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**FEDERAL TRADE COMMISSION  
SIXTEENTH ANNUAL REPORT TO CONGRESS**

**PURSUANT TO SECTION 201 OF THE  
HART-SCOTT-RODINO ANTITRUST  
IMPROVEMENTS ACT OF 1976  
(FISCAL YEAR 1993)**



## INTRODUCTION

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 sixteenth annual report to Congress pursuant to this provision. It covers fiscal year 1993.

In general, the Act requires that certain proposed acquisitions of stock or assets must be reported to the Federal Trade Commission and 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 sale<sup>1</sup>), before they may complete the transaction. Whether a particular acquisition is subject to these requirements 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

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<sup>1</sup> The Bankruptcy Reform Act of 1994 amended § 363 of the Bankruptcy Act providing in part that the waiting period required for transactions involving parties in bankruptcy be fifteen days. The new 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).

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. Such a 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.<sup>2</sup> At that time, a comprehensive Statement of Basis and Purpose was also published containing a section-by-section analysis of the rules and an item-by-item analysis of the 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.<sup>3</sup> Additional amendments were published in the Federal Register on March 6, 1987,<sup>4</sup> and May 29, 1987.<sup>5</sup>

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<sup>2</sup> 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 premerger notification program, see the second, third and seventh annual reports covering the years 1978, 1979 and 1983, respectively.

<sup>3</sup> 48 Fed. Reg. 34,427 (1983) (codified at 16 C.F.R. Parts 801 through 803).

<sup>4</sup> 52 Fed. Reg. 7,066 (1987) (codified at 16 C.F.R. Parts 801 through 803).

<sup>5</sup> 52 Fed. Reg. 20,058 (1987) (codified at 16 C.F.R. Part 801 through 803).

## 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,<sup>6</sup> the number of filings received, the number of merger investigations in which requests for additional information or documentary material (hereinafter referred to as "second requests") were issued, and the number of transactions in which requests for early termination of the waiting period were received, granted, and not granted. Appendix A also shows for calendar year 1984 and fiscal years 1985 through 1993 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 1984 through 1993. Appendix C shows, for calendar year 1984 and fiscal years 1985 through 1993, 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. As we explained in the Eighth Annual Report, we believe that Appendix C provides 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.<sup>7</sup>

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<sup>6</sup> 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 or deal may involve more than one transaction. Indeed, some have involved as many as four or five transactions.

<sup>7</sup> 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 prior 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

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The statistics set out in these appendices show that the number of transactions reported in 1993 increased approximately 16.2 percent from the number of transactions reported in 1992 (1,846 transactions were reported in 1993 while 1,589 were reported in 1992). The statistics in Appendix A also show that the number of merger investigations in which second requests were issued in 1993 increased approximately 61.4 percent from the number of merger investigations in which second requests were issued in 1992 (second requests were issued in 71 merger investigations in 1993 while second requests were issued in 44 merger investigations in 1992). These numbers indicate an increase in the number of second requests issued as a percentage of reported transactions from 1992 to 1993 (from 2.8 percent in 1992 to 3.8 percent in 1993 based on Appendix A, and from 3.0 percent in 1992 to 4.1 percent in 1993, based on Appendix C).

The statistics also show that in recent years, early termination was requested for most transactions. In 1993, early termination was requested in 91.5 percent (1,689) of the transactions reported while in 1992 it was requested in 88.3 percent (1,403) of the transactions reported. The number of requests granted increased in 1993 compared to 1992 (from 1,020 in 1992 to 1,201 in 1993). However, the percentage of requests granted decreased slightly (from 72.7 percent in 1992 to 71.1 percent in 1993).

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 1993. 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. These statistics have been included in prior annual reports for the

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<sup>7</sup>(...continued)

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.

calendar years 1981-1984, and for fiscal years 1985-1992 (excluding 1986).<sup>8</sup>

**DEVELOPMENTS IN FISCAL YEAR 1993 RELATING TO PREMERGER NOTIFICATION RULES AND PROCEDURES**

1. Increase in Filing Fee

In fiscal year 1993, legislation was signed into law that increased the premerger notification filing fee to \$25,000, effective October 7, 1992.<sup>9</sup> The new bill amends legislation mandated by Congress in 1989 which provided for the collection of a \$20,000 fee from each acquiring person required to file a premerger notification and report form under the Act. The statute specifies that the waiting period required under the Act will not begin until receipt of the filing fee. The Commission issued a statement advising the public about the filing fee increase, and procedures for payment.<sup>10</sup>

2. 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 to assure compliance in fiscal year 1993. 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.

As a result of the agencies' efforts to assure compliance, the Commission staff, under authorization of the Department of Justice, filed two complaints in fiscal year 1993. The

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<sup>8</sup> Due to resource constraints, statistics for fiscal 1986 transactions were not prepared.

<sup>9</sup> H.R. 5678, Pub. L. No. 102-395, amends Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, Pub. L. No. 101-162, § 605, 103 Stat. 1031 (1989). See Thirteenth Annual Report to Congress.

<sup>10</sup> 57 Fed. Reg. 47,466 (1992). See Exhibit B.

complaints alleged violations of the Act and sought civil penalties under Section 7A(g) (1) of the Act.<sup>11</sup>

In *United States v. Harold A. Honickman*,<sup>12</sup> the complaint alleged that Honickman had violated the Act when he acquired assets of Seven-Up Brooklyn Bottling Co., Inc. ("Seven-Up"), a company engaged in the production, distribution and sale of carbonated soft drinks in the New York metropolitan area. According to the complaint, Honickman employed several entities as devices for avoiding the notification and waiting period requirements of the Act, although the substance of the acquisition enabled Honickman to gain control of the Seven-Up assets. Prior to the transaction, Honickman owned two of the four major bottlers in the relevant market. Under the terms of the final judgment, Honickman agreed to pay a civil penalty of \$1,976,000 to settle the charges.

In *United States v. Anova Holding AG, Stephan Schmidheiny and Unotec Holding AG*,<sup>13</sup> the complaint alleged that Schmidheiny had violated the Act twice by failing to file required premerger notifications in connection with acquisitions giving him control of Landis & Gyr AG in January 1988, and of Wild Leitz Holding AG in June 1989. According to the complaint, Schmidheiny notified the Premerger Notification Office regarding discovery of the violations in August 1989, but did not submit corrective report forms for the transactions to the antitrust agencies until February 4, 1991. The United States contended that, although Schmidheiny's failures to file were inadvertent, he delayed complying with the Act for eighteen months. Under the terms of the final judgment, Schmidheiny agreed to pay a civil penalty of \$414,650 to settle the charges.

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<sup>11</sup> 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 \$10,000 for each day the violation continues.

<sup>12</sup> *United States v. Harold A. Honickman*, Cv. No. 92-2436 (D.D.C. complaint filed October 30, 1992).

<sup>13</sup> *United States v. Anova Holding AG, Stephan Schmidheiny and Unotec Holding AG*, Cv. No. 93-1852 (D.D.C. complaint filed September 7, 1993).



MERGER ENFORCEMENT ACTIVITY DURING FISCAL YEAR 1993<sup>14</sup>

1. Department of Justice

The Antitrust Division filed five complaints in merger cases during fiscal year 1993.<sup>15</sup> Four of these cases have been settled by the entry of consent decrees.

On five occasions during fiscal year 1993, 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.<sup>16</sup> In three instances, the

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<sup>14</sup> The cases mentioned 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.

<sup>15</sup> United States v. Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Midland, N.A., Cv. No. 3-93CV0294-G (N.D. Tex. filed February 11, 1993); United States v. Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Beaumont N.A., Cv. No. 3-93CV0368-D (N.D. Tex. filed February 23, 1993); United States v. USAir Group, Inc., Cv. No. 930530 (D.D.C. filed March 15, 1993); United States v. The Gillette Company and Parker Pen Holdings, Ltd., Cv. No. 930573 (D.D.C. filed March 22, 1993); and United States v. Primestar Partners, L.P., ATC Satellite, Inc., Comcast Corporation, Comcast DBS, Inc., Continental Cablevision, Inc., Continental Satellite Company, Inc., Cox Enterprises, Inc., Cox Satellite, Inc., GE American Communications, Inc., GE Americom Services, Inc., Newhouse Broadcasting Corporation, New Vision Satellite, Tele-Communications, Inc., TCI K-1, Inc., Time Warner Inc., United Artists K-1 Investments, Inc., Viacom Inc., Viacom K-Band, Inc., Warner Cable SSD, Inc., Cv. No. 93-CIV-3919 (S.D.N.Y. filed June 9, 1993).

<sup>16</sup> On October 16, 1992, the Department informed the Federal Reserve Board that the merger between First Bank System and Bank Shares, Inc., was likely to have anticompetitive effects in the provision of business banking services to small businesses in Rochester, Minnesota. In three other instances, the Department issued press releases. Department of Justice Press Release issued February 16, 1993, involving the acquisition by Coflexip S.A. of the assets of Wellstream Corporation, the only two significant manufacturers in the world of unbonded flexible pipe, which is used in offshore oil and gas products; Department of Justice press release issued February 23, 1993, involving

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parties restructured the proposed transactions. In two instances, the parties abandoned the proposed transactions.

In *United States v. Texas Commerce Bancshares, Inc., and Texas Commerce Bank-Midland, N.A.*, the Division challenged the proposed acquisition of New First City Bank-Midland N.A. by Texas Commerce Bank-Midland N.A. (TCBM), a subsidiary of Texas Commerce Bancshares Inc. of Houston, Texas, a subsidiary of Chemical Banking Corp., New York City. Simultaneously, a consent decree was filed. The complaint alleged that the proposed acquisition violated Section 7 of the Clayton Act by substantially lessening competition in business banking services, including business transaction accounts and commercial operating loans to small and medium-sized business customers in Midland. The consent decree provided for TCBM to divest New First City Bank-Midland and all assets and deposits of that bank, except for the trust business and, unless necessary to assure the divestiture purchaser is a viable competitor, its indirect consumer loans. TCBM and New First City-Midland were the third and second largest commercial banks in Midland, respectively. Between them, they held more than 35 percent of commercial bank deposits in Midland.<sup>17</sup>

In *United States v. Texas Commerce Bancshares, Inc., and Texas Commerce Bank-Beaumont, N.A.*, the Division challenged the proposed acquisition of New First City Bank-Beaumont N.A. by Texas Commerce Bank-Beaumont N.A., a subsidiary of Texas Commerce Bancshares Inc. (TCBB) of Houston, Texas, which is a subsidiary of Chemical Banking Corp., New York City. Simultaneously, a consent decree was filed. The complaint alleged that the proposed acquisition violated Section 7 of the Clayton Act by substantially lessening competition in business banking services, including business transaction accounts and commercial operating loans, particularly for medium-sized businesses with annual sales of more than \$5 million. The consent decree provided for TCBB to divest at least two branches of the New First City Bank in Beaumont and all assets and deposits of those branches, except for First City's trust business and its indirect consumer loans. The decree also required TCBB to divest all New First City

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<sup>16</sup> (...continued)

Texas Commerce Bank's acquisition of New First City Bank-El Paso, N.A.; Department of Justice press release issued June 30, 1993, involving the acquisition by ChipSoft Inc. of MECA Software Inc., leaders in consumer tax preparation software. On July 9, 1993, the Department informed the Federal Reserve Board that the Division had no problem with the bank merger regarding Banco Popular and CoreStates' U.S.V.I. bank branches because the transaction had been modified to exclude the branches in the problem (St. Croix) market.

<sup>17</sup> The divestitures have occurred.

commercial loans of \$500,000 or more, and the deposits of those loan customers. New First City Bank-Beaumont and TCBB were the largest and second largest commercial banks in Beaumont, respectively. Between them, they held approximately 30 percent of commercial bank deposits in Beaumont.<sup>18</sup>

In *United States v. USAir Group, Inc.*, the Division challenged the proposed transaction between USAir Group, Inc., of Arlington, Virginia, and British Airways Plc of London, England. Simultaneously, a consent decree was filed. The consent decree required USAir to divest its authority to provide scheduled airline passenger service to London from Philadelphia, Baltimore/Washington and Charlotte, North Carolina, and for USAir to transfer its authority to operate from each of those cities (known as "gateways") to an approved purchaser within 45 days of its initiation of code-sharing services with British Airways from that gateway. If USAir had been unable to complete a sale, it would have been required to surrender the authority to the U.S. Department of Transportation for authorization of another airline. On January 21, 1993, British Airways purchased roughly 20 percent of USAir's stock for \$300 million, and the two airlines agreed to initiate joint operations on U.S.-London services. Under the joint program, the two airlines provided connections from London to numerous U.S. cities through USAir's hubs at Philadelphia, Pittsburgh, Baltimore/Washington and Charlotte using shared airline designator codes, which are used by airlines and travel agents to identify carriers. British Airways accounted for about 38 percent of the seats available for all U.S.-London travel, with nonstop flights from 14 U.S. gateways, including Philadelphia and Baltimore/Washington. USAir, with nonstop service from the Philadelphia, Baltimore/Washington and Charlotte gateways, competed with British Airways for passengers travelling to London from cities located in the Northeast and Mid-Atlantic regions of the United States, as well as for nonstop passengers from Philadelphia and Baltimore/Washington. The complaint alleged that the effect of the deal would substantially lessen competition in the provision of scheduled airline passenger service between interior U.S. points and London and in the provision of nonstop scheduled airline passenger service in the Philadelphia-London and Baltimore/Washington-London markets.<sup>19</sup>

In *United States v. The Gillette Company and Parker Pen Holdings, Ltd.*, the Division challenged the \$561,000,000 acquisition by The Gillette Company, a Delaware corporation,

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<sup>18</sup> The divestitures have occurred.

<sup>19</sup> The Philadelphia-London route and the Charlotte-London route were divested to American Airlines on July 2 and November 12, 1993, respectively.

headquartered in Boston, Massachusetts, of Parker Pen Holdings Ltd., a British corporation, headquartered in Newhaven, England. The complaint alleged that the acquisition violated Section 7 of the Clayton Act by substantially lessening competition in the premium fountain pen market. Premium fountain pens are high quality refillable fountain pens that have an established premium image among consumers. Retail sales of premium fountain pens in the United States totaled approximately \$46 million in 1991. Gillette's Waterman premium brand fountain pen and Parker each accounted for approximately 20 percent of those sales. Gillette and Parker, together with one other company, controlled about 80 percent of the premium fountain pen market in the United States. On March 23, 1993, the government's request for a temporary restraining order was denied by the district court and on May 5, 1993, the government's motion for preliminary injunction was denied. An order dismissing the case was entered June 28, 1993.

In *United States v. Primestar Partners, L.P., ATC Satellite, Inc., Comcast Corporation, Comcast DBS, Inc., Continental Cablevision, Inc., Continental Satellite Company, Inc., Cox Enterprises, Inc., Cox Satellite, Inc., GE American Communications, Inc., GE Americom Services, Inc., Newhouse Broadcasting Corporation, New Vision Satellite, Tele-Communications, Inc., TCI K-1, Inc., Time Warner Inc., United Artists K-1 Investments, Inc., Viacom Inc., Viacom K-Band, Inc., and Warner Cable SSD, Inc.*, the complaint named Primestar Partners L.P., its 10 member companies, and the parent companies of its multiple system operator (MSO) members as defendants. Primestar Partners, L.P., based in Bala Cynwyd, Pennsylvania, is a joint venture partnership formed by some of the nation's largest cable television companies, some of which are also leading suppliers of video programming. Simultaneously, a consent decree was filed. Primestar was formed in order to offer a multichannel subscription television service, called "Primestar," which is transmitted directly to consumers via a medium-power satellite owned by GE American Communications Inc. This type of service, commonly referred to as direct broadcast satellite (DBS), uses a relatively small home satellite dish that is less expensive to install than large home satellite dishes and is a potential substitute for cable television service. The complaint alleged that the defendants engaged in a continuing agreement, combination and conspiracy to restrain competition in multichannel subscription television service by forming Primestar Partners, L.P., to block other firms from entering the DBS business in violation of Section 1 of the Sherman Act. The complaint also alleged that the effect of the Primestar venture had been to delay, if not prevent, entry into the DBS business through an agreement to restrict access to programming owned or controlled by the venture's partners to other companies that want to start a competing DBS service. Primestar's formation made programming much more difficult to obtain and deterred entry by others. The consent decree forbids the defendants from enforcing

any provision of the Primestar partnership agreement that affects the availability, price, terms, or conditions of programming to any provider of multichannel subscription television. The decree further prohibits the defendants from agreeing to take any action against a person who provides programming to, or invests in, any provider of multichannel subscription television. The decree also prohibits the MSO defendants from reaching agreements with each other that would affect the availability, price, terms or conditions on which programming could be made available to other providers of multichannel subscription television. The decree prohibits the MSO defendants from entering into or renewing any agreements with specified programming services that contain exclusive distribution provisions. The decree thus prevents the possible anticompetitive consequences of the Primestar venture, while still allowing Primestar to continue to provide DBS service to consumers.

Additionally, the litigation in *United States v. Pacific Telesis Group and Communications Industries, Inc.*,<sup>20</sup> as described in the Annual Report for Fiscal Year 1986, was concluded when an order of dismissal was entered on July 27, 1993, by the court.

During fiscal year 1993, the Division investigated seven 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 concurrently with consummation of the transaction was sent to the appropriate bank regulatory agency in all instances.<sup>21</sup>

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<sup>20</sup> *United States v. Pacific Telesis Group and Communications Industries, Inc.*, Cv. No. 86-1298-RMT (C.D. Cal. filed February 28, 1986; complaint dismissed without prejudice July 27, 1993).

<sup>21</sup> On January 26, 1993, a "not significantly adverse" letter was sent to the Federal Reserve Board and the Federal Deposit Insurance Corporation regarding the Sunburst Bank of Grenada, Mississippi acquisition of Eastover Bank for Savings of Jackson, Mississippi; on February 5, 1993, a "not significantly adverse" letter was sent to the Federal Reserve Board regarding the Area Bancshares Corporation, Owensboro, Kentucky, acquisition of Commonwealth Bancorp, Glasgow, Kentucky; on February 10, 1993, a "not significantly adverse" letter was sent to the Federal Deposit Insurance Corporation regarding the U.S. Bank of California acquisition of offices of the HomeFed Bank, F.A., San Diego, California; on April 12, 1993, a "not significantly adverse" letter was sent to the Federal Reserve Board and on April 14, 1994, a "not significantly adverse" letter was sent to the Office of Comptroller of the Currency regarding Colonial  
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## 2. Federal Trade Commission

The Commission authorized its staff to seek preliminary injunctions in three merger cases in fiscal year 1993. In one of those cases, the parties abandoned the transaction before the motion for preliminary injunction was filed in court.<sup>21</sup>

In *Federal Trade Commission v. Alliant Techsystems Inc.*,<sup>22</sup> the Commission filed for a preliminary injunction alleging that Alliant's proposed acquisition of Olin Corporation's Ordnance Division and Physics International subsidiary would lessen competition substantially in systems contracting for certain types of lightweight and tank ammunition. According to the complaint, Alliant and Olin are the only two systems contractors supplying 120mm kinetic and chemical energy training and tactical ammunition, 120mm tank ammunition and 30mm lightweight training ammunition in the United States. On November 18, 1992, the district court granted the Commission's motion for a preliminary injunction. Subsequently, the parties abandoned the transaction. On December 17, 1992, the Commission accepted a consent agreement for public comment and issued a decision and order on March 16, 1993.<sup>23</sup> The order requires Alliant to obtain Commission approval, for a period of ten years, before acquiring any systems

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<sup>21</sup> (...continued)

Savings Bank merger into American Community Bank National Association, Lima, Ohio; on May 4, 1993, a "not significantly adverse" letter was sent to the Federal Reserve Board regarding the Huntington Bancshares Inc. of Columbus, Ohio, acquisition of CB&T Financial Corporation, Fairmont, West Virginia; on May 11, 1993, a "not significantly adverse" letter was sent to the Federal Reserve Board regarding the First Union Corporation of Charlotte, North Carolina, acquisition of First American Bank of Virginia; and on September 17, 1993, a "not significantly adverse" letter was sent to the Federal Reserve Board regarding Norwest Corporation's acquisition of Winner Bancshares, Inc.

<sup>22</sup> FTC news release issued September 29, 1993, concerning the proposed acquisition by General Electric Company ("GE") of Chrysler Corporation's railcar fleet. The press release reported that the Commission had reason to believe the acquisition would lessen competition substantially in the United States leased boxcar market. GE is the largest lessor of railcars in the United States.

<sup>23</sup> *Federal Trade Commission v. Alliant Techsystems Inc.*, Civ. No. 92-2499 (D.D.C. filed November 6, 1992; preliminary injunction order entered November 18, 1992).

<sup>24</sup> *Alliant Techsystems Inc.*, Docket No. 9254 (issued March 16, 1993).

contractor for 30mm lightweight ammunition or 120mm tank ammunition.

In *Federal Trade Commission v. Columbia Hospital Corporation*,<sup>25</sup> the Commission filed for a preliminary injunction alleging that Columbia's proposed acquisition of Medical Center Hospital in Punta Gorda from Adventist Health System/Sunbelt Health Care Corporation would lessen competition substantially for acute care inpatient hospital services in eastern Charlotte County, Florida, and certain adjacent areas. The parties operate two of only three hospitals in the Charlotte County area. The district court granted the Commission's request for an injunction on May 5, 1993. Subsequently, the matter was withdrawn from adjudication. On February 8, 1994, the Commission accepted a proposed consent agreement for public comment and issued a decision and order on May 5, 1994.<sup>26</sup> Under the order, Columbia is prohibited, for a period of ten years, from acquiring any acute care hospital in the Charlotte County area without prior approval of the Commission.

The Commission accepted consent agreements for public comment in nine other merger cases in fiscal year 1993. A complaint and decision and order was issued in four of those cases during the fiscal year, and consent agreements became final in the five additional cases after September 30, 1993.

In *Dentsply International, Inc.*,<sup>27</sup> the complaint alleged that Dentsply International's acquisition of certain assets of Johnson & Johnson would lessen competition substantially in the manufacture, marketing and sale of silver amalgam alloy products in the United States. Premium silver alloy products are used by dentists in the treatment of dental caries. Under the order, Dentsply was required to divest its "Valiant" products business to a Commission-approved purchaser within nine months.

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<sup>25</sup> Federal Trade Commission v. Columbia Hospital Corporation, Civ. No. 93-30-CIV-FTM-23D (M.D. Fla. filed February 1, 1993; preliminary injunction order entered May 5, 1993).

<sup>26</sup> Columbia Hospital Corporation, Docket No. 9256 (issued May 5, 1994).

<sup>27</sup> Dentsply International Inc., Docket No. C-3407 (issued January 6, 1993). In December 1993, the Commission approved the divestiture by Dentsply of assets related to the manufacturing and marketing of its "Valiant" line of silver alloy products to Ivoclar North America, Inc.

In *S.C. Johnson & Son, Inc.*,<sup>28</sup> the complaint alleged that S.C. Johnson & Son's ("Johnson") proposed acquisition of The Drackett Company from Bristol-Myers Squibb Company would lessen competition substantially in the manufacture and sale of continuous action and instant action air-freshener products and furniture care products in the United States. Under the order, Johnson was allowed to complete the transaction, but was ordered to sell the Drackett assets used in the production, distribution and sale of "Renuzit" air freshener products, and "Endust" and "Behold" furniture polishes.

In *The Monsanto-Company*,<sup>29</sup> the complaint alleged that Monsanto's proposed acquisition of the Ortho Consumer Products Division ("Ortho") of Chevron Corporation would lessen competition substantially in the United States market for residential non-selective herbicides. According to the complaint, Monsanto and Ortho are direct competitors in the market for herbicides used to control brush, plants, weeds and grasses. Under the order, Monsanto was permitted to acquire Ortho provided that it divest Ortho's "Kleenup" product line and glyphosate inventory.

In *Consol, Inc.*,<sup>30</sup> the complaint alleged that Consol's<sup>31</sup> proposed acquisition of Island Creek Coal, Inc. ("Island Creek"), from Occidental Petroleum Corporation would lessen competition substantially in the market for coal-export terminal services in Baltimore, Maryland. According to the complaint, Consol and Island Creek are the two leading providers of terminal services which include unloading coal from railroad cars, storing coal, blending coals and loading coal onto transoceanic ships at the

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<sup>28</sup> *S.C. Johnson & Son, Inc.*, Docket No. C-3418 (issued March 16, 1993). In May 1993, the Commission approved Johnson's request to divest its "Renuzit" air freshener business to The Dial Corp., and its "Endust" and "Behold" furniture care businesses to Sara Lee Corporation.

<sup>29</sup> *Monsanto Company*, Docket No. C-3458 (issued September 1, 1993). In September 1994, the Commission approved Monsanto's divestiture of certain assets related to the manufacture and sale of non-select herbicides to Platte Chemical Co., a subsidiary of ConAgra, Inc.

<sup>30</sup> *Consol, Inc.*, Docket No. C-3460 (issued September 27, 1993). In April 1995, the Commission approved Consol's divestiture of Curtis Bay Company to CBC Acquisition Corporation, a subsidiary of American Commercial Marine Service Company and an indirect subsidiary of CSX Corporation.

<sup>31</sup> Consol is a joint venture between E.I. du Pont de Nemours and Company and RWE Aktiengesellschaft.



port of Baltimore. Under the order, Consol was permitted to acquire Island Creek, but was required to divest the Curtis Bay Company, which owns and operates the Bayside Coal Pier in Baltimore.

In *Cooper Industries, Inc.*,<sup>32</sup> the complaint alleged that Cooper Industries' proposed acquisition of the Fusegear Group from BTR plc would lessen competition substantially in the manufacture and sale of low-voltage industrial fuses. Low-voltage industrial fuses are expendable devices designed to open an electric circuit when the current becomes excessive. Cooper and Fusegear, through Brush Fuses Inc. ("Brush"), constitute two of the three full-line low voltage industrial fuse suppliers in the United States. Under the order, Cooper was permitted to acquire the Fusegear Group, but was required to divest certain machinery and equipment used to manufacture low voltage industrial fuses, and license the technology and know-how to make Brush industrial fuses to a Commission-approved licensee within twelve months.

In *Imperial Chemical Industries, PLC/ICI Americas Inc./ICI Acrylics Inc.*,<sup>33</sup> the complaint alleged that Imperial Chemical Industries' ("ICI") proposed acquisition of certain assets of E.I. du Pont de Nemours and Company ("Dupont") would lessen competition substantially in the United States market for the manufacture and sale of acrylic plastics. The transaction was structured as an exchange of ICI's nylon assets and business for DuPont's acrylic plastics operations. Under the order, the parties were permitted to proceed with the transaction, but ICI was required to sell one of the three manufacturing facilities it owns in Memphis, Tennessee; Olive Branch, Mississippi; and Compton, California.

In *McCormick & Company, Inc.*,<sup>34</sup> the complaint alleged that McCormick's acquisition of Haas Foods, Inc., from John I. Haas, Inc., would lessen competition substantially in the business of producing and selling dehydrated onion products in the United States. Under the order, McCormick was required to divest sufficient seed to produce 100 million pounds of low moisture onions to a Commission-approved buyer. The order prohibits

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<sup>32</sup> *Cooper Industries, Inc.*, Docket No. C-3469 (issued October 26, 1993).

<sup>33</sup> *Imperial Chemical Industries PLC/ICI Americas Inc./ICI Acrylics Inc.*, Docket No. C-3473 (issued November 29, 1993).

<sup>34</sup> *McCormick & Company, Inc.*, Docket No. C-3468 (issued October 25, 1993). In October 1993, the Commission approved McCormick's application to divest 6,000 pounds of seeds to Burns, Philp & Company Limited.

McCormick, for a period of ten years, from acquiring assets or voting securities of any company that has produced more than 2.5 million pounds of dehydrated onion products during the previous 12 months, without prior approval of the Commission.

In *Columbia Hospital Corporation/Galen Health Care, Inc.*,<sup>35</sup> the complaint alleged that Columbia's proposed acquisition of Galen Health Care, Inc., would lessen competition substantially for acute care inpatient hospital services in Osceola County, Florida. The order required Columbia to divest Kissimmee Memorial Hospital in Osceola County to Adventist Health System/Sunbelt Health Care Corporation or another Commission-approved purchaser.<sup>36</sup>

In *Dominican Santa Cruz Hospital and Catholic Healthcare West*,<sup>37</sup> the complaint alleged that the acquisition of AMI-Community Hospital of Santa Cruz by Dominican Santa Cruz Hospital ("Dominican") and Catholic Healthcare West ("CHW") would lessen competition substantially in general acute care hospital services in the Santa Cruz County, California, area. According to the complaint, AMI and Dominican comprise two of the three hospitals in Santa Cruz County. The order would permit the transaction, but prohibit Dominican and CHW, for a period of ten years, from acquiring all or any part of a general acute care hospital in Santa Cruz County without prior approval of the Commission.

The Commission issued a decision and order in one merger case during fiscal year 1993 involving an acquisition in which the administrative complaint was issued before October 1, 1992. In *Occidental Petroleum Corporation/Occidental Chemical Corporation/Tenneco, Inc./Tenneco Polymers, Inc.*,<sup>38</sup> the Commission issued a decision and order concerning the acquisition by Occidental Petroleum Corporation ("Occidental") of the polyvinyl chloride ("PVC") business of Tenneco Polymers, Inc.,

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<sup>35</sup> *Columbia Hospital Corporation/Galen Health Care, Inc.*, Docket No. C-3472 (issued November 19, 1993).

<sup>36</sup> Columbia sold Kissimmee Memorial Hospital to Adventist Health System/Sunbelt Health Care Corporation in August 1993.

<sup>37</sup> *Dominican Santa Cruz Hospital and Catholic Healthcare West*, Docket No. C-3521 (issued August 18, 1994).

<sup>38</sup> *Occidental Petroleum Corporation/Occidental Chemical Corporation/Tenneco, Inc./Tenneco Polymers, Inc.*, Docket No. 9205 (issued April 5, 1993). In January 1994, the U.S. Court of Appeals for the Second Circuit approved a settlement modifying the Commission's order. Under the final order, Occidental must divest its suspension PVC plant in Addis, Louisiana; and its suspension and dispersion PVC plants in Burlington, New Jersey.

from Tenneco, Inc. The administrative complaint charged that the acquisition would lessen competition substantially in the manufacture and sale of PVC in the United States. PVC is a thermoplastic resin that is combined with additives, and then converted by heat and pressure to a variety of finished vinyl products. The Commission found liability in several PVC markets and required Occidental to divest the suspension PVC homopolymer manufacturing facility located at Pasadena, Texas, as well as the suspension and dispersion PVC production facilities located at Burlington, New Jersey, within 12 months to a Commission-approved buyer.<sup>39</sup>

### 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. 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

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<sup>39</sup> An order was issued in 1988 that required Tenneco to abide by any divestiture order issued by the Commission against Occidental, if Tenneco regained any of the assets that previously had been sold to Occidental. See Eleventh Annual Report to Congress.

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 1984-1993
- Appendix B - Number of Transactions Reported and Filings Received by Month for Fiscal Years 1979-1993.
- Appendix C - Transactions in Which Additional Information Was Requested for Calendar Year 1984 and Fiscal Years 1985-1993.

List of Exhibits

- Exhibit A - Statistical Tables for Fiscal Year 1993, Presenting Data Profiling Hart-Scott-Rodino Premerger Notification Filings and Enforcement Interest.
- Exhibit B - Federal Register Notice issued October 16, 1992



Appendix A  
Summary of Transactions;  
Fiscal Years 1984-1993





APPENDIX A  
SUMMARY OF TRANSACTIONS  
FISCAL YEARS

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
TRANSACTIONS REPORTED	1,340	1,603	1,949	2,533	2,746	2,883	2,262	1,529	1,589	1,846
FILINGS RECEIVED <sup>1/</sup>	2,418	2,975	3,611	4,742	5,172	5,530	4,272	2,914	3,030	3,559
TRANSACTIONS IN WHICH A SECOND REQUEST COULD HAVE BEEN ISSUED <sup>2/</sup>	1,119	1,301	1,660	2,170	2,391	2,535	1,955	1,376	1,451	1,745
INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED	61	67	71	58	68	64	89	64	44	71
FTC <sup>3/</sup>	25	24	32	18	39	35	55	33	26	40
DOJ <sup>3/</sup>	36	43	39	40	29	29	34	31	18	31
NUMBER OF TRANSACTIONS INVOLVING A REQUEST FOR EARLY TERMINATION <sup>4/ 5/</sup>	963	1,281	1,639	2,264	2,440	2,582	1,975	1,321	1,403	1,689
GRANTED <sup>5/</sup>	781	975	1,263	1,752	1,885	1,937	1,299	907	1,020	1,201
NOT GRANTED <sup>5/</sup>	153	288	362	512	555	645	676	414	383	488

<sup>1</sup> Preliminary data.

<sup>2</sup> 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.

<sup>3</sup> These figures are from Appendix C and are explained in footnote 1 of that Appendix. The figures for 1984 are on a calendar basis; years 1985 - 1993 are presented on a fiscal year basis.

<sup>4</sup> These statistics are based on the date the request was issued and not the date the investigation was opened.

<sup>5</sup> These statistics are based on the date of the W-S-R filing and not the date action was taken on the request.

<sup>6</sup> Includes the following number of non-reportable transactions: twenty in 1984; eighteen in 1985; fourteen in 1986; sixteen in 1987; twenty-four in 1988; fifty-four in 1989; fifty-seven in 1990; twenty-six in 1991; thirty-five in 1992; and thirty-eight in 1993.

NOTE: Statistics for earlier years were last reported in the fifteenth Annual Report to Congress (April 6, 1994).



Appendix B

Number of Transactions Reported and  
Filings Received by Month;  
Fiscal Years 1984-1993.



APPENDIX B

Table 1. Number of Transactions Reported by Month for the Fiscal Years 1984<sup>1</sup> - 1993

	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
October	89	132	195	290	245	259	267	148	140	163
November	107	145	187	494	216	316	371	198	180	184
December	124	103	144	199	243	267	139	121	155	160
January	76	111	108	96	161	160	160	96	97	100
February	98	110	120	104	204	201	138	97	87	110
March	136	153	149	163	224	236	179	113	135	149
April	118	149	131	162	230	202	168	120	129	131
May	107	156	211	185	228	254	187	130	142	155
June	112	126	145	197	241	264	182	122	116	151
July	120	160	180	218	223	223	156	130	154	172
August	144	136	187	194	310	273	163	156	124	204
September	109	122	192	231	221	228	152	98	130	167
<b>TOTAL</b>	<b>1,340</b>	<b>1,603</b>	<b>1,949</b>	<b>2,533</b>	<b>2,746</b>	<b>2,883</b>	<b>2,262</b>	<b>1,529</b>	<b>1,589</b>	<b>1,846</b>

<sup>1</sup> The number of transactions received in the fiscal years 1979 - 1983 was last reported in the Fifteenth Annual Report to Congress (April 6, 1994).

APPENDIX B

TABLE 2. NUMBER OF FILINGS RECEIVED<sup>1</sup> BY MONTH FOR FISCAL YEARS 1984<sup>2</sup> - 1993

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
October	155	229	350	523	443	550	489	270	253	297
November	210	269	348	921	421	602	693	376	326	341
December	212	194	263	404	455	485	289	236	316	325
January	131	211	199	177	311	350	298	184	194	188
February	180	210	221	193	358	362	269	180	165	239
March	255	295	287	278	437	468	343	216	255	263
April	212	267	236	314	445	371	306	223	244	251
May	199	286	350	351	442	472	351	253	268	301
June	193	232	308	360	453	504	349	228	233	311
July	211	302	337	417	403	423	288	235	286	327
August	260	239	351	376	583	517	315	319	227	393
September	200	241	361	428	421	426	282	194	263	323
<b>TOTAL</b>	<b>2418</b>	<b>2975</b>	<b>3611</b>	<b>4742</b>	<b>5172</b>	<b>5530</b>	<b>4272</b>	<b>2914</b>	<b>3030</b>	<b>3559</b>

<sup>1</sup> 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.

<sup>2</sup> The number of filings received in fiscal years 1979 - 1983 were last reported in the Fifth Annual Report to Congress (April 6, 1994).

Appendix C  
Transactions in Which Additional  
Information Was Requested;  
Calendar Year 1984  
and  
Fiscal Years 1985-1993.





Appendix C

Investigations Where Additional Information Was Requested  
Calendar Year 1984 and Fiscal Years 1985 - 1993

	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Transactions 1/	1,119	1,301	1,660	2,170	2,391	2,535	1,955	1,376	1,451	1,745
Investigations In Which Second Requests Were Issued 2/										
FTC										
Number 3/	25	24	32	18	39	35	55	33	26	40
Percent	2.2	1.8	1.9	0.8	1.6	1.4	2.8	2.4	1.8	2.2
DOJ										
Number 3/	36	43	39	40	29	29	34	31	18	31
Percent	3.2	3.3	2.3	1.8	1.2	1.1	1.7	2.3	1.2	1.8

- 1 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 of sections 7A(c)(6) and 7A(c)(8) of the Act; and (3) transactions which were found to be non-reportable. In addition, where a party filed more than one notification in the same year to acquire voting securities of the same corporation, e.g., filing for 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. Similarly, where a party has filed for a cash tender offer to acquire 50% of a target's voting securities and has also filed for the exercise of an option to acquire shares from the target issuer and for a subsequent merger, the transaction is assigned three numbers by the Preregister Office but is treated in this table as one transaction. In contrast, the same transaction would be counted as three transactions in the "transactions reported" category in Appendix A. These statistics also omit from the total number of transactions reported secondary acquisitions filed pursuant to Section 801.4 of the Preregister notification rules. Secondary acquisitions have been deducted in order to be consistent with the statistics presented in most of the prior annual reports. Appendix C in the Eighth Annual Report did not exclude secondary acquisitions. Accordingly, the numbers of transactions for 1991 - 1994 appearing herein differ from those that appear in Appendix C in that report. Note also that Appendix C in the Ninth Annual Report contained calendar year 1985 figures while this chart shows fiscal 1985 figures.
- 2 Based on the date the second request was issued, not the date the investigation was opened.
- 3 Second request investigations as a percentage of the total number of transactions listed in this table.
- 4 Earlier statistics for calendar years 1981 - 1983 were last reported in the Fifteenth Annual Report to Congress (April 6, 1994).



Exhibit A

Statistical tables;

fiscal year 1993.

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



TABLE I

FISCAL YEAR 1993 1/  
ACQUISITIONS BY SIZE OF TRANSACTION 2/  
(BY SIZE RANGE)

TRANSACTION RANGE ( \$MILLIONS )	H-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/			
	NUMBER 4/	PERCENTS 5/	NUMBER	FTC	DOJ	PERCENTS 6/	NUMBER	FTC	DOJ	PERCENTS 6/
						TOTAL				TOTAL
LESS THAN 15	120	6.9	7	4	5.8	3.3	9.2	-	-	-
15 UP TO 25	438	25.1	25	21	5.7	4.8	10.5	8	5	1.8 1.1
25 UP TO 50	482	27.6	51	16	10.6	3.3	13.9	14	6	2.9 1.2
50 UP TO 100	334	19.1	32	17	9.6	5.1	14.7	8	6	2.4 1.8
100 UP TO 150	102	5.8	9	7	8.8	6.9	15.7	-	2	- 2.0
150 UP TO 200	69	4.0	6	5	8.7	7.2	15.9	2	1	2.9 1.4
200 UP TO 300	68	3.9	6	9	8.8	13.2	22.1	1	5	1.5 7.4
300 UP TO 500	56	3.2	6	1	10.7	1.8	12.5	2	-	3.6 -
500 UP TO 1000	42	2.4	3	5	7.1	11.9	19.0	2	1	4.8 2.4
1000 AND UP	34	1.9	6	10	17.6	29.4	47.1	3	5	8.8 14.7
ALL TRANSACTIONS	1745	100.0	151	95	8.7	5.4	14.1	40	31	2.3 1.8
										4.1

\* The footnotes for all tables in this exhibit appear at the end following Table XI.

TABLE II

FISCAL 1993 1/  
ACQUISITIONS BY SIZE OF TRANSACTION 2/  
(CUMULATIVE)

TRANSACTION RANGE	M-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 1/					
	NUMBER 4/	PERCENT 5/	NUMBER	DOJ	FTC	TOTAL	PERCENTAGE OF TOTAL NUMBER OF CLEARANCES GRANTED	NUMBER	DOJ	FTC	TOTAL	PERCENTAGE OF TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS 1/
LESS THAN 15	120	6.9	7	4	2.8	1.6	4.5	-	-	-	-	-
LESS THAN 25	558	32.0	32	25	13.0	10.2	23.2	8	5	11.3	18.3	7.0
LESS THAN 50	1040	59.6	83	41	33.7	16.7	50.4	22	11	31.0	46.5	15.5
LESS THAN 100	1374	78.7	115	58	46.7	23.6	70.3	30	17	42.3	66.2	23.9
LESS THAN 150	1476	84.6	124	65	50.4	26.4	76.8	30	19	42.3	69.0	26.8
LESS THAN 200	1545	88.5	130	70	52.0	28.5	81.3	32	20	45.1	73.2	28.2
LESS THAN 300	1613	92.4	136	79	55.3	32.1	87.4	33	25	46.5	81.7	35.2
LESS THAN 500	1669	95.6	142	80	57.7	32.5	90.2	35	25	49.3	84.5	35.2
LESS THAN 1000	1711	98.1	145	85	58.9	34.6	93.5	37	26	52.1	88.7	36.6
ALL TRANSACTIONS	1745	100.0	151	95	61.4	38.6	100.0	40	31	56.3	100.0	43.7

TABLE III

FISCAL YEAR 1993 1/  
TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY

CLEARANCE GRANTED AS A PERCENTAGE OF:

TRANSACTION RANGE ( \$ MILLIONS )	CLEARANCE GRANTED BY AGENCY			TOTAL NUMBER OF TRANSACTIONS <sup>4/</sup>			TRANSACTIONS IN EACH TRANSACTION RANGE GROUP <sup>7/</sup>			TOTAL NUMBER OF CLEARANCES GRANTED		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
LESS THAN 15	7	4	11	.4	.2	.6	5.8	3.3	9.2	2.8	1.6	4.5
15 UP TO 25	25	21	46	1.4	1.2	2.6	5.7	4.8	10.5	10.2	8.5	18.7
25 UP TO 50	51	16	67	2.9	.9	3.8	10.6	3.3	13.9	20.7	6.5	27.2
50 UP TO 100	32	17	49	1.8	1.0	2.8	9.6	5.1	14.7	13.0	6.9	19.9
100 UP TO 150	9	7	16	.5	.4	.9	8.8	6.9	15.7	3.7	2.8	6.5
150 UP TO 200	6	5	11	.3	.3	.6	8.7	7.2	15.9	2.4	2.0	4.5
200 UP TO 300	6	9	15	.3	.5	.9	8.8	13.2	22.1	2.4	3.7	6.1
300 UP TO 500	6	1	7	.3	.1	.4	10.7	1.8	12.5	2.4	.4	2.8
500 UP TO 1000	3	5	8	.2	.3	.5	7.1	11.9	19.0	1.2	2.0	3.3
1000 AND UP	6	10	16	.3	.6	.9	17.6	29.4	47.1	2.4	4.1	6.5
ALL CLEARANCES	151	95	246	8.7	5.4	14.1	8.7	5.4	14.1	61.4	38.6	100.0

TABLE IV

FISCAL YEAR 1993 1/  
INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED

SECOND REQUEST INVESTIGATIONS 2/ AS A PERCENTAGE OF:

TRANSACTION RANGE ( \$MILLIONS )	INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED3/			TOTAL NUMBER OF TRANSACTIONS4/			TRANSACTIONS IN EACH TRANSACTION RANGE GROUP7/			TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS1/		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
LESS THAN 15	-	5	13	.5	.3	.7	1.8	1.1	3.0	11.3	7.0	18.3
15 UP TO 25	14	6	20	.8	.3	1.1	2.9	1.2	4.1	19.7	8.5	28.2
25 UP TO 50	8	6	14	.5	.3	.8	2.4	1.8	4.2	11.3	8.5	19.7
50 UP TO 100	-	2	2	-	.1	.1	-	2.0	2.0	-	2.8	2.8
100 UP TO 150	2	1	3	.1	.1	.2	2.9	1.4	4.3	2.8	1.4	4.2
150 UP TO 200	1	5	6	.1	.3	.3	1.5	7.4	8.8	1.4	7.0	8.5
200 UP TO 300	2	-	2	.1	-	.1	3.6	-	3.6	2.8	-	2.8
300 UP TO 500	2	1	3	.1	.1	.2	4.8	2.4	7.1	2.8	1.4	4.2
500 UP TO 1000	3	5	8	.2	.3	.5	8.8	14.7	23.5	4.2	7.0	11.3
ALL TRANSACTIONS	40	31	71	2.3	1.8	4.1	2.3	1.8	4.1	56.3	43.7	100.0



TABLE V

FISCAL YEAR 1993 1/  
ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD	H-S-R TRANSACTIONS			CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS <sup>2</sup> /					
	NUMBER <sup>1</sup> /	PERCENT	NUMBER	FTC	DOJ	PERCENTAGE OF THRESHOLD GROUP	FTC	DOJ	PERCENTAGE OF THRESHOLD GROUP			
\$15 MILLION	86	4.9	3	10	3.5	11.6	15.1	-	-	-		
15%	60	3.4	3	5	5.0	8.3	13.3	-	-	-		
25%	77	4.4	1	6	1.3	7.8	9.1	-	-	-		
50%	765	43.8	76	36	9.9	4.7	14.6	17	14	2.2	1.8	4.1
ASSETS ONLY	757	43.4	68	38	9.0	5.0	14.0	23	17	3.0	2.2	5.3
ALL TRANSACTIONS	1745	100.0	151	95	8.7	5.4	14.1	40	31	2.3	1.8	4.1



TABLE VII

FISCAL YEAR 1993 1/  
TRANSACTIONS BY SALES OF ACQUIRING PERSONS

	H-S-R TRANSACTIONS			CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/					
	NUMBER 4/	PERCENT		NUMBER	PERCENTAGE OF SALES RANGE GROUP	FTC	DOJ	TOTAL	NUMBER	PERCENTAGE OF SALES RANGE GROUP	FTC	DOJ	TOTAL
LESS THAN 15	74	4.2	-	2	2.7	-	-	2.7	-	-	-	-	-
15 UP TO 25	27	1.5	-	2	7.4	-	-	7.4	-	-	-	-	-
25 UP TO 50	58	3.3	3	1	5.2	3	1	6.9	-	-	-	-	-
50 UP TO 100	84	4.8	3	5	3.6	3	5	9.5	2	2.4	1	1.7	2.4
100 UP TO 150	102	5.8	5	10	4.9	5	10	14.7	1	1.0	3	2.9	3.9
150 UP TO 200	74	4.2	5	2	6.8	5	2	9.5	1	1.4	2	2.7	4.1
200 UP TO 300	105	6.0	10	4	9.5	10	4	13.3	1	1.0	1	1.0	1.9
300 UP TO 500	143	8.2	9	3	6.3	9	4	8.4	4	2.8	-	-	2.8
500 UP TO 1000	196	11.2	22	10	11.2	22	9	16.3	9	4.6	4	2.0	6.6
1000 AND UP	838	48.0	94	53	11.2	94	22	17.5	22	2.6	20	2.4	5.0
SALES NOT AVAILABLE 2/	44	2.5	-	3	6.8	-	-	6.8	-	-	-	-	-
ALL TRANSACTIONS	1745	100.0	151	95	8.7	151	40	14.1	40	2.3	31	1.8	4.1

TABLE VIII

FISCAL YEAR 1993 1/  
TRANSACTIONS BY ASSETS OF ACQUIRED ENTITIES 10/

ASSET RANGE ( \$MILLIONS )	H-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ		PERCENTAGE OF ASSET RANGE GROUP		SECOND REQUEST INVESTIGATIONS 1/		PERCENTAGE OF ASSET RANGE GROUP			
	NUMBER	PERCENT	NUMBER	FTC	FTC	DOJ	FTC	DOJ	FTC	DOJ	TOTAL	
LESS THAN 15	131	7.5	6	4	4.6	3.1	7.6	2	1	1.5	.8	2.3
15 UP TO 25	304	17.4	22	13	7.2	4.3	11.5	6	5	2.0	1.6	3.6
25 UP TO 50	374	21.4	43	13	11.5	3.5	15.0	12	3	3.2	.8	4.0
50 UP TO 100	270	15.5	28	16	10.4	5.9	16.3	7	5	2.6	1.9	4.4
100 UP TO 150	118	6.8	7	9	5.9	7.6	13.6	-	3	-	2.5	2.5
150 UP TO 200	55	3.2	4	3	7.3	5.5	12.7	1	4	1.8	7.3	9.1
200 UP TO 300	73	4.2	2	7	2.7	9.6	12.3	-	2	-	2.7	2.7
300 UP TO 500	75	4.3	7	4	9.3	5.3	14.7	4	-	5.3	-	5.3
500 UP TO 1000	64	3.7	6	6	9.4	9.4	18.8	2	2	3.1	3.1	6.3
1000 AND UP	94	5.4	6	14	6.4	14.9	21.3	2	4	2.1	4.3	6.4
ASSETS NOT AVAILABLE 11/	187	10.7	20	6	10.7	3.2	13.9	4	2	2.1	1.1	3.2
ALL TRANSACTIONS	1745	100.0	151	95	8.7	5.4	14.1	40	31	2.3	1.8	4.1

TABLE IX

FISCAL YEAR 1993 1/  
TRANSACTIONS BY SALES OF ACQUIRED ENTITIES 12/

SALES RANGE ( \$MILLIONS )	H-S-R TRANSACTIONS NUMBER/	PERCENT	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS 1/						
			NUMBER	DOJ	PERCENTAGE OF SALES RANGE GROUP	NUMBER	DOJ	PERCENTAGE OF SALES RANGE GROUP				
			FTC	DOJ	FTC DOJ TOTAL	FTC	DOJ	FTC DOJ TOTAL				
LESS THAN 15	296	17.0	13	12	4.4	4.1	8.4	6	2	2.0	.7	2.7
15 UP TO 25	169	9.7	17	7	10.1	4.1	14.2	4	4	2.4	2.4	4.7
25 UP TO 50	330	18.9	35	7	10.6	2.1	12.7	9	5	2.7	1.5	4.2
50 UP TO 100	285	16.3	26	13	9.1	4.6	13.7	6	3	2.1	1.1	3.2
100 UP TO 150	164	9.4	9	10	5.5	6.1	11.6	2	2	1.2	1.2	2.4
150 UP TO 200	78	4.5	11	3	14.1	3.8	17.9	4	2	5.1	2.6	7.7
200 UP TO 300	79	4.5	5	7	6.3	8.9	15.2	-	2	-	2.5	2.5
300 UP TO 500	102	5.8	8	5	7.8	4.9	12.7	1	2	1.0	2.0	2.9
500 UP TO 1000	75	4.3	12	8	16.0	10.7	26.7	5	2	6.7	2.7	9.3
1000 AND UP	97	5.6	10	15	10.3	15.5	25.8	3	6	3.1	6.2	9.3
SALES NOT AVAILABLE 11/	70	4.0	5	8	7.1	11.4	18.6	-	1	-	1.4	1.4
ALL TRANSACTIONS	1745	100.0	151	95	8.7	5.4	14.1	40	31	2.3	1.8	4.1



TABLE I

FISCAL YEAR 1993 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

22	Textile Mill Products	16	2	-	2	-	-	-	-
23	Apparel and other Finished Products made from Fabrics and Similar Materials	-	-	-	-	-	-	-	-
24	Lumber and Wood Products, Except Furniture	6	-	2	2	-	1	1	1
25	Furniture and Fixtures	4	-	-	-	-	-	-	-
26	Paper and Allied Products	19	4	-	4	-	-	-	-
27	Printing, Publishing and Allied Products	52	2	6	8	1	4	5	5
28	Chemicals and Allied Products	82	19	5	24	6	1	7	7
29	Petroleum Refining and Related Industries	11	1	1	2	-	1	1	1
30	Rubber and Misc. Plastics Products	20	5	1	6	1	1	2	2
31	Leather and Leather Products	1	-	-	-	-	-	-	-
32	Stone, Clay, Glass, and Concrete Products	13	3	-	3	-	-	-	-
33	Primary Metal Industries	21	-	3	3	-	2	2	2
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	35	5	2	7	1	-	1	1
35	Industrial and Commercial Machinery and Computer Equipment	61	9	3	12	4	2	6	6

TABLE X

FISCAL YEAR 1993 <sup>1</sup>/<sub>2</sub>  
INDUSTRY GROUP OF ACQUIRING PERSONS

36	Electronic and other Electrical Equipment and Components, Except Computer Equipment	37	9	3	12	2	-	2
37	Transportation Equipment	37	7	2	9	1	2	3
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	22	3	4	7	2	3	5
39	Miscellaneous Manufacturing Industries	10	1	-	1	-	1	1
40	Railroad Transportation	2	-	-	-	-	-	-
42	Motor Freight Transportation and Warehousing	2	-	-	-	-	-	-
44	Water Transportation	8	1	1	2	-	-	-
45	Transportation by Air	5	-	3	3	-	-	-
46	Pipelines, Except Natural Gas	3	-	-	-	-	-	-
47	Transportation Services	8	1	1	2	1	-	1
48	Communications	126	4	14	18	1	3	4
49	Electric, Gas, and Sanitary Services	79	12	2	14	2	1	3
50	Wholesale Trade-Durable Goods	60	8	1	9	1	1	2
51	Wholesale Trade-Non-durable Goods	87	12	-	12	5	-	5
52	Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	1	-	-	-	-	-	-



TABLE X

FISCAL YEAR 1993 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

53	General Merchandise Stores	9	1	-	1	-	-	-
54	Food Stores	19	3	-	3	-	-	-
55	Automotive Dealers and Gasoline Service Stations	8	1	-	1	-	-	-
56	Apparel and Accessory Stores	5	-	-	-	-	-	-
57	Home Furniture, Furnishings, and Equipment Stores	1	-	-	-	-	-	-
58	Rating and Drinking Places	10	-	-	-	-	-	-
59	Miscellaneous Retail	27	-	3	3	-	1	1
60	Depository Institutions	42	-	1	1	-	1	1
61	Nondepository Credit Institutions	31	-	-	-	-	-	-
62	Security and Commodity Brokers, Dealers, Exchanges, and Services	23	-	2	2	-	-	-
63	Insurance Carriers	71	2	1	3	-	-	-
64	Insurance Agents, Brokers, and Services	7	-	-	-	-	-	-
65	Real Estate	36	-	1	1	-	-	-
67	Holding and other Investment Offices	54	1	2	3	-	-	-
70	Hotels, Rooming Houses, Camps, and other Lodging Places	15	-	1	1	-	-	-

TABLE X

FISCAL YEAR 1993 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

72	Personal Services	5	2	-	2	1	-	1
73	Business Services	67	4	3	7	1	-	1
75	Automotive Repair, Services, and Parking	4	-	-	-	-	-	-
78	Motion Pictures	21	1	-	1	1	-	1
79	Amusement and Recreation Services	7	-	-	-	-	-	-
80	Health Services	83	5	10	15	2	2	4
81	Legal Services	1	-	-	-	-	-	-
82	Educational Services	3	-	-	-	-	-	-
86	Membership Organizations	2	-	-	-	-	-	-
87	Engineering, Accounting, Research, Management, and Related Services	9	1	1	2	-	-	-
89	Miscellaneous Services	1	-	-	-	-	-	-
99	Nonclassifiable Establishments	1	-	-	-	-	-	-
DV	Diversified Companies	68	3	3	6	2	-	2
00	Not Available 15/	55	1	4	5	-	-	-
	ALL TRANSACTIONS	1745	151	95	246	40	31	71

TABLE XI

FISCAL YEAR 1993 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 1A/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY				NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS
		NUMBER 1/ FTC	DOJ	TOTAL	SECOND REQUEST INVESTIGATIONS 2/ FTC	
02	Agricultural Production-Livestock and Animal Specialties	-	-	-	-	-
07	Agricultural Services	1	1	1	-	1
08	Forestry	1	-	-	-	-
10	Metal Mining	5	-	-	-	2
12	Coal Mining	12	3	4	1	8
13	Oil and Gas Extraction	107	3	1	3	72
14	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	13	1	1	-	5
15	Building Construction-General Contractors and Operative Builders	6	-	-	-	4
16	Heavy Construction other than Building Construction-Contractors	8	1	1	-	6
17	Construction-Special Grade Contractors	3	-	-	-	3

FISCAL YEAR 19931/  
INDUSTRY GROUP OF ACQUIRED ENTITY

0	Food and Kindred Products	79	13	2	15	5	1	6	61
11	Tobacco Products	3	-	-	-	-	-	-	2
12	Textile Mill Products	27	3	-	3	-	-	-	15
13	Apparel and other Finished Products made from Fabrics and Similar Materials	8	-	-	-	-	-	-	-
24	Lumber and Wood Products, Except Furniture	8	-	2	2	-	1	1	5
25	Furniture and Fixtures	5	-	-	-	-	-	-	2
26	Paper and Allied Products	13	3	-	3	1	-	1	7
27	Printing, Publishing and Allied Industries	56	3	6	9	1	4	5	37
28	Chemicals and Allied Products	74	16	6	22	3	1	4	43
29	Petroleum Refining and Related Industries	11	3	-	3	-	-	-	5
30	Rubber and Misc. Plastics Products	27	7	1	8	2	1	3	12
31	Leather and Leather Products	4	-	-	-	-	-	-	1
32	Stone, Clay, Glass, and Concrete Products	10	1	1	2	-	1	1	5
33	Primary Metal Industries	19	-	5	5	-	2	2	7

TABLE XI

FISCAL YEAR 199311/  
INDUSTRY GROUP OF ACQUIRED ENTITY

34	Fabricated Metal Products, Except Machinery and Transportation Equipment	39	7	2	9	1	-	1	1	19
35	Industrial and Commercial Machinery and Computer Equipment	64	10	2	12	4	2	6	38	
36	Electronic and other Electrical Equipment and Components, Except Computer Equipment	36	8	2	10	1	2	3	18	
37	Transportation Equipment	20	2	1	3	-	1	1	11	
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Matches and Clocks	35	7	5	12	5	3	8	15	
39	Miscellaneous Manufacturing Industries	9	1	-	1	-	1	1	4	
41	Local and Suburban Transit	2	-	-	-	-	-	-	-	
42	Motor Freight Transportation and Warehousing	1	-	-	-	-	-	-	-	
44	Water Transportation	9	1	1	2	-	-	-	7	
45	Transportation by Air	5	-	3	3	-	-	-	3	
46	Pipe Lines, Except Natural Gas	6	2	-	2	-	-	-	2	
47	Transportation Services	5	-	-	-	-	-	-	2	
48	Communications	153	1	16	17	-	1	1	104	

TABLE XI

FISCAL YEAR 19931/  
INDUSTRY GROUP OF ACQUIRED ENTITY

49	Electric, Gas, and Sanitary Services	63	11	2	13	2	1	3	46
50	Wholesale Trade-Durable Goods	53	2	2	4	-	1	1	31
51	Wholesale Trade-Non-durable Goods	80	8	2	10	2	-	2	37
52	Building Materials, Hardware, Garden Supply, and Mobile Home Dealers	2	-	-	-	-	-	-	1
53	General Merchandise Stores	12	1	-	1	-	-	-	5
54	Food Stores	20	3	-	3	-	-	-	12
55	Automotive Dealers and Gasoline Service Stations	7	1	-	1	-	-	-	2
56	Apparel and Accessory Stores	6	-	-	-	-	-	-	4
57	Home Furniture, Furnishings, and Equipment Stores	5	-	-	-	-	-	-	1
58	Eating and Drinking Places	15	1	-	1	-	-	-	5
59	Miscellaneous Retail	37	5	6	11	2	2	4	16
60	Depository Institutions	17	-	1	1	-	1	1	11
61	Nondepository Credit Institutions	52	1	-	1	1	-	1	24
62	Security and Commodity Brokers, Dealers, Exchanges, and Services	16	-	1	1	-	-	-	7
63	Insurance Carriers	65	1	1	2	-	-	-	51



**TABLE XI**

		FISCAL YEAR 19931/ INDUSTRY GROUP OF ACQUIRED ENTITY							
DV	Diversified Companies	12	-	-	-	-	-	7	
00	Not Available 15/	56	4	4	8	-	1	1	
	ALL TRANSACTIONS	1745	151	95	246	40	31	71	984



FISCAL YEAR 1993  
FOOTNOTES

- 1/ Fiscal 1993 includes transactions reported between October 1, 1992 and September 30, 1993.
- 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 1993, 1846 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 1745, reflects adjustments to eliminate the following types of transactions: (1) 21 transactions reported under Section (c)(6) and 31 transactions reported under Section (c)(8) (transactions involving certain regulated industries and financial businesses); (2) 3 transactions which were followed by separate notifications for one or more additional transactions between the same parties during fiscal 1993 (such transactions are listed here as a single consolidated transaction); (3) 41 transactions found to be non-reportable; (4) 2 incomplete transactions (only one party in each transaction filed a compliant notification); and (5) 3 transactions withdrawn before the waiting period began. The table does not, however, exclude 13 competing offers or 242 multiple-party transactions (only involving two or more acquiring or acquired 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(d)(1) (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 firms' financials were consolidated with those of each respective acquired ultimate parent.



Exhibit B  
Federal Register Notice  
issued October 16, 1992



Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60680:

1. *Edgemark Financial Corporation*, Chicago, Illinois, to engage *de novo* through its subsidiary, *EdgeMark Financial Services, Inc.*, Countryside, Illinois, in providing securities brokerage services in connection with investment advisory services pursuant to §§ 225.25(b)(4)(iii) and (b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wilens,

Secretary of the Board.

[FR Doc. 92-25108 Filed 10-15-92; 8:45 am]

BILLING CODE 6210-01-7

The Farmers and Merchants Bancshares, Incorporated; Notice of Application to Engage *de novo* in Permissible Nonbanking Activities; Correction

This notice corrects a previous Federal Register notice (FR Doc. 92-23000) published at page 45059 of the issue for Wednesday, September 30, 1992.

Under the Federal Reserve Bank of St. Louis, the entry for *The Farmers and Merchants Bancshares, Incorporated* is revised to read as follows:

Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *The Farmers and Merchants Bankshares, Incorporated*, Stuttgart, Arkansas, to engage *de novo* in residential, commercial, and agricultural real estate appraisal services pursuant to § 225.25(b)(13) of the Board's Regulation Y. These activities will be conducted throughout the State of Arkansas.

Comments on this application must be received by October 26, 1992.

Board of Governors of the Federal Reserve System, October 9, 1992.

William W. Wilens,

Secretary of the Board.

[FR Doc. 92-25107 Filed 10-15-92; 8:45 am]

BILLING CODE 6210-01-7

*Tower Bancshares, Inc.*; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources; decreased or unfair competition; conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Tower Bancshares, Inc.*, Cloquet, Minnesota: to become a bank holding company by acquiring 94.5 percent of

the voting shares of *Tower-Soudan Agency, Inc.*, Tower, Minnesota, and thereby indirectly acquire *State Bank of Tower*, Tower, Minnesota.

In connection with this application, Applicant also proposes to engage through *Tower-Soudan Agency, Inc.* in general insurance agency activities pursuant to §§ 225.25(b)(8)(iii) and (vi) of the Board's Regulation Y. These activities will be conducted in Tower, Minnesota.

Board of Governors of the Federal Reserve System, October 8, 1992.

William W. Wilens,

Secretary of the Board.

[FR Doc. 92-25108 Filed 10-15-92; 8:45 am]

BILLING CODE 6210-01-7

## FEDERAL TRADE COMMISSION

Hart-Scott-Rodino Antitrust Improvements Act of 1976 and Regulations Thereunder, Amended Statement Concerning Filing Fees

AGENCY: Federal Trade Commission.

ACTION: Notice.

**SUMMARY:** On October 8, 1992, the President signed legislation into law mandating that a fee of \$25,000 must be paid by each person acquiring voting securities or assets who is required to file a premerger notification by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the regulations promulgated thereunder. The newly enacted law, Public Law 102-395, amends section 805 of title VI of Public Law 101-162, which originally mandated the collection of a \$20,000 filing fee beginning November 28, 1990.

The new provision mandating the \$25,000 filing fee became effective October 7, 1992, the first business day after the President signed the legislation. Amended section 805 of title VI also specifies that no premerger notification shall be considered filed until the required fee has been paid. The Commission has issued this amended statement in order to advise the public about the increase in the filing fee.

**EFFECTIVE DATE:** The increased filing fee requirement became effective on October 7, 1992. Premerger Notification and report forms received after 5 p.m. eastern time on October 6, 1992, will be deemed effective on October 7, 1992.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Smith, Attorney, Premerger Notification Office, Bureau of Competition (Sixth Street and Pennsylvania Avenue NW., room 301).

Federal Trade Commission,  
Washington, DC 20580, 202-326-3100.  
SUPPLEMENTARY INFORMATION:

**Amended Statement of the Federal  
Trade Commission on Hart-Scott-Rodino  
Filing Fees**

The United States Congress, in an Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies,<sup>1</sup> has mandated that a fee of \$25,000 must be paid by "persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the regulations promulgated thereunder" (the Act).<sup>2</sup> President Bush signed the legislation into law on October 6, 1992, requiring collection of the \$25,000 fee as of October 7, 1992. The new provision mandating the \$25,000 filing fee took effect immediately upon the signature of the President. The effective date for implementing the provision requiring the \$25,000 filing fee shall be the first business day after the President's signature. 16 CFR 4.3(a) (1992).

The new law specifies that "[f]or purposes of said Act, no notification shall be considered filed until payment of the fee required by this Section." In other words, the waiting period required under the Act does not begin until payment of the filing fee. Notifications filed on or after the effective date that do not include the payment of a \$25,000 filing fee shall be deemed deficient and the waiting period will not begin until payment of the appropriate filing fee.

**I. Persons With a Fee Payment  
Obligation**

The statute requires persons acquiring voting securities or assets who are required to file premerger notifications by the Act and the regulations<sup>3</sup> promulgated thereunder to pay a filing fee. "Acquiring person" is defined, for purposes of the Act, in Rule 801.2.

In most transactions the Act and Rules specify only one acquiring person who is required to file a premerger notification, and who therefore will be obligated by the proposed statute to pay

a filing fee. However, in some transactions more than one person is required under the Act and Rules to file a premerger notification. In these circumstances, each acquiring person required to file a premerger notification will be obligated by the statute to pay a filing fee. Some of the more common transactions in which this is likely to occur are set out below.

For consolidations in which more than one person is an acquiring person required to file a premerger notification, each such person must separately pay a filing fee. (See Rule 801.2(d).)

*Example:*<sup>4</sup> (1) Assume corporations A and B (each being its own ultimate parent entity) will be consolidated pursuant to an agreement in which a newly formed corporate entity, C, will be the surviving entity. The shareholders of A and B will receive newly issued shares of C as a result of the transaction. Under the Act and Rules, A and B are each an acquiring person and are required to file a premerger notification and pay a filing fee. Any shareholder of A or B who is also an acquiring person required to file a premerger notification under Rule 801.2(a) and (e) must also pay filing fee.

To the extent that the formation of a joint venture or other corporation is reportable pursuant to Rule 801.40, each acquiring person (contributor) required to file a premerger notification under the Act and Rules must pay a filing fee.

When an entity making an acquisition is controlled by more than one person (e.g., a joint bid is being made), each acquiring person required to file a premerger notification under the Act and Rules must pay a filing fee.

*Example:* (2) Assume corporation A has two ultimate parent entities, "X" and "Y," under Rule 801.1(c). "X" and "Y" will cause A to make a cash tender offer for B's outstanding voting securities. "X" and "Y" must each file a premerger notification and pay a filing fee.

A person acquiring voting securities in secondary acquisitions, separately reportable under Rule 801.4, shall pay a filing fee for each secondary acquisition for which it is required by the Act and Rules to file a premerger notification. This fee shall be in addition to any filing fee that is required in the primary acquisition.

When persons file documents and information with the Commission

<sup>4</sup> Throughout the examples, persons are designated ("A", "B", etc.) with quotation marks, and entities are designated (A, B, etc.) without quotation marks. Unless otherwise indicated, assume that the size-of-person, size-of-transaction and commerce tests are satisfied.

pursuant to section 7A(c)(6) and (8) of the Act and Rules 802.6(a) and 802.8 in order to obtain an exemption from the filing requirements of the Act, no filing fee is required.

**II. Mechanics of Payment**

Filing fees shall be paid in accordance with the procedures set forth below.

(A) The filing fee requirement went into effect on November 29, 1989. Effective October 7, 1992, the filing fee is \$25,000. Pursuant to Rule 803.10(c)(1), premerger notification and report form received after 5 p.m. eastern time on October 6, 1992, are deemed effected on October 7, 1992 (the next business day). Premerger notification and report form received on or after the effective date must be accompanied by the \$25,000 filing fee. Premerger notification and report forms received prior to October 1992, and which the Commission's Premerger Notification Office has certified in writing are complete (See Part (I) below), are not affected by the increased filing fee but remain subject to the \$20,000 filing fee requirement.

(B) Fees are due and payable at the time of filing premerger notification and report forms. Fees are payable to the "Federal Trade Commission", omitting the name or title of any official of the Commission, by electronic wire transfer, United States postal money order, money order, bank cashier's check, or certified check in US. currency.

(C) Fees paid by electronic wire transfer shall be deposited to the Treasury's account at the New York Federal Reserve Bank (the "Bank"). To insure that fees paid are attributed to the proper acquiring person, the following information must be given at the time of transfer by the payor to the Bank:

1. Treasury's ABA number: 021030001
2. Commission's ALC number: 29000001.
3. The payor's name, the acquiring person's name (or a pseudonym if preferred), and an identification of the payment as a "Pre-Merger Filing Fee." (enter in the comment field)

(D) Fees paid by United States postal money order, bank money order, bank cashier's check, or certified check shall be submitted to the Commission's Premerger Notification Office along with the required premerger notification and report forms.

(E) A person required to pay a filing fee shall include in the letter of transmittal that accompanies its premerger notification and report form a statement that a filing fee has been paid, the method of payment and, if payment was made by electronic wire

<sup>1</sup> The newly passed law (H.R. 8678, Pub. L. 102-365) amends section 806 of title VI of Public Law 101-360 (100 Stat. 1071), which originally mandated the collection of a filing fee beginning November 28, 1989, by striking "\$20,000" and inserting in lieu thereof: "\$25,000."

<sup>2</sup> References to "the Act" refer to section 7A of the Clayton Act, 15 U.S.C. 18a, as added by section 301 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435, 90 Stat. 1390.

<sup>3</sup> References to "Regulations" and "Rules" in this statement refer to the Premerger Notification Rules, 16 CFR parts 801-803.

transfer, the date of transfer and any pseudonym used to identify the acquiring person.

(F) Any filing that is not accompanied by payment of a filing fee is deficient within the meaning of Rule 803.10(c)(2). Payment of a filing fee does not preclude a determination that a filing is deficient for any other reason.

(G) Except as provided in this paragraph, no filing fee received by the Commission will be returned to the payor and no part of the filing fee shall be refunded. However, if it is determined that premerger notification was not required by the Act and Rules, the filing fee shall be returned. The determination of whether a premerger notification was not required by the Act and Rules will be made by the Commission's Premerger Notification Office at the time notification is filed, based on the information and representations contained in the filing persons' Notification and Report Forms.

If the Commission's staff determines, based on the persons' filings, that notification was not required, staff will notify the parties and refund the filing fee. However, once the Commission's staff has determined that premerger notification was required, the filing fee shall not be refunded, even if the filing persons and/or the transaction do not meet the reporting thresholds at the time of consummation.

If the Commission's staff determines, based on the persons' filings, that premerger notification was not required, but the filing persons represent that premerger notification will be required at the time of consummation, premerger notification will be determined to be required and no part of the filing fee shall be refunded.

(H) Filing fees are to be paid solely to the Commission. No additional fee is required to be submitted to the Antitrust Division of the Department of Justice.

(I) In accordance with current policy, the Commission staff will send a letter to persons filing under the Act to verify the receipt of completed notification and report forms and to identify the expiration date of the waiting period. Such notice will henceforth acknowledge receipt of a filing fee.

By direction of the Commission.

Donald S. Clark,  
Secretary.

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BILLING CODE 6790-01-M

## GENERAL SERVICES ADMINISTRATION

Steering Committee for the African  
Burial Ground, New York, NY; Meeting

Notice is hereby given that the Steering Committee for the African Burial Ground, New York, NY, will meet on Monday, October 26, 1992 at 12 p.m. in the 23rd floor auditorium of the Landmarks Preservation Commission, 225 Broadway, New York, NY.

The purpose of the meeting is to consider present and future activities affecting the pavilion portion of the federal construction site at Foley Square, including, but not limited to, the review of proposals regarding the human remains on the pavilion site; the analysis, curation and reinterment of remains exhumed from the "Negro Burial Ground"; and the construction of a memorial or other improvement on the pavilion site. Also for consideration will be concerns relating to access to the pavilion site, status of the GSA research design, the exhibit/interpretive display/artwork in the tower building, and other related matters. The meeting will be open to the public.

Additional meetings will be held at noon (generally on the fourth Monday of every month) at a place to be announced, as follows:

1992: Nov. 23, and Dec. 21  
1993: Jan. 25, Feb. 22, Mar. 22, Apr. 26,  
May 24, June 28.

Please call (212) 264-0456 prior to each meeting to confirm the date, time, and location of the meeting. All meetings will be open to the public.

Meetings may be continued to the following day(s), if necessary, and shall be so announced during the meeting. Seating may be limited.

Other questions regarding meetings may be directed to: Chairman Howard Dodson, Chief, Schomburg Center for Research in Black Culture, New York Public Library, 515 Malcolm X Boulevard, New York, NY 10037-1801. Tel: (212) 491-2200.

Less than 15 days notice is being given for the October 26 meeting due to the urgency of the matters to be discussed. It is necessary that the first meeting of the Steering Committee be held as soon as possible.

Dated: October 7, 1992.

By:  
William J. Diamond,  
Regional Administrator, General Services  
Administration, Region 2, 26 Federal Plaza,  
New York, NY 10278. Telephone: (212) 264-  
2600.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration  
[OTS-018-N]

Medicare and Medicaid Programs;  
Quarterly Listing of Program  
Issuances and Coverage Decisions

AGENCY: Health Care Financing  
Administration (HCFA), HHS.

ACTION: General notice.

**SUMMARY:** This notice lists HCFA manual instructions, substantive and interpretive regulations and other Federal Register notices, and statements of policy that were published during April, May, and June 1992 that relate to the Medicare and Medicaid programs. Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the Federal Register at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe.

We also are providing the content of the revision to the Medicare Coverage Issues Manual published between April 1 and June 30, 1992. On August 21, 1989 (54 FR 34555), we published the content of the Manual and indicated that we will publish quarterly any updates. Adding the Medicare Coverage Issues Manual changes to this listing allows us to fulfill this requirement in a manner that facilitates identification of coverage and other changes in our manuals.

**FOR FURTHER INFORMATION CONTACT:**  
Margaret Cotton, (410) 966-5260 (For  
Medicare Instruction Information)  
Sam DellaVecchia, (410) 966-5395 (For  
Medicare Coverage Information)  
Dusty Kowalewski, (410) 965-3377 (For  
Medicaid Instruction Information)  
Margaret Teeters, (410) 966-4678 (For  
All Other Information)

### SUPPLEMENTARY INFORMATION:

#### I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs, which pay for health care and related services for 35 million Medicare beneficiaries and 31 million Medicaid recipients. Administration of these programs involves (1) providing information to Medicare beneficiaries and Medicaid recipients, health care providers, and

