3%	0.8%	1.3%
1000 AND UP	1241	43.3%	162	103	13.1%	8.3%	26	38	2.1%	3.1%	2.1%	3.1%	2.1%	3.1%	2.1%	3.1%	2.1%	3.1%
ASSETS NOT AVAILABLE 8/	4	0.1%	1	0	25.0%	0.0%	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
ALL TRANSACTIONS	2864	100.0%	300	210	10.5%	7.3%	36	63	1.3%	2.2%	1.3%	2.2%	1.3%	2.2%	1.3%	2.2%	1.3%	2.2%

TABLE VII

FISCAL YEAR 1996 1/
TRANSACTIONS BY SALES OF ACQUIRING PERSONS

SALES RANGE (\$ MILLIONS)	H-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/				
	NUMBER 4/	PERCENT	NUMBER FTC	NUMBER DOJ	PERCENTAGE OF SALES RANGE GROUP FTC	PERCENTAGE OF SALES RANGE GROUP DOJ	NUMBER FTC	NUMBER DOJ	PERCENTAGE OF SALES RANGE GROUP FTC	PERCENTAGE OF SALES RANGE GROUP DOJ	TOTAL
LESS THAN 15	143	5.0%	4	6	2.8%	4.2%	0	0	0.0%	0.0%	0.0%
15 UP TO 25	44	1.5%	3	2	6.8%	4.5%	0	0	0.0%	0.0%	0.0%
25 UP TO 50	123	4.3%	6	2	4.9%	1.6%	1	0	0.8%	0.0%	0.8%
50 UP TO 100	167	5.8%	16	12	9.6%	7.2%	2	5	1.2%	3.0%	4.2%
100 UP TO 150	185	6.5%	12	13	6.5%	7.0%	0	5	0.0%	2.7%	2.7%
150 UP TO 200	153	5.3%	16	8	10.5%	5.2%	1	1	0.7%	0.7%	1.3%
200 UP TO 300	176	6.1%	16	12	9.1%	6.8%	2	2	1.1%	1.1%	2.3%
300 UP TO 500	285	10.0%	27	20	9.5%	7.0%	1	7	0.4%	2.5%	2.8%
500 UP TO 1000	339	11.8%	37	24	10.9%	7.1%	4	4	1.2%	1.2%	2.4%
1000 AND UP	1188	41.5%	163	107	13.7%	9.0%	25	39	2.1%	3.3%	5.4%
SALES NOT AVAILABLE 9/	61	2.1%	0	4	0.0%	6.6%	0	0	0.0%	0.0%	0.0%
ALL TRANSACTIONS	2864	100.0%	300	210	10.5%	7.3%	36	63	1.3%	2.2%	3.5%

TABLE VIII

FISCAL YEAR 1996 1/
TRANSACTIONS BY ASSETS OF ACQUIRED ENTITIES 10/

ASSET RANGE (\$ MILLIONS)	H-S-R TRANSACTIONS NUMBER 4/PERCENT		CLEARANCE GRANTED TO FTC OR DOJ PERCENTAGE OF ASSET RANGE GROUP					SECOND REQUEST INVESTIGATIONS 3/ PERCENTAGE OF ASSET RANGE GROUP				
	NUMBER	PERCENT	NUMBER FTC	NUMBER DOJ	FTC	DOJ	TOTAL	NUMBER FTC	NUMBER DOJ	FTC	DOJ	TOTAL
LESS THAN 15	270	9.4%	15	7	5.6%	2.6%	8.1%	1	1	0.4%	0.4%	0.7%
15 UP TO 25	456	15.9%	37	20	8.1%	4.4%	12.5%	1	7	0.2%	1.5%	1.8%
25 UP TO 50	585	20.4%	60	40	10.3%	6.8%	17.1%	4	12	0.7%	2.1%	2.7%
50 UP TO 100	391	13.7%	43	27	11.0%	6.9%	17.9%	5	11	1.3%	2.8%	4.1%
100 UP TO 150	217	7.6%	25	19	11.5%	8.8%	20.3%	2	4	0.9%	1.8%	2.8%
150 UP TO 200	122	4.3%	13	12	10.7%	9.8%	20.5%	3	6	2.5%	4.9%	7.4%
200 UP TO 300	160	5.2%	12	10	8.0%	6.7%	14.7%	0	2	0.0%	1.3%	1.3%
300 UP TO 500	108	3.8%	19	12	17.6%	11.1%	28.7%	3	3	2.8%	2.8%	5.6%
500 UP TO 1000	131	4.6%	10	14	7.6%	10.7%	18.3%	1	2	0.8%	1.5%	2.3%
1000 AND UP	202	7.1%	37	24	18.3%	11.9%	30.2%	11	9	5.4%	4.5%	9.9%
ASSETS NOT AVAILABLE 11/	231	8.1%	29	25	12.6%	10.8%	23.4%	5	6	2.2%	2.6%	4.8%
ALL TRANSACTIONS	2863	100.0%	300	210	10.5%	7.3%	17.8%	36	63	1.3%	2.2%	3.5%

TABLE IX

FISCAL YEAR 19961/
TRANSACTIONS BY SALES OF ACQUIRED ENTITIES 12/

SALES RANGE (\$MILLIONS)	H-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/						
	NUMBER	PERCENT	NUMBER	PERCENTAGE OF	NUMBER	PERCENTAGE OF	NUMBER	PERCENTAGE OF	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 15	422	14.7%	28	6.6%	16	3.8%	10.4%	2	4	0.5%	0.9%	1.4%	
15 UP TO 25	291	10.2%	27	9.3%	18	6.2%	15.5%	5	5	1.7%	1.7%	3.4%	
25 UP TO 50	545	19.0%	44	8.1%	26	4.8%	12.8%	3	7	0.6%	1.3%	1.8%	
50 UP TO 100	495	17.3%	59	11.9%	39	7.9%	19.8%	3	13	0.6%	2.6%	3.2%	
100 UP TO 150	261	9.1%	21	8.0%	23	8.8%	16.9%	1	8	0.4%	3.1%	3.4%	
150 UP TO 200	137	4.8%	18	13.1%	15	10.9%	24.1%	3	1	2.2%	0.7%	2.9%	
200 UP TO 300	145	5.1%	17	11.7%	20	13.8%	25.5%	2	7	1.4%	4.8%	6.2%	
300 UP TO 500	135	4.7%	22	16.3%	16	11.9%	28.1%	4	8	3.0%	5.9%	8.9%	
500 UP TO 1000	116	4.1%	14	12.1%	9	7.8%	19.8%	1	1	0.9%	0.9%	1.7%	
1000 AND UP	200	7.0%	43	21.5%	24	12.0%	33.5%	12	9	6.0%	4.5%	10.5%	
SALES NOT AVAILABLE 13/	117	4.1%	7	6.0%	4	3.4%	9.4%	0	0	0.0%	0.0%	0.0%	
ALL TRANSACTIONS	2864	100.0%	300	10.5%	210	7.3%	17.8%	36	63	1.3%	2.2%	3.5%	

TABLE X

FISCAL YEAR 1996 1/
INDUSTRY GROUP OF ACQUIRING PERSONS

2-DIGIT

SIC CODE 14/

INDUSTRY DESCRIPTION

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	NUMBER 4/	CLEARANCE GRANTED TO FTC OR DOJ		ACQUIRING PERSON	
			FTC	DOJ	FTC	DOJ
			TOTAL	TOTAL	INVESTIGATIONS 3	TOTAL
01	Agricultural Production-Crops	2	0	0	0	0
02	Agricultural Production-Livestock and Animal Specialties	1	0	0	0	0
07	Agricultural Services	2	0	0	0	0
08	Forestry	3	0	0	0	0
10	Metal Mining	2	0	0	0	0
12	Coal Mining	1	0	0	0	0
13	Oil and Gas Extraction	75	7	2	9	2
14	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	6	2	1	3	0
15	Building Construction - General Contractors and Operative Builders	7	0	0	0	0
16	Heavy Construction other than Building Construction-Contractors	7	0	1	1	0

17	Construction-Special Grade Contractors	2	0	1	1	0	0	0	0
20	Food and Kindred Products	99	10	13	23	2	8	10	10
21	Tobacco Products	1	0	0	0	0	0	0	0
22	Textile Mill Products	19	2	1	3	0	1	1	1
23	Apparel and Other Finished Products Made from Fabrics and Similar Materials	8	1	0	1	0	0	0	0
24	Lumber and Wood Products, Except Furniture	30	3	3	6	0	0	0	0
25	Furniture and Fixtures	9	1	0	1	0	0	0	0
26	Paper and Allied Products	47	8	4	12	0	3	3	3
27	Printing, Publishing and Allied Products	71	6	11	17	1	3	4	4
28	Chemicals and Allied Products	133	35	12	47	3	5	8	8
29	Petroleum Refining and Related Industries	18	7	1	8	1	0	1	1
30	Rubber and Misc. Plastics Products	60	7	1	8	0	1	1	1
31	Leather and Leather Products	3	1	0	0	0	0	0	0
32	Stone, Clay, Glass, and Concrete Products	17	0	2	2	0	2	2	2
33	Primary Metal Industries	34	3	4	7	0	1	1	1
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	59	9	3	12	0	2	2	2

35	Industrial and Commercial Machinery and Computer Equipment	111	20	11	31	3	2	5
36	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	98	9	8	17	1	1	2
37	Transportation Equipment	58	17	8	25	2	2	4
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	93	32	12	44	3	5	8
39	Miscellaneous Manufacturing Industries	14	3	1	4	0	0	0
40	Railroad Transportation	1	0	0	0	0	0	0
41	Local and Suburban Transit and Interurban Highway Passenger Transportation	4	1	0	1	0	0	0
42	Motor Freight Transportation and Warehousing	16	1	1	2	0	0	0
44	Water Transportation	9	1	1	2	0	0	0
45	Transportation by Air	9	0	2	2	0	2	2
46	Pipelines, Except Natural Gas	2	0	0	0	0	0	0
47	Transportation Services	5	0	0	0	0	0	0
48	Communications	305	19	24	43	2	10	12
49	Electric, Gas, and Sanitary Services	80	9	9	18	3	2	5
50	Wholesale Trade-Durable Goods	118	4	5	8	0	1	1

51	Wholesale Trade-Nondurable Goods	110	6	5	11	0	1	1
52	Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	1	0	0	0	0	0	0
53	General Merchandise Stores	10	2	0	2	0	0	0
54	Food Stores	21	5	0	5	1	0	1
55	Automotive Dealers and Gasoline Service Stations	19	1	1	2	0	0	0
56	Apparel and Accessory Stores	8	1	0	1	0	0	0
57	Home Furniture, Furnishings, and Equipment Stores	11	1	0	1	0	0	0
58	Eating and Drinking Places	43	2	0	2	1	0	1
59	Miscellaneous Retail	38	5	0	5	1	0	1
60	Depository Institutions	31	1	0	1	0	0	0
61	Nondepository Credit Institutions	34	0	0	0	0	0	0
62	Security and Commodity Brokers, Dealers Exchanges, and Services	31	0	0	0	0	0	0
63	Insurance Carriers	111	4	7	11	1	0	1
64	Insurance Agents, Brokers, and Services	9	0	0	0	0	0	0
65	Real Estate	46	1	0	1	0	0	0
67	Holding and Other Investment Offices	112	4	8	12	0	0	0

70	Hotels, Rooming Houses, Camps, and Other Lodging Places	41	1	0	1	0	0	0	0
72	Personal Services	9	2	0	2	1	0	0	1
73	Business Services	175	13	23	36	3	5	8	1
75	Automotive Repair, Services, and Parking	6	1	1	2	1	0	1	1
76	Miscellaneous Repair Services	4	0	0	0	0	0	0	0
78	Motion Pictures	16	2	1	3	1	0	1	1
79	Amusement and Recreation Services	28	0	4	4	0	2	2	2
80	Health Services	185	21	10	31	2	0	2	2
81	Legal Services	0	0	0	0	0	0	0	0
82	Educational Services	1	0	0	0	0	0	0	0
83	Social Services	1	0	1	1	0	0	0	0
86	Membership Organizations	6	1	0	1	0	0	0	0
87	Engineering, Accounting, Research Management, and Related Services	37	6	3	9	1	0	1	1
89	Miscellaneous Services	1	0	0	0	0	0	0	0
99	Nonclassifiable Establishments	3	1	0	1	0	0	0	0
00	Not Available <u>15/</u>	77	1	4	5	0	0	0	0
	ALL TRANSACTIONS	2864	300	210	610	36	63	99	

TABLE XI

FISCAL YEAR 1996
INDUSTRY GROUP OF ACQUIRED ENTITY 17/

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY				NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS		
		CLEARANCE GRANTED SECOND REQUEST TO FTC OR DOJ		INVESTIGATIONS 3/				
		NUMBER 4/ 3	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
01	Agricultural Production-Crops	0	0	1	1	0	1	1
02	Agricultural Production-Livestock and Animal Specialties	0	0	0	0	0	0	0
07	Agricultural Services	2	0	0	0	0	0	0
08	Forestry	4	0	0	0	0	0	0
10	Metal Mining	2	0	0	0	0	0	0
12	Coal Mining	0	0	0	0	0	0	0
13	Oil and Gas Extraction	85	10	2	12	2	2	4
14	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	14	2	1	3	0	1	1
15	Building Construction - General Contractors and Operative Builders	4	0	1	1	0	0	0
16	Heavy Construction other than Building Construction-Contractors	8	0	1	1	0	1	1

17	Construction-Special Grade Contractors	3	0	1	1	0	0	0	2
20	Food and Kindred Products	91	10	13	23	2	8	10	81
21	Tobacco Products	0	0	0	0	0	0	0	0
22	Textile Mill Products	17	2	1	3	0	1	1	14
23	Apparel and Other Finished Products Made from Fabrics and Similar Materials	16	0	0	0	0	0	0	6
24	Lumber and Wood Products, Except Furniture	30	3	3	6	0	0	0	25
25	Furniture and Fixtures	16	1	0	1	0	0	0	6
26	Paper and Allied Products	49	8	4	12	0	3	3	42
27	Printing, Publishing and Allied Products	74	6	12	18	1	3	4	61
28	Chemicals and Allied Products	122	31	10	41	4	4	8	99
29	Petroleum Refining and Related Industries	17	7	0	7	1	0	1	14
30	Rubber and Misc. Plastics Products	69	7	1	8	0	1	1	50
31	Leather and Leather Products	1	1	0	1	0	0	0	1
32	Stone, Clay, Glass, and Concrete Products	16	0	2	2	0	2	2	13
33	Primary Metal Industries	46	4	8	12	0	1	1	25
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	65	9	3	12	0	2	2	45

35	Industrial and Commercial Machinery and Computer Equipment	109	18	12	30	2	1	3	80
36	Electronic and Other Electrical Equipment and Components, Except Computer Equipment	98	8	9	17	1	2	3	73
37	Transportation Equipment	53	16	7	23	2	2	4	42
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	106	32	13	45	3	5	8	81
39	Miscellaneous Manufacturing Industries	17	5	1	6	1	0	1	10
40	Railroad Transportation	2	0	0	0	0	0	0	2
41	Local and Suburban Transit and Interurban Highway Passenger Transportation	3	1	0	1	0	0	0	3
42	Motor Freight Transportation and Warehousing	16	0	1	1	0	0	0	13
44	Water Transportation	8	1	1	2	0	0	0	7
45	Transportation by Air	7	0	2	2	0	2	2	6
46	Pipelines, Except Natural Gas	4	0	0	0	0	0	0	2
47	Transportation Services	8	0	0	0	0	0	0	5
48	Communications	300	17	24	41	3	10	13	276
49	Electric, Gas, and Sanitary Services	75	8	15	23	3	4	7	62
50	Wholesale Trade-Durable Goods	131	6	5	11	0	1	1	93

51	Wholesale Trade-Nondurable Goods	110	7	4	11	0	0	0	92
52	Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	4	0	0	0	0	0	0	1
53	General Merchandise Stores	8	1	0	1	0	0	0	7
54	Food Stores	30	8	1	9	1	0	1	21
55	Automotive Dealers and Gasoline Service Stations	14	2	0	2	0	0	0	13
56	Apparel and Accessory Stores	9	1	0	1	0	0	0	5
57	Home Furniture, Furnishings, and Equipment Stores	8	0	0	0	0	0	0	8
58	Eating and Drinking Places	41	1	0	1	0	0	0	34
59	Miscellaneous Retail	36	4	0	4	1	0	1	30
60	Depository Institutions	16	0	0	0	0	0	0	13
61	Nondepository Credit Institutions	45	0	0	0	0	0	0	29
62	Security and Commodity Brokers, Dealers Exchanges, and Services	27	0	0	0	0	0	0	19
63	Insurance Carriers	112	5	9	14	1	0	1	97
64	Insurance Agents, Brokers, and Services	12	0	0	0	0	0	0	5
65	Real Estate	40	0	0	0	0	0	0	32
67	Holding and Other Investment Offices	35	1	2	3	0	0	0	19

FISCAL YEAR 1996
FOOTNOTES

- 1/ Fiscal 1996 includes transactions reported between October 1, 1995 and September 30, 1996.
- 2/ The size of transaction is based on the aggregate total amount of voting securities and assets to be held by the acquiring person as a result of the transaction and is taken from the response to Item 3 (c) of the notification and report form.
- 3/ Based on the date the second request was issued.
- 4/ During fiscal year 1996, 3087 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 2864, reflects adjustments to eliminate the following types of transactions: (1) 14 transactions reported under Section (c)(6) and 44 transactions reported under Section (c)(8) (transactions involving certain regulated industries and financial businesses); (2) 86 transactions which were followed by separate notifications for one or more additional transactions between the same parties during fiscal 1996 (such transactions are listed here as a single consolidated transaction); (3) 65 transactions found to be non-reportable; (4) 6 incomplete transactions (only one party in each transaction filed a compliant notification; and (5) 8 transactions withdrawn before the waiting period began. The table does not, however, exclude competing offers or multiple-party transactions (transactions involving two or more acquiring persons).
- 5/ Percentage of total transactions.
- 6/ Percentage of transaction range group.
- 7/ Percentages also appear in TABLE I.
- 8/ This category is composed of newly-formed acquiring persons and transactions withdrawn before staff could make a detailed analysis of the acquisition.
- 9/ This category is composed of newly-formed acquiring persons, foreign acquiring persons with no United States revenues, and acquiring persons who had not derived any revenues from their investments at the time of filing.
- 10/ The assets of the acquired entity were taken from responses to Item 2(b)(ii) (Assets to be Acquired) or from Items 4(a) or (b) (SEC documents and annual reports) of the premerger notification and report form.
- 11/ The assets were not available primarily because the acquired entity's financial data was consolidated within its ultimate parent.
- 12/ The sales of the acquired entity were taken from Items 4(a) and (b) (SEC documents and annual reports) or responses to Item 5 (dollar revenues) of the premerger notification and report form.
- 13/ Transactions in this category are represented by the acquisitions of newly-formed corporations or corporate joint ventures from which no sales were generated, and acquisitions of assets which had produced no sales or revenue during the year prior to filing the notification and report form.
- 14/ 2-Digit SIC codes are part of the system of Standard Industrial Classification established by the United States Government Standard Classification Manual, 1987, Executive Office of the President - Office of Management and Budget. The SIC groupings used in this table were determined from responses submitted by filing parties to Item 5 of the premerger notification and report form.
- 15/ Transactions included in this category represent newly-formed companies, companies with no United States operations and notifications filed by some individuals.
- 16/ Transactions in this category include filings by newly-formed entities.
- 17/ The intra-industry transactions column identifies the number of acquisitions in which both the acquiring and acquired persons derived revenues in the same industry.

NOTE: Detail may not add to total due to rounding.