

Antitrust Alert: FTC Announces Annual Revision of HSR Threshold

Size of Transaction Test Will Be \$65.2 Million

1/8/2009

The Federal Trade Commission (FTC) recently released the revised thresholds for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"). The HSR Act requires parties engaging in certain mergers or acquisitions to file a notification and report form with the FTC and the Antitrust Division of the Department of Justice (DOJ), and to observe the statutorily prescribed waiting period (usually 30 days) prior to closing, if the parties meet the threshold requirements (absent any applicable exemptions). The FTC revises the thresholds annually based on changes in the gross national product. The new thresholds will be effective 30 days after their publication in the Federal Register.

New Thresholds

The revised thresholds require a premerger notification filing for the acquisition of securities or assets valued at **\$65.2 million** or more ("Size-of-Transaction" test) if either the acquiring or the acquired party has at least **\$13 million** in assets or sales, and the other party has at least **\$130.3 million** in assets or sales ("Size-of-Person" test). Also under the revised thresholds, a notification is required where the Size-of-Transaction is **\$260.7 million** or more, regardless of the Size-of-Person.¹

Filing Fees

Filing fees for the premerger notification remain unchanged, but the FTC has revised the thresholds used to determine the filing fees. Under the revised thresholds, the filing fees are as follows:

Filing Fee	New Filing Fee Thresholds
\$45,000	For acquisitions valued at \$65.2 million or more up to \$130.3 million.
\$125,000	For acquisition valued at \$130.3 million or more up to \$651.7 million.
\$280,000	For acquisition valued at \$651.7 million or more.

Endnotes

¹ The old thresholds required a premerger notification filing for the acquisition of securities or assets valued at \$63.1 million or more if either the acquiring or the acquired party had at least \$12.6 million in assets or sales, and the other party had at least \$126.2 million in assets or sales. The Size-of-Person test was not required if the value of the securities or assets acquired was at least \$252.3 million.

Feel free to contact one of the attorneys listed below for further information on this or any HSR-related question. We would be pleased to assist you with any concerns you may have.

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