

CLIENT ALERT

Texas District Court Vacates New HSR Rules

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District Judge Jeremy D. Kernodle of the Eastern District of Texas issued an order on February 12 vacating the expanded Hart-Scott-Rodino (HSR) Act premerger notification rules that went into effect one year ago.¹ The Court found that the rulemaking exceeded the FTC's statutory authority and violated the Administrative Procedure Act (APA), and that the FTC failed to (i) provide sufficient evidence of the need for more extensive premerger filing procedures and (ii) demonstrate that the costs and burdens imposed on filing parties were reasonable. Judge Kernodle stayed the applicability of the order for seven days to permit the FTC to seek emergency relief from the Court of Appeals for the Fifth Circuit.

¹ Chamber of Com. of the U.S. v. Fed. Trade Comm'n, No. 6:25-cv-00009-JDK (E.D. Tex. Feb. 12, 2026).

The *Premerger Notification; Reporting and Waiting Period Requirements* (the “Final Rule”),² adopted by the FTC in November 2024, significantly expands the amount of documentary material and information that merging parties must include in premerger notifications to the FTC and DOJ. The FTC argued that the Final Rule was necessary due to “profound changes” in corporate structures, business competition, mergers, and investment strategies that rendered the previous HSR form outdated.

On January 10, 2025, the Longview Chamber of Commerce, the Chamber of Commerce of the United States of America, the American Investment Council, and the Business Roundtable challenged the Final Rule as exceeding the FTC’s statutory authority under the HSR Act.³ In his decision, Judge Kernodle agreed with the Plaintiffs that the FTC failed to show that any benefit to the FTC in mandating additional information in the premerger notice would “reasonably outweigh” the costs of compliance as required under the HSR Act, and he found that the FTC’s vague and conclusory assertions about preventing illegal mergers, and its savings of time and resources for only a few mergers that receive a closer look, did not justify the significant costs of the Final Rule’s new requirements. The Court held that the FTC’s rulemaking was arbitrary, capricious and a “failure to apply reasoned decision-making,” in violation of the APA.

The Court found that vacatur was the proper remedy, but issued a stay of its order for seven days to allow the FTC time to seek emergency relief from the Court of Appeals for the Fifth Circuit. For now, the new HSR filing process remains in effect for transactions filed until at least Friday, February 20.

The members of our antitrust and merger control team will continue monitoring these developments and are available to provide additional guidance.

² See Willkie Client Alerts: *FTC Finalizes Substantial Overhaul of HSR Pre-Merger Notification Requirements* (available [here](#)) and *Preparing for the New HSR Rules: Are You Ready?* (available [here](#)).

³ Compl., Chamber of Com. of the U.S. v. Fed. Trade Comm’n, No. 6:25-cv-00009-JDK (E.D. Tex. Feb. 12, 2026).

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