

Recent Developments in Antitrust and Competition Law

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NEW THRESHOLDS ANNOUNCED FOR HART-SCOTT-RODINO PREMERGER FILINGS

The Federal Trade Commission ("FTC") announced in the January 31, 2005 Federal Register that it has revised the filing thresholds under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"), as required by the 2000 amendments to the HSR Act.

Under the current HSR scheme, persons with a good faith intention to consummate certain mergers, acquisitions or joint ventures involving the transfer of \$50 million or more in assets or voting securities are required to file a pre-merger notification form with the U.S. Department of Justice and the Federal Trade Commission, and to wait 30 days (unless earlier terminated or extended by the government) before consummating such transactions.

The revised HSR rules raise the \$50 million "size-of-transaction" threshold to **\$53.1 million**. This means that a transaction valued between \$50 and 53.0 million, reportable under the current regime, will no longer be subject to the pre-merger notification requirements. (Note, however, that this does not mean that such a transaction will be free from federal or state regulatory

scrutiny if, based on the nature of the markets affected, the parties' market shares, and other relevant factors, the transaction raises competitive concerns.) Other dollar amounts relevant to the pre-merger filing requirement (including, for example, the "size-of-person" thresholds) will also be raised and reflected in related amendments.

The new thresholds will take effect on March 2, 2005, and will apply to all transactions that close on or after this effective date. However, any filings made before the effective date, even if for transactions not meeting the new thresholds, will still be subject to the 30-day waiting period.

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This document is intended as an informational notice and does not constitute legal advice. If you have any questions or would like to discuss a particular transaction, you should contact your usual Wiggin and Dana attorney or one of the following:

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