



TWELFTH ANNUAL REPORT  
TO CONGRESS  
PURSUANT TO SECTION 201  
OF THE  
HART-SCOTT-RODINO ANTITRUST  
IMPROVEMENTS ACT OF 1976  
(Fiscal Year 1989)

## 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 twelfth annual report to Congress pursuant to this provision. It covers fiscal year 1989.

In general, Section 7A 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), 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 to conduct this antitrust review. Much of the information needed for a preliminary antitrust evaluation is included in the notification filed with the agencies 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) 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), until after the parties have complied with the request (or in the case of a tender offer, after the acquiring party complies). This additional time provides the agencies with the opportunity to review the information and to take appropriate action before the transaction is consummated. If either agency believes that a proposed transaction may violate the antitrust laws, the agency may seek an injunction in federal district court to prohibit consummation of the transaction.

Final rules implementing the premerger notification program (hereinafter referred to as "the rules") were promulgated by the Commission, with the concurrence of the Assistant Attorney General, on July 31, 1978.<sup>1</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 rules. Those amendments became effective on August 29, 1983.<sup>2</sup> Additional amendments were published in the Federal Register on March 6, 1987,<sup>3</sup> and May 29, 1987.<sup>4</sup>

#### **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 each fiscal year in which the program has been in operation the number of transactions reported,<sup>5</sup> the number of

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<sup>1</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>2</sup> 48 Fed. Reg. 34,427 (1983) (codified at 16 C.F.R. Parts 801 through 803).

<sup>3</sup> 52 Fed. Reg. 7,066 (1987) (codified at 16 C.F.R. Parts 801 through 803).

<sup>4</sup> 52 Fed. Reg. 20,058 (1987) (codified at 16 C.F.R. Parts 801 through 803).

<sup>5</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  
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filings received, the number of merger investigations in which requests for additional information or documentary material (hereinafter referred to as "second request[s]") 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 years 1981 through 1984 and fiscal years 1985 through 1989 the number of transactions in which second requests could have been issued. (This information appears on Appendix C and is explained in footnote 1 of that appendix.) Appendix B provides a month-by-month comparison of the number of filings received (Table 1) and the number of transactions reported (Table 2) for fiscal years 1979 through 1989. Appendix C shows, for calendar years 1981 through 1984 and fiscal years 1985 through 1989, 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. 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>6</sup>

The statistics set out in the appendices show that the number of transactions reported in 1989 increased approximately 5.0 percent over the number of transactions reported in 1988

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<sup>5</sup>(...continued)

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 identification numbers to track the filing parties and waiting periods. As described below, a particular merger or deal may involve more than one "transaction." Indeed, some have involved as many as four or five "transactions."

<sup>6</sup> See Appendix C, note 1. As explained in the Eleventh Annual Report, the information regarding second requests in Appendices A and C differs from that reported in those appendices in prior annual reports. Appendices 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 indicate the number of merger investigations in which second requests were issued. A merger investigation may include several transactions. We believe that reporting the number of merger investigations in which second requests were issued better reflects the agencies' enforcement activities because it represents the number of mergers or acquisitions that were investigated to this extent under the Act by the agencies.

(2,883 transactions were reported in 1989 while 2,746 were reported in 1988). The statistics in Appendix A also show that the number of merger investigations in which second requests were issued in 1989 decreased approximately 5.8 percent over the number of merger investigations in which second requests were issued in 1988 (64 second requests were issued in 1989 while 68 were issued in 1988). These numbers indicate a slight decrease in the number of second requests issued as a percentage of reported transactions from 1988 to 1989 (from 2.5 percent in 1988 to 2.2 percent in 1989, based on Appendix A, and from 2.8 percent in 1988 to 2.5 percent in 1989, based on Appendix C).

The statistics also show that in recent years, early termination is requested for most transactions.<sup>7</sup> In 1989, early termination was requested in 89.6 percent (2,582) of the transactions reported, while in 1988 it was requested in 88.9 percent (2,440) of the transactions reported. Although the number of requests granted has increased (from 1,885 in 1988 to 1,937 in 1989), the percentage of requests granted has declined slightly (77.2 percent in 1988 and 75.0 percent in 1989).

We have also included in the report, as Exhibit A, statistical tables containing information about the agencies' enforcement interest in transactions reported in fiscal year 1989. The exhibit presents eleven tables that provide, for various statistical break downs, 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 most of their revenues. These statistics have been included in prior annual reports for calendar years 1981-1984, and for fiscal years 1985, 1987-1988.<sup>8</sup>

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<sup>7</sup> The increase in the number of requests for early termination and the high proportion of those requests that have been granted are probably attributable to the change in the agencies' standard for granting early termination, adopted in the formal interpretation issued by the Commission on August 20, 1982.

<sup>8</sup> See the Eleventh Annual Report, Exhibits A and B, for fiscal years 1987-1988 transactions, the Tenth Annual Report, Exhibit A, for fiscal year 1985 transactions, the Ninth Annual Report, Exhibit A, for calendar year 1984 transactions, the

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DEVELOPMENTS IN FY 1989 RELATING TO PREMERGER NOTIFICATION RULES AND PROCEDURES

1. Formal Interpretation

On November 14, 1988, the Commission issued Formal Interpretation Number 14 which discussed the effect of the CAB Sunset Act<sup>9</sup> on § 802.6(b) of the rules.<sup>10</sup> Its primary purpose was to state that any airline merger or acquisition to be consummated on or after January 1, 1989, would require review under the Hart-Scott-Rodino premerger notification program, regardless of whether the parties to it had sought or obtained approval from the Department of Transportation before that time.

Mergers between airlines required federal regulatory approval prior to consummation for decades. Until 1985, that authority was granted to the Civil Aeronautics Board and, subsequently, to the Department of Transportation ("DOT"). A provision in the rules attempted to eliminate duplicative notification and review by providing in § 802.6(b)(1) that:

[A]ny transaction which requires approval by [DOT] prior to consummation, pursuant to section 408 of the Federal Aviation Act, 49 U.S.C. 1378, shall be exempt from the requirements of the act if copies of all information and documentary material filed with [DOT] are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General.

Under the provisions of the CAB Sunset Act, DOT no longer has authority over airline mergers beginning, January 1, 1989. The Commission issued the formal interpretation in anticipation of transactions for which DOT approval had been sought or obtained, but that had not been consummated prior to January 1, 1989. The interpretation limited the exemption provided by § 802.6 to transactions that were both approved by DOT and consummated by the parties prior to that date. Without these

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<sup>8</sup>(...continued)

Eighth Annual Report, Exhibit A, for calendar year 1983 transactions, the Seventh Annual Report, Exhibit B, for calendar year 1982 transactions, and the Sixth Annual Report, Exhibit A, for calendar year 1981 transactions. Due to resource constraints, statistics for fiscal year 1986 have not been prepared.

<sup>9</sup> 49 U.S.C. § 1551(a)(7) (1988).

<sup>10</sup> 16 C.F.R. § 802.6(b) (1989). The formal interpretation was published in the Federal Register on November 23, 1988. 53 Fed. Reg. 47,524 (1988).

limitations, approval of a transaction by DOT might have enabled the parties to complete a transaction at a much later date when the likely competitive effects of the transaction could be significantly different. In addition, the interpretation eliminated the possibility that a transaction would avoid all premerger review if the parties had sought, but did not receive, final approval by DOT.

## 2. Advance Notice of Proposed Rulemaking

On February 24, 1989, the Commission published an Advance Notice of Proposed Rulemaking in the Federal Register (the "Notice") requesting public comment on several questions and options relating to whether the Commission should amend the rules to prevent the nonreporting of certain types of acquisitions by partnerships and other newly formed entities.<sup>11</sup> In 1987, when the Commission amended the definition of "control" in § 801.1(b) to include partnerships, it noted that further examination of more inclusive definitions might be required if it appeared that significant underreporting remained after implementation of the change.<sup>12</sup> The Notice was designed, in part, to elicit comments on this issue.

The Notice described the development of the rules in this area, provided some background concerning the issues addressed in the Notice, and discussed five possible approaches. The Notice also posed general questions covering (1) the definition of "control;" (2) the use of partnerships as acquisition vehicles; (3) the possible use of partnerships to avoid reporting; and (4) the effect on partnerships of any change in the definition of "control."

Four public comments were submitted in response to the Notice.

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<sup>11</sup> 54 Fed. Reg. 7,960 (1989).

<sup>12</sup> 52 Fed. Reg. 20,058, 20,061 (1987). Prior to the amendment of 801.1(b), certain acquisitions by partnerships and other entities that had no outstanding voting securities were not subject to premerger review. The revised rule provided for the consistent treatment of partnerships and corporations by modifying the definition of "control" to include the following language applicable to the control of partnerships:

(ii) In the case of an entity that has no outstanding voting securities, having the right to 50 percent or more of the profits of the entity, or having the right in the event of dissolution to 50 percent or more of the assets of the entity[.]

### 3. Interim Rule

On May 18, 1989, the Commission published an Interim Rule in the Federal Register that formalized the Commission's procedures for publicly disclosing grants of early termination of the waiting period through means in addition to publication in the Federal Register.<sup>13</sup>

Section 7A(b)(2) of the Act and § 803.11(c) of the rules authorize the Commission and the Assistant Attorney General to terminate the waiting period provided by section 7A(b)(1) of the Act in certain transactions before it would otherwise expire.<sup>14</sup> The Act and rules further specify that when parties receive early termination of the waiting period, the enforcement agencies must publish a notice in the Federal Register that neither agency intends to take any action with respect to the acquisition during the waiting period.<sup>15</sup>

In 1982, the Commission eliminated the requirement that parties provide a business reason to qualify for early termination, and adopted the practice of sending a Notice to the Federal Register every two weeks listing early terminations granted during the preceding period. In addition, the Premerger Notification Office provided information about early terminations in response to telephone inquiries from the public, and submitted a list of early terminations to the Commission's Public Reference Section. Subsequently, the Commission discovered that these informal dissemination methods may have enabled some investors familiar with the procedure to profit from their knowledge to the detriment of investors who were unaware that the information was available. The policy was discontinued in 1988 until a process could be established to make the public at large aware of the availability of early termination notices, and the Commission could consider whether it was appropriate to release the information by methods other than the Federal Register.

The Commission determined in fiscal year 1989 that sections 7A(b)(2) and 7A(h) do not limit the release of information concerning early terminations to publication in the Federal Register. The change in § 803.11(c) recognizes that the Commission may use additional means to make this information public.

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<sup>13</sup> 54 Fed. Reg. 21,425 (1989).

<sup>14</sup> 15 U.S.C. § 18a(b)(2) (1988); 16 C.F.R. § 803.11(c) (1989).

<sup>15</sup> *Id.*



Accordingly, since mid-1989, the Commission has provided in the Public Reference Section of the Commission a daily list of transactions for which early termination was granted on the previous work day. This information is also available for the prior five business days on a prerecorded message through the Public Reference Section's telephone information system which can be reached by calling (202)326-2222. These procedures give the public access to this information promptly without imposing an undue administrative burden on the Commission. Release of the information in this manner supplements the current two week schedule of publication in the Federal Register.

The Interim Rule, which became effective on June 19, 1989, amends § 803.11(c) by appending the following language to the existing rule:

The Federal Trade Commission and the Assistant Attorney General also may use other means to make the termination public prior to publication in the Federal Register in a manner that will make the information equally accessible to all members of the public.

#### 4. Premerger Notification Sourcebook

In August 1989, the Commission published an update of its Premerger Notification Sourcebook which contains the following information:

- Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act (15 U.S.C. § 18a);
- the Commission's premerger notification rules and amendments;
- copies of Federal Register notices concerning the rules and amendments, including statements of basis and purpose for the rules and amendments;
- all formal interpretations of the rules;
- Bureau of Competition statements concerning enforcement of the premerger notification rules; and
- the Tenth Annual Report to Congress on the premerger notification program.

## 5. Compliance

The Federal Trade 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 1989. At the Commission's request, the Department of Justice filed one complaint in fiscal year 1989 alleging that a corporation had violated the premerger notification requirements by failing to comply with reporting and waiting period obligations before consummating a stock acquisition. This action resulted in the largest civil penalty ever obtained for a violation of the Act.<sup>16</sup>

In United States v. Tengelmann Warenhandelsgesellschaft and The Great Atlantic & Pacific Tea Co., Inc.,<sup>17</sup> the complaint alleged that The Great Atlantic & Pacific Tea Co. ("A&P") violated the Act when it acquired stock of Waldbaum, Inc., and was in violation of the Act from November 26, 1986 through November 18, 1988. According to the complaint, A&P structured its acquisition of Waldbaum as an acquisition by a general partnership for the purpose of avoiding the notification and waiting period requirements of the Act. Waldbaum operated retail grocery stores in the States of New York and Connecticut and the Commonwealth of Massachusetts. Under the terms of the consent decree, A&P agreed to pay a civil penalty of \$3,000,000 to settle the case.

In addition to investigations, the agencies continue to 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 Act. Industry sources, such as competitors, customers and suppliers, and interested members of the public also provide information about transactions and possible violations of the filing requirements.

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<sup>16</sup> Under Section (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>17</sup> United States v. Tengelmann Warenhandelsgesellschaft and The Great Atlantic & Pacific Tea Co., Inc., 1989-1 Trade Cases ¶ 68,623 (D.D.C. 1989).

MERGER ENFORCEMENT ACTIVITY DURING FY 1989<sup>18</sup>

1. Department of Justice

The Antitrust Division ("the Division") filed five complaints in merger cases during fiscal year 1989.<sup>19</sup> Three of these cases, United States v. TRW Inc., United States v. Westinghouse Electric Corporation, ABB Asea Brown Boveri Ltd., and Asea Brown Boveri Inc., and United States v. Pacific Dunlop Holdings Inc., Becton, Dickinson and Company, and Edmont, Inc., were settled by the entry of consent decrees. In one of the remaining cases, United States v. Engelhard Corporation and Filtrol Corporation, the Division voluntarily dismissed the suit when the proposed transaction was terminated by the parties. In the fifth case, United States v. Ivaco, Inc., Canron, Inc. and Jackson Jordan, Inc., a preliminary injunction against consummation of the merger was issued after an evidentiary hearing and the parties subsequently abandoned the transaction.

In United States v. Engelhard Corporation and Filtrol Corporation, the Division challenged the proposed acquisition of Filtrol by Engelhard. The complaint alleged that the proposed acquisition might substantially lessen competition in the production and sale of fluid catalytic crackers ("FCC"), used to break down or "crack" heavy hydrocarbon molecules contained in crude oil (to make light petroleum products such as gasoline). Filtrol is a wholly owned subsidiary of Kaiser Aluminum & Chemical Corporation which in turn is ultimately controlled by KaiserTech. Only five companies in the United States sell FCC catalysts and the merger would have combined the second and third largest producers. Engelhard accounted for 32 percent of the \$289 million total 1987 U.S. sales of FCC catalysts while Filtrol

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<sup>18</sup> The transactions 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 transactions were reported under the premerger notification program.

<sup>19</sup> United States v. Engelhard Corporation and Filtrol Corporation, Cv. No. 88-8403 (E.D. Pa. filed November 12, 1988); United States v. TRW Inc., Cv. No. C-88-4253 (N.D. Ohio filed November 17, 1988); United States v. Ivaco, Inc., Canron, Inc., and Jackson Jordan, Inc., Cv. No. G89-40032CA (W.D. Mich. filed January 12, 1989); United States v. Westinghouse Electric Corporation, ABB Asea Brown Boveri Ltd., and Asea Brown Boveri Inc., Cv. No. 89-CIV-1032 (S.D.N.Y. filed February 14, 1989); and United States v. Pacific Dunlop Holdings Inc., Becton, Dickinson and Company, and Edmont, Inc., Cv. No. 89-4522 (E.D. Pa. filed June 16, 1989).

accounted for 18 percent. A Temporary Restraining Order was issued and trial on the merits was scheduled. The parties abandoned the transaction prior to trial and the Division dismissed the suit.

In United States v. TRW Inc., the Division challenged TRW's proposed acquisition of Chilton Corporation of Dallas, Texas, from Borg-Warner of Chicago, Illinois. The complaint alleged a lessening of competition in the sale of consumer credit reports in all or portions of Arizona, Colorado, Connecticut, Hawaii, Massachusetts, Michigan, New Hampshire, New Mexico, New York, Rhode Island and Texas. Both TRW and Chilton sell consumer credit reports and related services to stores, banks and others that extend credit. The total United States credit reporting revenues of TRW, Chilton, and its principal competitors were approximately \$410 million in 1986. The consent decree required TRW to terminate relationships with a number of independent credit bureaus that sold credit reports under either TRW or Chilton trade names. It also required TRW to sell a copy of the consumer credit files of either TRW or Chilton in certain areas to a new competitor by July 14, 1989.

In United States v. Ivaco, Inc., Canron, Inc. and Jackson Jordan, Inc., the Division filed suit to block the proposed \$48 million joint venture between Ivaco, Inc. of Montreal and Jackson Jordan, Inc. of Schaumburg, Illinois. The suit alleged that the joint venture would lessen competition in the production and sale of automatic tampers--large pieces of equipment used to level and align railroad tracks. Canron, Inc., based in Toronto, Canada, is a controlled subsidiary through which Ivaco manufactures and sells automatic tampers in the United States. The joint venture would have controlled over 70 percent of the automatic tampers sold in the United States since Ivaco was the largest domestic producer and Jackson Jordan was the third largest. Sales of automatic tampers in the United States in 1987 totaled about \$15 million. After an evidentiary hearing, a preliminary injunction was issued. The parties subsequently abandoned the transaction and the Division dismissed the suit.

In United States v. Westinghouse Electric Corporation, ABB Asea Brown Boveri Ltd., and Asea Brown Boveri Inc., the Division challenged two proposed joint ventures between Westinghouse Electric of Pittsburgh, Pennsylvania, and ABB Asea Brown Boveri Ltd., ("ABB") of Zurich, Switzerland. One joint venture involved steam turbine generator equipment and service and the other involved electric power transmission and distribution equipment. The suit alleged that the joint ventures would lessen competition in the U.S. markets for power transformers, converter transformers, steam turbine generator equipment and steam turbine generator service. Both Westinghouse and ABB are major U.S. producers and suppliers of electrical power equipment and services. In 1987, Westinghouse's sales of electric power

equipment and services were in excess of \$3 billion. ABB's United States sales of electric power equipment and services in 1987 were approximately \$1.6 billion. In the period 1983 through 1987, total sales of steam turbine generator equipment in the United States were approximately \$442 million -- Westinghouse's sales of such equipment constituted about 43 percent, or \$190 million, and ABB's United States sales constituted about 19 percent, or \$84 million. The consent decree enjoined consummation of the steam turbine generator equipment and service joint venture. With respect to the transmission and distribution joint venture, the decree required ABB to divest its Waukesha, Wisconsin, power transformer plant and related assets to a purchaser who would operate the plant and assets as a viable and ongoing business that would compete in the U.S. power transformer market. Regarding converter transformers, the consent decree required Westinghouse to sell, to an eligible purchaser, the technology and intellectual property used in the design or manufacture of converter transformers or smoothing reactors.

In United States v. Pacific Dunlop Holdings Inc., Becton, Dickinson and Company, and Edmont, Inc., the Division challenged Pacific Dunlop's proposed acquisition of Edmont, Inc., a subsidiary of Becton, Dickinson and Company. The complaint alleged that the proposed acquisition would be anticompetitive in the U.S. markets for the following five types of industrial gloves: (1) unsupported nitrile gloves; (2) liquid proof dipped supported latex gloves; (3) liquid proof dipped supported nitrile gloves; (4) liquid proof dipped supported neoprene gloves; and (5) liquid proof dipped supported PVC gloves. Industrial gloves are used to protect hands from cuts and abrasions and environmental, chemical, and biological agents, and/or protect products from hand contamination. Both Edmont and Pacific Dunlop are major producers of various types of industrial gloves. Edmont's total 1988 U.S. sales of all types of industrial gloves were approximately \$65 million. Pacific Dunlop's total 1988 U.S. sales of all types of industrial gloves were approximately \$26 million. The consent decree provides that Pacific Dunlop will sell Edmont's unsupported nitrile glove production facility in Canton, Ohio, and its own dipped supported glove production facility in Snow Hill, North Carolina.

During fiscal year 1989, the Division investigated one bank merger transaction for which divestiture was required prior to or concurrently with the acquisition. The transaction involved the acquisition of Howard Bancorp, Burlington, Vermont, by Banknorth Group, Inc., Burlington, Vermont. A "not significantly adverse" letter conditioned on divestiture prior to or concurrent with consummation of the transaction was sent to the Board of Governors of the Federal Reserve System on August 15, 1989.

Finally, on four occasions during fiscal year 1989 the 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>20</sup>

## 2. Federal Trade Commission

The Commission authorized its staff to seek preliminary injunctions in seven merger cases in fiscal year 1989. In four of these cases, the parties abandoned the proposed transaction before the motion for preliminary injunction was filed in court.<sup>21</sup>

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<sup>20</sup> Department of Justice Press Release issued December 8, 1988, involving the proposed acquisition of Chase Brass & Copper Co. of Solon, Ohio, by TBG, Inc., of New York City; Department of Justice Press Release issued April 28, 1989, involving the proposed acquisition of AmeriGas Inc., a subsidiary of UGI Corporation, by The BOC Group PLC, of Windlesham, Surrey, England; Department of Justice Press Release issued June 7, 1989, involving a proposed sale by Eastern airlines, Inc., to USAir, Inc., of gates at Philadelphia National Airport and route authority between Toronto, Canada, and Philadelphia; and Department of Justice Press Release issued June 22, 1989, involving a proposed joint venture of computer reservation systems between AMR Corporation, parent of American Airline Inc., and Delta Airline Inc.

<sup>21</sup> FTC news release issued November 2, 1988, concerning the proposed joint venture between General Electric Company and Union Carbide Corporation. The press release reported that the Commission had reason to believe that the joint venture would substantially lessen competition in the production and sale of silicone products. General Electric was the second largest seller of silicone products worldwide, and owned silicone producing plants in New York and in the Netherlands. Union Carbide ranked third in domestic silicone production and sixth worldwide.

FTC news release issued February 23, 1989, involving the proposed acquisition by The BOC Group plc of the Vacuum Products Division of Varian Associates Inc. The press release reported that the Commission had reason to believe that the acquisition would substantially lessen competition in the production and sale of helium mass spectrometer leak detectors. Helium mass spectrometer leak detectors use helium to discover leaks in products ranging from electronic valves to nuclear fuel systems to refrigeration systems. A subsidiary of BOC, Edwards High Vacuum International, based in West Sussex, England, was a direct competitor of the Varian Vacuum Products Division.

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In Societe Nationale Elf Aquitaine,<sup>22</sup> on July 20, 1989, the Commission authorized its staff to seek a preliminary injunction alleging that Societe Nationale Elf Aquitaine's ("Elf") proposed acquisition of Pennwalt Corporation would substantially lessen competition in the production and sale of two chemical products: polyvinylidene fluoride ("PVDF"), a chemical resin used in the production of architectural coatings, electrical and electronic cable, and chemical processing equipment; and vinylidene fluoride ("VF 2"), a chemical intermediate used to make PVDF and fluoroelastomers, rubberlike compounds used in high temperature and corrosive environments. Before filing the motion for a preliminary injunction, the Commission accepted a consent agreement for public comment from Elf. Under the proposed consent, Elf could acquire Pennwalt, subject to Elf's agreement to divest Pennwalt's chemical manufacturing plant in Thorofare, New Jersey, to a Commission approved purchaser. The Thorofare plant produced both PVDF and VF 2. Elf produced both PVDF and VF 2 in France. In addition, the proposed consent required Elf to "hold separate" from other entities it owned the entire fluorochemicals division of Pennwalt until divestiture of the Thorofare plant had been effected. The consent agreement became final on December 28, 1989, when the Commission issued a complaint, decision and order.

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

FTC news release issued June 5, 1989, involving the proposed acquisition by U.S. Can Company, a wholly owned subsidiary of Inter-American Packaging, Inc., of Armstrong Industries, Inc. The press release reported that the Commission had reason to believe that the acquisition would substantially lessen competition in the production and sale of one-gallon metal paint cans. U.S. Can and Armstrong were the nation's two largest manufacturers of paint cans.

FTC news release issued July 10, 1989, involving Autoclave Engineers Inc.'s tender offer for Tylan Corp. The press release reported that the Commission had reason to believe that consummation of the tender offer would substantially lessen competition in the manufacture and sale of mass flow controllers. Mass flow controllers are precision electronic instruments which measure, monitor and control the flow of process gases used in the manufacture of semiconductors and other products.

<sup>22</sup> Societe Nationale Elf Aquitaine, Docket No. C3270 (issued December 28, 1989).

In Federal Trade Commission v. Textron Inc.,<sup>23</sup> the Commission authorized its staff to seek a preliminary injunction preventing Textron from acquiring either the assets or operations of Avdel PLC. The Commission alleged that the acquisition of Avdel by Textron would result in a substantial lessening of competition in the design, production and sale of two kinds of rivets used in aerospace applications and in ground transportation, including aerospace structural blind rivets and non-aerospace structural blind rivets. Textron had already acquired a majority of Avdel's stock at the time the Commission authorized its staff to seek a preliminary injunction. The court granted the Commission's request for an injunction, and ordered Textron to "hold separate" the business of Avdel under supervision of a court appointed trustee until completion of administrative proceedings. The Commission issued an administrative complaint and the matter is in litigation before an administrative law judge.

In Federal Trade Commission v. Promodes, S.A.; Red Food Stores, Inc.; The Kroger Co.,<sup>24</sup> the Commission authorized its staff to seek a preliminary injunction preventing Red Food Stores, Inc., from acquiring all seven of Kroger Co.'s grocery stores in Chattanooga, Tennessee. The Commission alleged that the proposed acquisition would substantially lessen competition among grocery stores in that area. Red Food operated 27 grocery stores in the Chattanooga area, and the acquisition of the Kroger stores would result in Red Food having nearly 75% of the Chattanooga metropolitan grocery store market. The court denied the Commission's application for injunctive relief. The Commission issued an administrative complaint and the matter was later settled when the Commission issued a decision and order requiring Red Food to divest stores in the Chattanooga area.

The Commission issued a complaint and decision and order in four merger cases during fiscal year 1989 in which it had previously accepted consent agreements for public comment.

In Sun Company, Inc.,<sup>25</sup> the complaint alleged that Sun's acquisition of Atlantic would substantially lessen competition in the distribution and marketing of gasoline and other light petroleum products in the Williamsport, Pennsylvania, and

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<sup>23</sup> Federal Trade Commission v. Textron Inc., Cv. No. 89-0484 (D.D.C. filed February 22, 1989; preliminary injunction order entered March 9, 1989).

<sup>24</sup> Federal Trade Commission v. Promodes, S.A., Red Food Stores, Inc.; The Kroger Co., Docket No. D.9228 (issued May 17, 1990).

<sup>25</sup> Sun Company, Inc., 111 F.T.C. 570 (1989).



Binghamton, New York, areas. Under the order, Sun was required to divest all of Atlantic's light products terminals in Lycoming County, Pennsylvania, and Broome County, New York, as well as all retail gasoline properties owned by Atlantic and supplied predominately from those terminals.

In KKR Associates,<sup>26</sup> the complaint alleged that KKR's acquisition of RJR Nabisco, Inc. ("RJR") would substantially lessen competition in the production and distribution of branded catsup/ketchup, shelf-stable oriental entrees, shelf-stable oriental noodles, shelf-stable oriental vegetables, soy sauce and packaged nuts. Under the order, KKR was permitted to acquire RJR subject to its divestiture of either Beatrice/Hunt-Wesson Inc. or RJR assets used in the production and sale of packaged nuts, ketchup and oriental food.

In PepsiCo, Inc.,<sup>27</sup> the complaint alleged that PepsiCo, Inc.'s acquisition of bottling operations from General Cinema Corporation ("GCC") in Broward County, Florida, and a six-county area in and around Staunton, Virginia, would substantially lessen competition in all or branded carbonated soft drinks in these two areas. The order requires PepsiCo to provide bottling services to GCC at cost, and to permit GCC to continue to distribute such non-Pepsi brands as Dr. Pepper, Barq's and Mountain Dew in the Staunton area, and Dr. Pepper, Seven-Up, Barq's and Sunkist in Broward County.

In Panhandle Eastern Corporation,<sup>28</sup> the complaint alleged that Panhandle Eastern Corporation's ("Panhandle") acquisition of Texas Eastern Transmission Corporation ("Texas Eastern"), would substantially lessen competition in the pipeline transportation of natural gas out of portions of the Gulf of Mexico, south of eastern Texas and western Louisiana. Under the order, Panhandle was permitted to acquire Texas Eastern subject to its divestiture of Truckline Offshore Company.

In fiscal year 1989, the Commission also accepted for public comment two consent agreements which became final after September 30, 1989.

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<sup>26</sup> KKR Associates, 111 F.T.C. 670 (1989).

<sup>27</sup> PepsiCo, Inc., 111 F.T.C. 704 (1989).

<sup>28</sup> Panhandle Eastern Corporation, Docket No. C3260 (issued July 17, 1989).

In Arkla, Inc.,<sup>29</sup> the Commission accepted for public comment a consent agreement to settle its complaint that Arkla, Inc.'s 1986 acquisition of TransArk Transmission Company ("TransArk") substantially lessened competition in the transportation of natural gas in both the Arkoma Basin area and the Russellville-Morrilton-Conway corridor of Arkansas. The consent agreement became final on October 10, 1989, when the Commission issued a complaint and decision and order. Arkla was involved in all sectors of the natural gas industry, including the gathering, storage and transmission of natural gas. TransArk was a natural gas transmission company which owned natural gas pipeline assets in the Arkoma Basin and in the Russellville-Morrilton-Conway corridor. Under the order, Arkla agreed to divest either the TransArk pipeline or an undivided interest in the Arkla pipeline system.

In MTH Holdings, Inc.,<sup>30</sup> the Commission accepted for public comment a consent agreement which allowed MTH Holdings, Inc. ("MTH") to acquire a majority of the voting securities of GU Acquisition Corporation ("GU"). The consent agreement became final on October 6, 1989, when the Commission issued a complaint and decision and order. GU owned and operated The Grand Union Company which operated a chain of 304 retail grocery stores in the United States. Both MTH and Salomon Inc, which was to acquire the minority stake in GU, were investment banking firms. MTH in turn controlled P & C Food Markets, Inc., a retail grocery store chain. The complaint alleged that MTH's acquisition of Grand Union would substantially lessen competition in twelve towns and cities in New York and Vermont. The order required MTH to divest one retail grocery store owned or operated by either P & C or Grand Union in three towns in New York and in seven towns or areas in Vermont. MTH also was required to divest two retail grocery stores owned or operated by either P & C or Grand Union in the Rutland, Vermont, area, and four retail grocery stores owned or operated by either P & C or Grand Union in the Burlington, Vermont, Metropolitan Statistical Area.

The Commission also issued one administrative complaint in fiscal year 1989 concerning an acquisition that occurred in 1987. In Hoechst Celanese Corporation, Hoechst Corporation, Hoechst Aktiengesellschaft,<sup>31</sup> the Commission charged that Hoechst

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<sup>29</sup> Arkla, Inc., Docket No. C3265 (issued October 10, 1989).

<sup>30</sup> MTH Holdings, Inc., Docket No. C3266 (issued October 6, 1989).

<sup>31</sup> Hoechst Celanese Corporation, Hoechst Corporation, Hoechst Aktiengesellschaft, Docket No. D.9216 (complaint issued November 17, 1988).

Aktiengesellschaft's ("Hoechst A.G.") 1987 merger of Celanese Corporation (resulting in a new corporation called Hoechst Celanese Corporation) would substantially lessen international competition in the manufacture and sale of acetal. Acetal is a plastic used in items ranging from car parts to disposable lighters. At the time of its acquisition of Celanese, Hoechst A.G. owned 59% of the capital stock of Ticona Polymerwerke GMBH ("Ticona") and Celanese owned the remaining 41% of Ticona's capital stock. Ticona was the leading producer of acetal in Europe, and Celanese was the leading producer of acetal in the United States. The Commission's complaint alleged that the acquisition by Hoechst A.G. of Celanese eliminated substantial actual competition between Celanese and Ticona, and between Celanese and Hoechst A.G. The complaint further alleged that this acquisition significantly enhanced the likelihood of collusion or interdependent coordination among the remaining firms that sell or produce acetal.

The Commission issued one decision and order during fiscal year 1989 involving an acquisition in which the administrative complaint was issued prior to October 1, 1988. In PPG Industries, Inc.,<sup>32</sup> PPG Industries agreed to settle charges stemming from its attempted acquisition of Swedlow, Inc., in 1985. The Commission had charged in a 1986 complaint that PPG's acquisition of Swedlow could substantially lessen competition in the manufacture and sales of windows, windshields and canopies used in airplanes and helicopters. The Commission authorized its staff to seek a preliminary injunction to block the transaction, which was ultimately granted by the United States Court of Appeals for the District of Columbia Circuit. PPG and Swedlow subsequently abandoned their proposed merger. Under the order, PPG is required to obtain Commission approval before acquiring any interest in a company making aircraft transparencies, if that company does more than \$750,000 in sales in the United States.<sup>33</sup>

Finally, the Commission brought two civil penalty actions in fiscal year 1989 for violations of previous consent orders.

In MidCon Corporation,<sup>34</sup> MidCon Corporation agreed to a stipulated judgement providing for a civil penalty of \$100,000 for failing to divest by the date set forth in a Commission order. Under the terms of a 1986 order, MidCon was required to divest its interests in the Acadian Gas Pipeline System

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<sup>32</sup> Federal Trade Commission v. PPG Industries, Inc., 798 F.2d 1500 (D.C. Cir. 1986).

<sup>33</sup> PPG Industries, Inc., 111 F.T.C. 597 (1989).

<sup>34</sup> Federal Trade Commission v. MidCon Corporation, Cv. No. 88-3102 (D.D.C. filed October 27, 1988).

("Acadian") in order to settle charges that MidCon's acquisition of United Energy Resources, Inc., would substantially lessen competition in the transportation and sale of natural gas in the New Orleans/Baton Rouge area. MidCon failed to divest its interest in Acadian as the order required by February 26, 1987.

In Cooper Industries, Inc.,<sup>35</sup> Cooper Industries agreed to a stipulated final judgement providing for a civil penalty of \$100,000 for failure to obtain Commission approval prior to making an acquisition of nearly 200,000 shares of McGraw-Edison stock in 1984. The 1979 order had settled charges that Cooper's planned acquisition of the Gardner-Denver Company would lessen competition in the manufacture and sale of certain reciprocating gas compressors and hand-held pneumatic tools.

#### ASSESSMENT OF THE EFFECTS OF THE PREMERGER NOTIFICATION PROGRAM

Although a complete assessment of the effect 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 that raised significant

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<sup>35</sup> Federal Trade Commission v. Cooper Industries, Inc., Cv. No. 89-0175 (D.D.C. filed March 17, 1989).

antitrust concerns, before the antitrust agencies had the opportunity to adequately consider 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.

Insert date JAN 27 1998

List of Appendices

- Appendix A - Summary of Transactions, Fiscal Years 1979-1989.
- Appendix B - Number of Filings Received and Transactions Reported by Month for Fiscal Years 1979-1989.
- Appendix C - Investigations in Which Additional Information Was Requested. Calendar Years 1981-1984 and Fiscal Years 1985-1989.

List of Attachments

- Exhibit A - Statistical tables for fiscal year 1989, presenting data profiling Hart-Scott-Rodino premerger notification filings and enforcement interest.

**APPENDIX A**

EXHIBIT A



APPENDIX A  
SUMMARY OF TRANSACTIONS  
FISCAL YEARS

	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
<b>TRANSACTIONS REPORTED</b>	861	784	996	1203	1093	1340	1603	1949	2533	2746	2003
<b>FILINGS RECEIVED 1/</b>	1643	1552	1804	2056	1971	2418	2975	3611	4742	5172	5530
<b>TRANSACTIONS IN WHICH A SECOND REQUEST COULD HAVE BEEN ISSUED 2/</b>	NA	NA	762	713	903	1119	1301	1660	2170	2391	2535
<b>INVESTIGATIONS IN WHICH SECOND REQUESTS WERE ISSUED</b>	113	68	69	65	34	61	67	71	58	68	64
<b>PTC 3/</b>	63	31	34	39	12	25	24	32	18	39	35
<b>DOJ 3/</b>	50	37	35	26	22	36	43	39	40	29	29
<b>NUMBER OF TRANSACTIONS INVOLVING A REQUEST FOR EARLY TERMINATION 4/ 5/</b>	123	100	164	222	606	963	1281	1639	2264	2440	2582
<b>GRANTED 4/</b>	60	75	135	142	495	781	975	1263	1752	1885	1937
<b>NOT GRANTED 4/</b>	62	22	26	63	103	153	208	362	512	555	645

- 1 Usually, two filings are received, one from the acquiring person and one from the acquired person when a transaction is reported. Only one filing is received when an acquiring party files for an exemption under sections 7A(c)(6) or (c)(8) of the Clayton Act.
- 2 These figures are from Appendix C and are explained in footnote 1 of that Appendix. The figures for 1981 - 1984 are on a calendar year basis, and for 1985 - 1989 on a fiscal year basis.
- 3 These statistics are based on the date the request was issued and not the date the investigation was opened.
- 4 These statistics are based on the date of the M-S-R filing and not the date action was taken on the request.
- 5 Includes the following number of non-reportable transactions: three in both 1979 and 1980; two in 1981; fifteen in 1982; eight in 1983; twenty in 1984; eighteen in 1985; fourteen in 1986; sixteen in 1987; twenty-four in 1988; and fifty-four in 1989.

**APPENDIX B**

**APPENDIX B**  
**TABLE 1. NUMBER OF FILINGS RECEIVED 1/ BY MONTH FOR FISCAL YEARS 1979 - 1989**

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
October	122	228	159	249	199	155	229	350	523	443	550
November	158	207	142	200	181	210	269	348	921	421	602
December	108	108	152	200	167	212	194	263	404	455	485
January	127	105	134	144	149	131	211	199	177	311	350
February	150	113	108	104	116	180	210	221	193	358	362
March	146	103	145	181	148	255	295	287	278	437	468
April	112	108	111	152	129	212	267	236	314	445	371
May	166	94	163	169	139	199	286	350	351	442	472
June	142	110	161	213	191	193	232	308	360	453	504
July	168	104	183	178	169	211	302	337	417	403	423
August	141	143	162	144	199	260	239	351	376	583	517
September	103	129	184	122	184	200	241	361	428	421	426
<b>TOTAL</b>	<b>1643</b>	<b>1552</b>	<b>1804</b>	<b>2056</b>	<b>1971</b>	<b>2418</b>	<b>2975</b>	<b>3611</b>	<b>4742</b>	<b>5172</b>	<b>5530</b>

1/ Usually, two filings are received, one from the acquiring person and one from the acquired person when a transaction is reported. Only one filing is received when an acquiring person files for a transaction that is exempt under Sections 7A(c)(6) and (c)(8) of the Clayton Act.

APPENDIX B

**Table 2. Number of Transactions Reported by Month for the Fiscal Years 1979 - 1989**

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
October	63	78	91	116	89	89	132	195	290	245	259
November	80	85	78	117	100	107	145	187	494	216	316
December	67	54	88	111	96	124	103	144	199	243	267
January	71	56	73	92	91	76	111	108	96	161	160
February	75	64	60	67	57	98	110	120	104	204	201
March	75	58	75	105	80	136	153	149	163	224	236
April	57	60	64	95	81	118	149	131	162	230	202
May	84	55	92	105	88	107	156	211	185	228	254
June	76	64	87	131	104	112	126	145	197	241	264
July	88	60	107	102	92	120	160	180	218	223	223
August	75	82	92	91	116	144	136	187	194	310	273
September	50	68	89	71	99	109	122	192	231	221	228
<b>TOTAL</b>	<b>861</b>	<b>784</b>	<b>996</b>	<b>1203</b>	<b>1093</b>	<b>1340</b>	<b>1603</b>	<b>1949</b>	<b>2533</b>	<b>2746</b>	<b>2883</b>

APPENDIX C

Appendix C

Investigations Where Additional Information Was Requested  
Calendar Years 1981 - 1984 and Fiscal Years 1985 - 1989

	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Transactions <u>1</u>	762	713	903	1119	1301	1660	2170	2391	2535

Investigations In Which  
Second Requests  
Were Issued 2/

FTC									
Number	34	39	12	25	24	32	18	39	35
Percent <u>3/</u>	4.5	5.5	1.3	2.2	1.8	1.9	0.8	1.6	1.4
DOJ									
Number	35	26	22	36	43	39	40	29	29
Percent <u>3/</u>	4.6	3.6	2.4	3.2	3.3	2.3	1.8	1.2	1.1

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 Premerger 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 §801.4 of the premerger notification rules. Secondary acquisitions have been deducted in order to be consistent with the statistics presented in most of the prior annual reports. Appendix C in the Eighth Annual Report did not exclude secondary acquisitions. Accordingly, the numbers of transactions for 1981 - 1984 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.

TABLE 1

FISCAL YEAR 1989 1/  
ACQUISITIONS BY SIZE OF TRANSACTION 2/  
(BY SIZE RANGE)

TRANSACTION RANGE ( \$ MILLIONS )	M-B-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS 3/					
	NUMBERS 4/	PERCENTS 5/	NUMBER	FTC	DOJ	PERCENTS 6/	NUMBER	FTC	DOJ	TOTAL	
LESS THAN 15	175	6.9	9	2	5.1	1.1	1	1	1	.6	
15 UP TO 25	619	24.4	65	13	10.5	2.1	4	4	0	1.3	
25 UP TO 50	657	25.9	65	14	9.9	2.1	6	3	3	.9	
50 UP TO 100	433	17.1	39	15	9.0	3.5	5	0	0	1.2	
100 UP TO 150	169	6.7	16	10	9.5	5.9	3	1	1	1.8	
150 UP TO 200	111	4.4	10	-	16.2	-	3	2	2	2.7	
200 UP TO 300	107	4.2	15	7	14.0	6.5	3	3	3	2.0	
300 UP TO 500	105	4.1	12	4	11.4	3.0	2	2	-	1.9	
500 UP TO 1000	80	3.2	8	7	10.0	0.0	2	3	3	2.5	
1000 AND UP	79	3.1	13	7	16.5	8.9	7	7	-	0.9	
ALL TRANSACTIONS	2535	100.0	260	79	10.3	3.1	35	29	1.4	1.1	2.5

TABLE 11

FISCAL 1989 1/  
ACQUISITIONS BY SIZE OF TRANSACTION 2/  
(CUMULATIVE)

TRANSACTION RANGE	N-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/					
	NUMBERS	PERCENTS	NUMBER	FTC	DOJ	TOTAL	PERCENTAGE OF TOTAL NUMBER OF CLEARANCES GRANTED	NUMBER	FTC	DOJ	TOTAL	PERCENTAGE OF TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS
LESS THAN 15	175	6.9	9	2	2	3.2	2.7	0.6	1	1	1.6	1.6
LESS THAN 25	794	31.3	74	15	15	26.3	21.8	4.4	4	9	6.2	14.1
LESS THAN 50	1451	57.2	139	29	29	49.6	41.0	8.6	10	12	15.6	18.8
LESS THAN 100	1884	74.3	178	44	44	65.5	52.5	13.0	15	20	23.4	31.2
LESS THAN 150	2053	81.0	194	54	54	73.2	57.2	15.9	18	21	28.1	32.8
LESS THAN 200	2164	85.4	212	54	54	78.5	62.5	15.9	21	23	32.0	35.9
LESS THAN 300	2271	89.6	227	61	61	85.0	67.0	18.0	24	26	37.5	40.6
LESS THAN 500	2376	93.7	239	65	65	89.7	70.5	19.2	26	26	40.6	40.6
LESS THAN 1000	2456	96.9	247	72	72	94.1	72.9	21.2	28	29	43.8	45.3
ALL TRANSACTIONS	2535	100.0	260	79	79	100.0	76.7	23.3	35	29	54.7	45.3



TABLE III

FISCAL YEAR 1989 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	9	2	11	.4	.1	.4	5.1	1.1	6.3	2.7	.6	3.2
15 UP TO 25	65	13	78	2.6	.5	3.1	10.5	2.1	12.6	19.2	3.8	23.0
25 UP TO 50	65	14	79	2.6	.6	3.1	9.9	2.1	12.0	19.2	4.1	23.3
50 UP TO 100	39	15	54	1.5	.6	2.1	9.0	3.5	12.5	11.5	4.4	15.9
100 UP TO 150	16	10	26	.6	.4	1.0	9.5	5.9	15.4	4.7	2.9	7.7
150 UP TO 200	18	-	18	.7	-	.7	16.2	-	16.2	5.3	-	5.3
200 UP TO 300	15	7	22	.6	.3	.9	14.0	6.5	20.6	4.4	2.1	6.5
300 UP TO 500	12	4	16	.5	.2	.6	11.4	3.8	15.2	3.5	1.2	4.7
500 UP TO 1000	8	7	15	.3	.3	.6	10.0	8.8	18.8	2.4	2.1	4.4
1000 AND UP	13	7	20	.5	.3	.8	16.5	8.9	25.3	3.8	2.1	5.9
ALL CLEARANCES	260	79	339	10.3	3.1	13.4	10.3	3.1	13.4	76.7	23.3	100.0

TABLE IV

FISCAL YEAR 1989 1/  
INVESTIGATIONS OPENED TO ISSUE SECOND REQUESTS

SECOND REQUEST INVESTIGATIONS 3/ AS A PERCENTAGE OF:

TRANSACTION RANGE ( \$ MILLIONS )	INVESTIGATIONS OPENED TO ISSUE SECOND REQUESTS3/			TOTAL NUMBER OF TRANSACTIONS4/			TRANSACTIONS IN EACH TRANSACTION RANGE GROUP7/			TOTAL NUMBER OF SECOND REQUEST INVESTIGATIONS3/		
	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
LESS THAN 15	-	1	1	-	†	†	-	.6	.6	-	1.6	1.6
15 UP TO 25	4	8	12	.2	.3	.5	.6	1.3	1.9	6.2	12.5	18.8
25 UP TO 50	6	3	9	.2	.1	.4	.9	.5	1.4	9.4	4.7	14.1
50 UP TO 100	5	8	13	.2	.3	.5	1.2	1.8	3.0	7.8	12.5	20.3
100 UP TO 150	3	1	4	.1	†	.2	1.8	.6	2.4	4.7	1.6	6.2
150 UP TO 200	3	2	5	.1	.1	.2	2.7	1.8	4.5	4.7	3.1	7.8
200 UP TO 300	3	3	6	.1	.1	.2	2.8	2.8	5.6	4.7	4.7	9.4
300 UP TO 500	2	-	2	.1	-	.1	1.9	-	1.9	3.1	-	3.1
500 UP TO 1000	2	3	5	.1	.1	.2	2.5	3.8	6.2	3.1	4.7	7.8
1000 AND UP	7	-	7	.3	-	.3	8.9	-	8.9	10.9	-	10.9
ALL TRANSACTIONS	35	29	64	1.4	1.1	2.5	1.4	1.1	2.5	54.7	45.3	100.0

TABLE V  
 PISCAL YEAR 1989 1/  
 ACQUISITIONS BY REPORTING THRESHOLD

THRESHOLD	R-8-R TRANSACTIONS NUMBER/	PERCENT	CLEANANCE GRANTED TO PTC OR DOJ			PERCENTAGE OF THRESHOLD GROUP			SECOND REQUEST INVESTIGATIONS/			PERCENTAGE OF THRESHOLD GROUP		
			NUMBER	PTC	DOJ	PTC	DOJ	TOTAL	NUMBER	PTC	DOJ	PTC	DOJ	TOTAL
\$15 MILLION	110	4.7	5	2	2	4.2	1.7	5.9	-	-	-	-	-	-
150	70	3.1	4	2	2	5.1	2.6	7.7	1	-	1.3	-	1.3	
250	91	3.6	4	1	1	4.4	1.1	5.5	1	4	1.1	-	1.1	
500	1235	40.7	151	39	39	12.2	3.2	15.4	22	16	1.0	1.3	3.1	
ASSETS ONLY	1013	40.0	96	35	35	9.5	3.5	12.9	11	13	1.1	1.3	2.4	
ALL TRANSACTIONS	2535	100.0	260	79	79	10.3	3.1	13.4	35	29	1.4	1.1	2.5	

TABLE VI

FISCAL YEAR 1969 1/  
TRANSACTIONS BY ASSETS OF ACQUIRING PERSONS

ASSET RANGE ( \$MILLIONS )	N-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ		SECOND REQUEST INVESTIGATIONS/		PERCENTAGE OF		PERCENTAGE OF	
	NUMBERS/	PERCENT	NUMBER	FTC DOJ	NUMBER	FTC DOJ	NUMBER	FTC DOJ	ASSET RANGE GROUP	ASSET RANGE GROUP
LESS THAN 15	75	3.0	3	4.0	1	1	1	1	1.0	1.0
15 UP TO 25	55	2.2	5	9.1	2	2	2	2	1.0	1.0
25 UP TO 50	111	4.4	8	7.2	-	-	-	-	1.0	1.0
50 UP TO 100	159	6.3	12	7.5	-	-	-	-	.6	.6
100 UP TO 150	178	7.0	11	6.2	2	2	1	1	.6	.6
150 UP TO 200	133	5.2	9	6.8	3	3	2	2	1.5	1.5
200 UP TO 300	166	6.5	14	8.4	2	2	1	1	.6	.6
300 UP TO 500	177	7.0	16	9.0	5	5	2	2	1.1	1.1
500 UP TO 1000	242	9.5	28	11.6	8	8	5	5	2.1	2.1
1000 AND UP	1229	48.5	154	12.5	57	57	21	22	1.7	1.8
ASSETS NOT AVAILABLE/	10	.4	-	-	-	-	-	-	-	-
ALL TRANSACTIONS	2535	100.0	260	10.3	79	79	35	29	1.4	1.1
									13.4	2.5

TABLE VII

FISCAL YEAR 1969 1/  
TRANSACTIONS BY SALES OF ACQUIRING PERSONS

	N-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 2/						
	NUMBER 4/	PERCENT	NUMBER	PERCENTAGE OF SALES RANGE GROUP		NUMBER		PERCENTAGE OF SALES RANGE GROUP					
			FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 15	157	6.2	1	1	.6	.6	1.3	-	-	-	-	-	-
15 UP TO 25	57	2.2	4	-	7.0	-	7.0	-	-	-	-	-	-
25 UP TO 50	98	3.9	6	-	6.1	-	6.1	-	-	-	-	-	-
50 UP TO 100	149	5.9	13	3	8.7	2.0	10.7	3	1	2.0	.7	2.7	2.7
100 UP TO 150	136	5.4	9	1	6.6	.7	7.4	-	-	-	-	-	-
150 UP TO 200	117	4.6	8	4	6.8	3.4	10.3	1	3	.9	2.6	3.4	3.4
200 UP TO 300	142	5.6	11	1	7.9	.7	8.5	1	-	.7	-	.7	.7
300 UP TO 500	186	7.3	27	5	14.5	2.7	17.2	4	1	2.2	.5	2.7	2.7
500 UP TO 1000	247	9.7	32	7	13.0	2.8	15.8	3	3	1.2	1.2	2.4	2.4
1000 AND UP	1153	45.5	148	57	12.8	4.9	17.8	23	21	2.0	1.8	3.8	3.8
SALES NOT AVAILABLE 2/	93	3.7	1	-	1.1	-	1.1	-	-	-	-	-	-
ALL TRANSACTIONS	2935	100.0	260	79	10.3	3.1	13.4	35	29	1.4	1.1	2.5	2.5

TABLE VIII

FISCAL YEAR 1989 1/  
TRANSACTIONS BY ASSETS OF ACQUIRED ENTITIES 10/

ASSET RANGE ( \$ MILLIONS )	N-S-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/						
	NUMBER	PERCENT	NUMBER	PERCENTAGE OF ASSET RANGE GROUP		NUMBER	PERCENTAGE OF ASSET RANGE GROUP		NUMBER	PERCENTAGE OF ASSET RANGE GROUP			
			FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 15	263	10.4	23	4	0.7	1.5	10.3	-	.3	-	1.1	1.1	1.1
15 UP TO 25	442	17.4	36	12	8.1	2.7	10.9	3	5	.7	1.1	1.1	1.8
25 UP TO 50	564	22.2	70	9	12.4	1.6	14.0	7	4	1.2	.7	.7	1.9
50 UP TO 100	389	15.3	43	12	11.1	3.1	14.1	6	5	1.5	1.3	1.3	2.6
100 UP TO 150	185	7.3	20	9	10.8	4.9	15.7	3	-	1.6	-	-	1.6
150 UP TO 200	121	4.8	13	3	10.7	2.5	13.2	1	3	.8	2.5	2.5	3.3
200 UP TO 300	111	4.4	10	7	9.0	6.3	15.3	-	5	-	4.5	4.5	4.5
300 UP TO 500	138	5.4	14	4	10.1	2.9	13.0	4	-	2.9	-	-	2.9
500 UP TO 1000	106	4.2	10	6	9.4	5.7	15.1	3	4	2.0	3.0	3.0	6.6
1000 AND UP	183	7.3	17	13	9.2	7.0	16.2	7	-	3.8	-	-	3.8
ASSETS NOT AVAILABLE 11/	31	1.2	4	-	12.9	-	12.9	1	-	3.2	-	-	3.2
ALL TRANSACTIONS	2535	100.0	260	79	10.3	3.1	13.4	35	29	1.4	1.1	1.1	2.5

**TABLE IX**

**FISCAL YEAR 1969 1/  
TRANSACTIONS BY SALES OF ACQUIRED ENTITIES 12/**

SALES RANGE ( \$MILLIONS )	H-B-R TRANSACTIONS		CLEARANCE GRANTED TO FTC OR DOJ				SECOND REQUEST INVESTIGATIONS 3/						
	NUMBERS4/	PERCENT	NUMBER	PERCENTAGE OF SALES RANGE GROUP		NUMBER	PERCENTAGE OF SALES RANGE GROUP		NUMBER	PERCENTAGE OF SALES RANGE GROUP			
			FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ	TOTAL
LESS THAN 15	472	10.6	29	5	6.1	1.1	7.2	4	2	.8	.4	1.3	
15 UP TO 25	259	10.2	24	7	9.3	2.7	12.0	1	3	.4	1.2	1.5	
25 UP TO 50	463	18.3	40	14	9.6	3.0	11.7	4	8	.9	1.7	2.6	
50 UP TO 100	415	16.4	56	12	13.5	2.9	16.4	6	5	1.4	1.2	2.7	
100 UP TO 150	177	7.0	21	7	11.9	4.0	15.8	2	3	1.1	1.7	2.8	
150 UP TO 200	131	5.2	15	6	11.5	4.6	16.0	2	1	1.5	.8	2.3	
200 UP TO 300	111	4.4	19	5	17.1	4.5	21.6	2	-	1.8	-	1.8	
300 UP TO 500	112	4.4	12	2	10.7	1.8	12.5	1	4	.9	3.6	4.5	
500 UP TO 1000	106	4.2	13	5	12.3	4.7	17.0	4	-	3.0	-	3.0	
1000 AND UP	172	6.8	23	11	13.4	6.4	19.8	9	2	5.2	1.2	6.4	
SALES NOT AVAILABLE 13/	117	4.6	8	5	6.8	4.3	11.1	-	1	-	.9	.9	
ALL TRANSACTIONS	2535	100.0	260	79	10.3	3.1	13.4	35	29	1.4	1.1	2.5	

TABLE X

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

2-DIGIT  
SIC CODE 14/ INDUSTRY DESCRIPTION

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	NUMBER 4/	ACQUIRING PERSON			SECOND REQUEST INVESTIGATIONS		
			CLEARANCE TO FTC OR DOJ	FTC	DOJ	TOTAL	FTC	DOJ
01	Agricultural Production-Crops	1	-	-	-	-	-	-
02	Agricultural Production-Livestock and Animal Specialties	1	-	-	-	-	-	-
07	Agricultural Services	1	-	-	-	-	-	-
08	Forestry	2	-	-	-	-	-	-
10	Metal Mining	2	-	-	-	-	-	-
12	Bituminous Coal and Lignite Mining	0	-	-	-	-	-	-
13	Oil and Gas Extraction	50	1	-	1	-	-	-
15	Building Construction-General Contractors and Operative Builders	3	-	-	-	-	-	-
16	Construction other than Building Construction-General Contractors	1	-	-	-	-	-	-
17	Construction-Special Grade Contractors	7	1	-	1	-	-	-



TABLE I

FISCAL YEAR 1969 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

2-DIGIT  
SIC CODE 14/ INDUSTRY DESCRIPTION

ACQUIRING PERSON

CLEARANCE GRANTED  
TO FTC OR DOJ  
FTC DOJ TOTAL  
SECOND REQUEST  
INVESTIGATIONS 3  
FTC DOJ TOTAL

NUMBER 4/

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	NUMBER 4/	CLEARANCE GRANTED TO FTC OR DOJ			SECOND REQUEST INVESTIGATIONS 3		
			FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
20	Food and Kindred Products	54	6	2	8	2	-	2
22	Textile Mill Products	11	-	1	1	-	1	1
23	Apparel and other Finished Products made from Fabrics and Similiar Materials	15	1	-	1	-	-	-
24	Lumber and Wood Products, Except Furniture	11	1	-	1	-	-	-
25	Furniture and Fixtures	3	-	-	-	-	-	-
26	Paper and Allied Products	10	1	-	1	-	-	-
27	Printing, Publishing and Allied Products	42	3	-	3	1	-	1
28	Chemicals and Allied Products	40	19	1	20	3	-	3
29	Petroleum Refining and Related Industries	9	-	-	-	-	-	-
30	Rubber and Misc. Plastic Products	24	3	-	3	-	-	-
32	Stone, Clay, Glass, and Concrete Products	21	-	1	1	-	-	-

TABLE X

PISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

2-DIGIT  
SIC CODES 14/ INDUSTRY DESCRIPTION

2-DIGIT SIC CODES 14/	INDUSTRY DESCRIPTION	NUMBER 4/	ACQUIRING PERSON			SECOND REQUEST		
			CLEARANCE GRANTED TO FTC OR DOJ	FTC	DOJ	TOTAL	FTC	DOJ
33	Primary Metal Industries	20	7	3	10	1	1	2
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	24	10	1	11	1	1	2
35	Machinery, Except Electrical	49	15	3	18	-	-	-
36	Electrical and Electronic Machinery, Equipment and Supplies	32	12	1	13	1	-	1
37	Transportation Equipment	10	3	-	3	-	-	-
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	5	-	1	1	-	1	1
39	Miscellaneous Manufacturing Industries	5	-	-	-	-	-	-
40	Railroad Transportation	2	-	-	-	-	-	-
42	Motor Freight Transportation and Warehousing	5	-	2	2	-	2	2
44	Water Transportation	13	-	1	1	-	1	1

TABLE I

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

2-DIGIT SIC CODE 14/ INDUSTRY DESCRIPTION

ACQUIRING PERSON  
CLEARANCE GRANTED TO FTC OR DOJ  
SECOND REQUEST INVESTIGATIONS

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	NUMBER 4/	CLEARANCE GRANTED TO FTC OR DOJ		SECOND REQUEST INVESTIGATIONS	
			FTC	DOJ	FTC	DOJ
45	Transportation by Air	22	0	0	0	4
46	Pipelines, Except Natural Gas	1	-	-	-	-
47	Transportation Services	6	-	-	-	-
48	Communication	110	4	3	7	2
49	Electric, Gas, and Sanitary Services	25	4	3	7	2
50	Wholesale Trade-Durable Goods	62	7	3	10	1
51	Wholesale Trade-Non-durable Goods	37	4	1	5	-
52	Building Materials, Hardware, Garden Supply and Mobile Home Dealers	6	2	-	2	-
53	General Merchandise Stores	11	5	-	5	-
54	Food Stores	24	3	-	3	-
55	Automotive Dealers and Gasoline Service Stations	2	-	-	-	-

TABLE X

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS

2-DIGIT  
SIC CODE 14/  
INDUSTRY DESCRIPTION

	NUMBER <u>4</u> / -----	ACQUIRING PERSON				SECOND REQUEST INVESTIGATIONS	
		CLEARANCE GRANTED TO PTC OR DOJ		TOTAL		PTC	DOJ
		PTC	DOJ	TOTAL	PTC	DOJ	TOTL
56 Apparel and Accessory Stores	5	-	-	-	-	-	-
57 Furniture, Home Furnishing, and Equipment Stores	1	-	-	-	-	-	-
58 Eating and Drinking Places	9	-	-	-	-	-	-
59 Miscellaneous Retail	16	-	-	-	-	-	-
60 Banking	25	-	-	-	-	-	-
61 Credit Agencies other than Banks	20	-	-	-	-	-	-
62 Security and Commodity Brokers, Dealers, Exchanges, and Services	20	1	-	1	-	-	-
63 Insurance	60	-	1	1	-	-	1
64 Insurance Agents, Brokers, and Services	6	-	-	-	-	-	-
65 Real Estate	56	-	-	-	-	-	-
67 Holding and other Investment Offices	120	2	-	2	1	-	1



**TABLE I**

**FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRING PERSONS**

**--DIGIT  
IC CODE 14/** ----- **INDUSTRY DESCRIPTION** -----

	NUMBER 4/	ACQUIRING PERSON				SECOND REQUEST INVESTIGATIONS 3/	
		CLEARANCE GRANTED TO FTC OR DOJ		FTC DOJ TOTAL			
		FTC	DOJ	TOTAL	FTC	DOJ	TOTAL
09 Miscellaneous Services	11	-	-	-	-	-	-
99 Nonclassifiable Establishments	3	-	-	-	-	-	-
DV Diversified Companies	1099	136	37	173	19	11	30
00 Not Available 15/	105	3	-	3	-	-	-
<b>ALL TRANSACTIONS</b>	<b>2535</b>	<b>260</b>	<b>79</b>	<b>339</b>	<b>35</b>	<b>29</b>	<b>64</b>

TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY				NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS	
		CLEARANCE GRANTED TO FTC OR DOJ		SECOND REQUEST INVESTIGATIONS 3/			
		NUMBER 4/	FTC	DOJ	FTC	DOJ	TOTAL
01	Agricultural Production-Crops	5	-	1	-	-	1
07	Agricultural Services	2	-	-	-	-	-
08	Forestry	3	-	-	-	-	1
09	Fishing, Hunting, and Trapping	1	-	-	-	-	-
10	Metal Mining	7	-	1	-	-	-
12	Bituminous Coal and Lignite Mining	19	-	-	-	-	7
13	Oil and Gas Extraction	112	-	-	-	-	30
14	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	4	2	-	-	-	-
15	Building Construction-General Contractors and Operative Builders	6	-	-	-	-	2
16	Construction other than Building Construction-General Contractors	3	-	-	-	-	-
17	Construction-Special Grade Contractors	9	-	-	-	-	4

TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

1-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY						NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS
		CLEARANCE GRANTED TO FTC OF DOJ			SECOND REQUEST INVESTIGATIONS 3/			
		FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
20	Food and Kindred Products	12	9	21	3	3	6	43
22	Textile Mill Products	1	1	2	-	1	1	7
23	Apparel and other Finished Products made from Fabrics and Similar Materials	1	-	1	-	-	-	9
24	Lumber and Wood Products, Except Furniture	1	1	2	-	-	-	11
25	Furniture and Fixtures	1	-	1	-	-	-	1
26	Paper and Allied Products	3	-	3	-	-	-	7
27	Printing, Publishing and Allied Products	5	1	6	1	-	1	34
28	Chemicals and Allied Products	39	1	40	8	1	9	33
29	Petroleum Refining and Related Industries	1	-	1	1	-	1	6
30	Rubber and Misc. Plastics Products	6	1	7	-	1	1	16



TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY				NUMBER OF PTC 4/	CLEARANCE GRANTED TO PTC OF DOJ		SECOND REQUEST INVESTIGATIONS 3/		NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS
		PTC	DOJ	TOTAL	PTC		DOJ	TOTAL	PTC	DOJ	
31	Leather and Leather Products	-	-	-	4	-	-	-	-	-	-
32	Stone, Clay, Glass, and Concrete Products	4	2	6	35	4	2	-	-	-	12
33	Primary Metal Industries	7	3	10	47	7	3	1	1	2	10
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	13	1	14	46	13	1	-	1	1	13
35	Machinery, Except Electrical	26	6	32	93	26	6	-	-	-	35
36	Electrical and Electronic Machinery, Equipment and Supplies	18	4	22	86	18	4	1	2	3	10
37	Transportation Equipment	2	-	2	27	2	-	-	-	-	10
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	2	2	4	19	2	2	-	1	1	2
39	Miscellaneous Manufacturing Industries	-	-	-	11	-	-	-	-	-	3

TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	NUMBER 4/	ACQUIRED ENTITY			NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTION		
			CLEARANCE GRANTED TO FTC OF DOJ	SECOND REQUEST INVESTIGATIONS 3/	TOTAL			
			FTC	DOJ	FTC	DOJ	DOJ	TOTAL
40	Railroad Transportation	1	-	-	-	-	-	-
42	Motor Freight Transportation and Warehousing	11	-	1	-	1	1	4
44	Water Transportation	10	-	1	-	1	1	10
45	Transportation by Air	27	-	7	-	3	3	19
46	Pipe Lines, Except Natural Gas	1	-	-	-	-	-	1
47	Transportation Services	12	-	1	-	1	1	2
48	Communication	167	7	5	12	2	-	96
49	Electric, Gas, and Sanitary Services	34	10	3	13	4	2	16
50	Wholesale Trade-Durable Goods	74	7	2	9	1	2	28
51	Wholesale Trade-Nondurable Goods	59	6	2	10	-	1	5
52	Building Materials, Hardware, Garden Supply and Mobile Home Dealers	9	3	-	3	-	-	4

TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY						NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS
		CLEARANCE GRANTED TO FTC OF DOJ		SECOND REQUEST INVESTIGATIONS 3/		TOTAL	TOTAL	
		FTC	DOJ	FTC	DOJ			FTC
53	General Merchandise Stores	6	-	6	-	-	-	6
54	Food Stores	6	-	6	2	2	-	19
55	Automotive Dealers and Gasoline Service Stations	1	-	1	1	1	-	2
56	Apparel and Accessory Stores	2	-	2	-	-	-	3
57	Furniture, Home Furnishing, and Equipment Stores	-	-	-	-	-	-	1
58	Eating and Drinking Places	-	-	-	-	-	-	6
59	Miscellaneous Retail	-	-	-	-	-	-	11
60	Banking	-	-	-	-	-	-	9
61	Credit Agencies other than Banks	1	-	1	-	-	-	20
62	Security and Commodity Brokers, Dealers, Exchanges, and Services	1	-	1	-	-	-	9
63	Insurance	1	1	2	-	-	1	38

TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	NUMBER 4/	ACQUIRED ENTITY			NUMBER OF 2-DIGIT INTRA-INDUSTRY TRANSACTIONS		
			CLEARANCE GRANTED TO FTC OF DOJ	SECOND REQUEST INVESTIGATIONS 3/	TOTAL			
		FTC	DOJ	TOTAL	FTC	DOJ	TOTAL	
64	Insurance Agents, Brokers, and Services	7	-	-	-	-	-	3
65	Real Estate	91	-	-	-	-	-	26
67	Holding and other Investment Offices	40	1	-	1	-	-	12
70	Hotels, Rooming Houses, Camps, and other Lodging Places	40	-	-	-	-	-	17
72	Personal Services	2	-	1	1	-	-	1
73	Business Services	102	7	2	9	-	1	30
75	Automotive Repair, Services, and Garages	9	1	-	1	-	-	5
76	Miscellaneous Repair Services	3	-	-	-	-	-	-
78	Motion Pictures	25	1	2	3	-	2	11
79	Amusement and Recreation Services, Except Motion Pictures	10	-	-	-	-	-	1

TABLE XI

FISCAL YEAR 1989 1/  
INDUSTRY GROUP OF ACQUIRED ENTITY

2-DIGIT SIC CODE 14/	INDUSTRY DESCRIPTION	ACQUIRED ENTITY				NUMBER OF 2-DIGIT INTRA-INDUSTRIAL TRANSACTIONS
		CLEARANCE GRANTED TO FTC OF DOJ		SECOND REQUEST INVESTIGATIONS 3/		
		PTC	DOJ	PTC	DOJ	TOTAL
80	Health Services	3	2	5	1	1
82	Educational Services	-	-	-	-	3
83	Social Services	-	-	-	-	-
87	Engineering, Accounting, Research, Management, and Related Services	-	-	-	-	-
89	Miscellaneous Services	-	-	-	1	6
99	Nonclassifiable Establishments	2	-	2	-	-
07	Diversified Companies	42	12	54	9	2
00	Not Available 16/	6	3	9	1	1
	ALL TRANSACTIONS	260	79	339	35	29
		2535				64
						1024

FOOTNOTES TO FISCAL YEAR 1989

- 1/ Fiscal 1989 includes transactions reported between October 1, 1988 and September 30, 1989.
- 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 1989, 2883 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 2535, reflects adjustments to eliminate the following types of transactions: (1) 16 transactions reported under Section (c)(6) and 167 transactions reported under Section (c)(8) (transactions involving certain regulated industries and financial businesses); (2) 74 transactions which were followed by separate notifications for one or more additional transactions between the same parties during fiscal 1989 (such transactions are listed here as single consolidated transactions); (3) 59 transactions found to be non-reportable; (4) 11 incomplete transactions for one party in each transaction filed a compliant notification; (5) 15 transactions withdrawn before the premerger review process; and (6) 6 secondary acquisitions (filed pursuant to Section 801.40 (a)(4) reported as a result of reportable primary transactions). The table does not however, exclude 34 competing offers or 264 multiple-party transactions (transactions 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) (SBC 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.

12/ The sales of the acquired entity were taken from Items 4(a) and (b) (SBC documents and annual reports) or responses to Item 5 (dollar revenues) of the promerger notification and report form.

13/ Transactions in this category are represented by the acquisitions of newly-formed corporations or corporate joint ventures from which no sales were generated, and acquisitions of assets which had produced no sales or revenues during the year prior to filing the notification and report form.

14/ 2-Digit SIC codes are part of the system of Standard Industrial Classification established by the UNITED STATES GOVERNMENT STANDARD CLASSIFICATION MANUAL, 1987, Executive Office of the President - Office of Management and Budget. The SIC groupings used in this table were determined from responses submitted by filing parties to Item 5 of the promerger notification and report form.

15/ Transactions included in this category represent newly-formed companies, companies with no United States operations, notifications filed by some individuals, and filings withdrawn before the industry classification could be determined.

16/ Transactions in this category include filings withdrawn before an industry group could be determined and newly-formed entities.

NOTE: Detail may not add to total due to rounding; \* - less than 0.01 percent.