



2022

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Draft: October 28, 2022

Merger Enforcement Statistics: 2001-2020

Logan Billman & Steven C. Salop*

I. Overview

This article analyzes merger enforcement data for the period between 2001 and 2020, using a database created by the authors. The database lists the identity and outcome of every transaction that received a second request during this 20-year period. The database also lists the identity and outcome of every challenge to an already-consummated merger during the period. The goal of creating the database is to provide further information on merger enforcement, which hopefully can inform policy and spur additional analysis.¹

We have focused on the 2001-2020 period. It is the most recent period. But it also differs substantially from the previous twenty years. Those two decades were a period of transition, beginning with the *1982 Merger Guidelines*.² Those Guidelines were based on an explicit economic framework and took what seemed like a new approach to market definition. They replaced concentration ratios with the HHI and created a concentration safe harbor as well as a critical HHI level for applying the structural presumption. The presumption level was roughly consistent with the concentration level in *Philadelphia National Bank*.³ But it clearly was much higher than the levels in *Vons* or the *1968 Merger Guidelines*. The 1982 Merger Guidelines also treated entry and coordination impediments as rebuttal factors.

The legal and economic approach to mergers went through significant developments in these two decades. The 1982 Merger Guidelines suggested that easy entry could justify even a merger to monopoly. *Waste Management* (1984)⁴ and *Syufy* (1990)⁵ then used a finding of easy entry to

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¹ With this goal in mind, the authors intend to provide access to the database on an open-source basis to users willing to grant back access to additional data they collect and use in their work with our database.

² U.S. Department of Justice Merger Guidelines (1982).

³ *United States v. Philadelphia Nat'l Bank*, 374 U.S. 321 (1963).

⁴ *United States v. Waste Management, Inc.*, 743 F.2d 976, 978, 983-84 (2d Cir. 1984).

⁵ *United States v. Syufy Enters.*, 903 F.2d 659 (9th Cir. 1990).

permit those mergers. *Baker Hughes* (1990)⁶ used findings of easy entry and coordination impediments to permit that merger.⁷

Following these losses, the *1992 Merger Guidelines* created an explicit framework for evaluating ease of entry. It also added a more detailed approach to potential impediments to coordinated effects. Most importantly, it also took the large step of introducing a new economic analysis of unilateral competitive effects. Unilateral effects theory was used by New York in *Kraft General Foods* (1995),⁸ though it failed on the facts. By contrast, the FTC prevailed on a unilateral effects theory in *Staples* (1996).⁹ The 1990s also saw the introduction of a more detailed approach to evaluating efficiency claims. The parties' efficiency claims failed in *Staples* and the 1997 Merger Guidelines developed the modern approach to merger efficiency claims. All of these changes increased the sophistication and complexity of merger analysis.

Merger law also made significant developments. In contrast to *Philadelphia National Bank* (1963)¹⁰ or Judge Posner's opinion in *Hospital Corporation of America* (1986),¹¹ *Baker Hughes* downplayed the role of concentration evidence and the structural presumption, going so far as stating the concentration is merely a "convenient starting point." However, by contrast, the decade ended with the *Heinz* decision in early 2001 adopting a sliding scale approach, such that the strength of the presumption depended on the level of concentration.

By 2001, the basic economic and legal framework has achieved some stability. This not to say that the period since 2001 has been devoid of change. While there were only 38 cases (about two per year) that reached outcome at trial during the 2001-2020 period, there were 366 (about 18 per year) consent decrees that can be studied among the 969 (about 48 per year) second requests. The number of cases, case selection and outcomes exhibit some significant developments. There was also considerable complexity.

First, since 2001, almost all litigated cases have focused on unilateral effects rather than (or in addition to) coordinated effects. *H.R. Block* (2011)¹² is a good example of the theories being successfully pursued by the government. The DOJ surprisingly lost *Oracle* (2004)¹³ when the court arguably defined an unreasonably overbroad market. And the FTC lost the *Lunbeck*

⁶ *United States v. Baker Hughes Inc.*, 908 F. 2d 981 (D.C. Cir. 1990).

⁷ For a critique of the entry analysis in *Syufy* and *Baker Hughes*, see Jonathan B. Baker, *The Problem With Baker Hughes and Syufy: On the Role of Entry in Merger Analysis*, 65 ANTITRUST L.J. 353 (1996)

⁸ *State of N.Y. v. Kraft General Foods, Inc.*, 862 F. Supp. 1030 (S.D.N.Y. 1993)

⁹ *FTC v. Staples*, 970 F. Supp. 1066 (D.D.C. 1997),

¹⁰ *United States v. Phila. Nat'l Bank*, 374 U.S. 321, 363 (1963).

¹¹ *Hospital Corp. of Am. v. FTC*, 807 F.2d 1381, 1386 (7th Cir. 1986).

¹² *United States v. H & R Block, Inc.*, 833 F. Supp. 2d 36 (2011)

¹³ *United States v. Oracle Corporation*, 331 F. Supp. 2d 1098 (N.D. Cal. 2004).

(2010)¹⁴ when the court arguably defined an unreasonably narrow market. But, most of the other recent opinions have appeared within the mainstream.

Second, that 20 year period witnessed a rebirth and focus on successful challenges to hospital mergers by the FTC. While the FTC lost a number of cases in the 1990s, the successful case brought against the already-consummated *Evanston/Northwestern* merger in 2004 (and decided by the Commission in 2007) revitalized the program. The FTC subsequently challenged 9 other hospital mergers. Of these, 6 went to trial and the FTC won 5, while losing only 1. Of the remaining 3, 2 were abandoned after the complaint and 1 was resolved with a consent decree.

Third, the *2010 Merger Guidelines* were a major update. On the one hand, the Guidelines could be seen as loosening enforcement standards by raising the HHI levels from the safe harbor and structural presumption. On the other hand, they tightened standards by updating unilateral effects analysis by introducing the GUPPI measure and extending the analysis to negotiation and innovation markets, updating coordinated effects analysis by focusing on the role of mavericks and working to reduce the agencies' burden of showing likely coordinated effects, and contemplating the adoption of rigorously derived targeted customer sub-markets. The 2010 Guidelines also took a more holistic approach to the evidence and came close to adopting anticompetitive presumptions based on GUPPIs and mavericks. Like its predecessors, these Guidelines have achieved significant acceptance in the courts.¹⁵

Fourth, the idea of asking the district court to expand the scope of the litigation by including adjudication of the defendant's voluntary remedy proposal ("litigating the fix") became common.¹⁶ While this trial strategy failed in *Libbey* (2002),¹⁷ it succeeded in *Arch Coal* (2004).¹⁸ Since that time, defendants proposed fixes in a significant number of FTC and DOJ cases, including *CCC* (2009),¹⁹ *Ardaugh* (2013), *Sysco* (2015),²⁰ *Aetna* (2016),²¹ *Staples* (2016),

¹⁴ Federal Trade Commission v. Lundbeck, Inc., No. 10-3458 (8th Cir. 2011). *FTC v. Lundbeck, Inc.*, No. 08-6379 and *Minnesota v. Lundbeck, Inc.*, No. 08-6381 (D. Minn. August 31, 2010).

¹⁵ Shapiro and Shelanski.

¹⁶ For further discussion of "litigating the fix" cases, see Steven C. Salop & Jennifer E. Sturiale, *Fixing "Litigating the Fix"* (unpublished manuscript, October 2022)

¹⁷ *FTC v. Libbey, Inc.*, 211 F. Supp. 2d 34, 41 (D.D.C. 2002)

¹⁸ *FTC v. Arch Coal*, 329 F. Supp. 2d 109, 114 (D.D.C. 2004)

¹⁹ *United States v. CCC Holdings*, 605 F. Supp. 2d 26 (D.D.C. 2009)

²⁰ *FTC v. Sysco Corporation*, 113 F. Supp. 3d 1, 15 (D.D.C. 2015)

²¹ *United States v. Aetna Inc.*, 240 F. Supp. 3d 1, 8 (D.D.C. 2017)

AT&T/Time Warner (2018),²² *Otto Bock* (2019),²³ and *Evonik/PeroxyChem* (2020),²⁴ as well as the *T-Mobile* (2020)²⁵ case brought by a number of States. This strategy has cascaded more recently with fixes under decided or under consideration in 2022: *Illumina*,²⁶ *UHG*,²⁷ *Booz Allen*,²⁸ *Penguin*,²⁹ and *Assa Abloy*.³⁰

Fifth, the 2001-2020 period showed increasing concern with mergers that had vertical merger elements. Over the 20-year period, about 44% (i.e., 34) of 77 challenges involved mergers that were either purely vertical or a combination of vertical and horizontal. However, a closer look at these consent decrees would indicate that where there were both horizontal and vertical issues, the agency often focused only on the horizontal.³¹ For example, the *St. Lukes*³² merger case in Idaho had a vertical element, but the FTC focuses only on the horizontal aspect at trial, while the private plaintiff focused on the vertical.³³ The breakdown among the three agencies also reveals the increase in the number of such challenges over time. There were 6 such challenges during eight years of the Bush administration, 15 during the eight years of the Obama administration,

²² *United States v. AT&T, Inc.*, 310 F. Supp. 3d 161, 164 (D.D.C. 2018) (discussing the landscape of how the parties claim the merger will increase not only innovation but competition).

²³ Opinion of the Commission, *In re Otto Bock Healthcare North America, Inc.*, FTC Docket No. 9378 at 4, 61-63 (Nov. 1, 2019) (final opinion)

²⁴ *FTC v. RAG-Stiftung*, 436 F. Supp. 3d 278, 304 (D.D.C. 2020).

²⁵ *State of New York et al v. Deutsche Telekom AG et al*, No. 1:2019cv05434 - Document 409 (S.D.N.Y. 2020).

²⁶ Initial Decision, *In the Matter of Illumina, Inc. and GRAIL, Inc.*, Docket No. 9401 (Sept. 9, 2022).

²⁷ *United States v. Unitedhealth Group, Inc. and Change Healthcare*, 1:22CV00481 (D.D.C. 2022) [*hereinafter*, “UHG/Change”].

²⁸ *Booz Allen Hamilton Co. et al.* (June 29, 2022); *United States v. Bertelsmann SE & Co.*, 1:21CV02886 (D.D.C. 2022)

²⁹ *United States v. Bertelsmann SE & Co.*, 1:21CV02886 (D.D.C. 2022)

³⁰ **Cite AA Answer to complaint.** <https://www.assaabloy.com/group/en/news-media/press-releases/id.9E73C51E05F12A8C>

³¹ For further details, see Steven C. Salop and Daniel P. Culley, *Vertical Merger Enforcement Actions: 1994 – April 2020* (unpublished article), <https://scholarship.law.georgetown.edu/facpub/1529>. These counts update the earlier enforcement statistics cited in Steven C. Salop & Daniel P. Culley, *Revising the U.S. Vertical Merger Guidelines: Policy Issues and an Interim Guide for Practitioners*, 4 J. ANTITRUST ENFORCEMENT 1 (2016)

³² *St. Alphonsus Med. Ctr. v. St. Luke's Health Sys.*, No. 14-35173 (9th Cir. 2015). This case is not included in the Salop & Culley list.

³³ Thomas L. Greaney & Douglas Ross, *Navigating Through the Fog of Vertical Merger Law: A Guide to Counselling Hospital-Physician Consolidation Under the Clayton Act*, 91 WASH. L. REV. 199, 211 n.52, 221-22 (2016).

and 13 during the four years of the Trump administration. Only one purely vertical merger, *AT&T/Time Warner* (2018), reached trial, a case that the DOJ lost.

These developments illustrate significant aspects of merger enforcement by the agencies during the 2001-2020 period. Quantitative analysis of the data base reveals considerable volatility and complexity. However, some key points can be made.

The most striking observation about the merger enforcement during this period involves the fact that the government almost always wins in court. Of the 38 litigated outcomes during the period, the government won 25 and lost 13, a win rate of 66%. In addition, the merging parties abandoned their transaction in the face of litigation in another 34 matters. Including them, the government prevailed in 59 (i.e., 25+34) of its complaints, which implies a win rate of 82% (i.e., 59/72). Even among the government's losses in court, 2 involved judges accepted the parties' remedies, so the government arguably received a partial win.³⁴

Another relevant fact is among HSR transactions receiving second requests, only 28% are cleared as-is. About 40% of the rest are settled with consent decrees, another 30% are abandoned during the HSR investigation or after a complaint is filed (i.e., (254+34)/969), and the rest proceed to trial.³⁵ The situation facing the parties is even more dire if their consummated merger is challenged. For those 44 resolved matters, the government prevailed in 42. There were 35 consent decrees in 35 and 78 government wins at trial in 7. The parties escaped without a remedy in less than 5% (i.e., 2/44) of the matters.

This evidence may seem to suggest that parties propose mergers at their peril. They may appear to be dramatically outmatched by agencies in court and so need to submit to the consent decrees demanded by the agencies, regardless of draconian. However, this view ignores a key piece of the puzzle. The reason why the agencies appear to have such a strong position is that they issue so few second requests. And this selection effect makes it impossible to conclude that the agencies are advantaged.³⁶

The agencies issue so few second requests because have been vastly budget constrained during this period. Under these circumstances, the agencies are engaged in a type of triage process.³⁷ They are limited in the number of second requests they can issue and cases that they

³⁴ David Gelfand & Leah Brannon, *A Primer on Litigating the Fix*, 31 ANTITRUST 10 (2016).

³⁵ A few are withdrawn because they are mooted. For example, the FTC withdrew its complaint against Cabell Huntington Hospital/ St. Mary's Medical Center after the West Virginia legislature passed a statute which protected the transaction under the state action doctrine

³⁶ For a general analysis of selection bias, see George L. Priest, and Benjamin Klein, *The Selection of Disputes for Litigation*, 13 J. LEGAL STUD.1 (1984).

³⁷ For an attempt to estimate the relationship between merger enforcement intensity and agency budgets, a formidable task in light of all the complexity discussed here see Jeffrey Macher and John W. Mayo, *The*

can afford to litigate in court. So the target only the limited number of most problematical looking mergers for second requests. Not surprisingly, they generally discover evidence of potential anticompetitive effects. And not surprisingly, the firms generally see the validity of the concerns, and most are willing to accept a consent decree or abandon the transaction. Indeed about 26% (i.e., 254/969) of the firms that receive second requests choose to abandon the transaction even *before* a complaint is issued.

A budget constrained agency cannot afford to litigate many cases in any year. Indeed, fewer than 2 cases per year have reached litigated outcomes during the 2001-2020 period. The agencies must engage in a similar triage process in deciding whether to accept a consent decree settlement. Thus, it is not surprising that most cases settle nor that the government prevails in most of the complaints that are not settled simultaneously with a consent decree.

Nor does this record imply that the agencies have the power to demand extremely strong consent decrees.³⁸ An FTC self-study found that only 66% of the studied consent decrees in horizontal merger were “successes,” in the sense of restoring competition in 2 to 3 years.³⁹ Another 15% were considered only “qualified successes” in the sense of it taking longer than 2 to 3 years to restore competition, and the remaining 19% were considered “failures in the sense that competition was not restored. Thus, 34% lead to some consumer harm.

This 20-year period included three Presidential administrations with different political agendas and different antitrust leaders. Thus, it is interesting to see how enforcement differed across the administrations. However, this is not a simple task. Economic conditions over any 20-year period exhibit considerable volatility. This period is no different. 2001 marked the ending of the dotcom boom. The Great Recession hit in 2008 and held down merger activity for several years.

This volatility in economic conditions muddies the water. It may be difficult to determine whether observed differences over time represent differences among the leadership versus luck of the draw. As reported in the data in this article, there were 70 second requests in 2001, while there were only 31 in 2009. But using those observations to support a claim that merger

Evolution of Merger Enforcement Intensity: What Do the Data Show? 17 J. COMPET. LAW & ECON. 708 (2021).

³⁸ For controversy over the issue of which side has the bargaining power, compare Joe Sims & Michael McFalls, *Negotiated Merger Remedies: How Well Do They Solve Competition Problems*, 69 GEO. WASH. L. REV. 932 (2001); Lawrence M. Frankel, *The Flawed Institutional Design of U.S. Merger Review: Stacking the Deck Against Enforcement*, 2008 UTAH L. REV. 159, 190; Steven C. Salop, *Merger Settlement and Enforcement Policy for Optimal Deterrence and Maximum Welfare*, 81 FORDHAM L. REV. 2647 (2013).

³⁹ Fed. Trade Comm'n, *The FTC's Merger Remedies 2006-2012: A Report of the Bureau of Competition and Economics*, at 7 (Jan. 2017), available at https://www.ftc.gov/system/files/documents/reports/ftcs-merger-remedies-2006-2012-report-bureau-competition-economics/p143100_ftc_merger_remedies_2006-2012.pdf [<https://perma.cc/DLS2-AW7N>]

enforcement was lower in 2009 would be fallacious. At the very least, it would be important to take it into account that there may more HSR filings cleared to the agencies in 2001, 2237, versus only 684 in 2009. Taking the ratio, the second request rate in 2009 was higher, 4.5% of the HSR filings, versus only 3.1% in 2001.

If there were complete triage and identical budgets each year, one might expect the number of second requests to be constant over time. This constancy is not the case. However, the data does exhibit less dramatic, effects of triage flowing from budget constraints. We compared the deviations around the mean for total HSR filings versus HSR filings cleared to the agencies and second requests. The average number of HSR filings was 1576 (i.e., 31530/20), while the number of filings cleared to an agency was 2425 (i.e., 4850/20) and the average number of second request was 48.7 (i.e., 969/20). The average absolute deviations from the mean is 15% for agency clearances and 14.1% for second requests. Both of these deviations are substantially lower than the average absolute deviation from the mean in HSR filing rates, which was 20%.

This volatility in economic conditions does make it difficult to discern differences over time and between the agencies as discussed in more detail below. However, a few broad tendencies can be observed. First, the FTC litigates more cases than the DOJ. Second, both agencies litigated fewer cases during the Bush administration than during either the Obama or Trump administration. Third, the greatest reduction was by the DOJ during the second term of the Bush administration. It is not clear the extent to which the differences between the FTC and DOJ are agency DNA and the FTC's more favorable legal standard versus the budget or the FTC's large hospital merger caseload. Looking over time we are somewhat skeptical that the major explanation for these differences are simply luck of the draw. However, the fact that the DOJ litigation rate declined by so more than the FTC rate during the Bush administration does suggest that the DOJ was less aggressive during the second Bush term.

Going deeper would require more sophisticated econometric analysis than contained in this article. However, the interaction of the economic volatility, budget constraints at each agency, developing legal standards, agency case loads, and policy differences across administrations create enormous complexity. This complexity will make it more difficult to discern causality and draw strong conclusions. Recent articles have begun this process.⁴⁰

We next turn to a more detailed description and quantitative analysis of the data. Our database includes the number of total HSR filings, the number of clearances to the two agencies,

⁴⁰ See Jeffrey T. Macher, John W. Mayo, David E.M. Sappington, and Mark Whitener, *The Evolution of Judicial Standards: Evidence from Litigated Merger Trials* (June 2022). This article is a highly ambitious econometric study of merger enforcement since 1979 concludes that that judicial standards actually have become increasingly pro-enforcement during the past four decades. We remain skeptical of the results, based on our own observations of merger cases over this period and the inherent difficulty in capturing all the complexity and developments. See also the authors' earlier article, *supra* note 37.

the identification of transactions that received second requests and the outcomes of those transactions. These outcomes may be cleared as-is, complaints, consent decrees, abandonments and trial outcomes. Section II provides analysis of aggregate results over the entire period. Section III analyzes the results over time. This includes comparisons across Presidential administration and between the FTC and DOJ. The Appendices provide detailed lists of transactions that identify the parties and outcomes.

II. Aggregate Results

Table 1 reports the results over the 20-year period. There were 31,530 HSR filings.⁴¹ Of these total HSR filings, 4850 were cleared to an agency.⁴² Of the 31,530 filings, 969 received second requests, a rate of about 3.1%. Only 272 (28.1%) of these 969 second requests were cleared as-is. Among the remaining mergers, 254 (26.2%) of the 969 second requests were abandoned or restructured before receiving a complaint, and 366 (37.8%) were resolved by a consent decree reported simultaneously with the issuance of a complaint.

Only 77 (7.9%) proceeded further, and very few of these matters reached a litigated decision. Of the 77, 34 (44.2%) were abandoned or restructured by the merging parties, 11 (14.3%) led to a negotiated settlement, and 3 (3.9%) were withdrawn by the agency.⁴³ Over the 20-year period, only 29 (37.7%) of the 77 reached a litigated decision. Of these, the government won 18 (62.1%) and lost 11 (37.9%).

Another way to characterize these results is the following. Of the 969 second requests, only 286 (29.5%) ultimately survived the process without a remedy.⁴⁴ 377 of the second requests were settled with consent decrees,⁴⁵ and 305 were never completed.⁴⁶ Thus, the government

⁴¹ This is the number of “transactions in which a Second Request could have been issued.” *See, e.g.*, FTC & U.S. Dept’ of Justice, Antitrust Division, Hart-Scott-Rodino Annual Report, Fiscal Year 2020, 6, n. 10 (Nov. 2020), available at <https://www.ftc.gov/system/files/documents/reports/hart-scott-rodino-annual-report-fiscal-year-2020/fy2020 - hsr annual report - final.pdf>.

⁴² Not every HSR filing is reviewed by an FTC or DOJ staff attorney team. Rather, only those HSR filings “cleared” to an agency by the Premerger Notification Office are investigated. Typically, mergers are “cleared to an agency” if the HSR filing indicates that further investigation is warranted.

⁴³ After a superseding event mooted or voided the challenge, agencies have historically withdrawn a complaint. For example, the FTC withdrew its complaint against Cabell Huntington Hospital/ St. Mary’s Medical Center after the West Virginia legislature passed a statute which protected the transaction under the state action doctrine.

⁴⁴ That is, 272 cleared as-is, 3 had complaints withdrawn, and the parties won 11 at trial

⁴⁵ That is, 366 consent decrees simultaneous with the complaint and 11 post-complaint settlements

⁴⁶ That is, 254 were abandoned or restructured before a complaint, 34 were abandoned or restructured after the complaint, and the parties lost 17 at trial.

prevailed in 681 (70.3%) of the matters.⁴⁷ Or stated differently, merger proposals that receive second requests survived intact only about 30% of the time.

Table 1. Total HSR Outcomes - 2001 to 2020

Outcomes	Total	Percentage
Total HSR Filings	31530	
Agency Clearances	4850	15.3%
Total Second Requests	969	3.1%
Cleared As Is	272	28%
Abandoned / Restructured before Complaint	254	26.2%
Resolved Simultaneously with Complaint	366	37.8%
Unresolved Total Complaints (Litigation)	77	7.9%
Abandoned Post-Complaint	34	44.2%
Settled Post-Complaint	11	14.3%
Withdrawn by Agencies	3	3.9%
Litigated to a Decision	29	37.7%
Gov't Win at Trial	18	62.1%
Gov't Loss at Trial	11	37.9%

The fact that only 28% of transactions are cleared as-is makes it clear that merging firms must be prepared for a consent decree or litigation. And they must anticipate that if they litigate, they are likely to lose. Assuming that the merging firms are well counseled, these results also suggest that the firms are really playing the odds when they propose arguably anticompetitive mergers in the hope that they will be able to slip through without a challenge, or that they can negotiate a weak consent decree. Among the second request deals that do not settle the complaint simultaneously or subsequently with a consent decree, more than half are abandoned or restructured. Deals abandoned during the review process likely have the lowest prospects of winning at trial, even accounting for the likelihood that the would-be acquiring firm has to pay a reverse breakup fee. Moreover, even after this self-selection, merging parties lose more than half of all cases that proceed to trial. In all, merging parties win at trial only 11 of the 77 complaints not resolved simultaneously with consent decrees.

The data also can explain why playing the odds makes business sense. It has been recognized that the agencies have suffered declining budgets in the face of an increased magnitude of merger transactions⁴⁸ In this situation, the agencies are forced to engage in some

⁴⁷ Even this is a slight understatement. In *Arch Coal* and *RAG-Stiftung*, the firms prevailed at trial, but the firms had provided remedies to the court and succeeded in "litigating the fix." *FTC v. Arch Coal*, 329 F. Supp. 2d 109, 114 (D.D.C. 2004); *FTC v. RAG-Stiftung*, 436 F. Supp. 3d 278, 304 (D.D.C. 2020).

⁴⁸ HSR filings grew at a far faster rate than agency budgets. The FTC budget increase by 20% (\$56 million) from FY 2010 (\$276 million) to FY 2020 (\$332 million). We note, however, that the FTC does not break out the budget into competition versus consumer protection missions, and the DOJ does not break out criminal and civil. Fed. Trade Commission, Agency Fiscal Report – Fiscal Year 2020, 48 (2021), available at https://www.ftc.gov/system/files/documents/reports/agency-fiscal-report-fy2020/ftc_fy2020_agency_fiscal_report.pdf). During the same period, DOJ Antitrust division total appropriation increased by only 2% (from \$163.17 million in FY 2010 to \$166,755 in FY 2020). During this same period, premerger filings increased by over 75%. U.S. Dept. of Justice, Antitrust

triage processes. Triage is manifest in the HSR data. In that the FTC and DOJ are only challenging the most problematic mergers, one would expect very few mergers targeted for a second request to be cleared as-is. This is consistent with only 28.1% of second requests being cleared as-is. The fact that such a high percentage of complaints not resolved by simultaneous consent decrees are abandoned or settled before trial also is consistent with triage. The fact that the government wins more than half the cases that go to trial (62.1%), despite the high returns to the parties of completing the merger, also is consistent with triage. Finally, as discussed below, the low variance in the number of mergers and second requests, relative to the annual number of mergers cleared to the agencies also indicates that the agencies are operating at the limits of their investigative capacity.

Table 2 reports the results for challenges to consummated mergers over the 20-year period. During this time, the government challenged 46 previously consummated mergers.⁴⁹ At the end of 2020, two of these were still pending in the FTC administrative process, Axon/ Safariland and Altria/ JUUL Labs. Of the 44 resolved challenges, 24 were settled by consent decrees simultaneously with the complaint, 11 were settled post-complaint, and 9 reached trial. Of these 9, the government won 7 (77.8%) of the cases and lost only 2 (22.2%). Thus, the government prevailed in some manner in 42 (95.4%) of its 44 consummated merger challenges.⁵⁰ Combining trials of both consummated and unconsummated mergers, the government dominated at trial. It won 24 (i.e., 7+17) and lost only 9 (i.e., 2+7), an overall trial win rate of 72.7%.

Table 2. Consummated Merger Challenges - 2001 to 2020

Outcomes	Total	Percentage of Resolved
Challenges	46	
Still Pending	2	
Resolved	44	
Settled Simultaneously With Complaint	24	54.5%
Subsequent Settlements	11	25.0%
Government Wins at Trial	7 (of 9)	9.1%
Government Losses at Trial	2 (of 9)	4.5%
Government Prevailed	42	95.4%

Division, Appropriation Figures for the Antitrust Division Fiscal Years 1903-2021* (Feb. 2020), available at <https://www.justice.gov/atr/appropriation-figures-antitrust-division>. See also Michael Kades, *The State of U.S. Antitrust Enforcement* (2019) at Tables 7-9, available at <https://equitablegrowth.org/research-paper/the-state-of-u-s-federal-antitrust-enforcement/?longform=true>; [<https://perma.cc/84EV-VRSN>].

⁴⁹ There can be two types of such challenges. There are transactions where the agencies obtained hold-separate agreements (e.g., *Bazaarvoice/Power Reviews*) and those where the agency brings a case after the parties integrated their operations (e.g., *Evanston/Northwestern*).

⁵⁰ That is, 24 consent decrees with a complaint, 11 consent decrees post-complaint, and 11 victories in court.

III. Results Over Time

Analysis of the evolution of merger enforcement over time presents an inherent complication because the economy is dynamic. The transactions presented to the agencies and their competitive concerns may differ over time. Thus, differences could result from variations in economic conditions rather than merger policy.

Analysis of the evolution of merger enforcement over time also presents an inherent definitional complication. A merger with an HSR filing in one fiscal year may not receive a second request until the next.⁵¹ Similarly, a second request in one fiscal year may not be resolved until a later fiscal year. Thus, there is no perfect way to array the data over time.

Our database adopts the convention of assigning a transaction to the calendar year in which the agency took a decisive enforcement action (e.g., complaint issued, settlement, deal abandonment), regardless of when the HSR was filed and however the deal is resolved. We chose this approach as a matter of practicality in light of our focus on outcomes. The agencies only report transaction-level information about enforcement actions against challenged transactions, not HSR filings. Consequently, we only have visibility into when the challenge was made, not when the HSR filing was made.⁵²

This convention means that the counts and rates of second requests we list for a given calendar year must be interpreted with caution. The convention accurately reports the number of HSR filings, second requests issued, and decisive enforcement actions that occurred within each given year. But it does not accurately gauge the rates at which the agencies issued complaints in particular years, only the rates at which the complaints were resolved. For example, a HSR submission in (say) 2001 that received a second request and complaint in 2002 and was resolved at trial with a government loss in 2003 would be assigned to 2003, not 2002 or 2001. While we are mainly focused on outcomes, analysis of the aggressiveness of agency challenges instead, might assign that challenge to 2002.⁵³

⁵¹ The FTC and DOJ report HSR data according to fiscal years. The Fiscal Year begins on October 1 and concludes on September 30.

⁵² There is a similar lack of visibility for those transactions against which no enforcement action is ultimately taken. While the agencies do report aggregated information about transactions against which no enforcement action was taken (i.e., cleared “as-is”), the agencies do not report transaction-level data.

⁵³ For example, if an agency brought a weak case in one year under one administration or one leadership group and lost the case at trial in a later year and leadership group, the loss would be attributed to the latter year and Presidential administration or leadership group. This complicated interpretation of the differences over time. While our data set reports the dates at which challenges were brought (not just dates of outcomes), we have not analyzed the complaint data in this way. However, research focused on comparing policy evolution over time might find it helpful to analyze 2-year rolling averages of transactions and resolutions.

Tables 3 and 4 report the outcome results on an annual basis. Table 3 reports the counts and Table 4 reports the percentages.

As shown in Table 3, the largest number of HSR filings (2237) and second requests (70) was in 2001, the year after the dotcom meltdown. Not surprisingly, the lowest number of HSR filings (684) and second requests (31) was in 2009 during the Great Recession.

Table 3. HSR Filings and Outcomes by Year

Outcomes	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
HSR Filings	2237	1142	968	1377	1610	1746	2108	1656	684	1128
Total Second Requests	70	49	35	35	50	45	63	41	31	42
Cleared As Is	16	18	2	12	33	15	32	6	4	9
Abandoned / Restructured before Complaint	28	13	16	6	5	13	13	7	8	11
Settled Simultaneously with Complaint	25	13	12	14	11	15	16	27	14	22
Unresolved Complaints (Litigation)	1	5	5	3	1	2	2	1	5	0
Abandoned Post-Complaint	0	3	2	0	0	2	0	1	4	0
Settled Post-Complaint	1	0	0	1	1	0	0	0	0	0
Gov't Win at Trial	0	1	1	0	0	0	1	0	1	0
Gov't Loss at Trial	0	1	0	2	0	0	1	0	0	0
Withdrawn by Agencies	0	0	2	0	0	0	0	0	0	0
Outcomes	FY 2011	FY 2013	FY 2012	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
HSR Filings	1414	1286	1400	1618	1754	1772	1992	2028	2030	1580
Total Second Requests	55	47	49	51	47	54	51	45	61	48
Cleared As Is	20	17	6	19	5	8	12	8	23	7
Abandoned / Restructured before Complaint	12	10	18	12	12	11	13	13	15	18
Settled Simultaneously with Complaint	18	14	21	19	25	23	23	19	18	17
Unresolved Complaints (Litigation)	5	6	4	1	5	12	3	5	5	6
Abandoned Post-Complaint	1	2	2	1	3	5	1	2	2	3
Settled Post-Complaint	2	4	1	0	0	0	0	0	0	1
Gov't Win at Trial	1	0	1	0	1	5	2	2	1	1
Gov't Loss at Trial	1	0	0	0	1	1	0	1	2	1
Withdrawn by Agencies	0	0	0	0	0	1	0	0	0	0

Putting aside those two years, the number of filings was in the range between 968 and 2108, while the range of the number of second requests was between 35 and 61. That is, the filing range was about 118% of the lowest number, but the second request range was only 74% of the lowest number. This relative stability of second requests over time is consistent with triage. Calculations based on Table 3 also show that the average absolute deviation from the mean for agency clearances (15%) and second requests (14.1%) are substantially lower than the average absolute deviation from the mean in Total HSR filing rates (20%). This difference also reveals the agencies engaged in triage. Table 3 also shows that the number of cases reaching trial is very small, usually only one or two a year. This is also consistent with triage in that the government lacks the resources to litigate many cases simultaneously.

Table 4 reports the same data as Table 3 in percentage terms, which provides a somewhat different lens. The percentage of transactions obtaining second requests shows a range between 2.2% and 4.5%. The fact that the percentage of second requests in 2009 (4.5%) was the highest for the 20-year period when the number of adjusted filings was the lowest is additional evidence

of triage.⁵⁴ However, there is certainly not strict proportionality. For example, in 2008, the rate was only 2.5%, though the number of adjusted filings was in the mid-range.

Table 4. HSR Filings and Outcomes by Year (Percentage)

Outcomes	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
HSR Filings	2237	1142	968	1377	1610	1746	2108	1656	684	1128
Received Second Request	3.1%	4.3%	3.6%	2.5%	3.1%	2.6%	3.0%	2.5%	4.5%	3.7%
Cleared As Is	22.9%	36.7%	5.7%	34.3%	66.0%	33.3%	50.8%	14.6%	12.9%	21.4%
Abandoned / Restructured before Complaint	40.0%	26.5%	45.7%	17.1%	10.0%	28.9%	20.6%	17.1%	25.8%	26.2%
Settled Simultaneously with Complaint	35.7%	26.5%	34.3%	40.0%	22.0%	33.3%	25.4%	65.9%	45.2%	52.4%
Unresolved Complaints (Litigation)	1.4%	10.2%	14.3%	8.6%	2.0%	4.4%	3.2%	2.4%	16.1%	0.0%
Abandoned Post-Complaint	0.0%	60.0%	40.0%	0.0%	0.0%	100%	0.0%	100%	80.0%	0.0%
Settled Post-Complaint	100%	0.0%	0.0%	33.3%	100%	0.0%	0.0%	0.0%	0.0%	0.0%
Gov't Win at Trial	0.0%	20.0%	20.0%	0.0%	0.0%	0.0%	50.0%	0.0%	20.0%	0.0%
Gov't Loss at Trial	0.0%	20.0%	0.0%	66.7%	0.0%	0.0%	50.0%	0.0%	0.0%	0.0%
Withdrawn by Agencies	0.0%	0.0%	40.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Outcomes	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
HSR Filings	1414	1400	1286	1618	1754	1772	1992	2028	2030	1580
Received Second Request	3.9%	3.5%	3.7%	3.2%	2.7%	3.0%	2.6%	2.2%	3.0%	3.0%
Cleared As Is	36.4%	12.2%	36.2%	37.3%	10.6%	14.8%	23.5%	17.8%	37.7%	14.6%
Abandoned / Restructured before Complaint	21.8%	36.7%	21.3%	23.5%	25.5%	20.4%	25.5%	28.9%	24.6%	37.5%
Settled Simultaneously with Complaint	32.7%	42.9%	29.8%	37.3%	53.2%	42.6%	45.1%	42.2%	31.1%	35.4%
Unresolved Complaints (Litigation)	9.1%	8.2%	12.8%	2.0%	10.6%	22.2%	5.9%	11.1%	6.6%	12.5%
Abandoned Post-Complaint	20.0%	50.0%	33.3%	100%	60.0%	41.7%	33.3%	40.0%	50.0%	50.0%
Settled Post-Complaint	40.0%	25.0%	66.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.7%
Gov't Win at Trial	20.0%	25.0%	0.0%	0.0%	20.0%	41.7%	66.7%	40.0%	0.0%	16.7%
Gov't Loss at Trial	20.0%	0.0%	0.0%	0.0%	20.0%	8.3%	0.0%	20.0%	50.0%	16.7%
Withdrawn by Agencies	0.0%	0.0%	0.0%	0.0%	0.0%	8.3%	0.0%	0.0%	0.0%	0.0%

Table 4 shows that the percentage of second requests cleared as-is exhibits a very large range. At the low end, the rate was 5.7% in 2003 and 10.6% in 2015. At the high end, the rate was 66% in 2005 and 50.8% in 2007. The percentage of mergers resolved by simultaneous consent decrees also had a wide range, from a low of 22% in 2005 to a high of 65.9% in 2008.

For completeness, Table 5 provides the annual data, including consummated merger challenges.

⁵⁴ By contrast, the 3.1% rate in 2001 is low, but not so abnormally so.

Table 5. Total Merger Challenges and Outcomes – Including Consummated Merger Challenges

Outcomes	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
HSR Filings	2237	1142	968	1377	1610	1746	2108	1656	684	1128
Total Second Requests	70	49	35	35	50	45	63	41	31	42
Cleared As Is	16	18	2	12	33	15	32	6	4	9
Abandoned / Restructured before Complaint	28	13	16	6	5	13	13	7	8	11
Settled Simultaneously with Complaint	25	14	12	14	12	17	17	28	15	28
Unresolved Complaints (Litigation)	2	8	7	4	2	4	5	3	9	7
Abandoned Post-Complaint	0	3	2	0	0	2	0	1	4	0
Settled Post-Complaint	2	1	2	1	1	0	2	0	2	1
Gov't Win at Trial	0	2	1	1	0	0	1	1	1	0
Gov't Loss at Trial	0	1	0	2	0	0	1	0	1	0
Withdrawn by Agencies	0	0	2	0	0	0	0	0	0	0
Outcomes	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
HSR Filings	1414	1286	1400	1618	1754	1772	1992	2028	2030	1580
Total Second Requests	55	47	49	51	47	54	51	45	61	48
Cleared As Is	20	17	6	19	5	8	12	8	23	7
Abandoned / Restructured before Complaint	12	10	18	12	12	11	13	13	15	18
Settled Simultaneously with Complaint	19	15	26	20	25	24	24	20	18	17
Unresolved Complaints (Litigation)	8	7	12	2	5	13	5	7	5	8
Abandoned Post-Complaint	1	2	2	1	3	5	1	2	2	3
Settled Post-Complaint	2	4	2	0	0	0	1	0	0	1
Gov't Win at Trial	2	0	3	0	1	5	2	3	1	1
Gov't Loss at Trial	2	0	0	0	1	1	0	1	2	1
Withdrawn by Agencies	0	0	0	0	0	1	0	0	0	0

Tables 6 and 7 provide some comparisons across Presidential administrations.

Table 6 provides the counts of clearance and challenge rates. These indicate substantial stability in clearance rates to the two enforcement agencies. Challenge rates also are relatively stable, though the G.W. Bush administration's challenge rates are somewhat lower for both agencies.⁵⁵

⁵⁵ We do not believe that these results are distorted by our convention of assigning challenges to the year in which the matter was resolved rather than the year in which the complaint was issued.

Table 6. Agency Clearance and Challenge Trends

Outcomes	Bush Admin.		Obama Admin.		Trump Admin.	
	Total	Average	Total	Average	Total	Average
Mergers Cleared to Agency	257	17%	228	17%	242	13%
Mergers Cleared to the FTC	163	63%	153	67%	167	68%
Mergers Challenged by the FTC (and as a Percentage of Cleared Mergers)	19	13%	21	14%	24	16%
Mergers Cleared to the DOJ	94	37%	75	33%	75	32%
Mergers Challenged by the DOJ (and as a Percentage of Cleared Mergers)	14	16%	18	25%	17	22%

Table 7 provides more details for transactions with HSR filings (i.e., unconsummated mergers only). During the eight years of the G.W. Bush administration, there were 388 second requests, a rate of about 3.0%. During the eight years of the Obama administration, there were 376 second requests, a rate of about 3.4%. And during the four years of the Trump administration, there were 205 second requests, a rate of about 2.7%. These do not seem like significant enough differences to represent policy changes. But they may signal some triage. The Obama administration has the lowest number of filings, an average of about 5500 for each of the four years. By contrast, the average number of filings during each of the 4-years of the Bush administration was about 6400 and the average during the Trump administration was about 7600. Thus, during the Obama administration, the average of number of transactions was lowest and the average second request rate was the highest.

Table 7. HSR Filings and Outcomes by Administration

Outcomes	Bush Admin.		Obama Admin.		Trump Admin.	
	Total	Average	Total	Average	Total	Average
HSR Filings	12844	-	11056	-	7630	-
Total Second Requests	388	3.0%	376	3.4%	205	2.7%
Cleared As Is	134	34.5%	88	23.4%	50	24.4%
Abandoned / Restructured before Complaint	101	26.0%	94	25.0%	59	28.8%
Settled Simultaneously with Complaint	133	34.3%	156	41.5%	77	37.6%
Unresolved Complaints (Litigation)	20	5.2%	38	10.1%	19	9.3%
Abandoned Post-Complaint	8	40.0%	18	47.4%	8	42.1%
Settled Post-Complaint	3	15.0%	7	18.4%	1	5.3%
Gov't Win at Trial	3	15.0%	9	23.7%	6	31.6%
Gov't Loss at Trial	4	20.0%	3	7.9%	4	21.1%
Withdrawn by Agencies	2	10.0%	1	2.6%	0	0.0%

Among these second requests, 134 (34.5%) were settled by consent decree during the Bush administration, 156 (41.5%) during the Obama administration, and 77 (37.6%), all in the same range. The more significant differences come in the fraction that went to trial and the win/loss rates. During the Bush administration, 5.2% of the second requests were neither cleared as-is nor resolved with simultaneous consent decrees. During the Obama administration, the rate was a much higher 10.1%, as was the 9.3% rate during the Trump years. During the Bush years, only 7 cases reached trial, and the government won only 3, a win rate of about 43%. By contrast,

during the Obama years, there were 12 trials, and the government won 9, a win rate of 75%. Furthermore, during only four years of the Trump administration, there were ten trials, of which the government won 6, a win rate of 60%.⁵⁶ Thus, the Bush administration had the least number of trials and the worst win/loss record. Of course, there is always the question of whether these different win rates reflect policy differences or whether they are simply the luck of the draw.

Table 8 is a companion for Table 7 but it reports the number of challenges of both consummated and unconsummated mergers during each Presidential administration for each agency. During the Bush years, there were 33 mergers of both types that went to litigation. During the Obama years, the total rose to 43 matters. During the four Trump years, 23 went to litigation, a slightly higher annual rate than the Obama administrations.

Table 8 also breaks out the results for the FTC and DOJ. The FTC litigates more cases than the DOJ. One cause may be the fact that FTC's case load includes hospital mergers, where the law has been in flux, leading to the potential for diverse expectations between the FTC and the defendant. The FTC also has a higher win rate than the DOJ, which may reflect its more favorable legal standard.

Comparing the FTC and DOJ during the Trump years, the FTC had twice as many cases than the DOJ that were not settled (i.e., 14 vs 7). This was a higher ratio than during the previous administrations. The FTC rate was only about 50% higher than DOJ during the administrations of Bush (i.e., 20 vs 13) and Obama (i.e., 26 vs 17).⁵⁷

Table 8. Total Agency Results under Each Administration by Agency (Absolute Count)⁵⁸

	Bush Admin.		Obama Admin.		Trump Admin.	
	DOJ	FTC	DOJ	FTC	DOJ	FTC
Challenges (incl. consummated mergers)	57	117	76	138	39	63
Consent Decrees	44	97	59	112	32	47
Unresolved Complaints (Litigation)	13	20	17	26	7	16
Settled Post-Complaint	5	4	6	4	2	0
Abandoned Post-Complaint	3	6	7	10	1	7
Trial Wins	3	7	4	8	2	5
Trial Losses	2	2	0	3	2	2

Table 8 also reports the number of matters (consummated plus unconsummated deals) that went to trial. For DOJ, the number of matters reaching trial was {5, 4, 4} across the three

⁵⁶ Table 6 includes only challenges to unconsummated HSR transactions. Table 7 includes both unconsummated and consummate merger challenges.

⁵⁷ We have not checked to see whether any of these consummated merger complaints were issued in one administration and resolved in the next administration.

⁵⁸ Includes challenges to consummated and unconsummated mergers.

administrations, whereas the number of FTC challenges reaching trial was {9, 11, 7}. The Trump administration served for one term (as compared to the Bush and Obama administrations' two terms). Taking this into account, the Trump administration's DOJ and FTC had the highest annual rates of litigated trials. The Trump FTC also settled no cases post-complaint. All the unresolved matters either were abandoned or went to trial.

Table 8 also shows the large differences in agency win/loss records.⁵⁹ During the three administrations, the DOJ win/loss records were {3-2; 4-0; 2-2}. By contrast, the FTC record was {7-2; 8-3; 5-2}. Any comparison also must account of selection bias. An agency that brings fewer challenges against only the most egregious matters will have a higher win rate. However, during the Bush and Trump years, the FTC both brought more cases and had a better win rate than the DOJ. Still, this data does not reveal whether this greater caution by the DOJ reflects differential resource constraints, the FTC's more favorable legal standard, the FTC's hospital case load or possibly even agency DNA.⁶⁰

Table 9 further breaks down these results for the Bush and Obama administrations between the two terms. One notable comparison is the larger enforcement drop during Bush's second terms. In the second term, the FTC and DOJ *combined* brought 64 challenges (i.e., 16+48) versus 110 (i.e., 41+69) in the first term. However, the DOJ experienced a 60% decline (i.e., 16 vs. 41), which is twice the 30% decline for the FTC (i.e., 48 vs. 69). This difference cannot be accounted for by hospital mergers since the FTC had only one. By comparison, the FTC and DOJ remained relatively consistent between Obama's first and second terms, though the FTC became slightly more litigious in the second term. Thus, the slow-down in enforcement at the DOJ in the second Bush term does seem to reflect a policy change at the DOJ during this term.⁶¹

Table 9. Comparison of DOJ and FTC Results across Administrations

Agency	Bush Admin.				Obama Admin.				Trump Admin.	
	DOJ		FTC		DOJ		FTC		DOJ	FTC
Term	Term 1	Term 2	Term 1	Term 2	Term 1	Term 2	Term 1	Term 2	Term 1	Term 1
Challenges	41	16	69	48	38	38	63	75	39	63
Consent Decree	30	14	55	42	32	27	51	61	32	47
Proceeded to Litigation	11	2	14	6	6	11	12	14	7	16
Settled Post-Complaint	4	1	4	0	3	3	2	2	2	0

⁵⁹ Again, note that these data are based on the year of the trial outcome, not the year in which the complaint was issued.

⁶⁰ Further analysis also might investigate the extent to which these differences are primarily the result of the FTC caseload of hospital and pharma mergers.

⁶¹ See also Jonathan Baker and Carl Shapiro, *Reinvigorating Horizontal Merger Enforcement*, in Robert Pitofsky (ed.), *HOW THE CHICAGO SCHOOL OVERSHOT THE MARK: THE EFFECT OF CONSERVATIVE ECONOMIC ANALYSIS ON U.S. ANTITRUST 235* (2008).

Abandoned Post-Complaint	3	0	5	1	2	5	5	5	1	7
Trial Wins	3	0	4	3	1	3	3	5	2	5
Trial Losses	1	1	0	2	0	0	2	1	2	2

IV. Conclusions

However, it is clear that the merger enforcement world is changing during the Biden administration, since Jonathan Kanter became AAG and Lina Khan became FTC Chair. At this point in time, agency policies are changing. The issue is whether the courts will go along. The agencies have promised revised Merger Guidelines that likely will synthesize both horizontal and merger issues. These may serve to help convince the courts to follow the agencies' preferred policies.

We can provide a number of illustrative examples of these changes at both agencies. At this point in time, the DOJ has been litigating many more cases, including a number in which the parties have convinced courts to “litigate the fix.” This apparently is the result of the DOJ negotiating for more intrusive consent decrees, which the parties are unwilling to accept. The DOJ has gained increased budget so it also can afford to litigate more cases. **[Confirm/Cite]** At the time of this writing the DOJ has lost a number of its cases, notably *UHG*, *Booz Allen*, and *U.S. Sugar*, while awaiting the outcome in *Penguin*. The *Assa Abloy* merger litigation is in process as is the *American Airlines/Jet Blue* agreement.

The FTC settled the *Tractor Supply*⁶² merger with a divestiture package that involved divestiture of half the acquired stores. The FTC also accepted a consent decree involving veterinary clinics acquired by *JAB Consumer Partners*.⁶³ In both cases, the FTC also has been demanding certain prior approval rights in consent decrees. And most significantly, the FTC is litigating a merger case against Meta’s proposed acquisition of Within.⁶⁴ The FTC issued vertical merger complaints in the *Nvidia/ARM*,⁶⁵ and *Lockheed Martin/Aerojet Rocketdyne*.⁶⁶ and

⁶² **Cite Tractor Supply**. <https://www.ftc.gov/legal-library/browse/cases-proceedings/211-0083-tractor-supply-companyorscheln-farm-home-llc-matter>

⁶³ **Cite JAB**. <https://www.ftc.gov/legal-library/browse/cases-proceedings/211-0174-jab-consumer-partnersvipwethos-veterinary-health-matter>

⁶⁴ **Cite Meta**. <https://www.ftc.gov/news-events/news/press-releases/2022/07/ftc-seeks-block-virtual-reality-giant-metas-acquisition-popular-app-creator-within>

⁶⁵ FTC Sues to Block \$40 Billion Semiconductor Chip Merger—Vertical deal between chip supplier Nvidia and chip design provider ARM, Federal Trade Commission Press Release Salop Statement, Page E-5 (Dec. 2, 2021), <https://www.ftc.gov/news-events/press-releases/2021/12/ftc-sues-block40-billion-semiconductor-chip-merger> [<https://perma.cc/9MP3-LJW4>].

⁶⁶ FTC Sues to Block Lockheed Martin Corporation’s \$4.4 Billion Vertical Acquisition of Aerojet Rocketdyne Holdings Inc. Federal Trade Commission Press Release (Jan. 25, 2022). <https://www.ftc.gov/news-events/press-releases/2022/01/ftc-sues-block-lockheedmartin-corporations-44-billion-vertical> [<https://perma.cc/E344-TKVN>].

Illumina/Grail. While the parties abandoned the first two transactions, Illumina chose to litigate. The FTC ALJ dismissed the FTC's complaint in *Illumina*,⁶⁷ and it is now on appeal to the Commission.

What makes antitrust exciting are these changes. We are looking forward to analyzing them.

⁶⁷ Initial Decision, In the Matter of Illumina, Inc. and GRAIL, Inc., Docket No. 9401 (Sept. 9, 2022).

Appendix

Tables A1, A2, and A3 identify all the merger transactions where complaints were issued without a simultaneous consent decree. There were 36 transactions in the Bush administration, 43 in the Obama administration, and 21 in the Trump administration. The Tables identify whether the transaction ultimately was abandoned after the complaint was filed (“abandoned”), settled after the complaint was filed (“settled”), withdrawn by the agency, or resolved at trial. The winning side is identified for those cases that were resolved at trial.

Table A4 provides the master list all the merger transactions that received second requests by year, along with their outcomes. The HSR reports do not report on transaction level data for transactions cleared as is.

Table A1. All Complaints Filed Between 2001 and 2008

Parties	Agency	Year	Complaint Filed	Resolved	Consummated	Outcome
3D Systems / DTM	DOJ	2001	June 2001	May 2002	No	Settled
Hearst Trust / Medi-Span	FTC	2001	April 2001	Dec. 2001	Yes	Settled
SunGard Data Systems / Comdisco	DOJ	2002	Oct. 2001	Nov. 2001	No	Gov Loss
General Dynamics / Newport News Shipbuilding	DOJ	2002	Oct. 2001	Oct. 2001	No	Abandoned
Libbey / Newell Rubbermaid	FTC	2002	Jan. 2002	Oct. 2002	No	Gov Win
Meade Instruments / Tasco Holdings	FTC	2002	May 2002	May 2002	No	Abandoned
Cytoc / Digene	FTC	2002	June 2002	June 2002	No	Abandoned
MSC Software / Universal Analytics / CSAR	FTC	2002	Oct. 2001	Nov. 2002	Yes	Settled
Chicago Bridge & Iron / Water Division Pitt-Des Moines	FTC	2002	Oct. 2001	Jan. 2005	Yes	Gov Win
Echostar Communications / Hughes Electronics	DOJ	2003	Oct. 2002	Dec. 2002	No	Abandoned
UPM-Kymmene Oyj / Bemis MActac	DOJ	2003	Apr. 2003	July 2003	No	Gov Win
SGL Carbon / Carbide/Graphite Group	DOJ	2003	Apr. 2003	May 2003	No	Settled
Dairy Farmers of America / Southern Belle	DOJ	2003	Apr. 2003	Mar. 2007	Yes	Settled
Hicks, Muse, Tate, & Furst Equity Fund / Claussen	FTC	2003	Oct. 2002	Oct. 2002	No	Abandoned
Aspen Technology / Hydrotech	FTC	2003	Aug. 2003	Dec. 2004	Yes	Settled
First Data Corp. / Concord EFS	DOJ	2004	Oct. 2003	May 2004	No	Settled
Oracle Corp. / Peoplesoft	DOJ	2004	Feb. 2004	Sep. 2004	No	Gov Loss
Arch Coal / Triton Coal Company	FTC	2004	Apr. 2004	June 2005	No	Gov Loss
Evanston Northwestern / ENH Medical Group	FTC	2004	Feb. 2004	Apr. 2008	Yes	Gov Win
Aloha Petroleum / Trustreet Properties	FTC	2005	July 2005	Sep. 2005	No	Settled
Daily Gazette / MediaNews Group	DOJ	2007	May 2007	July 2010	Yes	Settled
Equitable Resources / People's Natural Gas Company	FTC	2007	Mar. 2007	Feb. 2008	No	Gov Win
Western Refining / Giant Industries	FTC	2007	Apr. 2007	May 2007	No	Gov Loss
Whole Foods / Wild Oats Market	FTC	2007	June 2007	Mar. 2009	Yes	Settled
Inova Health System / Prince William Health System	FTC	2008	May 2008	June 2008	No	Abandoned
Polypore International / Microporous Products	FTC	2008	Sep. 2008	Dec. 2013	Yes	Gov Win
Microsemi Corp / Semicoa	DOJ	2009	Dec. 2008	Jan. 2010	Yes	Settled
Red Sky Holdings / Newpark Resources	FTC	2009	Oct. 2008	Dec. 2008	No	Abandoned

Table A2. All Complaints Filed Between 2009 and 2016

Parties	Agency	Year	Complaint Filed	Resolved	Consummated	Outcome
CCC Information Services / Mitchell International	FTC	2009	Nov. 2008	Mar. 2009	No	Gov Win
CRH / Robert Schlegel	FTC	2009	Jan. 2009	Jan. 2009	No	Abandoned
Talecris Biotherapeutics / CSL	FTC	2009	May 2009	June 2009	No	Abandoned
Thoratec Corp. / HeartWare International	FTC	2009	Jan. 2009	Aug. 2009	No	Abandoned
Ovation Pharmaceuticals	FTC	2009	Dec. 2008	Oct. 2011	Yes	Gov Loss
Dean Foods / Foremost Farms	DOJ	2010	Jan. 2010	July 2011	Yes	Settled
VeriFone Systems / Hypercom Corporation / Ingenico	DOJ	2011	May 2011	Aug. 2011	No	Settled
H&R Block / 2SS Holdings / TA IX	DOJ	2011	May 2011	Oct. 2011	No	Gov Win
AT&T / T-Mobile	DOJ	2011	Aug. 2011	Dec. 2011	No	Abandoned
ProMedica / St. Luke's Hospital	FTC	2011	Jan. 2011	Mar. 2012	Yes	Gov Win
Phoebe Putney / Palmyra	FTC	2011	Apr. 2011	June 2013	No	Settled
Lab Corp / Westcliff Medical Laboratories	FTC	2011	Dec. 2010	Mar. 2011	Yes	Gov Loss
Deutsche Boerse / NYSE Euronext	DOJ	2012	Dec. 2011	Feb. 2012	No	Abandoned
OSF Healthcare System / Rockford Health System	FTC	2012	Nov. 2011	Apr. 2012	No	Gov Win
Graco / Illinois Tool Works	FTC	2012	Dec. 2011	Jan. 2012	No	Settled
Omnicare / PharMerica	FTC	2012	Dec. 2011	Feb. 2012	No	Abandoned
Twin America / Coach USA / CitySights	DOJ	2013	Dec. 2012	Nov. 2015	Yes	Settled
Bazaarvoice / PowerReviews	DOJ	2013	Jan. 2013	Apr. 2014	Yes	Gov Win
Anheuser-Busch InBev SA/NV / Grupo Modelo	DOJ	2013	Jan. 2013	Oct. 2013	No	Settled
US Airways Group, Inc. / AMR Corporation,	DOJ	2013	Aug. 2013	Apr. 2014	No	Settled
Reading Health System / Surgical Institute of Reading	FTC	2013	Nov. 2012	Nov. 2012	No	Abandoned
Integrated Device Technology / PLX Technology	FTC	2013	Dec. 2012	Dec. 2012	No	Abandoned
Pinnacle Entertainment / Ameristar Casinos	FTC	2013	May 2013	Dec. 2013	No	Settled
Ardagh Group / Saint-Gobain Containers	FTC	2013	July 2013	June 2014	No	Settled
St. Luke's Health System / Saltzer Medical Group	FTC	2013	Mar. 2013	Feb. 2015	Yes	Gov Win
Jostens / American Achievement Group	FTC	2014	Apr. 2014	Apr. 2014	No	Abandoned
National Cinemedia / Screenvision	DOJ	2015	Nov. 2014	Mar. 2015	No	Abandoned
AB Electrolux / General Electric	DOJ	2015	Jul. 2015	Dec. 2015	No	Abandoned
Verisk Analytics / EagleView Technology	FTC	2015	Dec. 2014	Dec. 2014	No	Abandoned
Sysco / US Foods	FTC	2015	Feb. 2015	June 2015	No	Gov Win
Steris / Synergy Health	FTC	2015	May 2015	Oct. 2015	No	Gov Loss
Anthem / Cigna	DOJ	2016	Jul. 2016	Feb. 2017	No	Gov Win
Aetna / Humana	DOJ	2016	Jul. 2016	Feb. 2017	No	Gov Win

Deere & Company / Precision Planting	DOJ	2016	Nov. 2015	May 2017	No	Abandoned
Tribune Publishing / Freedom Communications	DOJ	2016	Mar. 2016	Mar. 2016	No	Abandoned
Halliburton / Baker Hughes	DOJ	2016	Apr. 2016	May 2016	No	Abandoned
Staples / Office Depot	FTC	2016	Dec. 2015	May 2016	No	Gov Win
Penn State Hershey Medical Center / Pinnacle Health System	FTC	2016	Dec. 2015	Oct. 2016	No	Gov Win
Advocate Health and Hospitals / NorthShore University Health System	FTC	2016	Dec. 2015	Mar. 2017	No	Gov Win
Superior / Canexus	FTC	2016	Jun. 2016	Jun. 2016	No	Abandoned

Table A3. All Complaints Filed Between 2017 and 2020

Parties	Agency	Year	Complaint Filed	Resolved	Consummated	Outcome
Energy Solutions / Waste Control Specialists	DOJ	2017	Nov. 2016	June 2017	No	Gov Win
Parker-Hannifin / CLARCOR	DOJ	2017	Sep. 2017	Apr. 2018	Yes	Settled
Sanford Health / Mid Dakota Clinic	FTC	2017	June 2017	July 2019	No	Gov Win
DraftKings / FanDuel	FTC	2017	July 2017	July 2017	No	Abandoned
AT&T / Time Warner	DOJ	2018	Nov. 2017	Feb. 2019	No	Gov Loss
Wilhelmsen Maritime Services / Drew Marine	FTC	2018	Feb. 2018	July 2018	No	Gov Win
Tronox / Cristal	FTC	2018	Dec. 2017	May 2018	No	Gov Win
J.M. Smucker / Conagra	FTC	2018	Mar. 2018	Mar. 2018	No	Abandoned
CDK / Auto/Mate	FTC	2018	Mar. 2018	Mar. 2018	No	Abandoned
Otto Bock / Freedom Innovations	FTC	2018	Dec. 2017	Nov. 2019	Yes	Gov Win
QuadGraphics/ LSC Communications	DOJ	2019	Jun. 2019	Jul. 2019	No	Abandoned
Sabre/ Farelogix	DOJ	2019	Aug. 2019	Apr. 2020	No	Gov Loss
Novelis/ Aleris	DOJ	2019	May 2020	May 2020	No	Gov Win
Evonik/ PeroxyChem	FTC	2019	Aug. 2019	Jan. 2020	No	Gov Loss
Fidelity/ Stewart	FTC	2019	Sep. 2019	Sep. 2019	No	Abandoned
Geisinger Health/ Evangelical Cmty. Hosp.	DOJ	2020	Aug. 2020	Mar. 2021	No	Settled
Post/TreeHouse Foods	FTC	2020	Dec. 2019	Dec. 2019	No	Abandoned
Illumina/Pacific Biosciences	FTC	2020	Dec. 2019	Dec. 2019	No	Abandoned
Edgewell/Harry's	FTC	2020	Feb. 2020	Feb. 2020	No	Abandoned
Peabody Energy/Arch Coal	FTC	2020	Feb. 2020	Sep. 2020	No	Gov Win
Jefferson Health/ Albert Einstein	FTC	2020	Feb. 2020	Dec. 2020	No	Gov Loss

Table A4. Master Appendix of All Merger Complaints, 2000 - 2020

Parties	Agency	FY 2000	Complaint Filed	Settled	Consummated	Outcome
Harsco / Pandrol	DOJ	2000	Oct. 1999	March 2000	No	Settled
Compuware / Viasoft	DOJ	2000	Oct. 1999	Jan. 2000	No	Gov Win
New Holland / Case	DOJ	2000	Nov. 1999	March 2000	No	Settled
Alcoa / Golden Aluminum	DOJ	2000	Nov. 1999	June 2000	No	Settled
AlliedSignal / Honeywell	DOJ	2000	Nov. 1999	March 2000	No	Settled
CBS / Outdoor Systems	DOJ	2000	Dec. 1999	June 2000	No	Settled
Miller / Vulcan / Chevron	DOJ	2000	Feb. 2000	Dec. 2000	Yes	Settled
Earthgraints / Metz	DOJ	2000	March 2000	July 2000	No	Settled
Dairy Farmers of America / Societe de Diffusion	DOJ	2000	March 2000	Nov. 2000	No	Settled
Alcoa / Reynolds Metals	DOJ	2000	May 2000	July 2000	No	Settled
Allied Waste / Superior Services	DOJ	2000	May 2000	Dec. 2000	No	Settled
AT&T / MediaOne	DOJ	2000	May 2000	Sep. 2000	No	Settled
Franklin Electric / United Dominion	DOJ	2000	May 2000	Aug. 2000	No	Gov Win
Allied Waste / Republic Services	DOJ	2000	June 2000	Dec. 2000	No	Settled
JDS Uniphase / E-Tek Dynamics	DOJ	2000	June 2000	Oct. 2000	No	Settled
Woldcom / Sprint	DOJ	2000	June 2000	June 2000	No	Abandoned
Flowserve / Ingersoll-Desser Pump	DOJ	2000	July 2000	Jan 2001	No	Settled
L'Oreal USA / Carson	DOJ	2000	July 2000	Nov. 2000	No	Settled
SBC Communications / BellSouth	DOJ	2000	Aug. 2000	Dec. 2000	No	Settled
Republic Services / Allied Waste	DOJ	2000	Sep. 2000	Jan. 2001	No	Settled
BP Amoco / Atlantic Richfield	FTC	2000	Feb. 2000	Aug. 2000	No	Settled
Kroger Company / Winn-Dixie	FTC	2000	June 2000	June 2000	No	Abandoned
Swedish Match / National Tobacco	FTC	2000	June 2000	Dec 2000	No	Gov Win
H.J. Heinz / Milnot Holding (Beech-Nut)	FTC	2000	July 2000	April 2000	No	Gov Win
Conso International / McCall Pattern	FTC	2000	Aug. 2000	Aug. 2000	No	Abandoned
El Paso Energy / Sonat	FTC	2000	Oct. 1999	Jan. 2000	No	Settled
VNU N.V. / Nielsen Media Research	FTC	2000	Oct. 1999	Dec. 1999	No	Settled
Dominion Resources / Consolidated Natural Gas	FTC	2000	Nov. 1999	Sep. 2000	No	Settled
Precision Castparts / Wyman Gordon	FTC	2000	Nov. 1999	Dec. 1999	No	Settled
Reckitt & Colman / Benckiser	FTC	2000	Nov. 1999	Jan 2000	No	Settled
Exxon / Mobil	FTC	2000	Nov. 1999	Jan. 2001	No	Settled
Hoescht / Rhone-Poulenc	FTC	2000	Dec. 1999	Jan 2000	No	Settled
MacDermid / Polyfibron Technologies	FTC	2000	Dec. 1999	Dec. 1999	No	Settled
RHI / Global Industrial Technologies	FTC	2000	Dec. 1999	March 2001	No	Settled
Fidelity National / Chicago Title	FTC	2000	Jan. 2000	Feb. 2000	No	Settled
Rhodia Donau Chemie / Albright & Wilson	FTC	2000	March 2000	April 2000	No	Settled
Duke Energy / Phillips Petroleum	FTC	2000	March 2000	May 2000	No	Settled
FMC / Solutia	FTC	2000	April 2000	Dec. 2000	No	Settled
Service Corporation International / LaGrone Funeral Home	FTC	2000	May 2000	June 2000	Yes	Settled
Pfizer / Warner-Lambert	FTC	2000	June 2000	July 2000	No	Settled
Establishments Delhaize Freres Et Cie / Hannaford Bros.	FTC	2000	July 2000	June 2001	No	Settled

Agrium / Union Oil Company of California	FTC	2000	Sep. 2000	Nov. 2000	No	Settled
Boeing / Hughes Space Communication	FTC	2000	Sep. 2000	March 2001	No	Settled
Parties	Agency	FY 2001	Complaint Filed	Resolved	Consummated	Outcome
WorldCom / Intermedia Communications	DOJ	2001	Nov. 2000	June 2001	No	Settled
Georgia-Pacific / Fort James	DOJ	2001	Nov. 2000	May 2001	No	Settled
Aktiebolaget Volvo / Renault V.I.	DOJ	2001	Dec. 2000	April 2001	No	Settled
Fox Television / Chris-Craft Industries	DOJ	2001	April 2001	April 2001	No	Settled
3D Systems / DTM	DOJ	2001	June 2001	May 2002	No	Settled
Signature Flight Support / Ranger Aerospace	DOJ	2001	June 2001	Oct. 2001	No	Settled
Thomson / Harcourt	DOJ	2001	June 2001	Oct. 2001	No	Settled
Premdor / Masonite	DOJ	2001	Aug. 2001	April 2002	No	Settled
Hearst Trust / Medi-Span	FTC	2001	April 2001	Dec. 2001	Yes	Settled
Manheim Auctions / ADT Automotive	FTC	2001	Oct. 2000	Nov. 2000	No	Settled
Tyco International / Mallinckrodt	FTC	2001	Dec. 2000	Dec. 2000	No	Settled
Novartis / AstraZeneca	FTC	2001	Nov. 2000	Dec. 2000	No	Settled
Philip Morris / Nabisco	FTC	2001	Dec. 2000	Feb. 2001	No	Settled
AOL Online / Time Warner	FTC	2001	Dec. 2000	April 2001	No	Settled
SmithKline / Glaxo Wellcome	FTC	2001	Dec. 2000	Jan. 2001	No	Settled
Valspar / Lilly Industries	FTC	2001	Dec. 2000	Jan. 2001	No	Settled
Computer Sciences / Mynd	FTC	2001	Dec. 2000	Jan. 2001	No	Settled
El Paso Energy / PG&E Gas Transmission Texas	FTC	2001	Dec. 2000	Feb. 2001	No	Settled
Winn-Dixie Stores / Jitney Jungle Stores of America	FTC	2001	Jan. 2001	Feb. 2001	No	Settled
El Paso Energy / The Costal Corp	FTC	2001	Jan. 2001	Mar. 2001	No	Settled
Koch Indus. / Entergy-Koch L.P.	FTC	2001	Jan. 2001	Jan. 2001	No	Settled
Dow Chemical / Union Carbide	FTC	2001	Feb. 2001	Mar. 2001	No	Settled
DTE Energy / MCN Energy Group	FTC	2001	Mar. 2001	May 2001	No	Settled
Siemens AG / Atecs Mannesman	FTC	2001	Apr. 2001	May 2001	No	Settled
Lafarge / Blue Circle Industries	FTC	2001	June 2001	June 2001	No	Settled
Chevron / Texaco	FTC	2001	Sep. 2001	Jan. 2002	No	Settled
Metso Oyi / Svedala Industri	FTC	2001	Sep. 2001	Oct. 2001	No	Settled
Parties	Agency	FY 2002	Complaint Filed	Resolved	Consummated	Outcome
SunGard Data Systems / Comdisco	DOJ	2002	Oct. 2001	Nov. 2001	No	Gov Loss
General Dynamics / Newport New Shipbuilding	DOJ	2002	Oct. 2001	Oct. 2001	No	Abandoned
Manitowoc Company / Grove Investors	DOJ	2002	July 2002	Dec. 2002	No	Settled
Archer-Daniels-Midland Co / Minnesota Corn Processors	DOJ	2002	Sep. 2002	July 2003	No	Settled
Diageo / Vivendi	FTC	2002	Dec. 2001	Feb. 2002	No	Settled
Libbey / Newell Rubbermaid	FTC	2002	Jan. 2002	Oct. 2002	No	Gov Win
Deutsche Gelatine-Fabriken Stoess / Goodman Fielder	FTC	2002	Mar. 2002	Apr. 2002	No	Settled
Meade Instruments / Tasco Holdings	FTC	2002	May 2002	May 2002	No	Abandoned
Cytyc / Digene	FTC	2002	June 2002	June 2002	No	Abandoned
MSC Software / Universal Analytics / CSAR	FTC	2002	Oct. 2001	Nov. 2002	Yes	Settled

Chicago Bridge & Iron / Water Division Pitt-Des Moines	FTC	2002	Oct. 2001	Jan. 2005	Yes	Gov Win
Airgas / Puritan Bennett Medical Gas	FTC	2002	Oct. 2001	Dec. 2001	Yes	Settled
Koninklijke Ahold / Bruno's Supermarkets	FTC	2002	Dec. 2001	Jan. 2002	No	Settled
Nestle Holdings / Ralston Purina	FTC	2002	Dec. 2001	Feb. 2002	No	Settled
Valero Energy / Ultramar Diamond Shamrock	FTC	2002	Dec. 2001	Feb. 2002	No	Settled
INA-Holding Schaeffler / FAG Kugelfischer Georg Schafer	FTC	2002	Dec. 2001	Feb. 2002	No	Settled
Solvay SA / Ausimont S.p.A.	FTC	2002	May 2002	June 2002	No	Settled
Bayer / Aventis	FTC	2002	May 2002	Aug. 2002	No	Settled
Amgen / Immunex	FTC	2002	July 2002	Sep. 2002	No	Settled
Phillips Petroleum / Conoco	FTC	2002	Aug. 2002	Feb. 2003	No	Settled
Shell Oil / Pennzoil-Quaker State	FTC	2002	Sep. 2002	Nov. 2002	No	Settled
Parties	Agency	FY 2003	Complaint Filed	Settled	Consummated	Outcome
Echostar Communications / Hughes Electronics	DOJ	2003	Oct. 2002	Dec. 2002	No	Abandoned
UPM-Kymmene Oyj / Bemis MACtac	DOJ	2003	Apr. 2003	July 2003	No	Gov Win
SGL Carbon / Carbide/Graphite Group	DOJ	2003	Apr. 2003	May 2003	No	Settled
Dairy Farmers of America / Southern Belle	DOJ	2003	Apr. 2003	Mar. 2007	Yes	Settled
Northrop Grumman / TRW	DOJ	2003	Dec. 2002	Jun. 2003	No	Settled
Univision Communications / Hispanic Broadcasting Corp.	DOJ	2003	Mar. 2003	Dec. 2003	No	Settled
Waste Management / Allied Waste	DOJ	2003	June 2003	Dec. 2003	No	Settled
General Electric / Instrumentarium	DOJ	2003	Sep. 2003	Feb. 2004	No	Settled
Alcan / Pechiney	DOJ	2003	Sep. 2003	Feb. 2004	No	Settled
Nestle Holdings / Dreyer's Grand Ice Cream Holdings	FTC	2003	June 2003	Nov. 2003	No	Settled
Hicks, Muse, Tate, & Furst Equity Fund / Claussen	FTC	2003	Oct. 2002	Oct. 2002	No	Abandoned
Kroger / Raley's	FTC	2003	Nov. 2003	Nov. 2003	No	Withdrawn
Aspen Technology / Hyprotech	FTC	2003	Aug. 2003	Dec. 2004	Yes	Settled
Wal-Mart Stores / Supermercados Amigo	FTC	2003	Nov. 2002	Feb. 2003	No	Settled
Baxter International / Wyeth	FTC	2003	Dec. 2002	Dec. 2002	No	Settled
Dainippon Ink / Bayer Corp.	FTC	2003	Jan. 2003	Mar. 2003	No	Settled
Quest Diagnostics Incorporated/Unilab Corporation	FTC	2003	Feb. 2003	Apr. 2003	No	Settled
Pfizer Inc./Pharmacia Corporation	FTC	2003	Apr. 2003	May 2003	No	Settled
Southern Union / CMS Energy	FTC	2003	May 2003	July 2003	No	Settled
Parties	Agency	FY 2004	Complaint Filed	Resolved	Consummated	Outcome
Waste Management / Allied Waste	DOJ	2004	Oct. 2003	Mar. 2004	No	Settled
First Data Corp. / Concord EFS	DOJ	2004	Oct. 2003	May 2004	No	Settled
DNH International Sar / El Paso Corp.	DOJ	2004	Dec. 2003	May 2004	No	Settled
Syngeta / Advanta	DOJ	2004	Aug. 2004	Dec. 2004	No	Settled
Connor Bros. Income Fund / Bumble Bee Seafoods	DOJ	2004	Aug. 2004	Apr. 2005	No	Settled
Oracle Corp. / Peoplesoft	DOJ	2004	Feb. 2004	Sep. 2004	No	Gov Loss
Arch Coal / Triton Coal Company	FTC	2004	Apr. 2004	June 2005	No	Gov Loss

Evanston Northwestern / ENH Medical Group	FTC	2004	Feb. 2004	Apr. 2008	Yes	Gov Win
Gencorp / Atlantic Research Corp.	FTC	2004	Oct. 2003	Dec. 2003	No	Settled
General Electric / Agfa-Gevaert	FTC	2004	Dec. 2003	Jan. 2004	No	Settled
American Air Liquide / Messer Giesheim	FTC	2004	Apr. 2004	June 2004	No	Settled
Itron / Schlumberger Electricity	FTC	2004	June 2004	Aug. 2004	No	Settled
Sanofi-Synthelabo/Aventis	FTC	2004	July 2004	Sep. 2004	No	Settled
Cephalon / Cima Labs	FTC	2004	Aug. 2004	Sep. 2004	No	Settled
General Electric / InVision Technologies	FTC	2004	Sep. 2004	Oct. 2004	No	Settled
Buckeye Partners / Shell Oil	FTC	2004	Sep. 2004	Dec. 2004	No	Settled
Magellan Midstream Partners / Shell Oil	FTC	2004	Sep. 2004	Nov. 2004	No	Settled
Enterprise Products Partnership / Dan L. Duncan	FTC	2004	Sep. 2004	Nov. 2004	No	Settled
Parties	Agency	FY 2005	Complaint Filed	Settled	Consummated	Outcome
Cingular Wireless / AT&T Wireless	DOJ	2005	Oct. 2004	Mar. 2005	No	Settled
ALLTEL Corp. / Western Wireless Corp.	DOJ	2005	July 2005	Oct. 2005	No	Settled
Waste Industries / Allied Waste	DOJ	2005	Aug. 2005	Nov. 2005	Yes	Settled
Aloha Petroleum / Truststreet Properties	FTC	2005	July 2005	Sep. 2005	No	Settled
Genzyme Corp. / ILEX Oncology	FTC	2005	Dec. 2004	Feb. 2005	No	Settled
Cytec Industries / Surface Specialties UCB	FTC	2005	Mar. 2005	Apr. 2005	No	Settled
Cemex S.A. De C.V. / RMC Group	FTC	2005	Feb. 2005	Mar. 2005	No	Settled
Occidental Petroleum Corp / Vulcan Materials	FTC	2005	June 2005	July 2005	No	Settled
Chevron Corp. / Unocal Corp.	FTC	2005	June 2005	Aug. 2005	No	Settled
Valero L.P. / Kaneb Services	FTC	2005	June 2005	Sep. 2005	No	Settled
Novartis / Eon Labs	FTC	2005	July 2005	Sep. 2005	No	Settled
Penn National Gaming / Argosy Gaming	FTC	2005	July 2005	Nov. 2005	No	Settled
Procter & Gamble / Gillette	FTC	2005	Sep. 2005	Dec. 2005	No	Settled
Parties	Agency	FY 2006	Complaint Filed	Resolved	Consummated	Outcome
Cal Dive International / Stolt Offshore	DOJ	2006	Oct. 2005	Jan. 2006	No	Settled
SBC Communications / AT&T	DOJ	2006	Oct. 2005	Mar. 2007	No	Settled
Verizon Communications / MCI	DOJ	2006	Oct. 2005	Mar. 2007	No	Settled
UnitedHealth Group / PacifiCare	DOJ	2006	Dec. 2005	May 2006	No	Settled
Marquee Holdings / LCE Holdings	DOJ	2006	Dec. 2005	June 2006	No	Settled
Exelon Corp. / Public Service Enterprise Group	DOJ	2006	June 2006	Sep. 2006	No	Settled
Inco Limited / Falconbridge Limited	DOJ	2006	June 2006	Sep. 2006	No	Settled
The McLatchy Company / Knight Ridder	DOJ	2006	June 2006	Nov. 2006	No	Settled
Mittal Steel / Arcelor	DOJ	2006	Aug. 2006	Mar. 2007	No	Settled
ALLTEL / Midwest Wireless Holdings	DOJ	2006	Sep. 2006	Jan. 2007	No	Settled
DaVita / Gambro Healthcare	FTC	2006	Oct. 2005	Nov. 2005	No	Settled
Johnson & Johnson / Guidant	FTC	2006	Nov. 2005	Dec. 2005	No	Settled

Teva Pharmaceutical Industries / IVAX	FTC	2006	Jan. 2006	Mar. 2006	No	Settled
Allergan / Inamed	FTC	2006	Mar. 2006	Apr. 2006	No	Settled
Fresenius / Renal Care Group	FTC	2006	Mar. 2006	July 2006	No	Settled
Boston Scientific / Guidant	FTC	2006	Apr. 2006	July 2006	No	Settled
Hologic / Fischer Imaging	FTC	2006	July 2006	Aug. 2006	Yes	Settled
Linde / The BOC Group	FTC	2006	July 2006	Sep. 2006	No	Settled
Dan L. Duncan / TEPPCO Partners	FTC	2006	Aug. 2006	Nov. 2006	Yes	Settled
Parties	Agency	FY 2007	Complaint Filed	Resolved	Consummated	Outcome
CEMEX / Rinker Group	DOJ	2007	Apr. 2007	Aug. 2007	No	Settled
Amsted Industries / FMI	DOJ	2007	Apr. 2007	July 2007	Yes	Settled
Daily Gazette / MediaNews Group	DOJ	2007	May 2007	July 2010	Yes	Settled
Monsanto / Delta & Pine Land Company	DOJ	2007	May 2007	Nov. 2008	No	Settled
Equitable Resources / People's Natural Gas Company	FTC	2007	Mar. 2007	Feb. 2008	No	Gov Win
Western Refining / Giant Industries	FTC	2007	Apr. 2007	May 2007	No	Gov Loss
Whole Foods / Wild Oats Market	FTC	2007	June 2007	Mar. 2009	Yes	Settled
Boeing / Lockheed Martin	FTC	2007	Oct. 2006	May 2007	No	Settled
Thermo Electron / Fisher Scientific International	FTC	2007	Oct. 2006	Dec. 2006	No	Settled
Barr Pharmaceuticals / Pliva	FTC	2007	Oct. 2006	Dec. 2006	No	Settled
Watson Pharmaceuticals / Andrx	FTC	2007	Oct. 2006	Dec. 2006	No	Settled
Service Corporation International / Alderwoods Group	FTC	2007	Nov. 2006	Jan. 2007	No	Settled
Johnson & Johnson / Pfizer	FTC	2007	Dec. 2006	Jan. 2007	No	Settled
General Dynamics Corp. / SNC Technologies	FTC	2007	Dec. 2006	Feb. 2007	No	Settled
Hospira / Mayne Pharma Limited	FTC	2007	Jan. 2007	Mar. 2007	No	Settled
Carlisle Group / Kinder Morgan	FTC	2007	Mar. 2006	Jan. 2007	No	Settled
Actavis / Abrika Pharmaceuticals	FTC	2007	Apr. 2007	May 2007	No	Settled
Rite Aid / The Jean Coutu Group	FTC	2007	June 2007	Sep. 2007	No	Settled
Jarden Corp. / K2 Inc.	FTC	2007	Aug. 2007	Sep. 2007	No	Settled
American Renal Associates / Fresenius Medical Care Holdings	FTC	2007	Sep. 2007	Oct. 2007	No	Settled
Mylan Laboratories / Merck	FTC	2007	Sep. 2007	Nov. 2007	No	Settled
Parties	Agency	Year 2008	Complaint Filed	Resolved	Consummated	Outcome
Abitibi / Bowater	DOJ	2008	Oct. 2007	Nov. 2008	No	Settled
AT&T / Dobson Communications Corp.	DOJ	2008	Oct. 2007	Mar. 2008	No	Settled
Vulcan Materials / Florida Rock Industries	DOJ	2008	Nov. 2007	Apr. 2008	No	Settled
CommScope / Andrew Corp	DOJ	2008	Dec. 2007	Apr. 2008	No	Settled
Pearson / Harcourt Assessment	DOJ	2008	Jan. 2008	June 2008	No	Settled
Thomson / Reuters	DOJ	2008	Feb. 2008	June 2008	No	Settled
UnitedHealth Group / Sierra Health Services	DOJ	2008	Feb. 2008	Sep. 2008	No	Settled
Cookson Group / Foseco	DOJ	2008	Mar. 2008	May 2008	No	Settled
Altivity Packaging / Graphic Packaging International	DOJ	2008	Mar. 2008	July 2008	No	Settled
Regal Cinemas / Consolidated Theatres	DOJ	2008	Apr. 2008	Oct. 2008	No	Settled
Cengage Learning / Houghton Mifflin Harcourt	DOJ	2008	May 2008	Sep. 2008	No	Settled
Verizon Communications / Rural Cellular	DOJ	2008	June 2008	Apr. 2009	No	Settled

Signature Flight Support / Hawker Beechcraft Services	DOJ	2008	July 2008	Oct. 2008	No	Settled
Raycom Media / Lincoln Fiscal	DOJ	2008	Aug. 2008	Dec. 2008	No	Settled
Inova Health System / Prince William Health System	FTC	2008	May 2008	June 2008	No	Abandoned
Polypore International / Microporous Products	FTC	2008	Sep. 2008	Dec. 2013	Yes	Gov Win
Kypon / Disc-O-Tech Medical Technologies	FTC	2008	Oct. 2007	Dec. 2007	No	Settled
Owens Corning / Compagnie de Saint Gobain	FTC	2008	Oct. 2007	Dec. 2007	No	Settled
Schering-Plough Corp. / Organon Biosciences	FTC	2008	Nov. 2007	Jan. 2008	No	Settled
Great Atlantic & Pacific Tea / Pathmark Stores	FTC	2008	Nov. 2007	Jan. 2008	No	Settled
TALX	FTC	2008	Apr. 2008	Aug. 2008	Yes	Settled
Agrium / UAP Holding	FTC	2008	June 2008	Oct. 2008	No	Settled
PQ / INEOS Group	FTC	2008	Sep. 2008	June 2008	No	Settled
Flow International / OMAX	FTC	2008	July 2008	Aug. 2008	No	Settled
Pernod Richard / V&S Vin & Spirt	FTC	2008	July 2008	Oct. 2008	No	Settled
McCormick & Company / Lawry's & Adolph's	FTC	2008	July 2008	Sep. 2008	No	Settled
Sun Pharmaceutical Industries / Taro Pharmaceuticals	FTC	2008	Aug. 2008	Sep. 2008	No	Settled
Fresenisu Medical Care / Daiichi Sankyo	FTC	2008	Sep. 2008	Oct. 2008	No	Settled
Reed Elsevier / ChoicePoint	FTC	2008	Dec. 2008	June 2009	No	Settled
Parties	Agency	Year 2009	Complaint Filed	Resolved	Consummated	Outcome
Manitowoc Company / Endonis	DOJ	2009	Oct. 2008	Feb. 2009	No	Settled
JBS / National Beef Packing Company	DOJ	2009	Oct. 2008	Feb. 2009	No	Settled
Verizon Communications / Alltel	DOJ	2009	Oct. 2008	Apr. 2009	No	Settled
InBev / Anheuser-Busch	DOJ	2009	Nov. 2008	Aug. 2009	No	Settled
Republic Services / Allied Waste	DOJ	2009	Dec. 2008	July 2010	No	Settled
Microsemi Corp / Semicoa	DOJ	2009	Dec. 2008	Jan. 2010	Yes	Settled
Sapa Holding / Indalex Holdings	DOJ	2009	July 2009	Jan. 2010	No	Settled
Red Sky Holdings / Newpark Resources	FTC	2009	Oct. 2008	Dec. 2008	No	Abandoned
CCC Information Services / Mitchell International	FTC	2009	Nov. 2008	Mar. 2009	No	Gov Win
CRH / Robert Schlegel	FTC	2009	Jan. 2009	Jan. 2009	No	Abandoned
Talecris Biotherapeutics / CSL	FTC	2009	May 2009	June 2009	No	Abandoned
Thoratec Corp. / HeartWare International	FTC	2009	Jan. 2009	Aug. 2009	No	Abandoned
Ovation Pharmaceuticals	FTC	2009	Dec. 2008	Oct. 2011	Yes	Gov Loss
Huntsman Corp. / Hexcion Specialty Chemicals	FTC	2009	Oct. 2008	June 2009	No	Settled
Teva Pharmaceutical Industries / Barr Pharmaceuticals	FTC	2009	Oct. 2008	Feb. 2009	No	Settled
Inverness Medical Innovations	FTC	2009	Dec. 2008	Jan. 2009	No	Settled
King Pharmaceuticals / Alparma	FTC	2009	Dec. 2008	Feb. 2009	No	Settled
Dow Chemical / Rohm & Haas	FTC	2009	Jan. 2009	Apr. 2009	No	Settled
Getinge / Datascope	FTC	2009	Jan. 2009	Mar. 2009	No	Settled
Lubrizol / Lockhart Chemical	FTC	2009	Feb. 2009	Apr. 2009	Yes	Settled
BASF / Ciba Specialty Chemicals	FTC	2009	Apr. 2009	May 2009	No	Settled
K&S / Dow Chemical	FTC	2009	Sep. 2009	Nov. 2009	No	Settled
Parties	Agency	FY 2010	Complaint Filed	Resolved	Consummated	Outcome

AT&T / Centennial Communications	DOJ	2010	Oct. 2009	Feb. 2010	No	Settled
Cameron International / NATCO Group	DOJ	2010	Nov. 2009	May 2010	Yes	Settled
Stericycle / Medserve	DOJ	2010	Nov. 2009	Apr. 2010	No	Settled
Dean Foods / Foremost Farms	DOJ	2010	Jan. 2010	July 2011	Yes	Settled
Ticketmaster Entertainment / Live Nation	DOJ	2010	Jan. 2010	July 2010	No	Settled
Bemis Company / Alcan Packaging Foods Americas	DOJ	2010	Feb. 2010	July 2010	No	Settled
Election Systems and Software / Premier Election Solutions	DOJ	2010	Mar. 2010	June 2010	Yes	Settled
Baker Hughes / BJ Services	DOJ	2010	Apr. 2010	July 2010	No	Settled
AMC Entertainment Holdings / Kerasotes Showplace Theaters	DOJ	2010	May 2010	Aug. 2009	No	Settled
Amcor / Alcan Packaging Medical Flexibles	DOJ	2010	June 2010	Oct. 2010	No	Settled
Dun & Bradstreet Corp. / QED	FTC	2010	May 2010	Sep. 2010	Yes	Settled
Pfizer / Wyeth	FTC	2010	Oct. 2009	Jan. 2010	No	Settled
Schering-Plough / Merck & Co.	FTC	2010	Oct. 2009	Oct. 2009	No	Settled
Panasonic Corp / Sanyo Electric	FTC	2010	Nov. 2009	Jan 2010	No	Settled
Service Corp. International / Palm Mortuary	FTC	2010	Nov. 2009	Jan. 2010	No	Settled
Watson Pharmaceuticals / Robin Hood Holdings	FTC	2010	Dec. 2009	Jan. 2010	No	Settled
Agrium / CF Industries	FTC	2010	Dec. 2009	Feb. 2010	No	Settled
Danaher / MDS Analytical Technologies	FTC	2010	Jan. 2010	Mar. 2010	No	Settled
PepsiCo / Pepsi Bottling	FTC	2010	Feb. 2010	Sep. 2010	No	Settled
Service Corp. International / Keystone	FTC	2010	Mar. 2010	May 2010	No	Settled
Agilent Technologies / Varian	FTC	2010	May 2010	June 2010	No	Settled
Pilot / Flying J	FTC	2010	June 2010	Nov. 2010	No	Settled
AEA Investors / D.A. Stuart	FTC	2010	July 2010	Aug. 2010	Yes	Settled
Fidelity National Fiscal	FTC	2010	July 2010	Sep. 2010	Yes	Settled
Nufarm / Marks Holding	FTC	2010	July 2010	Sep. 2010	Yes	Settled
Tops Market / Penn Traffic Company	FTC	2010	Aug. 2010	July 2011	No	Settled
Novartis AG / Alcon	FTC	2010	Aug. 2010	Oct 2010	No	Settled
Air Products & Chemicals / Airgas	FTC	2010	Sep. 2010	Oct. 2010	No	Settled
Coca-Cola / Coca-Cola Enterprise	FTC	2010	Sep. 2010	Nov. 2010	No	Settled
Parties	Agency	FY 2011	Complaint Filed	Resolved	Consummated	Outcome
GrafTech International / Seadrift Coke	DOJ	2011	Nov. 2010	Mar. 2011	No	Settled
L.B. Foster Company / Portec Rail Products	DOJ	2011	Dec. 2010	May 2011	No	Settled
Comcast / General Electric / NBC Universal	DOJ	2011	Jan. 2011	Sep. 2011	No	Settled
Google / ITA Software	DOJ	2011	Apr. 2011	Oct. 2011	No	Settled
Stericycle / Healthcare Waste Solutions	DOJ	2011	Apr. 2011	June 2011	No	Settled
Unilever / Alberto-Culver Company	DOJ	2011	May 2011	July 2011	No	Settled
George's Foods / Tyson Foods	DOJ	2011	June 2011	Nov. 2011	No	Settled
VeriFone Systems / Hypercom Corporation / Ingenico	DOJ	2011	May 2011	Aug. 2011	No	Settled
H&R Block / 2SS Holdings / TA IX	DOJ	2011	May 2011	Oct. 2011	No	Gov Win

Regal Beloit / A.O. Smith	DOJ	2011	Aug. 2011	Nov. 2011	No	Settled
General Electric Company / CVT Holdings	DOJ	2011	Aug. 2011	Nov. 2011	No	Settled
AT&T / T-Mobile	DOJ	2011	Aug. 2011	Dec. 2011	No	Abandoned
Cumulus Media / Citadel Broadcasting Corp.	DOJ	2011	Sep. 2011	Nov. 2011	No	Settled
ProMedica / St. Luke's Hospital	FTC	2011	Jan. 2011	Mar. 2012	Yes	Gov Win
Phoebe Putney / Palmyra	FTC	2011	Apr. 2011	June 2013	No	Settled
Lab Corp / Westcliff Medical Laboratories	FTC	2011	Dec. 2010	Mar. 2011	Yes	Gov Loss
Hikma Pharmaceuticals / Baxter International	FTC	2011	Apr. 2011	June 2011	No	Settled
Irving Oil Terminals / ExxonMobil	FTC	2011	May 2011	July 2011	No	Settled
Keystone Holdings / Saint-Gobain	FTC	2011	Dec. 2010	Feb. 2011	No	Settled
Universal Health Services / Psychiatric Solutions	FTC	2011	Nov. 2010	Apr. 2011	No	Settled
Simon Property Group / Prime Outlets Acquisition Company	FTC	2011	Nov. 2010	Jan. 2011	No	Settled
Grifols / Talecris	FTC	2011	June 2011	July 2011	No	Settled
Cardinal Health / Biotech Pharmacy	FTC	2011	July 2011	Oct. 2011	Yes	Settled
Perrigo Company / Paddock Laboratories	FTC	2011	July 2011	June 2012	No	Settled
DaVita / CDSI I Holding Company	FTC	2011	Sep. 2011	Oct. 2011	No	Settled
Parties	Agency	FY 2012	Complaint Filed	Resolved	Consummated	Outcome
Grupo Bimbo / Sara Lee Corporation	DOJ	2012	Oct. 2011	Feb. 2012	No	Settled
Blue Cross and Blue Shield of Montana / Community Medical Services et. al	DOJ	2012	Nov. 2011	Mar. 2012	No	Settled
Exelon / Constellation Energy Group	DOJ	2012	Dec. 2011	May 2012	No	Settled
Deutsche Boerse / NYSE Euronext	DOJ	2012	Dec. 2011	Feb. 2012	No	Abandoned
International Paper Company / Temple-Inland	DOJ	2012	Feb. 2012	May 2012	No	Settled
Humana / Arcadian Management Services	DOJ	2012	Mar. 2012	Oct. 2012	No	Settled
United Technologies / Goodrich	DOJ	2012	July 2012	May 2013	No	Settled
Standard Parking / Central Parking	DOJ	2012	Sep. 2012	Jan. 2013	No	Settled
OSF Healthcare System / Rockford Health System	FTC	2012	Nov. 2011	Apr. 2012	No	Gov Win
Graco / Illinois Tool Works	FTC	2012	Dec. 2011	Jan. 2012	No	Settled
Omnicare / PharMerica	FTC	2012	Dec. 2011	Feb. 2012	No	Abandoned
Teva Pharmaceutical Industries / Cephalon	FTC	2012	Oct. 2011	July 2012	No	Settled
Healthcare Technology Holdings / SDI Health	FTC	2012	Oct. 2011	Mar. 2012	No	Settled
Lab Corp / Orchid Cellmark	FTC	2012	Dec. 2011	Feb. 2012	No	Settled
Valeant Pharmaceuticals International / Johnson & Johnson	FTC	2012	Dec. 2011	Feb. 2012	No	Settled
AmeriGas Propane / Energy Transfer Partners	FTC	2012	Jan. 2012	June 2012	No	Settled
Fresenius Medical Care / Liberty Dialysis Holdings	FTC	2012	Feb. 2012	May 2012	No	Settled

Carpenter Technology Corporation / Latrobe Speciality Metals	FTC	2012	Feb. 2012	Apr. 2012	No	Settled
Western Digital / Hitachi Global Storage	FTC	2012	Mar. 2012	May 2012	No	Settled
CoStar Group / LoopNet	FTC	2012	Apr. 2012	Aug. 2012	No	Settled
Kinder Morgan / El Paso Corporation	FTC	2012	May 2012	June 2012	No	Settled
Johnson & Johnson / Synthes	FTC	2012	June 2012	Aug. 2012	No	Settled
Koninklijke Ahold / Safeway	FTC	2012	June 2012	Aug. 2012	No	Settled
Novartis / Fougere Holdings	FTC	2012	July 2012	Sep. 2012	No	Settled
Renown Health	FTC	2012	Aug. 2012	Dec. 2012	Yes	Settled
Parties	Agency	FY 2013	Complaint Filed	Resolved	Consummated	Outcome
Star Atlantic Waste / Veolia Environment	DOJ	2013	Nov. 2012	Mar. 2013	No	Settled
Twin America / Coach USA / CitySights	DOJ	2013	Dec. 2012	Nov. 2015	Yes	Settled
Bazaarvoice / PowerReviews	DOJ	2013	Jan. 2013	Apr. 2014	Yes	Gov Win
Anheuser-Busch InBev SA/NV / Grupo Modelo	DOJ	2013	Jan. 2013	Oct. 2013	No	Settled
Ecolab Inc. / Permian Mud Service, Inc	DOJ	2013	Apr. 2013	Sep. 2013	No	Settled
Cinemark Holdings / Rave Holdings	DOJ	2013	May 2013	Aug. 2013	No	Settled
US Airways Group, Inc. / AMR Corporation,	DOJ	2013	Aug. 2013	Apr. 2014	No	Settled
Reading Health System / Surgical Institute of Reading	FTC	2013	Nov. 2012	Nov. 2012	No	Abandoned
Integrated Device Technology / PLX Technology	FTC	2013	Dec. 2012	Dec. 2012	No	Abandoned
Pinnacle Entertainment / Ameristar Casinos	FTC	2013	May 2013	Dec. 2013	No	Settled
Ardagh Group / Saint-Gobain Containers	FTC	2013	July 2013	June 2014	No	Settled
St. Lukes Health System / Saltzer Medical Group	FTC	2013	Mar. 2013	Feb. 2015	Yes	Gov Win
Universal Health Services / Ascend Health Services	FTC	2013	Oct. 2012	Nov. 2012	No	Settled
Magnesium Elektron North America	FTC	2013	Oct. 2012	Dec. 2012	Yes	Settled
Watson Pharmaceuticals / Actavis	FTC	2013	Oct. 2012	Dec. 2012	No	Settled
Corning / Becton, Dickinson & Company	FTC	2013	Oct. 2012	Dec. 2012	No	Settled
Hertz Global Holdings / Dollar Thrifty	FTC	2013	Nov. 2012	July 2013	No	Settled
Robert Bosch / SPX Service Solutions	FTC	2013	Nov. 2012	Apr. 2013	No	Settled
Tesoro / Northwest Product's Pipeline	FTC	2013	June. 2013	Aug. 2013	No	Settled
Oltrin Solutions / JCI Jones Chemicals	FTC	2013	Jan. 2013	Mar. 2013	Yes	Settled
Charlotte Pipe / Star Pipe Products	FTC	2013	Apr. 2013	May 2013	Yes	Settled
Graco / Gusmer / GlasCraft	FTC	2013	Apr. 2013	Apr. 2013	Yes	Settled
Nielsen Holdings / Arbitron	FTC	2013	Sep. 2013	Feb. 2014	No	Settled
General Electric / Avio S.p.A.	FTC	2013	July 2013	Aug. 2013	No	Settled
Solera / Actual Systems	FTC	2013	July 2013	Oct. 2013	Yes	Settled
Actavis / Warner Chilcott	FTC	2013	Sep. 2013	Dec. 2013	No	Settled
Honeywell / Intermec	FTC	2013	Sep. 2013	Nov. 2013	No	Settled

Mylan / Agila	FTC	2013	Sep. 2013	Dec. 2013	No	Settled
Parties	Agency	FY 2014	Complaint Filed	Resolved	Consummated	Outcome
Gannett / Belo Corp.	DOJ	2014	Dec. 2013	Nov. 2014	No	Settled
Heraeus Electro-Nite	DOJ	2014	Jan. 2014	Apr. 2014	Yes	Settled
ConAgra Foods / Horizon Milling	DOJ	2014	May 2014	Oct. 2014	No	Settled
Martin Marietta Materials / Texas Industries	DOJ	2014	Jun. 2014	Sep. 2014	No	Settled
Sinclair Broadcast Group / Perpetual Corp	DOJ	2014	Jul. 2015	Nov. 2014	No	Settled
Landmark Aviation / Ross Aviation	DOJ	2014	Jul. 2014	Oct. 2014	No	Settled
Tyson Foods / Hillshire Brands	DOJ	2014	Aug. 2014	Nov. 2014	No	Settled
Jostens / American Achievement Group	FTC	2014	Apr. 2014	Apr. 2014	No	Abandoned
Albertson's / United Supermarkets	FTC	2014	Dec. 2013	Feb. 2014	No	Settled
SCI / Stewart Enterprises	FTC	2014	Dec. 2013	May 2014	No	Settled
Fidelity National Financial / Lender Processing Services	FTC	2014	Dec. 2013	Mar. 2014	No	Settled
Community Health Systems / Health Management Associates	FTC	2014	Jan. 2014	Apr. 2014	No	Settled
Thermo Fisher / Life Technologies	FTC	2014	Jan. 2014	Apr. 2014	No	Settled
Endo Health Solutions / Boca Life Sciences	FTC	2014	Jan. 2014	Mar. 2014	No	Settled
Bi-Lo Holdings / Delhaize Group	FTC	2014	Feb. 2014	Jan. 2015	No	Settled
CoreLogic / TPG	FTC	2014	Mar. 2014	May 2014	No	Settled
Akorn / Hi-Tech Pharmcal	FTC	2014	Apr. 2014	June 2014	No	Settled
Forest Laboratories / Actavis	FTC	2014	June 2014	Sep. 2014	No	Settled
Valeant Pharmaceuticals International / Precision Dermatology	FTC	2014	July 2014	Aug. 2014	No	Settled
Akorn / VersaPharm	FTC	2014	Aug. 2014	Sep. 2014	No	Settled
Prestige Brand Holdings / Insight Pharmaceuticals	FTC	2014	Aug. 2014	Oct. 2014	No	Settled
Parties	Agency	FY 2015	Complaint Filed	Resolved	Consummated	Outcome
Media General / LIN Media	DOJ	2015	Oct. 2014	Jan. 2015	No	Settled
National Cinemedia / Screenvision	DOJ	2015	Nov. 2014	Mar. 2015	No	Abandoned
Nexstar Broadcasting Group / Communication Corp. of America	DOJ	2015	Nov. 2014	Feb. 2015	No	Settled
Continental AG / Geyance Technoloies	DOJ	2015	Dec. 2014	Mar. 2015	No	Settled
Verson Paper Corp. / NewPage Holdings	DOJ	2015	Dec. 2014	Dec. 2015	No	Settled
Waste Management / Deffenbaugh Disposal	DOJ	2015	Mar. 2015	July 2015	No	Settled
AB Electrolux / General Electric	DOJ	2015	Jul. 2015	Dec. 2015	No	Abandoned
Entercom Communications / Lincoln Fiscal Media	DOJ	2015	Jul. 2015	Oct. 2015	No	Settled
General Electric / Alstom S.A.	DOJ	2015	Sep. 2015	Dec. 2015	No	Settled
Cox Enterprises / Dealertrack Technologies	DOJ	2015	Sep. 2015	Jan. 2016	No	Settled
Verisk Analytics / EagleView Technology	FTC	2015	Dec. 2014	Dec. 2014	No	Abandoned
Sysco / US Foods	FTC	2015	Feb. 2015	June 2015	No	Gov Win
Steris / Synergy Health	FTC	2015	May 2015	Oct. 2015	No	Gov Loss
Surgery Partners / Symbion Holdings	FTC	2015	Nov. 2014	Apr. 2015	No	Settled
Novartis / GlaxoSmithKline	FTC	2015	Nov. 2014	Jan. 2015	No	Settled

Covidien / Medtronic	FTC	2015	Dec. 2014	Mar. 2015	No	Settled
Eli Lilly / Novartis	FTC	2015	Jan. 2015	July 2015	No	Settled
Cerberus / Safeway	FTC	2015	Jan. 2015	Mar. 2015	No	Settled
Sun Pharmaceutical Industries / Ranbaxy Laboratories	FTC	2015	Mar. 2015	Apr. 2015	No	Settled
Impax Laboratories / Tower Holdings	FTC	2015	Mar. 2015	May 2015	No	Settled
Par Petroleum / Mid Pac Petroleum	FTC	2015	May 2015	June 2015	No	Settled
Lafarge / Holcim	FTC	2015	May 2015	June 2015	No	Settled
Zeppelin Foundation Friedrichschafen / TRW Automotive Holdings	FTC	2015	May 2015	June 2015	No	Settled
Reynolds American / Lorillard	FTC	2015	May 2015	July 2015	No	Settled
Biomet / Zimmer Holdings	FTC	2015	June 2015	Aug. 2015	No	Settled
Dollar Tree / Family Dollar	FTC	2015	July 2015	Sep. 2015	No	Settled
Pfizer / Hospira	FTC	2015	Aug. 2015	Oct. 2015	No	Settled
Endo International / Par Pharmaceutical	FTC	2015	Sep. 2015	Nov. 2015	No	Settled
Wright Medical Group / Tornier	FTC	2015	Sep. 2015	Nov. 2015	No	Settled
Parties	Agency	FY 2016	Complaint Filed	Resolved	Consummated	Outcome
Anthem / Cigna	DOJ	2016	Jul. 2016	Feb. 2017	No	Gov Win
Aetna / Humana	DOJ	2016	Jul. 2016	Feb. 2017	No	Gov Win
Deere & Company / Precision Planting	DOJ	2016	Nov. 2015	May 2017	No	Abandoned
Springleaf Holdings / OneMain Fiscal Holdings	DOJ	2016	Nov. 2015	Apr. 2016	No	Settled
AMC Entertainment Holdings / SMH Theatres	DOJ	2016	Dec. 2015	Mar. 2016	No	Settled
Gray Television / Schurz Communications	DOJ	2016	Dec. 2015	Mar. 2016	No	Settled
BBA Aviation / Landmark Aviation	DOJ	2016	Feb. 2016	June 2016	No	Settled
Tribune Publishing / Freedom Communications	DOJ	2016	Mar. 2016	Mar. 2016	No	Abandoned
Iron Mountain / Recall Holdings	DOJ	2016	Mar. 2016	Nov. 2016	No	Settled
Halliburton / Baker Hughes	DOJ	2016	Apr. 2016	May 2016	No	Abandoned
Charter Communications / Time Warner Cable	DOJ	2016	Apr. 2016	Sep. 2016	No	Settled
GTCR / PR Newswire	DOJ	2016	June 2016	Sep. 2016	No	Settled
Anheuser-Busch InBev / SABMiller	DOJ	2016	Jul. 2016	Oct. 2018	No	Settled
Nexstar Broadcasting Group / Media General	DOJ	2016	Sep. 2016	Nov. 2016	No	Settled
Staples / Office Depot	FTC	2016	Dec. 2015	May 2016	No	Gov Win
Penn State Hershey Medical Center / PinnacleHealth System	FTC	2016	Dec. 2015	Oct. 2016	No	Gov Win
Advocate Health and Hospitals / NorthShore University HealthSystem	FTC	2016	Dec. 2015	Mar. 2017	No	Gov Win
Cabell Huntington Hospital / St. Mary's Medical Center	FTC	2016	Nov. 2015	Jul. 2016	No	Withdrawn
Superior / Canexus	FTC	2016	Jun. 2016	Jun. 2016	No	Abandoned
Keystone Orthopaedic Specialist	FTC	2016	Oct. 2015	Dec. 2015	Yes	Settled
Mylan / Perrigo	FTC	2016	Nov. 2015	Feb. 2016	No	Settled
NXP Semiconductors / Freescale Semiconductor	FTC	2016	Nov. 2015	Jan. 2016	No	Settled
Cumberland Gulf / ArcLight Capital Partners	FTC	2016	Dec. 2015	Feb. 2016	No	Settled

DSI Renal / U.S. Renal Care	FTC	2016	Dec. 2015	Mar. 2016	No	Settled
Lupin Pharmaceuticals / GAVIS Pharmaceuticals	FTC	2016	Feb. 2016	Apr. 2016	No	Settled
Hikma Pharmaceuticals / Ben Venue Laboratories	FTC	2016	Feb. 2016	Mar. 2016	No	Settled
Hikma Pharmaceuticals / Roxane Laboratories	FTC	2016	Feb. 2016	May 2016	No	Settled
Koninklijke Ahold / Delhaize Group	FTC	2016	July 2016	Oct. 2016	No	Settled
Teva / Allergan	FTC	2016	July 2016	Sep. 2016	No	Settled
Mylan / Meda	FTC	2016	July 2016	Sep. 2016	No	Settled
ON Semiconductor / Fairchild Semiconductor	FTC	2016	Aug. 2016	Oct. 2016	No	Settled
American Air Liquide / Airgas	FTC	2016	May 2016	Dec. 2016	No	Settled
Ball / Rexam	FTC	2016	June 2016	Aug. 2016	No	Settled
HeidelbergCement / Italcementi	FTC	2016	June 2016	Aug. 2016	No	Settled
Energy Transfer Equity / The Williams Companies	FTC	2016	June 2016	Aug. 2016	No	Settled
Parties	Agency	FY 2017	Complaint Filed	Resolved	Consummated	Outcome
Westinghouse Air Brake Technologies / Faively Transport	DOJ	2017	Oct. 2016	Apr. 2017	No	Settled
Energy Solutions / Waste Congrol Specialists	DOJ	2017	Nov. 2016	June 2017	No	Gov Win
Alaska Air Group / Virgin America	DOJ	2017	Dec. 2016	June 2017	No	Settled
AMC Entertainment Holdings / Carmike Cinemas	DOJ	2017	Dec. 2016	Mar. 2017	No	Settled
Clear Channel Outdoor Holdings / Fairway Media Group	DOJ	2017	Dec. 2016	Mar. 2017	No	Settled
Smith Group / Morpho Detection	DOJ	2017	Mar. 2017	June 2017	No	Settled
Danone / WhiteWave Foods	DOJ	2017	Apr. 2017	July 2017	No	Settled
General Electric / Baker Hughes	DOJ	2017	June 2017	Oct. 2017	No	Settled
Dow Chemical / E.I. Du Pont De Nemours	DOJ	2017	June 2017	Oct. 2017	No	Settled
Parker-Hannifin / CLARCOR	DOJ	2017	Sep. 2017	Apr. 2018	Yes	Settled
Showa Denko K.K. / SGL Carbon SE	DOJ	2017	Sep. 2017	Nov. 2017	No	Settled
Sanford Health / Mid Dakota Clinic	FTC	2017	June 2017	July 2019	No	Gov Win
DraftKings / FanDuel	FTC	2017	July 2017	July 2017	No	Abandoned
Valeant Pharmaceuticals / Paragon Holdings	FTC	2017	Nov. 2016	Feb. 2017	Yes	Settled
Abbott Laboratories / St. Jude Medical	FTC	2017	Dec. 2016	Feb. 2017	No	Settled
CentraCare Health / SMG	FTC	2017	Oct. 2016	Jan. 2017	No	Settled
C.H. Boehringer Sohn/ Sanofi	FTC	2017	Dec. 2016	Feb. 2017	No	Settled
Enbridge / Spectra Energy	FTC	2017	Feb. 2017	Mar. 2017	No	Settled
China National Chemical Corp. / Sygenta	FTC	2017	Apr. 2017	June 2017	No	Settled
DaVita / Renal Ventures Management	FTC	2017	Mar. 2017	June 2017	No	Settled
Emerson Electric / Pentari	FTC	2017	Apr. 2017	June 2017	No	Settled
Sherman-Williams / Valspar	FTC	2017	May 2017	July 2017	No	Settled
Alimentation Couche-Tard / CST Brands	FTC	2017	June 2017	Aug. 2017	No	Settled
Broadcom / Brocade Communications Systems	FTC	2017	July 2017	Aug. 2017	No	Settled
Abbott Laboratories / Alere	FTC	2017	Sep. 2017	Nov. 2017	No	Settled

Integra Lifesciences / Johnson & Johnson	FTC	2017	Sep. 2017	Dec. 2017	No	Settled
Baxter International / Claris Life Sciences	FTC	2017	July 2017	Aug. 2017	No	Settled
Mars / VCA	FTC	2017	Aug. 2017	Dec. 2017	No	Settled
Parties	Agency	FY 2018	Complaint Filed	Resolved	Consummated	Outcome
CenturyLink / Level 3 Communications	DOJ	2018	Oct. 2017	Mar. 2018	No	Settled
Entercom Communications / CBS	DOJ	2018	Nov. 2017	Jan. 2018	No	Settled
AT&T / Time Warner	DOJ	2018	Nov. 2017	Feb. 2019	No	Gov Loss
TransDigm / SCHROTH	DOJ	2018	Dec. 2017	Apr. 2018	Yes	Settled
Vulcan Materials / SPO Partners II	DOJ	2018	Dec. 2017	Apr. 2018	No	Settled
Martin Marietta Materials / Bluegrass Materials Co.	DOJ	2018	Apr. 2018	July 2018	No	Settled
CRH / Pounding Mill Quarry Corporation	DOJ	2018	June 2018	Nov. 2019	No	Settled
Bayer AG / Monsanto	DOJ	2018	May 2018	Feb. 2019	No	Settled
Walt Disney / Twenty-First Century Fox	DOJ	2018	June 2018	Sep. 2019	No	Settled
Wilhelmsen Maritime Services / Drew Marine	FTC	2018	Feb. 2018	July 2018	No	Gov. Win
Tronox / Cristal	FTC	2018	Dec. 2017	May 2018	No	Gov Win
J.M. Smucker / Conagra	FTC	2018	Mar. 2018	Mar. 2018	No	Abandoned
CDK / Auto/Mate	FTC	2018	Mar. 2018	Mar. 2018	No	Abandoned
Otto Bock / Freedom Innovations	FTC	2018	Dec. 2017	Nov. 2019	Yes	Gov Win
Beckton Dickinson / C.R. Bard	FTC	2018	Dec. 2017	Jan. 2018	No	Settled
Agrium / Potash	FTC	2018	Dec. 2017	Feb. 2018	No	Settled
Seven & I / Sunoco	FTC	2018	Jan. 2018	Mar. 2018	No	Settled
Red Ventures / Bankrate	FTC	2018	Nov. 2017	Apr. 2018	No	Settled
Alimentation-Couche-Tard / Holiday	FTC	2018	Dec. 2017	Feb. 2018	No	Settled
Alimentation Couche-Tard / Jet-Pep	FTC	2018	Nov. 2017	Jan. 2018	No	Settled
Grifols / Biotest	FTC	2018	Aug. 2018	Sep. 2018	No	Settled
Northrop Gruman / Orbital	FTC	2018	June 2018	Dec. 2018	No	Settled
CRH / Ash Grove	FTC	2018	June 2018	Aug. 2018	No	Settled
Penn National Gaming / Pinnacle	FTC	2018	Oct. 2018	Feb. 2019	No	Settled
Amneal / Impax	FTC	2018	Apr. 2018	Jul. 2018	No	Settled
Air Medical Group / AMR	FTC	2018	Mar. 2018	May 2018	No	Settled
Parties	Agency	FY 2019	Complaint Filed	Resolved	Consummated	Outcome
CVS/ Aetna	DOJ	2019	Oct. 2018	Oct. 2018	No	Settled
United Tech. Corp/ Rockwell Collins	DOJ	2019	Oct. 2018	Oct. 2018	No	Settled
Gray Television/ Raycom Media	DOJ	2019	Dec. 2018	Dec. 2018	No	Settled
Thales/ Gemalto	DOJ	2019	Feb. 2019	Feb. 2019	No	Settled
QuadGraphics/ LSC Communications	DOJ	2019	Jun. 2019	Jul. 2019	No	Abandoned
Harris/ L3 Technologies	DOJ	2019	Jun. 2019	Jun. 2019	No	Settled
Amcor/ Bemis	DOJ	2019	May 2019	May 2019	No	Settled
T-Mobile/ Sprint	DOJ	2019	July 2019	Apr. 2020	No	Settled
Nexstar Media/ Tribune Media	DOJ	2019	July 2019	July 2019	No	Settled
Sabre/ Farelogix	DOJ	2019	Aug. 2019	Apr. 2020	No	Gov Loss
Novelis/ Aleris	DOJ	2019	May 2020	May 2020	No	Settled
Praxair/ Linde	FTC	2019	Oct. 2018	Feb. 2019	No	Settled
Marathon/ REROB	FTC	2019	Oct. 2018	Feb. 2019	No	Settled
Indorama Ventures/ DAK America	FTC	2019	Dec. 2018	Feb. 2019	No	Settled

Staples/ Essendant	FTC	2019	Jan. 2019	Jan. 2019	No	Settled
Fresenius/NxStage	FTC	2019	Feb. 2019	Apr. 2019	No	Settled
UnitedHealth/DaVita	FTC	2019	Jun. 2019	Aug. 2019	No	Settled
Quaker Chemica/ Houghton	FTC	2019	Jul. 2019	Sep. 2019	No	Settled
Boston Scientific/BTG	FTC	2019	Aug. 2019	Sep. 2019	No	Settled
Evonik/ PeroxyChem	FTC	2019	Aug. 2019	Jan. 2020	No	Gov Loss
Fidelity/ Stewart	FTC	2019	Sep. 2019	Sep. 2019	No	Abandoned
US Foods/ SGA	FTC	2019	Sep. 2019	Nov. 2019	No	Settled
Nexus/ Generation Pipeline	FTC	2019	Sep. 2019	Nov. 2019	No	Settled
Parties	Agency	FY 2020	Complaint Filed	Resolved	Consummated	Outcome
Symrise/ IDF Holdco	DOJ	2020	Oct. 2019	Mar. 2020	No	Settled
ZF Friedrichshafen/ WABCO	DOJ	2020	Jan. 2020	Apr. 2020	No	Settled
Olympus Growth Fund/ Liqui-Box	DOJ	2020	Feb. 2020	Jun. 2021	No	Settled
United Technologies/ Raytheon	DOJ	2020	Mar. 2020	Jul. 2020	No	Settled
Communications and Power Industries/ General Dynamics	DOJ	2020	May 2020	Sep. 202	No	Settled
Dairy Farmers of America/ Dean Foods	DOJ	2020	May 2020	Dec. 2020	No	Settled
Geisinger Health/ Evangelical Cmty. Hosp.	DOJ	2020	Aug. 2020	Mar. 2021	No	Settled
A-B InBev/ Craft Brew Alliance	DOJ	2020	Sep. 2020	Apr. 2021	No	Settled
Post/TreeHouse Foods	FTC	2020	Dec. 2019	Dec. 2019	No	Abandoned
illumina/Pacific Biosciences	FTC	2020	Dec. 2019	Dec. 2019	No	Abandoned
Edgewell/Harry's	FTC	2020	Feb. 2020	Feb. 2020	No	Abandoned
Peabody Energy/Arch Coal	FTC	2020	Feb. 2020	Sep. 2020	No	Gov Win
Jefferson Health/ Albert Einstein	FTC	2020	Feb. 2020	Dec. 2020	No	Gov Loss
Axon/ Safariland	FTC	2020	Jan. 2020	Pending	Yes	Pending
Altria/ JUUL Labs	FTC	2020	Apr. 2020	Pending	Yes	Pending
Bristol-Myers-Squibb/Celgene	FTC	2020	Nov. 2019	Jan. 2020	No	Settled
Agnaten/National Veterinary Assoc.	FTC	2020	Feb. 2020	Apr. 2020	No	Settled
FXI/Innocor	FTC	2020	Feb. 2020	Apr. 2020	No	Settled
Ossur HF/ College Park Industries	FTC	2020	Apr. 2020	May 2020	No	Settled
Danaher/ General Electric	FTC	2020	Mar. 2020	May 2020	No	Settled
Tri Star/ Hollingsworth	FTC	2020	Jun. 2020	Aug. 2020	No	Settled
Eldorado/Ceasars	FTC	2020	Jun. 2020	Aug. 2020	No	Settled
AbbVie/Allergan	FTC	2020	May. 2020	Sep. 2020	No	Settled
Elanco/Bayer	FTC	2020	Jul. 2020	Sep. 2020	No	Settled
Arko/Empire	FTC	2020	Aug. 2020	Oct. 2020	No	Settled

V. Aggregate Results

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