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Texas Court Strikes Down FTC's Hart-Scott-Rodino Updates

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On Thursday, February 12, 2026, a federal court in Texas struck down the Federal Trade Commission's ("FTC") 2024 revisions to the premerger reporting requirements under the Hart-Scott-Rodino ("HSR") Act. Judge Jeremy D. Kernodle of the U.S. District Court for the Eastern District of Texas ruled that the FTC's revisions (the "Final Rule") exceeded the agency's statutory authority and violated the Administrative Procedures Act (APA). Judge Kernodle vacated the Final Rule but stayed the effect of the order for seven days to allow the agency time to seek emergency relief from the U.S. Court of Appeals for the Fifth Circuit.

The Final Rule went into effect in February 2025 with unanimous approval from the FTC commissioners and concurrence from the Department of Justice. The revisions significantly increased the burden on merging parties to provide information pursuant to the HSR Act. Among other updates, the revisions expand the types of documents that filing parties are required to submit to the agencies to include documents prepared by or for the supervisory deal team leads and certain competitively relevant business plans. Other updates include requiring filing parties to submit narrative descriptions of overlapping products and services, identify and explain the strategic rationale for the transaction, and disclose additional groupings of general or limited partners. According to the FTC, the Final Rule roughly triples the overall burden of complying with the HSR Act's requirements.

In January 2025 the U.S. Chamber of Commerce, along with other business stakeholders and local chambers of commerce, filed the present action challenging the Final Rule, and in August 2025 both parties moved for summary judgment.

In granting the plaintiffs' motion, the court held that "the Final Rule exceeds the FTC's statutory authority because the agency has not shown that the Final Rule's claimed benefits will 'reasonably outweigh' its significant and widespread costs." Judge Kernodle first ruled that under the HSR Act, any benefit to the FTC in mandating that additional information be provided in the premerger notice must "reasonably outweigh" the resulting increased costs. While the FTC's purported benefits—detecting additional harmful mergers and saving the FTC time and money—were both cognizable, the court ruled that the FTC had not adequately substantiated why those benefits outweighed the added costs of the new HSR requirements. The court similarly held that the revisions violated the APA, as "the Final Rule is arbitrary and capricious because its benefits do not 'bear a rational relationship' to its costs." Moreover, the FTC failed to properly consider less burdensome alternatives to the Final Rule, such as voluntary submissions and more targeted Second Requests.

The court ordered that the Final Rule be vacated because “the seriousness of the Final Rule's deficiencies makes it unlikely that the FTC can justify its decision on remand” and because “vacatur would not be unduly disruptive,” particularly since the old HSR form provides a sufficient alternative. Importantly, Judge Kernodle stayed the applicability of the order for seven days to give the FTC time to seek an emergency appeal.

The court's order is a significant blow to the FTC's revised HSR requirements, and parties contemplating reportable transactions would likely benefit from a reversion to the prior, less exhaustive HSR form. However, the FTC will very likely appeal the court's ruling, and it is possible that the Fifth Circuit will continue the existing stay while the appeal proceeds. Accordingly, although merging parties must continue to use the 2025 revisions for now, they should closely monitor the status of any FTC appeal in case the old HSR form once again becomes operative.

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