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THE CELLER-KEFAUVER ACT: SIXTEEN YEARS OF ENFORCEMENT

A STAFF REPORT

TO THE

ANTITRUST SUBCOMMITTEE
(Subcommittee No. 5)

OF THE

COMMITTEE ON THE JUDICIARY

OF THE

HOUSE OF REPRESENTATIVES

OCTOBER 16, 1967

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Pursuant to House Resolution 40, 90th Congress, the chairman of the Committee on the Judiciary appointed the following members to act as the Antitrust Subcommittee and to carry out the investigations and submit the reports authorized by this resolution: Emanuel Celler (New York), chairman; Peter W. Rodino, Jr. (New Jersey); Byron G. Rogers (Colorado); Harold D. Donohue (Massachusetts); Jack B. Brooks (Texas); Robert W. Kastenmeier (Wisconsin); James C. Corman (California); William M. McCulloch (Ohio); Charles McC. Mathias, Jr. (Maryland); Clark MacGregor (Minnesota); Robert McClory (Illinois); Tom Railsback (Illinois); and Edward G. Biester, Jr. (Pennsylvania).

LETTER OF TRANSMITTAL

OCTOBER 16, 1967.

To Members of the Antitrust Subcommittee of the Committee on the Judiciary:

On December 29, 1950, President Truman signed the Celler-Kefauver amendment to section 7 of the Clayton Act. This was the capstone to years of hard labor to close the "assets" loophole that had rendered old Clayton Act section 7 completely ineffective.

Enforcement of Celler-Kefauver since 1950 has shown its vast potential as a powerful antitrust enforcement tool. Between January 1, 1951, and June 30, 1967, the Government instituted a total of 206 antimerger cases. The Government has had exemplary success, and Supreme Court decisions have made Celler-Kefauver basic to our public policy.

Dr. Willard F. Mueller, Director, Bureau of Economics, Federal Trade Commission, has prepared an analysis of the enforcement experience under the Celler-Kefauver Act. I found Dr. Mueller's article penetrating and informative. In order that the members of the Antitrust Subcommittee and the Committee on the Judiciary, as well as all other interested parties, could have it readily available, at my request, the Chairman of the Federal Trade Commission has consented to publication of Dr. Mueller's article as an antitrust subcommittee monograph.

I hope that you will find the monograph interesting and informative. It is understood that any conclusions contained in the monograph do not necessarily embody the views of the subcommittee or any of its members.

Emanuel Celler

Chairman.

HOUSE OF REPRESENTATIVES, U.S.,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 23, 1967.

HON. PAUL RAND DIXON,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: My attention has been directed to the article entitled "The Celler-Kefauver Act: Sixteen Years of Enforcement," by Willard F. Mueller, Director, Bureau of Economics, Federal Trade Commission. My examination of this article shows it to be most interesting and informative. Dr. Mueller merits high praise for this perceptive analysis.

In order that Dr. Mueller's work may be made available for the use of the Committee on the Judiciary, the Members of the House of Representatives, and other interested parties, if the Federal Trade Commission concurs, it seems to me that it would be beneficial and appropriate for this article to be published by the House Antitrust Subcommittee.

With all good wishes, I am,
Sincerely yours,

EMANUEL CELLER, *Chairman.*

FEDERAL TRADE COMMISSION,
Washington, D.C., August 25, 1967.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am most pleased that you find merit in the article entitled "The Celler-Kefauver Act: Sixteen Years of Enforcement," by Dr. Willard F. Mueller of the Federal Trade Commission.

When I cleared this article by Dr. Mueller for publication, I did so on the basis that it was, in my opinion, an excellent and informative analysis of the 16 years of enforcement under the Celler-Kefauver Act.

I agree with you that the publication of this article by the House Antitrust Subcommittee of the Committee on the Judiciary is an excellent idea and I concur in its publication.

With kindest personal regards, I am,

Sincerely,

PAUL RAND DIXON, *Chairman.*

84-846—67——2

CONTENTS

Celler, Hon. Emanuel, chairman, Committee on the Judiciary, letter, August 23, 1967, to Hon. Paul Rand Dixon, Chairman, Federal Trade Commission ..... Page VII

Dixon, Hon. Paul Rand, Chairman, Federal Trade Commission, letter, August 25, 1967, to Hon. Emanuel Celler, chairman, Committee on the Judiciary IX

I. Introduction 1

II. The pattern of enforcement 3

Merger complaints in manufacturing and mining 4

Size of challenged acquisitions 5

Size of challenged acquiring companies 5

Type of mergers challenged 6

III. The Economic Consequences of Enforcement Policy 10

A. Consequences of Enforcement Policy in Five Industries 14

The shoe industry 15

The steel industry 16

The dairy industry 18

Food retailing 19

The cement industry 22

B. Summary of Case Studies 24

C. Postwar Trends in Market Concentration 26

Conclusions 30

D. Impact of Merger Policy on Aggregate Concentration 32

IV. Merger Enforcement in Historical Perspective 34

Appendix A 43

Appendix B 44

Appendix C 54

THE CELLER-KEFAUVER ACT: 16 YEARS OF ENFORCEMENT

(By Willard F. Mueller [1])

I

INTRODUCTION

The Celler-Kefauver amendment to section 7 of the Clayton Act recently had its 16th birthday.[2] Although still a teenager, it has already lived a fuller life than any of our other antitrust laws.

Like the Sherman Act of 1890, the Celler-Kefauver Act was enacted on the eve of a great merger movement. Economic historians are agreed that the Sherman Act, as enforced and interpreted during its early years, had little impact on the great merger movement around 1900. Although public policy played a role in finally halting this movement,[3] it was terminated by the stock market slump of 1903–04 and by virtual exhaustion of promising merger candidates in many industries.[4]

The great merger movement left an indelible imprint on the structure of many American industries.[5] Modern-day students of industrial organization agree that the uncontrolled merger activity around 1900 created many of the hard-core oligopoly industries which have posed serious public policy problems during the last half century.[6]

This judgment of history conflicts with the fatalistic acceptance of the great merger movement by most leading economists of that day. They were inclined to interpret and accept the movement as an inevitable product of economies of large scale production. Professor Stigler has characterized succinctly the mood of leading economists of the day:

> It is sobering to reflect on the attitudes of professional economists of the period toward the merger movement. Economists as wise as Taussig, as incisive as Fisher, as fond of competition as Clark and Fetter, insisted upon discussing the movement largely or exclusively in terms of industrial evolution and the economies of scale. They found no difficulty in treating the unregulated corporation as a natural phenomenon, nor were they bothered that the economies of scale should spring forth suddenly and simultaneously in an enormous variety of industries—and yet pass over the minor firms that characteristically persisted and indeed

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[1] The author is the Director, Bureau of Economics, Federal Trade Commission. The views expressed herein are those of the author and not necessarily those of the Federal Trade Commission. An abbreviated version of this statement was presented at the Seminar in Economics and Business, Graduate School of Business Administration, the University of North Carolina, Chapel Hill, N.C., March 8, 1967. The author gratefully acknowledges the assistance provided by Mr. Kenneth Annis and Miss Mary Ann Comps, of the Bureau of Economics, in the preparation of the statistical data appearing in this statement.

[2] The Celler-Kefauver Act was signed by President Harry S. Truman, December 29, 1950. The text of the act appears in app. A.

[3] The slowdown in merger activity following 1904 probably was partly due to public policy developments during 1903 and 1904. In 1903 the Congress acted on the Industrial Commission's recommendation and created the Antitrust Division and the Bureau of Corporations, and enacted the Expediting Act, which provided for direct appeal to the Supreme Court in antitrust cases. Also, in 1904 the Supreme Court sustained a lower court decision outlawing the Northern Security Co.'s control of the Great Northern and Northern Pacific Railroads (193 U.S. 197). This represented the first Supreme Court decision relating to mergers.

[4] Three series covering merger activity from 1895 to 1966 appear in appendix table 1.

[5] See Jesse W. Markham, "Survey and Evidence and Findings on Mergers," and "Comments" of Walter Adams and George W. Stocking, in *Business Concentration and Price Policy*, National Bureau of Economic Research, 1955, pp. 141–212.

[6] Professor Weston concluded that although, as of 1948, "the absolute size of present day oligopolists is due only in small part to either earlier or later acquisitions, the *relative* position of these firms is accounted for mainly by the merger movement at the turn of the century." J. Fred Weston, *The Role of Mergers in the Growth of Large Firms*, University of California Press, 1953, p. 49.

flourished in these industries. Ida Tarbell and Henry Demarest Lloyd did more than the American Economic Association to foster the policy of competition.[1]

The conventional economic wisdom of the early 20th century persuaded wise men of other disciplines to brand the Sherman Act as bad economics. In a moment of candor, Justice Oliver Wendell Holmes observed, "I do not disguise my belief that the Sherman Act is a humbug based on economic ignorance and incompetence."[2]

It was only after antitrust policy had proven effective in several important cases that its harshest critics became tolerant of it. This is best reflected in the reformation of J. M. Clark, whose approach was entirely pragmatic. As Baldwin observed, "Thus, he was opposed to the antitrust laws until they proved effective and then he supported them on the grounds that they worked."[3]

I have recalled this bit of history not to prove our forebears were less wise than we, but to suggest that history may be, indeed, repeating itself. Baldwin is probably correct in characterizing Stigler's criticism, though factually correct, as "rather unfair" and based largely on the wisdom of hindsight, especially with respect to Fisher and Taussig, whose main areas of interset were not industrial organization.[4] Much of today's criticism of antimerger enforcement policy is reminiscent of that directed at early Sherman Act enforcement, and also frequently comes from scholars quite innocent of the empirical evidence in the field of industrial organization. Perhaps with the benefit of another decade or two of hindsight, today's critics will discover—as did J. M. Clark with the Sherman Act—that antimerger enforcement is good because it has worked.

John Kenneth Galbraith has made the most strident attack on contemporary antitrust policy. He makes short shrift of antitrust by dismissing it as being largely irrelevant in today's world. At best, he says, it is a "charade," designed "not to prevent exploitation of the public" but "to persuade people in general and British socialists and American liberals in particular, that the market is still extant."[5] Galbraith views current merger enforcement as mainly an assault on horizontal mergers among small companies which are "miniscule in size or market power as compared with the giant that is already a giant."[6]

This is in sharp contrast to the view expressed in other circles that Celler-Kefauver enforcement is an attack on bigness alone, and that it has virtually made it impossible for big companies to grow by merger. Last year *Fortune* informed the business community that—"Recent Supreme Court decisions go so far in prohibiting specific mergers that any potential merger of two substantial, healthy companies is logically subject to challenge under the new precedents."[7]

The purpose of this paper is not to judge who is correct—Professor Galbraith or the editors of *Fortune* magazine. (Although obviously both cannot be correct, it is possible that both are wrong.) Rather, its intent is to discuss the broad patterns of enforcement policy and appraise some of the apparent results of this policy. I shall not discuss

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1 George J. Stigler, "Monopoly and Oligopoly by Merger," *American Economic Review*, May 1950, p. 30–31.
2 *Holmes-Pollack Letters*, Harvard University Press, 1941, vol. 1, p. 163.
3 William Lee Baldwin, *Antitrust and the Changing Corporation*, 1961, p. 65.
4 Baldwin, *op. cit.*, p. 24.
5 John Kenneth Galbraith, "The New Industrial State: Control of Prices and People," the third Reith Lecture on BBC, as reproduced in *The Listner*, December 1, 1966, p. 794. Galbraith makes a similar argument in his book, *The New Industrial State*, 1967, pp. 184–197.
6 *Ibid.*
7 Max Ways, *Fortune*, March 1966, p. 222.

here the evolution of the legal and economic criteria underlying merger enforcement under the Celler-Kefauver Act.

II

THE PATTERN OF ENFORCEMENT

Between January 1, 1951, and June 30, 1967, the Federal Trade Commission and the Department of Justice issued a total of 206 merger complaints [1] (table 1). Three-fourths (153) of the complaints challenged acquisitions by manufacturing and mining corporations.[2] Another 19 complaints involved acquiring companies in wholesale and retail trade, 20 involved banking and other financial institutions, nine involved companies in "other" industries,[3] and five challenged joint ventures.[4]

TABLE 1.—COMPLAINTS ISSUED BY FEDERAL TRADE COMMISSION AND DEPARTMENT OF JUSTICE BY PRIMARY INDUSTRY OF ACQUIRING COMPANY, 1951 TO JUNE 30, 1967

Primary industry of acquiring company	Number of complaints	Number of acquisitions challenged	Assets of challenged acquisitions [1] (millions)
Manufacturing and mining	153	650	$6,593
Wholesale and retail	19	70	818
Other	9	61	575
Joint ventures	5	----------	----------
Banking and finance	20	20	----------
Total	206	801	7,986

[1] Asset information not available for some small acquisitions.

Source: Bureau of Economics, Federal Trade Commission.

Enforcement activity responded to the increasing tempo of overall merger activity in the mid-1950's.[5] Prior to 1954 there had been relatively few large mergers.[6] Commencing in 1954, however, the merger pace quickened, and during 1955 and 1956 it reached the high point (in terms of acquired assets) for the 1950's.[7] This merger pattern was accompanied by a rise in the number of complaints. In 1956, 18 merger complaints were issued—the high for the 1950's (appendix table 3). As the merger movement reached new highs in the 1960's, the number of complaints also rose, reaching record levels in 1965 and 1966, when 27 and 26 complaints were issued, respectively.

Because most enforcement effort centered in manufacturing and mining companies, the remaining description of enforcement patterns

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[1] All but three of these complaints charged violations of sec. 7 of the Clayton Act. One Justice Department complaint challenged a merger under secs. 1 and 2 of the Sherman Act, *United States* v. *Lexington National Bank*, 376 U.S. 665 (1964). Two Federal Trade Commission complaints challenged mergers under sec. 5 of the Federal Trade Commission Act, *Lone Star Cement*, docket No. C–1159 (1967) and *Golden Grain Macaroni*, docket No. 8737 (1967). These complaints are included here because they should appropriately be viewed as part of the post-1950 merger enforcement effort triggered by the Celler-Kefauver amendment to sec. 7. The merger complaints issued since Jan. 1, 1951, appear in appendexes A and B.

[2] Some of the acquisitions challenged in these complaints involved nonmanufacturing companies.

[3] These included hotels (1); motion pictures(3); motor vehicle rentals (2); film processing (1); business service (1); natural gas (1).

[4] The joint ventures involved manufacturing and mining companies.

[5] Appendix table 3 shows the number of complaints issued each year since 1950.

[6] See table 2.

[7] Merger activity quickened throughout the economy in the mid-1950's. Table 2 shows the increasing merger tempo for "large" manufacturing and mining concerns. Table 10 shows a similar quickening in merger activity in food retailing, commencing in 1955. The merger pace in banking also increased rapidly beginning in 1954–55. Charles R. Hall and Charles F. Phillips, Jr., *Bank Mergers and the Regulatory Agencies*, 1964, p. 8. As explained elsewhere, there is a close positive correlation between the rate of merger activity and the rate of business activity. See Willard F. Mueller, testimony before the Senate Subcommittee on Antitrust and Monopoly, hearings on *Economic Concentration, Part 2: Mergers and Other Factors Affecting Industry Concentration*, 1965, pp. 505–508.

is confined mainly to this sector of the economy. Substantial activity also occurred in other areas, however, particularly in banking and retail distribution.

Merger complaints in manufacturing and mining

Since 1950 the antitrust agencies issued 153 complaints challenging acquisitions by manufacturing and mining concerns.[1] The challenged acquisitions had combined assets of $6.6 billion.

The challenged acquisitions were equal to about 4 percent of the total number of manufacturing and mining mergers and acquisitions occurring during 1951–66 which were recorded by the Federal Trade Commission. This percentage overstates the percentage of the total mergers occurring since 1950 that were challenged by the agencies.[2] A more meaningful index of the volume of significant mergers challenged is the number of "large" mergers challenged by the agencies. By "large" acquisitions we shall mean those where the acquired unit had assets of $10 million or more. In 1965 there were about 2,300 manufacturing and mining companies of this size. These concerns controlled about 83 percent of the assets of all manufacturing and mining firms.[3] Quite clearly, then, any fundamental merger-induced restructuring of American industry would necessarily be reflected in acquisitions in this sector.

Over the 16-year period 1951–66, there were 923 manufacturing and mining acquisitions in which the acquired unit had assets of $10 million or more (table 2).[4] These acquired units had combined assets of $33.4 billion. Ninety-four of these acquisitions, with combined assets of $5.3 billion, were challenged by the antitrust agencies. Thus, the agencies challenged about 10 percent of all large mergers, and the challenged acquisitions represented about 16 percent of the total assets of large acquisitions.

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[1] Appendix table 4 shows the years in which these complaints were issued and the assets of the challenged acquisitions. Another five complaints challenged joint ventures of manufacturing corporations.

[2] The Federal Trade Commission series appearing in appendix table 2 is based on only a few sources, and it therefore understates considerably the total *number* of mergers occurring each year. For example, the FTC series included only about 10 percent of all dairy mergers occurring between 1948 and 1954. Many of the challenged dairy acquisitions are not among those recorded in appendix table 2. See Willard F. Mueller, hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, *Economic Concentration, Part 2: Mergers and Other Factors Affecting Industry Concentration*, 1965, p. 501.

[3] See table 4 below.

[4] The total large acquisitions shown in table 2 differ from those appearing in some other FTC tabulations of "large" mergers because table 2 includes both mergers which were consummated and those which were prevented from being consummated by a temporary court injunction after being challenged by the antitrust agencies.

TABLE 2.—NUMBER OF LARGE MERGERS IN MANUFACTURING AND MINING AND NUMBER CHALLENGED, 1951–56

[Dollar amounts in millions]

Year	Large mergers [1]		Large mergers challenged	
	Number	Assets [2]	Number	Assets [2]
1951	9	$201	0	0
1952	13	327	1	$11
1953	23	679	0	0
1954	36	1,442	1	15
1955	68	2,129	3	97
1956	59	2,611	15	1,324
1957	49	1,461	4	80
1958	38	1,107	1	21
1959	67	2,220	4	95
1960	63	1,811	14	394
1961	60	2,155	8	512
1962	74	2,716	6	819
1963	70	3,016	5	391
1964	96	3,444	8	833
1965	97	3,965	17	303
1966	101	4,096	7	427
Total	923	33,380	94	5,322

[1] Mergers in which the acquired firm had assets of $10,000,000 or more. Tabulation includes 20 attempted acquisitions with combined assets of $2,300,000,000 which were not fully consummated because of court injunctions or agreements between the parties pending litigation.

[2] Assets of the acquired firms.

Source: Bureau of Economics, Federal Trade Commission.

Size of challenged acquisitions

Table 3 classifies all complaints in manufacturing and mining by the magnitude of the total assets of companies challenged in each complaint. In all but four of the complaints for which asset information is available, the assets of acquisitions challenged in the complaint exceeded $1 million. Even if all of the complaints for which this information is not known are assumed to have involved acquired companies with assets of less than $1 million, over 85 percent of all complaints would have challenged acquisitions of $1 million or more.

TABLE 3.—DISTRIBUTION OF MERGER COMPLAINTS IN MANUFACTURING AND MINING BY SIZE OF ACQUIRED ASSETS, 1951 TO JUNE 30, 1967

Size of acquired assets [1]	Number of complaints	Percent	Assets of challenged acquisitions (millions)	Percent
Over $250 million	6	3.9	$2,216	33.6
$100 to $250 million	11	7.2	1,811	27.5
$50 to $100 million	13	8.5	919	13.9
$25 to $50 million	23	15.0	822	12.5
$10 to $25 million	37	24.2	636	9.6
$1 to $10 million	43	28.1	186	2.8
Under $1 million	4	2.6	3	.1
Unknown	16	10.5	----------	----------
Total	153	100.0	6,593	100.0

[1] If a complaint challenged more than 1 acquisition, the asset figure for all acquisitions challenged in the complaint is used.

Note.—Includes all complaints challenging acquiring firms engaged principally in manufacturing and mining except 5 complaints challenging joint ventures of manufacturing concerns.

Source: Bureau of Economics, Federal Trade Commission.

Size of challenged acquiring companies

The antitrust agencies have issued merger complaints against a very sizable percentage of the largest industrial corporations. Well over

half (69.2 percent) of the 52 manufacturing corporations with assets in excess of $1 billion in 1965 have had one or more of their acquisitions challenged (table 4). The acquisitions challenged in complaints against these 36 corporations represented 42.6 percent of the assets of all challenged acquisitions of manufacturing and mining corporations.

The roughly 500 largest corporations, each with assets of $100 million or more in 1966, were the focus of most merger enforcement activity. These companies received 71 percent of all merger complaints in manufacturing and mining. The acquisitions challenged in these complaints represented 87 percent of all challenged acquisitions and 92 percent of the assets of all challenged acquisitions.

Practically no mergers among small manufacturing and mining corporations were challenged. Only eight companies with assets between $5 million and $10 million were challenged and only two corporations of the about 180,000 manufacturing corporations with assets of less than $5 million were challenged.

TABLE 4.—MERGER COMPLAINTS CHALLENGING ACQUISITIONS BY MANUFACTURING AND MINING COMPANIES, BY ASSET SIZE OF ACQUIRING COMPANY, 1951 TO JUNE 30, 1967

[Dollar amounts in millions]

Asset size of acquiring company [1]	All manufacturing corporations		Number of corporations challenged [4]	Complaints as percent of all corporations	Challenged acquisitions		Assets of challenged acquisitions [6]	
	Number [2]	Percent [3]			Number [5]	Percent	Value	Percent
$1,000 and over	52	36	36	69.2	36	5.5	$2,807	42.6
$250 to $1,000	164	22	47	28.7	288	44.0	2,175	33.0
$100 to $250	242	10	32	13.2	244	37.3	1,090	16.5
$50 to $100	284	6	14	4.9	35	5.4	349	5.3
$25 to $50	485	5	12	2.5	15	2.3	103	1.6
$10 to $25	1,093	5	11	1.0	14	2.1	43	.7
$5 to $10	1,184	3	8	.7	13	2.0	24	.3
Under $5	180,000	14	2	.001	9	1.4	2	.03
All asset sizes	183,504	100	162	.09	654	100.0	6,593	100.0

[1] Size of acquiring companies in 1965 except when this information is not available. Asset size in year of complaint was used in latter cases.

[2] Manufacturing corporations only, 1st quarter 1966. In 1964 there were 14,487 corporations primarily engaged in mining; only 30 of these had assets in excess of $100,000,000 and 195 had assets exceeding $10,000,000. IRS, *Statistics of Income*, 1964.

[3] Percent of total corporate manufacturing assets held by all companies in this size class in 1st quarter of 1966.

[4] Number of acquiring companies in this size class challenged in merger complaints. These data are based on 156 complaints challenging 162 acquiring corporations in manufacturing and mining. The difference between the number of complaints and the number of challenged corporations results because 7 complaints challenged 2 corporations, 1 for which asset data not known. Of these 7 complaints, 5 involved joint ventures. Asset data were not available for 2 additional complaints challenging mergers by manufacturing corporations. Both are publishing companies and are believed to have had assets exceeding $5,000,000.

[5] Includes 6 joint ventures challenged in 5 complaints but excludes 2 acquisitions challenged in 2 complaints in which asset size of acquiring company is not known.

[6] Asset information not available for some acquisitions nor for the 5 challenged joint ventures.

Source: Bureau of Economics, Federal Trade Commission.

Type of mergers challenged

Table 5 subdivides all "large" challenged acquisitions in manufacturing and mining by the type of merger—horizontal, vertical, or conglomerate. A merger is classified as horizontal if it has any horizontal aspects, even though it is largely vertical or conglomerate. If a merger is not horizontal but involves a vertical relationship, it is identified as vertical even though it is largely conglomerate. The conglomerate category is a residual category consisting of mergers with no horizontal or vertical features. This category is subdivided into

product extension, market extension and "all other" mergers. Product extension refers to a merger between firms which are functionally related in production or distribution; market extension mergers involve companies in the same product line but located in different geographic markets; and the "all other" category includes mergers not fitting any of the other categories.[1]

TABLE 5.—LARGE ACQUISITIONS IN MANUFACTURING AND MINING, TOTAL AND CHALLENGED, BY TYPE OF MERGER, 1951–66

[Dollars in millions]

Type of merger	Total [1]		Challenged		Challenged as percent of total		Percentage distribution for challenged acquisitions	
	Number	Assets	Number	Assets	Number	Assets	Number	Assets
Horizontal	188	$7,323	50	$2,624	27.0	36	53	49
Vertical	145	5,970	24	1,706	17.0	29	26	32
Conglomerate	590	20,087	20	992	3.0	5	22	19
Market extension	53	2,851	10	570	19.0	20	11	11
Product extension	424	12,550	10	422	2.0	3	11	8
Other	113	4,686	0	0	0	0	0	0
Total	923	33,380	94	5,322	10.2	16	100	100

[1] Includes only those acquisitions where acquired unit had assets of $10,000,000 or more. Joint ventures are excluded.

Source: Bureau of Economics, Federal Trade Commission.

The agencies challenged a sizable proportion of all large mergers occurring since 1950: about 10 percent of the number of such mergers and 16 percent of all acquired assets (table 5). The proportion of challenged mergers varied considerably, however, depending on the competitive relationship between the merging companies. Over half of all challenged mergers involved a horizontal relationship between the merging companies (table 5). Another 26 percent involved vertical relationships. The remainder involved so-called conglomerate mergers.[2]

By comparing challenged acquisitions with the total volume of merger activity involving large concerns, we can measure the proportion of various kinds of mergers that have been challenged.

Fully 27 percent of all large horizontal mergers were challenged; the challenged acquisitions represented 36 percent of the assets of all

[1] This method of classification tends to overstate by a significant amount the proportion of the assets of all large mergers that involved solely horizontal and vertical aspects. It is not possible to determine the extent of such overstatement.

[2] Acquired companies with assets between $1 million and $10 million were also classified according to type. The results of this classification are as follows:

Type of merger	Number of acquisitions	Assets of acquired companies (millions)
Horizontal	74	$222
Vertical	27	107
Conglomerate	28	87
Market extension	23	76
Product extension	5	11
Other conglomerate	0	0
Total	129	416

large horizontal acquisitions. In the case of verticals, the respective percentages were 17 percent and 29 percent (table 5).

The agencies challenged a small percentage of all other kinds of mergers, or so-called conglomerates. However, they challenged a relatively high percentage of the geographic market extension variety of conglomerates—19 percent in terms of numbers and 20 percent in terms of assets. These mergers, wherein the merging companies produce the same products but operate in different geographic markets, are the most closely allied to traditional horizontal type mergers.

On the other hand, the agencies challenged only 3 percent by assets of all product extension type conglomerates and none of the remaining kinds of conglomerates.

Table 6 distributes all "large" acquisitions which have been challenged according to the size of the acquiring concern and compares the challenged acquisitions with the total number of "large" acquisitions made by these concerns. Again, a "large" acquisition is defined as one wherein the acquired unit had assets of $10 million or more.

TABLE 6.—LARGE ACQUISITIONS IN MANUFACTURING AND MINING, TOTAL AND CHALLENGED, BY TYPE OF MERGER AND SIZE OF ACQUIRING COMPANY, 1951–66

[Dollar amounts in millions]

Asset size of acquiring company [1]	Total number of acquisitions by companies in asset class [2]			Total assets of acquired companies			Number of acquisitions challenged [2]			Number of challenged as percent of total			Assets of challenged acquisitions			Assets challenged as percent of total		
	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate
$1,000 and over	22	27	43	$2,284	$1,176	$2,729	7	4	4	32	15	9.0	$1,611	$169	$433	71	14	16.0
$250 to $1,000	38	53	122	1,297	2,791	5,940	7	10	6	18	19	5.0	136	808	216	11	29	4.0
$100 to $250	39	31	167	1,606	1,257	5,185	19	7	6	49	23	4.0	475	688	132	30	55	3.0
$50 to $100	34	15	89	959	409	2,297	9	1	3	27	7	3.0	247	16	193	26	4	8.0
Under $50 [3]	55	19	169	1,177	337	3,936	8	2	1	14	11	.6	155	24	.18	13	7	.5
Total	188	145	590	7,323	5,970	20,087	50	24	20	27	17	3.00	2,624	1,706	992	35.8	28.6	4.9

[1] Based on assets of acquiring companies in 1965.
[2] These are the acquisitions for which data are shown in table 5.
[3] Includes 1 acquisition for which asset size of acquiring company is not known.

Note:—These comparisons include only acquisitions wherein the acquired companies had assets of $10 million or more.

Source: Bureau of Economics, Federal Trade Commission. See appendix tables 6 and 7.

These comparisons reveal that acquiring companies with assets of $100 million or more had a considerably higher share of their "large" mergers challenged than did smaller companies. Companies with assets in excess of $1 billion in 1965 had 32 percent of their large horizontal mergers challenged. These challenged acquisitions represented 71 percent of the assets of all of the "large" horizontal mergers made by these companies.[1] At the other end of the size spectrum, only 15 percent of the "large" horizontal acquisitions of acquiring companies with assets of $50 million or less were challenged. The challenged acquisitions, moreover, represented only 13 percent of the assets of all "large" horizontal acquisitions made by these companies.

Because table 6 is limited to acquisitions wherein the acquired company had assets of $10 million or more, it overstates the proportion *of all* horizontal mergers challenged. This is particularly true of mergers by companies with assets below $50 million. A greater proportion of the mergers by these companies involved acquired concerns with assets below $10 million than did the mergers of larger companies. Only a very small number of these small horizontal mergers was challenged.

Companies in the largest size classes also tended to have a higher proportion of their vertical and conglomerate mergers challenged. The correlation between company size and challenge rate is strongest in the case of conglomerates. Companies with assets exceeding $1 billion had 9 percent of their "large" conglomerate mergers challenged. This represented 16 percent of the assets of the acquired companies. The challenge rate fell off sharply as company size declined. Companies with assets under $50 million had less than 1 percent of their conglomerate mergers challenged.

This pattern reflects the fact that very large companies are most likely to be leading potential competitors when they make "large" product and geographic market extension mergers.

In sum, the agencies have challenged a high proportion of all large manufacturing and mining mergers occurring since 1950. The enforcement effort has been centered mainly on horizontal, vertical, and geographic market-extension type conglomerate mergers. This effort has focused primarily on mergers by the largest few hundred corporations. Very few mergers of small companies have been challenged.

III

THE ECONOMIC CONSEQUENCES OF ENFORCEMENT POLICY

What norm shall we use in measuring the effectiveness of antimerger enforcement? An appropriate starting point is the legislative history of the act. The act's proponents were concerned explicitly with both high *market concentration* (the share held by the top companies in an industry) and *aggregate concentration* (the share of all manufacturing held by the top 100 or 200 concerns).[2] Congress assumed that these broad objectives could be achieved by prohibiting those horizontal, vertical, and conglomerate mergers which showed a reasonable probability of substantially lessening competition or tending toward

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[1] Of the challenged large horizontal mergers court injunctions blocked the final consummation of companies with assets of $1,098 million, or over one-half of all large horizontal acquisitions by the $1 billion and over companies.

[2] House of Representatives, 81st Cong., 1st sess., report No. 1191, pp. 2–3.

monopoly. Hence, while it was hoped the act would prevent further increases in both market and aggregate concentration, Congress drafted a statute designed to prevent only anticompetitive mergers, not all mergers which added to either market or aggregate concentration.

Enforcement policy may have either a direct or indirect effect on industrial organization. Challenging and undoing particular mergers has an immediate and direct impact. Although there are a number of notable examples of this, the chief impact of enforcement policy is the deterrent effect of threatened prosecution. This aspect of enforcement policy is most evident in the area of horizontal mergers, where the rules of law became increasingly clear after 1956–58.

In the first 4 years, 1951–54, following passage of the Celler-Kefauver Act, horizontal mergers comprised about 37 percent of the number and 40 percent of the assets of all "large" [1] acquisitions in manufacturing and mining (table 7). During the next 4-year period, 1955–58, the proportion of horizontals declined somewhat. But during the next 4 years, 1959–62, horizontal mergers dropped off sharply, comprising only about 17 percent of the number and 19 percent of the assets of large acquisitions. And during the last 4 years, 1963–66, horizontals accounted for about 15 percent of the number and only 14 percent of the assets of all large mergers. In the last year, 1966, horizontal mergers represented only 8 percent of the assets of all large acquisitions.

TABLE 7.—PERCENTAGE DISTRIBUTION OF LARGE ACQUISITIONS IN MANUFACTURING AND MINING AND THEIR ASSETS, BY TYPE OF MERGER, 1951–66

[In percent]

Type of merger	1951–54		1955–58		1959–62		1963–66		Total, 1951–66	
	Number	Assets	Number	Assets	Number	Assets	Number	Assets	Number	Assets
Horizontal	37	40	28	34	17	19	15	14	20	22
Vertical	12	9	16	20	18	24	15	15	16	18
Conglomerate	51	51	56	45	65	57	71	71	64	60
Product extension	37	43	47	39	39	27	52	43	46	38
Market extension	6	4	4	2	8	8	5	13	6	9
Other	7	5	5	5	17	22	14	16	12	14
Total [1]	100	100	100	100	100	100	100	100	100	100

[1] Detail may not add to total due to rounding.

Note: Included above are 20 acquisitions with assets of $2.3 billion which were blocked by court injunctions.

Source: Bureau of Economics, Federal Trade Commission. See appendix table 6.

Not only has the relative volume of horizontal mergers declined, but the *absolute* volume has declined as well. The peak of horizontal merger activity was reached in 1956 when there were 21 large horizontal mergers with combined assets of $1.4 billion. Although there were 71 percent more large mergers [2] in 1966 than in 1956, by 1966 the number of large horizontal mergers had fallen to 13, and involved combined acquired assets of only $325 million.

[1] Large mergers are defined as those wherein the acquired company had assets of $10 million or more.
[2] See table 2.

The deterrent effect of horizontal merger policy is reflected most clearly in the declining percent of large horizontal mergers made by the largest manufacturing companies. Prior to 1959 a high proportion of large-company mergers was with direct competitors. During 1951–54, 62 percent of large acquisition assets acquired by $1 billion companies involved horizontal mergers. During the next period, 1955–58, fully 82 percent of these companies' large acquisitions—measured by assets of acquired companies—were horizontal. During 1959–62 large horizontal mergers fell to 29 percent of total large acquisition assets acquired by companies of this size, and during 1963–66, this percentage was reduced to 25 percent. The merger pattern of acquiring companies in the $100 million to $1 billion size class displayed a similar trend, although these companies made a smaller share (measured by assets) of large horizontal mergers throughout the period (table 8).

84-840—67——4

TABLE 8.—CHANGES IN THE RELATIVE IMPORTANCE OF HORIZONTAL, VERTICAL, AND CONGLOMERATE MERGERS IN MANUFACTURING AND MINING, BASED ON VALUE OF ASSETS ACCQUIRED[1] BY SIZE OF ACQUIRING COMPANY, 1951–66

[In percent]

Asset size of acquiring company (millions)	1951–54			1955–58			1959–62			1963–66			Entire period, 1951–66		
	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate
$1,000 and over	62	--------	38	82	8	11	29	25	46	25	20	55	37	19	44
$250 to $1,000	31	--------	69	18	48	34	20	31	49	3	19	78	13	28	59
$100 to $250	46	11	43	21	10	70	25	25	50	8	14	79	20	16	64
$50 to $100	31	24	45	46	5	50	2	18	81	28	8	64	26	11	63
Under $50	39	7	54	29	5	66	11	11	78	20	4	76	22	6	72
Total	40	9	51	34	20	45	19	24	57	14	15	71	22	18	60

[1] Companies with assets of $10,000,000 or more at time of acquisition.

NOTE.—Percentages (horizontally) may not add to 100 due to rounding.

Source: Bureau of Economics, Federal Trade Commission. See appendix table 7.

On the other hand, acquiring companies with assets below $50 billion followed a different trend. Although large horizontal mergers represented a smaller share of their total acquired large acquisition assets in the 1963–66 period than in the 1951–54 period, the downward trend was less pronounced (table 8). But most importantly, the absolute volume of large horizontal mergers by these companies in the 1963–66 period was well above the level occurring during the previous periods (appendix table 6).[1] This is in sharp contrast to the experience of acquiring companies with assets exceeding $100 million, whose large horizontal mergers were down sharply from the record level of 1955–58. These divergent trends reflect the fact that enforcement policy has been most hostile to horizontal mergers involving the largest acquiring concerns. This has not occurred because of the large absolute size of these companies, but because they are more likely to hold large market shares in particular product lines than are smaller companies.

Apparently the *Bethlehem-Youngstown* decision in 1958,[2] together with the numerous horizontal complaints issued during 1952–58, made it clear to the business community that horizontal mergers involving fairly large market shares very likely would be challenged. After the Supreme Court *Brown Shoe* decision[3] in 1962, which indicated that a horizontal merger might violate section 7 where the combined market shares of the merging companies amounted to as little as 5 percent, the business community took an increasingly cautious view regarding horizontal mergers. By the summer of 1966 the Supreme Court had drawn a very strict set of rules regarding horizontal mergers.[4]

Public policy toward horizontal mergers has resulted not only in undoing some mergers and in blocking others, but in deterring many mergers which might otherwise have occurred. As a result, it not only prevented merger-induced increases in market concentration in many industries, but it opened opportunities for deconcentration to occur in other industries. To test this hypothesis, we shall, first, review the apparent impact of enforcement on the market structure of five important industries, and, second, review postwar trends in market concentration. We shall then turn to some observations concerning the impact of merger policy on aggregate concentration.

A. CONSEQUENCES OF ENFORCEMENT POLICY IN FIVE INDUSTRIES

The industries reviewed here were not chosen randomly. They were selected mainly because they were the subject of important merger cases, and, additionally, in each industry sufficient time has elapsed since the initiation of merger actions that it is possible to make a preliminary evaluation of the impact of particular policy decisions.

These examples are designed to illustrate how merger policy *may* affect an industry's structure. As mentioned earlier, we may expect, as a general rule, that the chief impact of enforcement policy results from the establishment of rules of law which guide business decision-making. Hence, enforcement policy may affect a particular industry's structure even though there have been no legal actions in the industry.

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[1] In terms of both numbers and acquired assets.
[2] See below, pp. 16–18.
[3] 370 U.S. 295.
[4] Particularly, *United States* v. *Aluminum Co. of America*, 377 U.S. 271 (1964); *United States* v. *Von's Grocery Co.*, 384 U.S. 270 (1966); *United States* v. *Pabst Brewing Co.*, 384 U.S. 546 (1966).

For this reason the section below dealing with overall trends in market concentration is a better barometer of the effectiveness of merger policy than are individual case studies. The chief value of the case studies is to illustrate the process by which public policy directed at mergers in a particular industry may affect the pattern of merger activity in the industry and thereby, indirectly, its structure.

The shoe industry

It is appropriate to begin our review of the effects of merger enforcement policy with the shoe industry, since it was the locale of the first case to reach the Supreme Court under the Celler-Kefauver Act.[1]

In 1956 the Brown Shoe Co., the fourth largest shoe manufacturer and retailer, acquired the G. R. Kinney Co., one of the largest independent retail shoe store chains and manufacturers of shoes. Brown was responsible for about 4 percent of total footwear production while Kinney manufactured about 0.5 percent. The two companies competed in the sale of shoes in many metropolitan areas. In 17 such areas they enjoyed a combined share of over 25 percent of women's shoe sales; in 92 local markets their combined share exceeded 10 percent.[2]

Between 1951 and 1956 Brown acquired seven other retail shoe store companies and seven shoe-manufacturing companies. Other leading companies also had made a number of acquisitions. Between 1947 and 1954 the number of shoe manufacturers declined from 1,077 to 970. Shoe manufacturing was still one of the country's least concentrated markets. In 1954 the top four companies manufactured 30 percent of all shoes.

It was against this industry background that the Supreme Court concluded that the merger would violate section 7. It declared the merger tended to lessen competition both because of the substantial retail competition between the two companies in many cities and because the vertical aspects of the merger threatened to result in a significant amount of market foreclosure.

Subsequent events suggest that this case had an important effect on structural developments in the shoe industry. Although the number of shoe manufacturers has continued to decline—from 970 in 1954 to 785 in 1963—and mergers have continued, the action taken against Brown in 1956 apparently resulted in channeling the direction of merger activity away from the industry leaders. Since 1956, the top four shoe manufacturers have not made any sizable acquisitions. One of the largest of these was challenged by the Federal Trade Commission in 1965.[3]

The top four shoe manufacturers' share of total shoe production rose from 28 to 30 percent between 1947 and 1954. Over the next 9 years concentration declined—to 25 percent by 1963.[4] It appears that well before the Supreme Court's *Brown Shoe* decision in 1962, enforce-

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[1] *Brown Shoe Co.* v. *United States*, 370 U.S. 294 (1962).

[2] The companies did over 25 percent of the children's shoe business in 21 cities and over 10 percent in 66 cities. They did over 10 percent of the men's shoe business in 28 cities.

[3] *In the Matter of Endicott-Johnson Corp.*, docket No. C–1009, 1965.

[4] *Concentration Ratios*, op. cit., p. 22. These concentration ratios are for all "shoes, except rubber," SIC 3141. The top four companies' share of various lines of shoes also declined: Men's dress shoes (SIC 31411), from 39 percent in 1958 to 38 percent in 1963; men's workshoes (SIC 31412), from 49 percent in 1954 to 39 percent in 1963; youths' and boys' shoes (SIC 31413), from 44 percent in 1958 to 39 percent in 1963; infants' and babies' shoes (SIC 31416), from 38 percent in 1958 to 36 percent in 1963. The top four companies' share increased in misses' and children's shoes (SIC 31415), from 28 to 30 percent, and remained the same in women's shoes (SIC 31414). Concentration data are not available for any products on a five-digit basis for 1947, and are available for 1954 only In those cases shown above.

ment policy channeled merger activity away from the leading companies. This development doubtless played a significant role in the observable decline in concentration between 1954 and 1963. For had the top four companies continued to merge at the pre-1956 rate, they could easily have forestalled this decline [1] and perhaps have expanded their share of shoe manufacturing. Apparently the real economies of horizontal or vertical integration were not sufficient to enable these companies to expand their share through internal growth alone.

Since 1956, companies ranking below the top four have made a fairly large number of mergers.[2] Partly because of their acquisitions, the fifth to 20th largest shoe manufacturers increased their share of U.S. shoe sales from 15 percent of sales in 1954 to 18 percent in 1963.

The steel industry

One of the landmark cases brought under amended section 7 was the proposed merger in 1956 of Bethlehem Steel Corp. and Youngstown Sheet & Tube Co. This was the largest merger challenged under the act. When the case was brought to trial in 1958, Bethlehem and Youngstown had assets of $2,195 million and $660 million, respectively. Bethlehem was the country's second largest steel company, with 16.3 percent of industry ingot capacity, and Youngstown was the sixth largest steel company, with 4.6 percent of industry ingot capacity. Their respective market positions were larger in some products and in certain geographic markets.

The merger would have increased the top four companies' share of ingot capacity from 59 percent to 64 percent. This would have been higher than in nearly any period since the formation of United States Steel in 1901.[3]

This was primarily a horizontal merger, although it involved significant market extension, product extension, and vertical aspects, as well.[4] The Department of Justice challenged the proposed merger, and a district court enjoined its consummation.

One of the defenses of the proposed merger raised by Bethlehem and Youngstown was that steel mills in the Chicago area lacked sufficient capacity to satisfy demand in the area. As Judge Weinfeld put it, "Each defendant in urging the merger takes a dim view of its ability to undertake, on its own, a program to meet the existing and anticipated demand for heavy structural shapes and plates in the Chicago area." Judge Weinfeld rejected these arguments, which he interpreted as more "matters of preference" than of necessity.

In finding the proposed merger in violation of section 7, Judge Weinfeld expressed the view that if this merger were permitted it might well set off "a chain reaction of further mergers by the other but less powerful companies in the steel industry." The defendants also argued that the merger would enable Bethlehem-Youngstown to

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[1] Whereas the four largest companies made at least 33 shoe manufacturing and retailing acquisitions during 1950–56, they made only 19 during 1957–66. Moreover, whereas the companies acquired during the first period had assets of at least $91 million, those acquired in the latter period had assets of at least $9 million. Asset information was available for 17 companies acquired during 1950–56 and 10 companies acquired during 1957–66.

[2] According to *Moody's Industrial,* shoe manufacturers and retailers other than the top four acquired 11 shoe retailers and manufacturers between 1950-56 and 26 such companies between 1957–65.

[3] The top four companies held the following shares of ingot capacity in various years: 1901, 61 percent; 1908, 62.8 percent; 1920, 54.5 percent; 1930, 67.2 percent; 1938, 62.9 percent; 1945, 62.9 percent; 1951, 60.9 percent; 1957, 58.3 percent; 1958 (before merger), 58.9 percent; 1958 (after merger), 63.5 percent. *United States* v. *Bethlehem Steel Corp.*, 168 F. Supp. 576 (1958).

[4] The case was argued almost exclusively without reference to the potential competition aspects usually central to market and product extension mergers. See Commission decisions in *Beatrice Foods*, docket No. 6653 (1965), and *P. & G.-Clorox*, docket No. 6901 (1963).

challenge the dominant position of United States Steel.[1] Judge Weinfeld reasoned that if this were a sufficient defense to the merger, "then the remaining larger producers in the 'Big 12' could with equal logic urge that they, too, be permitted to join forces and to concentrate their economic resources in order to give more effective competition to the enhanced 'Big 2'; and so we reach a point of more intense concentration in an industry already highly concentrated—indeed we head in the direction of triopoly."

Subsequent events proved the wisdom of Judge Weinfeld's decision. After the merger was enjoined, both companies expanded greatly their capacity in the Chicago area.[2]

After the *Bethlehem-Youngstown* decision of 1958 prevented Bethlehem from merging into the Chicago area, it decided to enter by internal growth. On December 3, 1962, it announced plans to construct a steel plant at Burns Harbor, Ind., 30 miles east of Chicago. This plant was producing steelplates by 1964. Subsequent expansion permitted production of cold-rolled sheets and hot-rolled sheets. The company plans to make the Burns Harbor plant into a completely integrated facility like its Sparrows Point plant. Between 1959 and 1965, Bethlehem increased its net investment in plant and property by nearly 50 percent—from $909 million to $1,334 million. Between 1959 and 1965 Youngstown expanded its net plant and property investment by one-third—from $330 million to $441 million.[3]

The blocking of the Bethlehem-Youngstown merger had a clear effect on the structure of the steel industry. Between 1954 and 1963, concentration of shipments among the top steel companies actually declined. Whereas in 1954, the top four companies accounted for 55 percent of the value added by "blast furnaces and steel mills," their share had dropped to 50 percent by 1963.[4] This is almost identical to the market share of Youngstown. Consequently, had the merger been permitted, concentration almost certainly would not have declined. In fact, had this decision laid down a rule of law permitting a horizontal merger of this magnitude, it is highly probable that Judge Weinfeld's "chain reaction" theory would have become a reality, which would have greatly increased concentration.

In concluding his appraisal of the first 6 years of enforcement of the Celler-Kefauver Act, Jesse W. Markham, a former chief economist of the Federal Trade Commission stated:

"As this is written the press is heralding Bethlehem-Youngstown as the 'big case.' Its outcome may tell whether present merger policy will stand or fall." [5]

In 1956 three prominent economists testified in Bethlehem's behalf that the merger would enhance rather than injure competition. We

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[1] The defendants argued that United States Steel "exercises dominant influence over competitive conditions in the steel industry * * *."

[2] As Mr. Harrison F. Houghton, who was the Government's principal economist in the *Bethlehem* case, has pointed out:

> "The principal motivation for the merger was Bethlehem's interest in entering the Chicago steel market, where it previously had no capacity. It had purchased a large tract of land on Lake Michigan and planned to construct a fully integrated steel plant, consolidating it with Youngstown's Chicago capacity. Mr. Homer, president of Bethlehem, contended that the cost of expanding the Youngstown facilities would run about $135 per ingot ton, whereas to construct a new integrated plant at Chicago would cost about $300 per ton. During the course of the trial a high Bethlehem official asserted that if the merger was not permitted to go through, Bethlehem would never construct an integrated steel plant in Chicago." Harrison F. Houghton, "Policy Objectives To Maintain Effective Competitive Industrial Structures in the Economy," delivered at Seminar for Business Executives on Federal Government Policy, Executive Leadership Conferences on Public Affairs, at the Brookings Institution, Washington, D.C., Apr. 7, 1965.

[3] Annual reports and company prospectuses.

[4] SIC 3312, *Concentration Ratios in Manufacturing Industry, 1963*" p. 24.

[5] Jesse W. Markham, "Merger Policy Under the New Section 7: A 6-Year Appraisal," *Virginia Law Review*. May 1957, p. 524.

have come a long way in the last decade. Today I find few dissenters among economists to the rule of law laid down in Bethlehem-Youngstown.

The dairy industry

In 1956 the Commission issued complaints against the Nation's four largest dairy concerns, which together had acquired several hundred dairies during 1951–56.[1] The challenged acquisitions involved both mergers between direct competitors and so-called market-extensions mergers; that is, mergers between dairies operating in different geographic markets. The latter mergers are distinguished from horizontal mergers because the market for fluid milk and ice cream is local or regional in nature.

The Commission issued its first dairy decision in 1962. It required Foremost Dairies to divest itself of certain properties involving sales in excess of $100 million and to refrain for a period of 10 years from further mergers without the prior approval of the Commission.[2] The cases involving Borden and National Dairy were settled subsequently with consent agreements requiring divestiture of about 25 percent of the acquired units (measured by sales) and a prohibition against further mergers. The Commission's decision in *Beatrice Foods*, April 26, 1965, ordered the divestiture of acquisitions with combined sales of $56 million and a 10-year ban on all future dairy acquisitions, except with the prior approval of the Commission. The Commission's *Beatrice* decision also attempted to establish "clear and concrete legal standards for mergers for the guidance of businessmen." [3]

After the *Beatrice* decision two large regional dairies, Bowman Dairy and Dean Foods, announced their intention to merge in late 1965. The Commission succeeded in obtaining a preliminary injunction forbidding Dean's consummation of the merger.[4] The Commission subsequently found the merger in violation of section 7.[5]

The Commission's policy in this area has not been to stop all mergers, nor has this been the effect. It recognized that market and technological forces made inevitable the disappearance of many more small companies. It concluded that, "congressional policy as expressed in section 7 will be best served in this industry if merger activity is channeled toward smaller firms." [6]

The Commission's actions have had a measurable impact on the structure of the merger movement in the dairy industry. Prior to 1950 the eight largest dairies acquired about 1,700 dairy concerns, and during 1950–55 they made an average of 71 acquisitions per year. Between the time the first complaint was issued in 1956 and the hearing examiner's initial decision in *Foremost*,[7] December 9, 1960, the merger activity of the top eight dairies slowed appreciably—to 28 per year. Since the Commission's *Foremost* decision,[8] April 30, 1962, these com-

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[1] *Foremost Dairies*, docket No. 6495; *National Dairy Products*, docket No. 6651; *Borden Co.*, docket No. 6652; *Beatrice Foods*, docket No. 6653.

[2] *Foremost Dairies*, docket No. 6495, Commission decision, Apr. 30, 1962. The Commission issued a modified order in this matter Mar. 5, 1965.

[3] *Beatrice Foods*, docket No. 6653, final decision, pp. 42–46.

[4] *Federal Trade Commission* v. *Dean Foods*, 384 U.S. 597.

[5] *Dean Foods*, docket No. 8674, Court of Appeals for the Seventh Circuit entered a final decree, Apr. 21, 1967, requiring divestiture of most of the acquired properties.

[6] *Beatrice Foods*, *op. cit.*, p. 46.

[7] The hearing examiner found nine of Foremost's horizontal mergers in violation of section 7, but did not find any of Foremost's market extension mergers in violation of section 7.

[8] The Commission sustained the examiner's decision with respect to his finding on horizontal mergers, but also found that the largest purely market extension merger also violated the act because it eliminated potential competition. Docket No. 6495, Commission decision, Apr. 30, 1962.

panies have averaged only five dairy acquisitions per year (table 9), several of which were with the prior approval of the Commission.

TABLE 9.—DAIRY ACQUISITIONS BY DAIRY COMPANIES, 1920–66

Year	By 8 largest companies	By other dairy companies	Total	Year	By 8 largest companies	By other dairy companies	Total
1920-49	1,719	4,048	5,767	1959	31	125	156
1950	77	115	192	1960	39	106	145
1951	67	127	194	1961	15	91	106
1952	66	123	189	1962	4	98	102
1953	67	108	175	1963	4	95	99
1954	81	105	186	1964	4	89	93
1955	68	101	169	1965	2	82	84
1956	32	77	109	1966	6	89	95
1957	22	107	129				
1958	24	92	116	Total	2,328	5,778	8,106

Source: Bureau of Economics, Federal Trade Commission.

On the other hand, the number of mergers by dairies other than the top eight has continued at about the same *relative* pace as before the Commission's actions.[1] It appears that the Commission's objective of "channeling" the direction of merger activity is being achieved without foreclosing merger as a method of exit from the industry by small companies.

Concentration of fluid milk sales in most metropolitan markets rose appreciably between 1950 and 1962.[2] However, the share of such sales held by the largest national companies fell somewhat between 1958 and 1963.[3]

Between 1950 and 1958 the four largest companies' share of the value of U.S. fluid milk sales rose from 18.1 percent to 20 percent, and the share of the eight largest rose from 21.4 percent to 25 percent.[4] Since 1958 the top four companies' share declined slightly—about 1 percentage point.[5] These companies' share of U.S. sales will drop by at least an additional 1 percentage point upon completion of all divestitures ordered by the Commission.[6]

It is still too early to predict the ultimate impact of merger policy on this industry. The odds seem good, however, that public policy in this area will encourage the survival and creation of more viable competitors than would be the case if the large companies continued to make acquisitions at the pre-1956 rate.[7]

Food retailing

Beginning in 1959 the antitrust agencies initiated a series of complaints challenging acquisitions by six of the largest food chains.[8] These complaints challenged mergers between direct competitors in particular metropolitan areas, as well as so-called "market extension"

[1] The total number of dairies declined by about one-half between 1950 and 1961.

[2] Alden Manchester, *Nature of Competition in Fluid Milk Markets*, Ag. Econ. Rept. No. 67, U.S.D.A., 1965, p. 21.

[3] This is an inference based on the fact that the top four companies' share of U.S. sales declined over the period. Since they operated in more markets in 1963 than in 1958, their average metropolitan area sales must have declined as well.

[4] *Manchester, op. cit.* p. 24.

[5] *Concentration Ratios, op. cit.*, p. 139.

[6] The top four companies' share of ice cream sales rose slightly between 1954 and 1958 (33 to 35 percent) and declined slightly between 1958 and 1963 (from 35 to 34 percent). *Ibid.*

[7] For a further discussion of merger policy in the dairy industry, see Willard F. Mueller, "Merger Policy in the Dairy Industry," *The Antitrust Bulletin*, Spring 1967.

[8] The Federal Trade Commission issued complaints against the National Tea Co., Mar. 26, 1959; Kroger Co., Apr. 1, 1959; Grand Union Co., Jan. 12, 1962; Consolidated Foods, Dec. 21, 1965; Winn-Dixie Stores, Sept. 14, 1966. In 1960 the Department of Justice challenged the merger of Von's Grocery Co. and Shopping Bag Food Stores, two leading chains in the Los Angeles market.

mergers, wherein the acquiring company entered a new market by acquiring a leading established concern.[1] These complaints challenged acquisitions with combined sales of $760 million. Litigation has been completed in all but one of these cases.[2]

In addition to issuing complaints, the Federal Trade Commission recently issued a statement regarding its future enforcement policy in this area.[3] In essence, this statement indicated that any future retail food store acquisition, including market extension mergers, by a food chain with sales in excess of $500 million would warrant immediate attention;[4] on the other hand, it explained that in the Commission's experience, "it appears that market extension mergers involving companies with combined annual sales of less than $500 million generally do not pose a serious threat to competition . . ."[5]

It is still too early to appraise the full impact of enforcement policy in this area. But this much seems clear. Over the past four decades mergers have been the major source of increased concentration among leading chains in food retailing. The relative size of all of the largest companies, except A & P, is directly traceable to mergers, particularly those made during the 1920's and since 1950.[6] The increasing share of national food store sales of the 20 largest chains can be explained almost entirely by their mergers.[7] Table 10 shows the extent of merger activity by food chains since 1948. The top 10 chains were especially active acquirers. Over the entire period 1949–66 they made 177 acquisitions with combined sales of $2.2 billion.

Although the tempo of merger activity has remained high in recent years, the pattern of mergers has changed. After the first merger complaints were issued in March 1959,[8] merger activity by the top 10 chains came to a virtual halt for 2 years (table 10). Thereafter, the leaders' merger pace quickened. Significantly, April 8, 1963, the hearing examiner dismissed the complaint against the National Tea Co. This represented the first decision issued by an examiner involving mergers in food retailing.[9]

In the 12 months following the examiner's dismissal of the National Tea complaint, chains among the top 10 made acquisitions with combined sales in excess of $500 million, a record for any 12-month period.[10]

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[1] The *Von's* and *Grand Union* complaints challenged only horizontal mergers. The other complaints challenged both horizontal and market-extension mergers. Of course, all mergers in food retailing are horizontal in the purchase of grocery products.

[2] Orders have been entered in all of the Commission's cases except that involving the *Kroger Co.* The Supreme Court decided the *Von's* case in the Government's favor May 31, 1966. *U.S.* v. *Von's Grocery Company and Shopping Bag Food Stores*, 384 U.S. 270.

[3] Federal Trade Commission, *Enforcement Policy with Respect to Mergers in the Food Distribution Industries*, Jan. 3, 1967.

[4] The Commission noted that the law with respect to horizontal mergers had been stated in the Supreme Court's *Von's* decision.

[5] *F.T.C. Enforcement Policy Statement, op. cit.*, pp.8–9.

[6] Federal Trade Commission Staff Report on *Food Retailing*, June 1966, prepared for the National Commission on Food Marketing. Most of the merger chapter of this study appears as Chapter 5 in *Organization and Competition in Food Retailing*, Technical Study No. 7, National Commission on Food Marketing, June 1966.

[7] *Ibid.*, pp. 112–119.

[8] *National Tea Co.*, FTC docket 7453.

[9] On Oct. 4, 1963, an examiner ordered the dismissal of the complaint against the Grand Union Co.

[10] This exceeded the sales of all food retail acquisitions challenged to that date.

TABLE 10.—ACQUISITIONS IN FOOD RETAILING BY FOOD CHAINS, 1949–66

Year	By all chains [1]		By 20 leading food chains [2]		By 10 leading food chains [2]	
	Number of acquisitions [3]	Sales of acquired food stores [4] (millions)	Number of acquisitions [3]	Sales of acquired food stores [4] (millions)	Number of acquisitions [3]	Sales of acquired food stores [4] (millions)
1949	5	$66	1	$47	1	$47
1950	5	4	2	3	1	1
1951	12	28	6	25	5	19
1952	10	71	5	55	4	53
1953	13	88	4	77	2	61
1954	24	76	7	37	4	31
1955	55	559	23	465	15	267
1956	69	450	32	310	20	141
1957	52	319	20	194	14	170
1958	74	517	41	361	27	261
1959	63	319	34	136	14	24
1960	44	307	25	201	10	36
1961	50	518	30	407	16	292
1962	53	306	24	179	14	157
1963	51	568	27	463	16	416
1964	41	312	16	188	8	153
1965	28	558	5	61	3	35
1966	40	539	6	110	3	73
Total	689	5,605	308	3,319	177	2,237

[1] Companies operating 11 or more stores.
[2] Rank based on 1963 foodstore sales in 1963.
[3] Includes partial acquisitions.
[4] Data represent in most cases sales for 12-month periods prior to acquisition.

Source: Bureau of Economics, Federal Trade Commission.

During 1964–66 several events occurred which changed potential acquirers' attitudes toward the legality of future mergers. On June 10, 1965, the Commission entered into a consent agreement with the Grand Union Co., wherein the Grand Union Co. agreed to dispose of certain acquired stores and to make no additional horizontal acquisitions for a period of 10 years without the prior approval of the Commission. On December 21, 1965, the Commission issued a complaint and entered a consent agreement with Consolidated Foods Corp., whereby Consolidated agreed to divest itself of its food stores, which had combined sales in excess of $200 million. March 3, 1966, the Commission, reversing the hearing examiner, issued its decision finding that National Tea had violated section 7. The Commission order prohibited National Tea from making further food store acquisitions for a period of 10 years without the prior approval of the Commission.[1] January 3, 1967, the Commission issued an enforcement policy statement with respect to mergers in food retailing.[2]

This series of actions did not stop the merger movement in food retailing. Nor was this its purpose. As the Federal Trade Commission stated, in all probability "market forces will continue to create an environment conducive to mergers in the industry." [3] It was for this reason that the Commission attempted to "spell out as clearly as possible those mergers which the Commission's experience and knowledge suggest as most likely to have anticompetitive consequences." [4] The Commission recognized that technical and market reasons might dictate further structural changes. It concluded, however, "that whereas mergers by retail firms with annual sales in excess

[1] *National Tea Company*, docket No. 7453, opinion of the Commission, Mar. 4, 1966. This decision was not appealed.
[2] Federal Trade Commission, "Enforcement Policy With Respect to Mergers in the Food Distribution Industries," Jan. 3, 1967.
[3] *Ibid.*, p. 4.
[4] *Ibid.*

84–846—67——5

of $500 million may contribute to further concentration of buying power, in addition to any adverse effect that they may have at the retail selling level, it is unlikely that the prohibition of mergers by such companies would have an adverse effect on efficiency. Moreover, insofar as economies of scale require fairly large scale operations, the goal of promoting economic efficiency might be better achieved by channeling mergers away from the largest firms to those whose efficiency would be enhanced by further growth." [1]

These various actions have had a decisive impact on the pattern of merger activity in food retailing. Although food store mergers reached an all-time high during 1965 and 1966, merger activity by the top 10 chains declined to low levels (table 10). And during the first 9 months of 1967 they made no retail mergers.

The cement industry

The Federal Trade Commission has issued 12 merger complaints in the cement industry since 1950. Two of these challenged horizontal mergers between cement companies operating in the same geographic markets,[2] and 11 challenged forward vertical-type acquisitions of ready-mixed concrete or concrete product firms.[3]

This represents the most extensive merger enforcement effort undertaken in a single industry. Five of these complaints challenged 10 acquisitions of the country's four largest cement companies—Ideal Cement, Lone Star, United States Steel (Universal Atlas), and Lehigh Portland.

These cases were in response to an accelerating merger movement which got underway in 1959, when four vertical acquisitions occurred (table 11). Over the next 7 years an additional 43 vertical mergers occurred. Many of these acquisitions appeared to be of a defensive nature; that is, companies were responding to either actual or threatened acquisition of their customers.[4]

Although the Commission issued one complaint in each of the years 1960, 1961, 1963, and 1964, the merger movement continued unabated. In 1965 the Commission issued four additional complaints challenging seven acquisitions, in early 1966 it issued two complaints challenging five acquisitions, and in 1967 it issued one complaint challenging one acquisition.[5] Over the period 1960–67 the Commission issued 11 complaints challenging 17 ready-mixed concrete acquisitions (table 11).[6]

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[1] *Ibid.*, p. 7. There were 10 chains with food store sales in excess of $500 million in 1965.

[2] *In the Matter of Permanente Cement Co.*, FTC docket No. 7939, (1960) and *In the Matter of Diamond Alkali Co.*, FTC docket No. 8572, (1965).

[3] The complaint against Permanente Cement challenged a vertical as well as a horizontal merger. The other companies challenged were *Martin-Marietta Co.*, docket No. 8280 (1961); *Lone Star Cement*, docket No. 8585 (1963); *American Cement Corp.*, docket No. C–681 (1964); *Mississippi River Fuel Corp.*, docket No. 8657 (1965); *National Portland Cement*, docket No. 8654 (1965); *Texas Industries*, docket No. 8656 (1965); *United States Steel Corp.*, docket No. 8655 (1965); *Ideal Cement Co.*, docket No. 8678 (1966); *Lehigh Portland Cement Co.*, docket No. 8680 (1966); *Lone Star Cement*, docket C–1159 (1967).

[4] See staff report to the Federal Trade Commission, *Economic Report on Mergers and Vertical Integration in the Cement Industry*, April 1966.

[5] The challenged acquisition had occurred in 1966.

[6] It also challenged the acquisition of 20 concrete pipe companies. (See footnote 2, table 11.)

TABLE 11.—ACQUISITIONS OF CEMENT USERS BY CEMENT MANUFACTURERS, 1950–65

Year	Number of acquisitions	Number of Commission complaints [1]
1950–55	2	0
1956	1	0
1957	0	0
1958	1	0
1959	4	0
1960	9	1 (1)
1961	2	[2] 1
1962	5	0
1963	8	1 (2)
1964	10	1 (1)
1965	5	4 (7)
1966	2	2 (5)
1967 (6 months)	0	1 (1)
Total	49	11 (17)

[1] Numbers in parentheses show the number of vertical acquisitions challenged in the complaints.
[2] This complaint challenged the acquisition of 29 small concrete pipe companies and several aggregates and lime companies, as well as 5 cement manufacturers. Martin-Marietta Corp. docket 8280. None of these acquisitions is included in col. 2.

Source: Economic Report, op. cit.

In 1964 the Commission, in issuing its first opinion involving a vertical acquisition in this industry,[1] took cognizance of the industry-wide character of the merger movement, observing that "vertical integration in the cement industry through merger is of growing importance and urgency and has apparently assumed industrywide dimensions." [2] It subsequently announced its intention "to consider the problem on an industrywide basis to determine whether its current approach to vertical mergers in these industries was correct and effective, or whether it should be supplemented." As a first step in informing itself on this subject, the Commission directed its Bureau of Economics to undertake an industrywide study, and on April 26, 1966, a staff *Economic Report on Mergers and Vertical Integration in the Cement Industry* was published. Thereafter public hearings were held in July 1966 and interested parties presented written and oral statements regarding the economic causes and consequences of vertical mergers. Based on its experience and the record developed at these public hearings, the Commission decided to spell out "insofar as possible, its future enforcement policy with respect to vertical mergers in the cement and ready-mixed concrete industries." [3] In essence, it set forth the circumstances in which it would challenge future vertical mergers.[4]

It appears that the vertical merger movement in the industry was halted by the Commission's various legal actions and its explicit announcement regarding future enforcement policy. The number of vertical mergers fell off sharply after 1964. This decline was clearly in response to the Commission's announcement in 1964 that it intended to study carefully the competitive effects of vertical mergers and its decision to issue additional complaints in 1965. There have been no vertical mergers in this industry since the Commission held industrywide hearings in the summer of 1966.

It is still too early to judge the long-range effects of the Commission's several-faceted enforcement policy in the cement industry. The

[1] *In the Matter of Permanente Cement Co.*, docket No. 7939, Commission decision, Apr. 24, 1964.
[2] *Ibid.*
[3] Federal Trade Commission, "Enforcement Policy With Respect to Vertical Mergers in the Cement Industry," Jan. 3, 1967, p. 2.
[4] The Commission also stated that henceforth it would require all portland cement companies to notify the Commission at least 60 days prior to the consummation of any merger or acquisition of a ready-mixed concrete producer. Ibid., pp. 11–12.

strict position taken against horizontal mergers [1] doubtless played an important role in permitting the deconcentration which occurred in some markets in the postwar years. Cement markets are regional in nature and typically are highly concentrated, with the top four companies usually making 50 percent or more of total shipments.[2] The country's four largest cement companies' share of U.S. cement sales fell from 33.5 percent in 1950 to 29.2 percent in 1964.[3] Since over this period these companies expanded somewhat the regions in which they operated, the decline in national concentration means that, on the average, the leading companies lost an even larger share in their respective regional markets. Very probably, when regional concentration data are published for 1963, they will show that the regions experiencing decreases in concentration exceeded those with increases.[4]

The pressure of excess capacity in the early 1960's and other factors tended to broaden cement markets. These procompetitive factors apparently stimulated many of the vertical mergers occurring since 1960, as some companies attempted to entrench their existing positions against the new competitive pressures. Hence, insofar as vertical mergers have been deterred, chances seem good that competitive pressures will further erode the high levels of concentration still common to many markets.

One important factor challenging the position of leaders in certain markets has been the entry by cement companies located in other geographical markets. When such entry occurs by building new capacity it tends to reduce the leaders' share of the market. Merging in by takeover of a company already in the market, however, does not have this effect. Since 1950 there have been 28 such market-extension mergers. The Commission has challenged four of these.[5]

Although such market-extension mergers may seem to pose a less direct threat to competition than do horizontal and vertical mergers, a continuation of this trend could concentrate the entire cement industry in a few nationwide concerns. The main anticompetitive threat of such mergers is the elimination of potential competition.[6] If it can be demonstrated that such mergers have an anticompetitive effect, they may be found in violation of the Celler-Kefauver Act.[7]

B. SUMMARY OF CASE STUDIES

These case studies illustrate how businessmen respond to what they believe to be the rules of law and enforcement policy with respect to prospective mergers. The *Crown-Zellerbach*,[8] *Brown Shoe*,[9] and *Bethlehem–Youngstown* cases, along with the numerous other horizontal merger cases brought during the first years of section 7 enforcement, did much more than affect decisions of potential merger

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[1] The Commission challenged two of the three horizontal mergers occurring since 1950. The unchallenged merger involved two small cement companies in the Lehigh Valley of Pennsylvania (Economic Report, *op. cit.*, p. 75.)

[2] *Ibid.*, pp. 29–32.

[3] *Ibid.*, p. 21.

[4] Regional concentration data for 1958 appear in *Concentration Ratios in Manufacturing Industry*, 1958, pt. II, pp. 505–506. Report prepared by the Bureau of the Census for the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, 1962.

[5] *Martin-Marietta Corp.*, docket No. 8280 (1961).

[6] Economic Report, op. cit., pp. 78–89.

[7] See FTC decision in *Beatrice Foods*, docket No. 6653 (1965), for a discussion of the circumstances in which market-extension mergers may violate section 7.

[8] The Federal Trade Commission decision involving this important horizontal merger was issued in 1957. FTC docket No. 6180.

[9] A District Court held the *Brown Shoe* acquisition illegal in 1959.

candidates in the industries where the complaints were issued. These numerous actions had an important deterrent effect on horizontal mergers in many fields. As noted earlier,[1] horizontal merger activity had already become relatively less important by the late 1950's. And while overall industrial merger activity stepped up greatly following 1960, the absolute volume of "large" horizontal mergers occurring annually actually declined after 1960.[2]

The case studies in the food retailing, dairy, and cement industries illustrate the impact of rules of law and enforcement policy on merger behavior where nonhorizontal mergers are involved. In dairying and food retailing most acquisitions have involved so-called market-extension mergers. It has taken longer to clarify the rules of law regarding such mergers than horizontal mergers.

In the dairy industry, the Commission's issuance of four complaints in 1956 had some impact on the volume of merger activity of the type challenged. It was not until after the Commission's first decision in one of these cases in 1962, however, that the eight largest companies stopped making mergers of the kind challenged.

In food retailing the issuance of complaints also had a temporary deterrent effect on market extension mergers by leading concerns. But as the cases became involved in protracted litigation, and especially after a hearing examiner dismissed one of these cases, mergers accelerated to record levels. Only after a series of additional actions—including the issuance of additional complaints, a Commission decision, and enforcement guidelines regarding future mergers—did large companies cease making mergers of the type challenged.

In the cement industry vertical acquisitions were at issue. Here the merger movement gained momentum until the Commission had issued a large number of complaints and had held special industrywide hearings on the subject. Until the industry became convinced that the Commission was prepared to devote sufficient resources to challenge *all* illegal mergers in this industry, some companies made purely "defensive" mergers even though they recognized that they might be violating the law. This experience illustrates the volatile nature of vertical merger movements and highlights the importance of clarifying as rapidly and explicitly as possible intended enforcement policy with respect to vertical mergers in a particular industry. Legal guidelines applying to vertical mergers in general may not be sufficient to deter anticompetitive mergers once an industrywide movement is underway. Potential acquirers must not only believe that they are violating the law, but also that one of the enforcement agencies is willing to devote the resources necessary to prevent a vertical merger movement from getting out of hand.

Finally, these case studies illustrate that usually the most important impact of merger enforcement policy is its deterrent effect. For example, in the 12 months following the initial decision dismissing the *National Tea* case, the 10 largest chains made market-extension acquisitions with combined sales of over $500 million.[3] This was greater than all such acquisitions challenged to that date in Commission complaints. And were it not for the enforcement policy applied to the industry, the largest chains almost certainly would

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[1] *Supra*, pp. 10–12.
[2] *Ibid.*
[3] *Supra*, p. 20.

have continued to be leading acquirers. Similarly, were it not for enforcement policy adopted toward mergers in the dairy industry, the eight largest dairies may well have acquired as many as 200 additional dairies during the last decade (table 9).

C. POSTWAR TRENDS IN MARKET CONCENTRATION

The above case studies illustrate the process by which rules of law have affected merger activity in particular industries. An important question remains to be answered. What has been the impact of these actions on industrial organization in general? If, as some argue, enforcement has run counter to fundamental technological and market imperatives, it might well have had no enduring impact. If growth motivated by real economies of large scale has been thwarted by overzealous merger enforcement, businessmen could respond by building around the merger law. As Professor Adelman has put it:

> Even a right decision to break up a going concern has costs; a wrong decision is much worse. But the worst a wrong merger decision can do is to force a company to build rather than buy.[1]

We therefore turn next to the question of whether the Celler-Kefauver Act has achieved its objectives of preventing anticompetitive increases in market concentration and of eroding concentration where it already was high.[2] Economic theory suggests and industrial experience verify that the level of industry concentration is a strategic conditioning influence on performance. That there is a close association between high market concentration and market power is demonstrated by a growing body of empirical studies.[3] Although market concentration is not the only index of market power, where concentration is high other structural variables, notably high barriers to entry, are found. Moreover, the various structural factors usually move in tandem.[4] For this reason most empirical studies analyzing performance have relied heavily on this measure. Additionally, concentration is the most readily measurable of the structural variables and the only one for which reliable data are available for a broad range of industries.

Concentration ratios computed periodically by the Bureau of the Census for the Senate Antitrust and Monopoly Subcommittee measure the percentages of total industry value of shipments accounted for by the largest 4, 8, or 20 companies in an industry. Although neither these ratios nor any other single index can fully describe the disparity in size of companies in an industry, they are generally acknowledged to capture the essential feature of the number and size distribution of firms. In other words, concentration ratios indicate the combined

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[1] M. A. Adelman, "Market Issues: An Economist's View," National Industrial Conference Board, *The Impact of Antitrust on Economic Growth*, Mar. 5, 1964, p. 30.

[2] The legislative history makes it clear that the authors of the act hoped not only that it would prevent further increases in concentration, but that it would open the way for deconcentration of highly concentrated industries.

[3] See, for example, Joe S. Bain, "Relation of Profit Rate of Industry Concentration: American Manufacturing, 1936–40," *Quarterly Journal of Economics*, August 1951: L. W. Weiss, "Average Concentration Ratios and Industrial Performance," *Journal of Industrial Economics*, July 1963; Norman R. Collins and Lee Preston, "Concentration and Price Margins in Food Manufacturing Industries," *The Journal of Industrial Economics*, July 1966, 226. A report by the staff of the Federal Trade Commission, *The Structure of Food Manufacturing*, technical study No. 8, National Commission on Food Marketing, June 1966, pp. 202–210. H. Michael Mann, "Seller Concentration, Barriers to Entry, and Rates of Return in 30 Industries, 1950–60," *Review of Economics and Statistics*, August 1966, pp. 296–307. Unpublished study by Norman R. Collins and Lee Preston, "Concentration and Price-Cost Margins in Manufacturing Industries," Apr. 1, 1966.

[4] Joe S. Bain, *Barriers to New Competition*, 1956

market position of the leading companies.[1] For this reason, they have come to be commonly used summary measurements of the degree of market oligopoly.

There appears to have been no marked tendency for concentration of manufacturing industries as a group to have either increased or decreased over the 16-year period, 1947–63. This conclusion is based on an analysis of 213 essentially comparable four-digit SIC industries.[2] Of these industries, 86 showed four-firm concentration ratio declines of 3 percentage points or more, and 81 industries experienced concentration ratio increases of 3 percentage points or more (table 12). However, there were differences within the broad sweep of the 16 postwar years. From 1947 to 1958 more industries experienced decreases than increases in concentration. On the other hand, between 1958 and 1963 the increases exceeded the decreases.[3]

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[1] John M. Blair, "Statistical Measures of Concentration in Business," *Bulletin of the Oxford Institute of Statistics*, November 1956, pp. 351–72. Adelman has observed, "The concentration ratio is a fairly crude approximation but, so far, it is the only thing we have which fits the requirements of economic theory that it have some relevance to market behavior. Some highly refined measures have been proposed . . . . I do not think these measures have as yet proved useful." M. A. Adelman, *Economic Concentration*, pt. 1, Hearings before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, 88th Cong., 2d sess., p. 231.

[2] The concentration statistics cited herein appear in a statement by Willard F. Mueller before the Select Committee on Small Business, U.S. Senate, Mar. 15, 1967. These data were developed by the staff of the Bureau of Economics under the direction of Dr. Russell C. Parker, Assistant to the Director, Bureau of Economics.

The number of digits in the *Standard Industrial Classification SIC Manual*, Bureau of the Budget, refers to level of classification. Four-digit industries consist of all plants primarily engaged in the production of a given group of usually closely related census products. It is possible to make comparisons of the level of concentration in 1947 and 1963 in 213 four-digit industries. These industries are sufficiently representative to indicate accurately postwar concentration *trends* in manufacturing industries. See ibid., appendix A.

[3] See table 15 in statement, ibid.

TABLE 12.—NUMBER OF INDUSTRIES AND VALUE OF 1963 SHIPMENTS, BY LEVEL OF CONCENTRATION BETWEEN CHANGE, 1947 AND 1963

Type of industry	Number of industries	Number of industries in which 4-firm concentration—			Number of industries in which 8-firm concentration—		
		Increased 3 percentage points or more	Changed less than 3 percentage points	Decreased 3 percentage points or more	Increased 3 percentage points or more	Changed less than 3 percentage points	Decreased 3 percentage points or more
Total	213	81	46	86	95	50	68
Producer goods	132	38	32	62	44	38	50
Consumer goods	81	43	14	24	51	12	18
Undifferentiated	28	10	7	11	14	5	9
Moderately different	36	21	5	10	23	6	7
Highly different	17	12	2	3	14	1	2

	Shipments in 1963		Distribution of shipments					
	Value (millions)	Percent	Percent	Percent	Percent	Percent	Percent	Percent
Total	$175,721	100	35	20	45	44	18	38
Producer goods	103,854	100	21	22	57	27	24	49
Consumer goods	71,867	100	54	17	29	68	10	22
Undifferentiated	12,258	100	26	12	62	36	4	60
Moderately different	28,089	100	55	23	22	70	14	16
Highly different	31,520	100	65	13	22	78	8	14

Source: Bureau of Economics, Federal Trade Commission, based on data in "Concentration Ratios in Manufacturing Industry 1963," Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, U.S. Senate, 89th Cong., 2d sess.

Of greater significance, however, was the contrasting pattern of concentration changes between consumer and producer goods industries. Concentration in consumer goods industries, as a group, rose over the period, whereas it declined in producer goods industries.

Producer goods industries composed 132 of the 213 comparable industries analyzed. Sixty-two of the comparable producer goods industries experienced declines in four-firm concentration ratios of 3 percentage points or more between 1947 and 1963 (table 12). This was well above that of the 34 which experienced concentration ratio increases of similar magnitudes.

The average decline in concentration in producer goods industries was offset by a substantial upward movement in consumer goods industries.[1] Of the 81 consumer goods industries for which it is possible to make comparisons between 1947 and 1963, 43 experienced 4-firm concentration ratio increases of 3 percentage points or more, whereas 24 experienced decreases of 3 percentage points or more (table 12).

Eight-firm concentration ratios for consumer goods showed a more pronounced upward trend than did four-firm concentration ratios: 51 industries experienced increases and only 18 had decreases (table 12).

The pattern of concentration in the consumer goods industries varied over the period: during the 1947–54 and 1954–58 periods, the number of increases and decreases was quite evenly balanced. In the 1958–63 period, however, the number of industries experiencing increases in concentration outnumbered by four to one those experiencing decreases.[2]

Not only did the pattern of concentration in consumer goods industries differ from that in producer goods, but there were divergent patterns within the consumer goods sector.

Economists classify industries into two general product categories: *homogeneous* or *undifferentiated* product industries and *differentiated* product industries. Homogeneous or undifferentiated product industries are those in which one seller's product is a perfect substitute for that of another seller. An example is fresh meat sold under Government grades. Differentiated product industries are those in which one seller's product is not a perfect substitute for that of another. That is to say, because of advertising and for other reasons, the consumer differentiates one seller's product from those of its competitors. Examples of this are breakfast cereals and household detergents.

Industries are classified according to the degree of product differentiation because product differentiation, like market concentration, is an important aspect of market structure.[3] Product differentiation gives a seller a degree of independence in pricing. This may give the seller a competitive advantage over established firms. Also, an established firm with a differentiated product may enjoy a pronounced advantage over potential entrants. Empirical studies have demonstrated that in some industries product differentiation is the major barrier confronting potential entrants.[4]

In table 12, all consumer goods industries have been placed in three categories: undifferentiated, moderately differentiated, and highly

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[1] Consumer goods industries were more concentrated than producer goods industries. Moreover, the contrasting concentration trends in producer and consumer goods industries were present in both concentrated and unconcentrated industries. Mueller, Senate Small Business Committee statement, op. cit., p. 480.

[2] See table 15 in statement, *ibid.*

[3] Edward H. Chamberlin, *The Theory of Monopolistic Competition* and Joe S. Bain, *Barriers to New Competition.*

[4] Bain, *op. cit.*, *FTC Staff Report on Food Manufacturing*, *op. cit.*

differentiated.[1] There were pronounced differences in the concentration trends among the various consumer goods industries according to the degree of product differentiation. Among the undifferentiated product industries, about as many industries experienced declines in concentration as experienced increases. This was in marked contrast to trends in both the moderately differentiated and highly differenated consumer goods categories. About twice as many moderately differentiated consumer goods industries experienced concentration increases as experienced decreases, and four times as many highly differentiated consumer goods industries experienced increases as experienced decreases.

Conclusions

Postwar trends in market concentration support the hypothesis that in producer goods industries antimerger policy has created an environment preventing increases in concentration in some industries and encouraging decreases in concentration in others. Some economists have argued that economies of large-scale production, invention, and innovation make inevitable increasingly high levels of market concentration, or at least prevent the erosion of existing high levels of concentration.[2] This doctrine persists today in spite of a growing body of empirical literature which argues persuasively to the contrary.[3]

When postwar concentration trends are viewed together with the recent empirical findings which indicate that in most manufacturing industries economies of large scale can be enjoyed by concerns with relatively small market shares, they provide a valuable insight into the process of structural change. Modern technology has not made obsolete our competitive, market-oriented economy. For it is precisely in the producer goods industries where economies of large-scale production, invention, and innovation are most pronounced. Yet it is these industries which experienced a significant decrease in market concentration in the postwar years. This suggests that many industrial markets have grown more rapidly than have the requirements of large-scale business organization. As a result, in many industries markets have become so large that they can support more than a very few efficient-size units. In this industrial setting, the market position of an industry's leaders tends to be eroded, either by the relative expansion of smaller concerns or by the entry of new firms. This is especially true in rapidly growing industries.[4] But the mere absence of factors requiring high concentration is not a sufficient reason for declining concentration. Industry leaders may engage in competitive strategies

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[1] Incomplete information necessarily makes it difficult to make precise classification into these categories Generally, industries classified as undifferentiated made advertising expenditures of less than 1 percent of sales and those classified as highly differentiated made substantial promotional expenditures, often in exces. of 10 percent of sales, and usually were heavy users of television advertising media.

[2] Galbraith makes this assumption in *The New Industrial State*, 1967.

[3] John Jewkes, David Sawers, and Richard Stillerman, *The Sources of Invention*, 1959; F. M. Scherer "Firm Size, Market Structure, Opportunity, and the Output of Patented Inventions." *American Economic Review*, December 1965; Walter Adams and Joel B. Dirlam, "Big Steel, Invention, and Innovation," *Quarterly Journal of Economics*, May 1966, 167. Most recent empirical findings on this subject have been presented as testimony before the Senate Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, 89th Cong., first sess., hearings on *Economic Concentration, pt. 3, Concentration, Invention, and Innovation*, and *Economic Concentration, pt. 4, Concentration and Efficiency, 1965*.

[4] In highly concentrated industries the leaders may engage in entry-forestalling pricing to prevent an erosion in their market share, thereby maintaining their market position. However, such firms may have the alternative of either maintaining market share or facing the prospect of losing some market share but enjoying higher profits, at least in the short run. Bain, *Barriers to New Competition*, 1956. How firms will resolve this trade-off between maintaining market position and higher short run (and perhaps longrun) profits will depend on the condition of entry, the degree of uncertainty, and the rate at which the market is growing. Acquiescence to the erosion of market position is likely to be greatest when firms face a "progressive general condition of entry," when there is considerable uncertainty concerning the identity and number of prospective entrants, and when an industry is growing rapidly.

which counteract the forces working toward deconcentration. Specifically, until the passage of the Celler-Kefauver Act in 1950, horizontal mergers often had the effect of offsetting these forces, with the result that in many industries concentration remained unchanged or even increased.[1]

But what of the concentration trends in consumer goods industries? It appears that in these industries powerful proconcentration forces are at work. The best available evidence suggests, however, that economies of large-scale production, invention, and innovation are less important in consumer goods industries than in producer goods industries.[2] The apparent reason for the growing concentration in consumer goods manufacturing is to be found in the advantages [3] of large-scale promotion and distribution.[4] The high cost of large-scale TV advertising appears to be one of the several aspects of this problem.[5] This has made it difficult for small companies to survive and for new competitors to become established in these industries.

Although horizontal merger policy almost certainly has slowed the growth of concentration in many consumer goods industries, the prevention of horizontal mergers alone has not provided an adequate remedy to the problem. The current quick tempo of conglomerate mergers among consumer goods manufacturers is bringing about fundamental organizational changes in these industries. Although these mergers do not have an immediate impact on concentration, they often bring about structural changes which have an important effect on competition. Specifically, they may increase barriers confronting new entrants or eliminate important potential competitors.[6] Experience also demonstrates that such mergers often result in post-acquisition increases in concentration.[7]

As noted earlier, relatively few conglomerate mergers have been challenged by the antitrust agencies. The first Supreme Court decision to deal with the basic competitive issues raised by conglomerate mergers was handed down April 11, 1967.[8] The rules of law set forth in this decision may have an important impact on the future course of the current merger movement in the consumer goods industries.

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[1] For example, in the steel industry the level of concentration, as measured by the share held by the top 4 firms, was about the same in 1951 as in 1901, the year in which U.S. Steel was formed. Concentration would have declined substantially over the period had not the top 4 companies made a substantial number of horizontal acquisitions. Bethlehem Steel, the industry's second largest company, achieved much of its relative size by merger. *U.S.* v. *Bethlehem*, 168 F. Supp. 576 (1958). U.S. Steel and other leading companies also made numerous acquisitions over the 50-year period 1901–51. See J. Fred Weston, supplement to *The Role of Mergers in the Growth of Large Firms*, University of California, 1954.

[2] Joe S. Bain, *Barriers to New Competition*, 1956. See Federal Trade Commission staff study on *The Structure f Food Manufacturing*, prepared for the National Commission of Food Marketing and published as its technical study No. 8, June 1966, pp. 61–104.

[3] These "advantages" may consist of both real economies of scale (i.e., a reduction in the cost of performing a production or marketing function) or advantages associated with market power. Often both sorts of advantages are present. See Federal Trade Commission, *In the Matter of Proctor & Gamble*, docket No. 6901, opinion of the Commission, Nov. 26, 1963.

[4] In his classic study Bain found that product differentiation was the chief barrier to entry in the consumer goods industries which he found had "very high entry barriers." Each of these industries had high selling costs. Bain, op. cit., p. 179.

[5] See testimony of John M. Blair, hearings on *Economic Concentration*, Senate Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, Sept. 12, 1966. Dr. Blair analyzed 36 industries in which firms made extensive use of TV advertising. His analysis revealed that in the great majority of industries concentration increased between 1947 and 1963.

[6] See *Procter & Gamble, op. cit.;* also, Donald Turner, "Conglomerate Mergers and Section 7 of the Clayton Act," *Harvard Law Review*, 1313 (1965); Joseph F. Brodley, "Oligopoly Power Under the Sherman and Clayton Acts," *Stanford Law Review*, January 1967; John C. Narver, *Conglomerate Mergers and Market Competition*, University of California Press, 1967.

[7] See Federal Trade Commission Staff Report on *The Structure of Food Manufacturing*, published as technical study No. 8 of the National Commission on Food Marketing, June 1966, pp. 105–148.

[8] *Federal Trade Commission* v. *Procter & Gamble Co.*, 386 U.S. 586 (1967). Several earlier decisions had touched on various aspects of conglomerate mergers. *Federal Trade Commission* v. *Consolidated Foods*, 380 U.S. 592 (1965); *U.S.* v. *Penn Olin*, 378 U.S. 158 (1964); *U.S.* v. *El Paso Natural Gas*, 376 U.S. 651 (1964)

D. IMPACT OF MERGER POLICY ON AGGREGATE CONCENTRATION

The legislative history of amended section 7 speaks eloquently of the fears of increasing aggregate concentration held by the leading proponents of the act.[1] These fears were rooted in the belief that the concentration of economic resources in the hands of a small segment of the business community created political as well as economic problems.

But, as observed earlier, the law itself was directed against only anticompetitive mergers. The question still remains, however, as to whether the prevention of anticompetitive mergers, as defined by enforcement policy to date, has stopped or retarded the increase in "aggregate" concentration or, as one student of the problem has labeled it, "superconcentration." [2]

The level of aggregate concentration in American manufacturing apparently has risen substantially over the past half century. However, precise information is available for charting the trends in aggregate concentration in only the postwar years. Between 1947 and 1963 the top 200 manufacturing firms expanded their share of the value added by all manufacturers from 30 percent to 41 percent, or by over one-third.[3] Although the most precipitous increase in aggregate concentration occurred between 1947 and 1954, the trend has persisted throughout the period. Since 1958 the rate of increase was 0.6 of a percentage point a year. By 1963 the 100 largest held a greater share than that held by the 200 largest in 1947; and the 50 largest, a greater share than that of the 100 largest in 1947.

Concentration measured in terms of value added understates actual concentration in a number of respects.[4] Total assets present another, and in some respects a better, measure of economic resources. Between 1950 and 1965, the share of total manufacturing assets held by the top 100 companies rose from 38.8 percent to 45.4 percent, and the share of the top 200 rose from 46.9 percent to 55.4 percent.[5]

This substantial growth in concentration occurred in the face of enormous growth in the economy. In fact, the total number of manufacturing corporations actually increased by about 55,000 during the period. Thus, this galaxy of a relatively few very large firms expanded its share in a universe which itself was expanding rapidly during the period.

Although the underlying causes for the increase in aggregate concentration are not yet fully understood, it is clear that mergers played an important role. The most rapid increase in aggregate concentration occurred between 1947 and 1954,[6] a period of relatively low merger activity. This may have occurred because the largest companies were located in the most rapidly growing sectors of manufacturing. It seems likely, however, that since 1954 the largest companies would not have

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[1] Some have argued that those who hoped the passage of amended section 7 might retard further increases in aggregate concentration had rested on a faulty premise. Actually aggregate concentration was experiencing a rapid increase at the time amended section 7 was passed. Between 1947 and 1950 the 113 largest manufacturing corporations' share of all manufacturing assets rose from 40.0 percent to 43.5 percent. Mueller, *Economic Concentration, pt. 1, op. cit.*, p. 122. Between 1947 and 1954 the top 200 companies' share of value added by all manufacturing corporations rose from 30 percent to 37 percent. Blair, *Economic Concentration, pt. 1*, p. 80.

[2] Harrison F. Houghton, *Mergers and Superconcentration*, staff report of the Select Committee on Small Business, U.S. House of Representatives, 87th Cong., Nov. 8, 1962.

[3] See testimony of Dr. John M. Blair, Hearings on *Economic Concentration*, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Sept. 12, 1966, pp. 1-3. These data are based on information developed by the Bureau of the Census.

[4] *Ibid.*

[5] Mueller, Senate Small Business Committee statement, *op. cit.*, p. 468.

[6] See Blair, *op. cit.*

expanded appreciably their share of total manufacturing had they not accelerated greatly their growth by mergers.

Between 1948 and 1965 the 200 largest industrial corporations of 1965 made at least 2,692 acquisitions with combined assets of $21.5 billion. Assets acquired by these 200 companies were equal to about 6 percent of all manufacturing and mining assets in 1965. This represents only a minimum estimate of the contribution of mergers to these companies' share of total assets because it disregards the indirect contribution [1] of acquired assets to the growth of an acquiring company. Even so, this figure suggests that mergers played a major role in the postwar increase in aggregate concentration. Very probably further analysis will support the hypothesis that aggregate concentration actually would have declined after about 1954 had it not been for the continuing surge of merger activity by the top 200 companies over the last 13 years.[2]

But what would have happened to aggregate concentration had section 7 not been amended in 1950, and had there been no significant public policy constraints on merger activity? The number of mergers challenged and subsequently blocked or ordered divested represents only the visible effects of enforcement policy, although even this alone represents a not insignificant factor.[3] Of course, the most significant impact of enforcement policy has been the abandonment of many contemplated mergers. It is impossible to estimate the volume of such mergers, but according to the statements of businessmen and private antitrust counsel the number of potential mergers is enormous. Moreover, available evidence indicates that although the top 200 companies still are acquiring at a rapid pace, they made a smaller share of large acquisitions in the 1960's than the 1950's.[4]

Another indication of "what might have been" had there been no restraints on mergers is provided by the merger experience of the late 1920's, when merger activity reached what Willard Thorp described as a "fever pitch." At the peak of the movement, in 1929, merger activity was relatively much more extensive than in any year during the current merger movement.[5]

It is still too early to predict the ultimate impact on aggregate concentration of an expanded policy toward conglomerate mergers. It is possible that such an expanded policy, although directed solely at anticompetitive conglomerate mergers, would prevent further increases in the share of all manufacturing assets held by the top 100 or 200 industrial corporations. Indeed, it conceivably could result in an erosion of their position. However, the accelerated rate of merger

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[1] The "indirect" or postacquisition contribution of merger to a company's asset growth frequently exceeds the immediate contribution.

[2] McGowan estimates that 74 percent of the increase from 1950 to 1960 in the proportion of assets held by the 100 largest industrial firms, and 65 percent of that of the 500 largest firms, was attributable to growth by merger. John J. McGowan, "The Effect of Alternative Antimerger Policies on the Size Distribution of Firms," *Yale Economic Essays*, fall 1965. He also predicts that without mergers the share of the 100 and 500 largest industrial firms would decline between 1960 and 1970. *Ibid.*

[3] Although I have not attempted to calculate a precise figure, I estimate that the value of assets of blocked acquisitions and properties acquired by the top 200 and subsequently ordered divested was well in excess of $3 billion.

[4] During the period 1950 to 1960 the top 200 companies made 70 percent of all acquisitions involving $10 million or more of acquired assets. During the period 1961 to 1966 they made 54 percent of such acquisitions. Mueller, Senate Small Business Committee Statement, *op. cit.*, p. 454.

[5] Although our data are far from complete, in 1929 there apparently were at least 63 manufacturing and mining acquisitions involving acquired assets in excess of $5 million or more. These acquisitions had combined assets of $1.8 billion. Since total manufacturing and mining assets were only one-fifth as great in 1929 as in 1966, this was comparable to acquisitions involving $9 billion in 1966, which was more than twice as great as the combined assets of all acquisitions of $10 million or more in 1966. See table 2 *supra*. Importantly, this likely understates substantially the relative volume of merger activity in 1929, because our asset information is much less complete for 1929 than for 1966.

activity of the past 18 months indicates that no such erosion will occur in the immediate future.

IV

MERGER ENFORCEMENT IN HISTORICAL PERSPECTIVE

The record of the past 16 years should dispel forever any notion that enforcement has been a mere "charade" staged by antitrust officials preoccupied with mergers among small companies. This is best appreciated by placing recent enforcement efforts in historical perspective. The merger enforcement record to date stands in sharp contrast to the early enforcement record under the Sherman Act. Only 29 civil and criminal complaints were issued under sections 1 and 2 of the Sherman Act during its first 16 years; the Government won 15 of these cases and lost 14.

Of the seven cases reaching the Supreme Court during what Hans Thorelli calls the period of "institutionalization" of Federal antitrust policy, 1890–1903, the Court dismissed four cases, including the first two to reach it.[1] Justice Harlan, in dissenting from the famous *E. C. Knight* case, said that the majority opinion "defeats the main object for which it [the act] was passed." [2] Thorelli concludes, however, that the Supreme Court was not primarily responsible for the early failure of the Sherman Act. Rather, ". . . the crucial immediate factors that go to explain the shortcomings of antitrust during the period of institutionalization are the almost complete absence of funds and specialized enforcement personnel and the related lack of plan and coordination." [3]

The contrast in the enforcement of the original section 7 of the Clayton Act and amended section 7 is even more striking. Whereas the Commission issued 37 complaints during the 11 years following the act's passage, in a series of decisions during 1926–34 the Supreme Court rendered the act almost totally ineffective.[4] Although the Commission issued 31 complaints during the 1926–50 period, only four of these resulted in orders, and no orders were issued after the Supreme Court decision in the *Arrow-Hart and Hegeman* case in 1934.[5]

In a report to the Temporary National Economic Committee the Federal Trade Commission stated that ". . . the effectiveness of this section has been completely emasculated as a result of court decisions." [6] As a result of the "assets" loophole in the act, enforcement of original section 7 had no appreciable impact on the enormous merger movement which swept across many industries during the late twenties.

Viewed against the dismal record of early enforcement of the Sherman Act and original section 7, the enforcement to date of the

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[1] Hans B. Thorelli, *The Federal Antitrust Policy: Origination of an American Tradition*, Johns Hopkins Press, 1955.

[2] It was not until the seventh case to reach it that the Court delivered a unanimous opinion (*U.S.* v. *Addyston Pipe & Steel Co.*, 175 U.S. 211 (1899)).

[3] Thorelli, *op. cit.*, p. 607.

[4] David Dale Martin, *Mergers and the Clayton Act*, 1959, pp. 104–147.

[5] *Ibid.*, p. 150. Between 1914 and 1950 the Department of Justice instituted five sec. 7 cases and 15 cases in which sec. 7 charges supplemented a Sherman Act charge. *Congress and the Monopoly Problem: History of Congressional Action in the Antitrust Field, 1890–1966, Seventy-Five Years*, Select Committee on Small Business, House of Representatives, 89th Cong., by Legislative Reference Service, Library of Congress, pp. 553–554.

[6] *Federal Trade Commission Report on Monopolistic Practices in Industries*, Mar. 2, 1939, TNEC hearings, pt. 5–A, p. 2379.

Celler-Kefauver Act is an unparalleled achievement. Between January 1950 and June 30, 1967, the Government issued a total of 206 complaints. Of the 11 cases reaching the Supreme Court, none was dismissed.[1] Quite clearly, the Supreme Court has played an important part in making amended section 7 a powerful instrument of public policy, just as earlier courts were partially responsible for stunting the initial effectiveness of the Sherman Act and the near total nullification of the original merger act.

Surprisingly, few contemporary commentators appreciate either the massive nature of current antimerger efforts or their strong procompetitive impact. Indeed, the conventional wisdom among popular writers of various ideological persuasions is that antitrust is dead.[2] Yet while antitrust may be "dead" as a popular movement, it has never been more alive as a vigorous instrument of economic policy. Such a paradox requires the perspective of the historian. Prof. Richard Hofstadter has observed that:

> Despite the collapse of antitrust feeling both in the public at large and among liberal intellectuals, antitrust as a legal-administrative enterprise has been solidly institutionalized in the past quarter of a century.[3]

The year 1938 marked the beginning of this institutionalization process. That was the year when public policy turned sharply away from a system of planning rooted in Government-sponsored cartelization of business, particularly as represented by the NRA, and toward a policy relying primarily on competitive market forces.[4] In 1938, President Franklin D. Roosevelt, deeply disturbed by the 1937 recession, called for the creation of the Temporary National Economic Committee, composed of members of both legislative chambers and the executive branch. Although viewed by its critics as an attack on the capitalistic system itself, TNEC's chief goal was to learn more about the anatomy of 20th century capitalism. The inquiry focused on how the system worked and what might be done to make it work better.[5] The Chairman of the Federal Trade Commission and the Assistant Attorney General for Antitrust of the Department of Justice were among the members of TNEC. The Committee necessarily relied heavily upon the expertise of the professional staffs of the antitrust agencies. This, of course, could not help but elevate their status vis-a-vis the Congress and the public.

President Franklin D. Roosevelt's message urging the creation of the TNEC also called for a strengthening of antitrust enforcement.[6]

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[1] *Maryland & Virginia Milk Producers Ass'n.* v. *United States*, 362 U.S. 458 (1960); *Brown Shoe* v. *United States*, 370 U.S. 294 (1962); *United States* v. *Philadelphia National Bank*, 374 U.S. 321 (1963); *United States* v. *El Paso Natural Gas Co.*, 376 U.S. 651 (1964); *United States* v. *Aluminum Co. of America*, 377 U.S. 271 (1964); *United States* v. *Continental Can Co.*, 378 U.S. 441 (1964); *United States* v. *Penn-Olin Chemical Co.*, 378 U.S. 158 (1964); *F.T.C.* v. *Consolidated Foods*, 380 U.S. 592 (1965); *United States* v. *Von's Grocery Co.*, 384 U.S. 270 (1966); *United States* v. *Pabst Brewing Co.*, 384 U.S. 546 (1966); *F.T.C.* v. *Procter & Gamble Co.*, 386 U.S. 586 (1967). In addition to these sec. 7 cases, the Supreme Court sustained the Government in a bank merger case brought under the Sherman Act, *United States* v. *First National Bank & Trust Company of Lexington*, 376 U.S. 665 (1964).

[2] John Kenneth Galbraith, *op. cit.*, and *Wall Street Journal*, "Antitrust Slowdown," Feb. 10, 1967, p. 1.

[3] Richard Hofstadter, "What Happened to the Antitrust Movement?" in Earl F. Cheit (ed.), *The Business Establishment*, p. 116.

[4] In his autobiography Thurman Arnold points out that the TNEC was not kindly received by many liberals of the day. As he put it, "There was a belief among liberals at the time that the age of competition had gone and the age of planning had come." Thurman Arnold, *Fair Fights and Foul*, 1965, p. 138.

[5] In the Presidential message to the Congress calling for the creation of the Committee, President Franklin D. Roosevelt declared, "[g]enerally over the field of industry and finance we must revive and strengthen competition if we wish to preserve and make workable our traditional system of free private enterprise." In outlining "the choice before us," the President concluded, "the enforcement of free competition is the least regulation business can expect."

[6] The President's message also recommended a deficiency appropriation of $200,000 for the Department of Justice.

The revival of antitrust in 1938 ushered in Thurman Arnold's vigorous reign as head of the Antitrust Division. During what many commentators view as the golden era of antitrust, 1938–43, the Antitrust Division staff grew fivefold and antitrust truly took on a real life force. Perhaps the main legacy of Arnold's reign, however, was not his big cases, but the demonstration that antitrust still had a meaningful role in a modern economy. As a result, even though antitrust enforcement was partially demobilized during World War II, the agencies rebounded strongly at the war's end, and the big cases went forward.[1] Though considerably diminished in the eyes of the general public, an antitrust movement still stalked Washington in the immediate postwar years. Politicians and Government officials schooled by the TNEC and the antitrust revival pushed for stronger antitrust laws, particularly for a new antimerger statute. It was this environment which made it possible to enact the Celler-Kefauver Act of 1950. The passage of the act might well be viewed as the capstone of the antitrust revival initiated over a decade earlier. The passage of the new antimerger statute coincided roughly with the close of the antitrust movement. The movement itself, however, left in its wake an essentially bipartisan consensus that antitrust enforcement was an indispensable, if not popular, instrument of public policy in the mid-20th century.[2] This institutionalization process gave antitrust a secure berth in national policy. Thus, while there no longer is a popular antitrust movement, none is needed to sustain an effective antitrust program. There is no guarantee, of course, that there will be an adequate program. But as Prof. Richard Hofstadter has concluded:

> Once the United States had an antitrust movement without antitrust prosecutions; in our time there have been antitrust prosecutions without an antitrust movement.[3]

This bit of history explains why, in a sense, it was an historical imperative that the antitrust agencies respond as they did when the current merger movement began accelerating in 1954–55. In 1950, Congress gave the agencies a mandate to prevent anticompetitive mergers. And the institutionalization process gave the agencies the capacity to carry out the mandate to a degree not otherwise possible.

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[1] The wartime revelations of the Kilgore, Truman, and Bone Senate committees regarding the prewar operations of international cartels also kept alive the need for effective antitrust. These revelations kindled concern over the relationship between decentralized economic power and the preservation of democratic political institutions which ultimately became a part of the legislative history of the Celler-Kefauver Act of 1950. See particularly, Wendell Berge, *Cartels: Challenge to a Free World, 1944.*

[2] The Employment Act of 1946 also played a role in the ultimate institutionalization of effective antitrust enforcement, while probably at the same time contributing to the decline of the antitrust movement. Although originally viewed by many of its critics as the first step toward a comprehensively planned economy, a major premise of the act was that full employment and rapid economic growth could be achieved without direct intervention into the affairs of business. The act's objectives could be accomplished through application of an appropriate mix of fiscal and monetary policy. Implicit in this approach, however, was the assumption that direct controls over price and other business decisions was unnecessary so long as the private sector performed in an effectively competitive manner. Hence, although the "new economics" has captured the public spotlight, thereby further distracting public attention from antitrust as a popular movement, the practitioners of the "new economics" have increasingly recognized that effective antitrust enforcement is a vital instrument of public policy. For example, in its last *Economic Report to the President*, January 1967, the Council of Economic Advisers emphasized the importance of maintaining competitive markets. The report stated, in part, "[O]ne principal reason why competition in product markets is supported is that it spurs firms to control or reduce costs, and insures that the benefits of cost stability or cost reduction are passed on to consumers." It added, "The effectiveness of competition is maintained and increased through vigorous enforcement of the antitrust laws." *Report*, p. 114. On numerous occasions since the passage of the Employment Act of 1946, the Joint Economic Committee has emphasized that effective antitrust enforcement is inseparably related to our national goal of full employment and rapid economic growth. Its most recent report states, "Antitrust must be assigned a central role in national economic policy of no less significance than monetary and fiscal policy." *Report of the Joint Economic Committee, Congress of the United States on the January 1967 Economic Report of the President*, 90th Cong., first sess., Report No. 73, Mar. 17, 1967, p. 25.

[3] Hofstadter, *op. cit.*, p. 114.

Consequently, long before the public even became aware of the dimensions of the current merger movement, the agencies began what turned out to be the largest and most sustained antitrust effort in our history.

Do not misunderstand me. I am all too familiar with day-to-day enforcement problems to imply that contemporary antimerger enforcement efforts have always involved a systematic progression of cases seeking to identify the appropriate boundaries of the new merger law; that all the cases brought were founded on economic wisdom; that all the mergers which should have been challenged were challenged; that all of the decisions by the Federal Trade Commission and the courts were models of economic and legal reasoning; or that past decisions have provided unequivocal guidelines for the businessman wishing to grow by merger. And certainly I do not argue that the effort has always been great enough. But the simple fact is that the merger enforcement program since 1950 represents a unique event in American antitrust history. And when measured by its effects, it has had a fundamental and widespread procompetitive impact on the organization and performance of our economy.

APPENDIX TABLE 1.—MERGERS AND ACQUISITIONS IN MANUFACTURING AND MINING 1895–1966

Nelson series 1895–1920 [1]		Thorp series 1919–39 [2]		FTC series 1940–66 [3]	
Year	Annual total	Year	Annual total	Year	Annual total
1895	43	1919	438	1940	140
1896	26	1920	760	1941	111
1897	69	1921	487	1942	118
1898	303	1922	309	1943	213
1899	1,208	1923	311	1944	324
1900	340	1924	368	1945	333
1901	423	1925	554	1946	419
1902	379	1926	856	1947	404
1903	142	1927	870	1948	223
1904	79	1928	1,058	1949	126
1905	226	1929	1,245	1950	219
1906	128	1930	799	1951	235
1907	87	1931	464	1952	288
1908	50	1932	203	1953	295
1909	49	1933	120	1954	387
1910	142	1934	101	1955	683
1911	103	1935	130	1956	673
1912	82	1936	126	1957	585
1913	85	1937	124	1958	589
1914	39	1938	110	1959	835
1915	71	1939	87	1960	844
1916	117			1961	954
1917	195			1962	853
1918	71			1963	861
1919	171			1964	854
1920	206			1965	1,008
				1966	995

[1] Ralph L. Nelson, *Merger Movements in American Industry, 1895–1956*, Princeton University Press, 1959, p. 37.

[2] Willard L. Thorp and Walter Crowder, *The Structure of American Industry*, Temporary National Economic Committee Monograph 27, 1941, pp. 231–34.

[3] Federal Trade Commission. Based on information published by Investors Service, Inc. and Standard & Poor's Corp.

APPENDIX TABLE 2.—NUMBER OF MERGERS AND ACQUISITIONS RECORDED, BY INDUSTRY OF ACQUIRING COMPANY, 1955–66

Industry [1] of acquiring company	1955–59		1960	1961	1962	1963	1964	1965	1966
	Total	Annual average							
Total recorded	5,811	1,162	1,345	1,724	1,667	1,479	1,797	1,893	1,746
Full acquisitions [2]	4,984	997	1,216	1,592	1,504	1,329	1,519	1,628	1,517
Mining	318	64	48	74	48	79	59	62	55
Manufacturing	3,691	738	918	1,043	985	906	1,006	1,063	1,051
Trade [3]	480	96	127	255	235	186	207	191	188
Services and others [4]	495	99	123	220	236	158	247	312	223
Partial acquisitions [5]	827	163	129	132	163	150	278	265	229

[1] Broad industrial classification of acquiring company in full acquisitions only.
[2] Acquisitions of other independent companies, subsidiaries of other independent companies, and whole divisions of other independent companies.
[3] Wholesale and retail trade combined.
[4] "Others" consists mainly of companies engaged in insurance, warehousing and storage, commercial farming, contract construction, and extending credit to businesses and individuals (other than banks).
[5] Acquisitions involving less than half of the assets or stock of a company.

Sources: *Moody's Industrials* (semiweekly), *Standard Corporation Records* (daily), *Wall Street Journal*, *Journal of Commerce*, and *New York Times*.

APPENDIX TABLE 3.—MERGER COMPLAINTS ISSUED BY THE FEDERAL TRADE COMMISSION AND THE DEPARTMENT OF JUSTICE, 1951–JUNE 30, 1967

Year	Number of complaints		
	Total	Manufacturing and mining [1]	Other
1951	0	0	0
1952	1	1	0
1953	0	0	0
1954	2	2	0
1955	8	7	1
1956	18	18	0
1957	8	7	1
1958	8	7	1
1959	12	6	6
1960	24	20	4
1961	20	13	7
1962	13	6	7
1963	12	10	2
1964	21	17	4
1965	27	21	6
1966	26	17	9
1967 (June 30, 1967)	6	6	0
Total	206	158	48

[1] Complaints classified by industry of acquiring company.

APPENDIX TABLE 4.—NUMBER OF MERGER COMPLAINTS AND NUMBER AND ASSETS OF CHALLENGED ACQUISITIONS IN MANUFACTURING AND MINING, 1951–1967

[Dollars in millions]

Year	Number of complaints [1]	Number of acquisitions challenged [2]	Assets of challenged acquisitions [3]
1951	0	0	0
1952	1	2	$15
1953	0	0	0
1954	2	8	17
1955	7	7	128
1956	18	337	1,434
1957	7	15	82
1958	7	13	36
1959	6	12	119
1960	20	52	452
1961	12	68	537
1962	6	6	687
1963	9	20	434
1964	16	21	1,203
1965	20	59	399
1966	16	22	690
1967 (to June 30, 1967)	6	8	360
Total	153	650	6,593

[1] Complaints in which acquiring company was engaged in manufacturing or mining. Complaints involving joint ventures are excluded.
[2] Challenged acquisitions include some firms outside manufacturing and mining.
[3] Assets information is not available for all challenged acquisitions. Practically all of these were very small concerns.

APPENDIX TABLE 5.—ACQUISITIONS OF MANUFACTURING AND MINING FIRMS WITH ASSETS OF $10,000,000 OR MORE, BY TYPE OF ACQUISITION, 1951–66

[Dollar amounts in millions]

Type of acquisition	1951–54		1955–58		1959–62		1963–66		Total	
	Number	Assets	Number	Assets	Number	Assets	Number	Assets	Number	Assets
Horizontal	30	$1,048	60	$2,515	44	$1,719	54	$2,041	188	$7,323
Vertical	10	237	34	1,477	48	2,119	53	2,137	145	5,970
Conglomerate	41	1,364	120	3,316	172	5,064	257	10,343	590	20,087
Product extension	30	1,132	101	2,820	104	2,394	189	6,204	424	12,550
Market extension	5	104	9	153	22	734	17	1,860	53	2,851
Other	6	128	10	343	46	1,936	51	2,279	113	4,686
Total	81	2,649	214	7,308	264	8,902	364	14,521	923	33,380

Note: Included above are 20 acquisitions with assets of $2,304,000,000 which were blocked by injunctions or by agreements between the parties pending trial of the case.

Source: Bureau of Economics, Federal Trade Commission.

APPENDIX TABLE 6.—ASSETS OF HORIZONTAL, VERTICAL, AND CONGLOMERATE ACQUISITIONS, BY SIZE OF ACQUIRING COMPANY, 1951–66

[In millions of dollars]

Asset size of acquiring company	Types of acquisitions [1]														
	1951–54			1955–58			1959–62			1963–66			Total, 1951–66		
	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate
$1,000 and over	$26	--------	$16	$927 (574)	$86	$120	$513 (288)	$445	$802	$818 (541)	$645	$1,791 (52)	$2,284 (1,403)	$1,176	$2,729 (652)
$250 to $1,000	207	--------	452	434	1,139	821	507 (32)	808 (254)	1,255	149	844	3,412	1,297 (32)	2,791 (254)	5,940
$100 to $250	526	$128	494	305	140	1,020	526	534 (335)	1,078	249 (18)	455 (13)	2,593 (53)	1,606 (18)	1,257 (348)	5,185 (53)
$50 to $100	95 (17)	74	136	497	50	542	17	183	827	350 (19)	102	792	959 (36)	409	2,297
Under $50	194	35	266	352	62	813	156	149	1,102	475 (108)	91	1,755	1,177 (108)	337	3,936
Total	1,048 (17)	237	1,364	2,515 (574)	1,477	3,316	1,719 (320)	2,119 (589)	5,064	2,041 (686)	2,137 (13)	10,343 (105)	7,323 (1,597)	5,970 (602)	20,087 (105)

[1] Mining and manufacturing companies with assets of $10,000,000 or more at the time of acquisition. Includes 20 acquisitions that were not fully consummated because of court injunctions or because of agreements between the parties pending trial of the case. Assets of these are shown in parentheses.

Source: Bureau of Economics, Federal Trade Commission.

APPENDIX TABLE 7.—NUMBER OF HORIZONTAL, VERTICAL AND CONGLOMERATE ACQUISITIONS, BY SIZE OF ACQUIRING COMPANY, 1951–1966

Asset size of acquiring company (millions)	1951–54			1955–58			1959–62			1963–66			Total, 1951–66		
	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate	Horizontal	Vertical	Conglomerate
$1,000 and over	1	--------	1	6 (1)	3	3	7 (2)	8	10	8 (2)	16	29 (1)	22 (5)	27	43 (1)
$250 to $1,000	5	--------	9	12	19	21	17 (1)	20 (3)	34	4	14	58	38 (1)	53 (3)	122
$100 to $250	12	4	12	8	6	31	11	8 (1)	44	8 (1)	13 (1)	80 (2)	39 (1)	31 (2)	167 (2)
$50 to $100	5 (1)	4	7	19	3	22	1	5	29	9 (1)	3	31	34 (2)	15	89
Under $50	7	2	12	15	3	43	8	7	55	25 (3)	7	59	55 (3)	19	169
Total	30 (1)	10	41	60 (1)	34	120	44 (3)	48 (4)	172	54 (7)	53	257 (3)	188 (12)	145 (5)	590 (3)

Note.—Number of acquired manufacturing and mining companies with assets of $10,000,000 or more at the time of acquisition. Acquisitions not fully consummated because of court injunctions or because of agreements between the parties are shown in parentheses.

Source: Bureau of Economics, Federal Trade Commission.

APPENDIXES

Appendix A

Section 7 of the Clayton Act as Amended by the Celler-Kefauver Act of 1950[1]

That no corporation engaged in commerce shall acquire, directly or indirectly the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more corporations engaged in commerce, where in any line of commerce in any section of the country, the effect of such acquisition, of such stock or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing is this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

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[1] Section 7 of the Clayton Act as amended by Act of Dec. 29, 1950 (P.L. 899; 64 Stat. 1125; 15 U.S.C. 18).

APPENDIX B

ACQUISITIONS CHALLENGED BY THE FEDERAL TRADE COMMISSION, 1951–JULY 1, 1967

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
1. June 29, 1967, 8739	The Bendix Corp. (Fram Corp.).	Manufacture of automotive filters and liquid separators.	3 largest filter manufacturers accounted for over ½ of total market. Liquid separators manufactured by only 7 or 8 companies. Acquiring and acquired are 2d and 3d leading manufacturers in country.	3599	Respondent's answer to complaint filed Aug. 24, 1967. Pending in pretrial stage.
2. May 23, 1967, 8737 [1]	Golden Grain Macaroni Co. (Paskey DeDomenico).	Macaroni and related paste products.	One of largest macaroni manufacturers in Washington, Illinois, Oregon, Montana, Hawaii, and Idaho markets.	209	Pending, before district court.
3. Mar. 9, 1967, C–1182	W. R. Grace & Co. (Ambrosia Chocolate Co.).	Manufacture of chocolate and cocoa products.	Grace ranks among 6 leading chocolate companies in world; Ambrosia is 3d largest producer of intermediate chocolate in United States. 4 largest companies account for 71 percent of industry shipments; 20 companies account for 97 percent.	281	Consent order, Mar. 9, 1967, with 10-year prohibition against acquisition of companies in the manufacture and sale of chocolate and cocoa products industry.
4. Feb. 9, 1967, C–1169	The Procter & Gamble Co. (J. A. Folger & Co.).	Manufacture and sale of coffee and coffee products.	P. & G. 28th largest U.S. corporation and leading marketer of household consumer products. Folger largest independent coffee company with 26 percent of grocery coffee sales and 7 percent of total soluble coffee sales. In 1962 3 largest independent coffee companies had 32 percent of regular coffee market.	2095	Consent order, Feb. 9, 1967, requiring divestiture and 7-year prohibition against acquisition of any producer or distributor of household consumer products with assets in excess of $25,000.
5. Jan. 23, 1967, C–1161	Foremost Dairies, Inc. (McKesson & Robbins, Inc.).	Manufacture and sale of pharmaceutical preparations.	20 largest firms accounted for 71 percent of shipments of pharmaceutical preparations. A Foremost subsidiary was the largest custom formulator of pharmaceutical preparations. McKesson only nationwide wholesale distributor of drugs.	202	Consent order, Jan. 23, 1967, requiring divestiture of Strong Cobb Arner, Inc., and associated companies and Rawson Drug & Sundry Co., Inc., and associated companies; Foremost to make crude lactose available to certain producers as long as it retains 30 percent or more of lactose market in United States. Ban on future acquisitions in pharmaceutical industry for 10 years.
6. Jan. 16, 1967 C–1159 [1]	Lone Star Cement Corp. (W. D. Haden Co.).	Production of cement aggregates and ready-mixed concrete.	Lone Star is largest portland cement producer in U.S. Haden is 1 of 3 largest producers of ready-mixed concrete in Houston, Tex., area. 40 percent of Houston market for portland cement foreclosed due to vertical integration.	324, 327	Consent order, Jan. 16, 1967, requiring divestiture of specified ready-mix concrete plants and related equipment; 10-year prohibition against distribution of ready-mixed concrete from these locations.

7. Sept. 14, 1966, C–1111.	American Bakeries Co. (Langendorf United Bakeries, Inc.).	Manufacture of bread, cakes, and bakery products.	American ranked 3d and Langendorf ranked 7th nationally; merged company ranked 2d nationally.	2051 541	Consent order, Sept. 14, 1966, prohibiting for 10 years future acquisitions without prior FTC approval. Do.
8. Sept. 14, 1966, C–1110.	Winn-Dixie Stores, Inc., (Hill Grocery Co. and certain assets of Colonial Stores, Inc.).	Grocery stores in metropolitan areas of Alabama. Primarily market extension with some horizontal overlap.	Winn-Dixie ranked 7th in sales among grocery store chains; acquired over 300 stores from 1954 to 1964.		
9. Sept. 9, 1966, C–1106.	Spartans Industries, Inc. (E. J. Korvette).	Department stores with total national sales of $20,500,000,000; chains of 6 or more stores account for 81 percent of total market.	Spartans ranked 17th among department store chains; acquired E. J. Korvette with sales in excess of $800,000,000. Primarily market extension with some horizontal overlap.	5311	Consent order, Sept. 9, 1966, requiring partia divestiture and 10-year restriction on future acquisitions without prior FTC approval.
10. Sept. 9, 1966, C–1105.	May Department Stores Co., (Meier & Frank Stores, Co. Inc., Portland, Oreg., and G. Fox & Co., Hartford, Conn.).	May 6th largest store chain in United States. Acquired 2 leading local department stores with total sales of $136,000,000. Market extension acquisitions.	Department store concentration increased from 46 percent in 1948 to 81 percent in 1963, primarily due to mergers. Total industry sales approximately $20,500,000,000.	531	Consent order, September 9, 1966, limiting for 10 years future acquisitions without prior FTC approval.
11. Aug. 4, 1966, 8701.	Cole National Corp. (Independent Lock Co.).	Manufacture of replacement key blanks, replacement keys, and key duplicating machines. Horizontal acquisition.	Cole and Independent rank 1st and 2d in sale of replacement key blanks; top 4 manufacturers have 67 percent of market. In key duplicating machines, 3 leading manufacturers have 95 percent of market, the merged companies having 60 percent o market.	342	Consent order entered, June 30, 1967, prohibiting acquiring of producers and wholesale distributors of replacement key blanks, etc. for 10 years after voluntary divestiture by Cole of Independent.
12. Aug. 2, 1966, C–1088.	Phillips Petroleum Co., National Distillers & Chemical Corp. (joint ventures forming (1) Alamo Industries, Inc.; (2) A–B Chemical Corp.). Alamo acquired 2 separate production facilities from the parent organizations plus 3 additional plastic manufacturers and converters.	Plastic products made from polyethylene and polypropylene resins, and related products.	Phillips ranks 8th in United States in research and development, and owns basic patents on polypropylene. National is one of largest plastic producers in U.S.	2818	Consent order, August 2, 1966, requiring dissolution of all joint ventures between Phillips and National and divestiture of certain acquired converter facilities by the joint ventures; 5-, 10-, and 20-year bans on future acquisitions and joint ventures in specified segments of the synthetic resins industry are included in the order.
13. June 17, 1966, C–1075.	Lone Star Cement Corp. (Wesco Materials Corp., and Wamix, Inc.).	Production of cement, aggregates and ready-mixed concrete. Vertical acquisition.	Lone Star is largest portland cement producer in United States; Wesco and Wamix are leading ready-mixed concrete producers in Dallas-Forth Worth, Tex., area. On national basis, 57 percent of portland cement output is used in ready-mixed concrete production.	324, 32	Consent order, June 17, 1966, requiring nonrenewal by Lone Star of lease of ready-mix concrete plants owned by Wamix. Divestiture almost completed.
14. May 31, 1966, 8687.	Crown Cork & Seal Co., Inc. (Mundet Cork).	Metal crowns (closure industry).	Largest domestic producer acquiring 6th largest.	346	Pending before hearing examiner. Presentation of case in chief completed. Defense hearings to begin October 2, 1967.
15. May 26, 1966, 8685.	Marquette Cement Manufacturing Co. (Cooney Bros., Inc.).	Portland cement manufacturer acquiring ready-mix concrete plants in New York area. Vertical acquisition.	Marquette is 7th largest portland cement manufacturer, with ready-mix concrete plants in New York City area. Cooney is 6th largest producer of ready-mixed concrete in New York City area.	324, 327	June 26, 1967, amended complaint. Hearings to begin September 25, 1967.

[1] Complaint issued under sec. 5 of the Federal Trade Commission Act; all other complaints issued under sec. 7 of the Clayton Act.

ACQUISITIONS CHALLENGED BY THE FEDERAL TRADE COMMISSION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
16. Apr. 22, 1966, 8682---	Seeburg Corp. (Cavalier Corp.)-	Manufacture of bottle vending machines. Horizontal acquisition.	12 producers, with top 4 having 84 percent of market. Acquisition places Seeburg 2d with 68 percent of total shipments.	358	May 22, 1967, initial decision dismissing. Oral argument on appeal set for Oct. 26, 1967.
17. Apr. 20, 1966, C–1057-	Broadway-Hale Stores, Inc. (Emporium Capwell Co.).	Large department store chain on west coast with substantial growth through acquisition acquiring stock interest in Emporium Capwell, San Francisco. Primarily market extension.	Since 1954 there has been increased concentration by merger in the department store industry. Broadway-Hale is 16th largest such company. The acquired company operates 10 such stores in the bay area.	531	Consent order, Apr. 20, 1966, contains prohibition on acquisitions in department store industry for 5 years, or until issuance of rules or guidelines covering this industry.
18. Apr. 1, 1966, 8680----	Lehigh Portland Cement (Materials Service Corp.)	Manufacture of portland cement in 17 States acquiring ready-mix concrete plants in Virginia, Florida, Kentucky, and Washington, D.C. Vertical acquisition.	Lehigh is third largest portland cement manufacturer in United States; the acquired ready-mix plants were substantial factors in their market areas.	324, 327	Amended complaint, Apr. 24, 1967. Prehearing conferences being held. Hearing expected to begin around January 1968.
19. Jan. 26, 1966, 8678---	Ideal Cement Co. (Builders Supply Co.)	Portland cement manufacturer acquiring large Houston, Tex., ready-mixed concrete producer. Vertical acquisition.	Ideal 2d largest portland cement producer. Over 40 percent of Houston market for portland cement has been foreclosed by vertical integration.	324, 327	Consent order, May 19, 1966, requiring divestiture of Builders Supply Co. within 2 years.
20. Dec. 22, 1965, 8674---	Dean Foods Co. (Bowman Dairy)	Dairy products, Chicago area (Illinois, Indiana, and Michigan). Horizontal acquisition.	In Chicago fluid milk market, Bowman ranked 1st (11.3 percent) and Dean ranked 5th (8.3 percent). Industry concentration very high.	202	Final Order, Nov. 14, 1966, requiring divestiture or transfer of assets to new corporation; also 10-year prohibition on future acquisitions.
21. Dec. 21, 1965, C–1024-	Consolidated Foods (Piggly-Wiggly Midwest Co., Quality Food Stores, Inc., Eagle Food Centers, Inc., May Drug Stores, Golden Dairy Co., Coin Bakery Co., and stock interest in four other companies).	Food merchandising, grocery stores; primarily market extension with some horizontal overlap.	11th largest national food merchandising company.	541	Consent order, Dec. 21, 1965, requiring divestiture of Piggly-Wiggly, Quality, Eagle, May, Golden, and Coin, also, stock interests in Food Giant, LaPorte, Pearson's, and Stockton and prohibiting future acquisitions without prior FTC approval.
22. Oct. 29, 1965, C–1009-	Endicott-Johnson Corp. (Nobil Shoe Co.)	Shoes. Market extension------	4th largest shoe manufacturer acquiring 9th ranking independent shoe retailer in United States.	314	Consent order, Oct. 29, 1965, prohibiting for 20 years future acquisitions, without prior FTC approval.
23. Oct. 8, 1965, C–1001--	Allied Stores Corp. (Wolff & Marx, Inc.).	Allied operates 100 department stores in 80 cities.	2d largest conventional department store chain in United States. Acquired 4th largest such store in San Antonio. Horizontal acquisition.	531	Consent order, Oct. 8, 1965, requiring divestiture of Wolff & Marx store in San Antonio shopping center (North Star Mall and prohibiting future horizontal acquisitions for 10 years without prior FTC approval. Divestiture not completed.
24. Aug. 5, 1965, C–981--	Federated Department Stores (Bullock's, Inc.).	Department stores. Market extension acquisition.	4th largest department store chain in United States. Acquiring 17th largest.	531	Consent order, Aug. 5, 1966, prohibiting for 5 years future acquisitions without prior FTC approval.

25. July 16, 1965, C–917	St. Regis Paper Co. (15 corporations).	Paper products. Vertical acquisition.	3d largest manufacturer of paper products in United States in 1965.	264 Consent order, July 16, 1965, requiring divestiture of plants in California, Alabama, New Jersey, Florida, and Washington. 10-year prohibition on future acquisitions in containerboard and corrugated and solid fiber products industries. Partial divestiture completed.
26. Feb. 20, 1965, C–880	Mead Corp. (York Container, Corp., Jackson Box Co., Industrial Container & Paper Corp., Grand Rapids Container Co., Inc., Industrial Container Corp., Gibraltar Corrugated Paper Co., Inc., Containers, Inc., Taylor Container Co., Inc.).	Manufacture and sale of containerboard, corrugated products, and solid fiber products.	4 largest companies had 30 percent of 1962 U.S. production of containerboard, 8 largest, 51 percent, and 20 largest, 81 percent, with Mead ranking as 3d largest.	263 Consent order, Feb. 12, 1965, requiring divestiture of 7 corrugated box converting plants and 1 sheet plant; further acquisitions by Mead in the containerboard manufacturing or converting industries, without prior FTC approval, prohibited for a 10-year period. Divestiture not yet accomplished.
27. Jan. 22, 1965, D–8657	Mississippi River Fuel Corp. (Richter Concrete Corp., Richter Transfer Co., and 50 percent of stock of John A. Denies' Sons Co.).	Production and sale of portland cement and ready-mixed concrete in Cincinnati, Memphis, and Kansas City areas.	Trend toward vertical integration between suppliers and consumers of portland cement in major metropolitan areas in various portions of United States.	324 Pending, before hearing examiner.
28. Jan. 22, 1965, D–8654	National Portland Cement Co. (Ryan Ready-Mixed Concrete Corp., N. Ryan Co., Inc.).	Production and sale of portland cement and ready-mixed concrete in New York City area.	Trend toward vertical integration between buyers and suppliers of portland cement in major metropolitan areas of United States.	324 Commission vacated initial decision, terminated proceedings, Mar. 31, 1967.
29. Jan. 22, 1965, D–8656.	Texas Industries, Inc., (Fischer Lime & Cement Co., Inc.).	Production and sale of portland cement and ready-mixed concrete in Memphis area.	Trend toward vertical integration between suppliers and consumers of portland cement in major metropolitan areas in the United States.	327 Consent order, Dec. 3, 1965.
30. Jan. 22, 1965, D–8655.	United States Steep Corp. (Certified Industries, Inc.).	Production and sale of portland cement, ready-mixed concrete and mineral aggregates in the New York City area.	-----do-----	324 Pending, before Commission.
31. Aug. 14, 1964, C–809.	Automatic Retailers of America, Inc. (16 vending businesses).	Vending business, in specified areas.	Over 500 independent vendors were acquired between 1960 and 1961, resulting in regional and national companies; Automatic Retailers 2d in United States in vending business.	581 Consent order, Aug. 14, 1964, requiring partial divestiture, and prohibiting acquisitions in specified areas without FTC approval for a 3-year period. Divestiture not yet fully accomplished.
32. June 4, 1964, C–751	Georgia-Pacific Corp. (the Crossett Co.).	Manufacture and sale of coarse paper in United States and of grocery bags and sacks in States east of the Mississippi and other States.	58 percent of U.S. production of coarse paper in 8 companies.	241 Consent order, June 4, 1964, prohibiting specified acquisitions for 10- and 7-year periods and requiring Georgia-Pacific to make available specified tonnages of coarse paper to independent jobbers and converters for a 5-year period. Divestiture not ordered.
33. May 12, 1964, D–8612	American Brake Shoe Co. (the S. K. Wellman Co.).	Production, distribution, and sale of friction materials and sintered metal friction materials nationally.	100 percent of U.S. sales of sintered metal friction materials in 6 companies; 84 percent of U.S. sales of friction materials in 10 companies; 55 percent of U.S. sales of friction materials in 5 companies. American Brake Shoe 6th largest friction material producer; Wellman 8th largest.	331 Pending, before Commission.

ACQUISITIONS CHALLENGED BY THE FEDERAL TRADE COMMISSION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
34. Jan. 20, 1964, C–681..	American Cement Corp. (M. F. Hickey Co., Inc.).	Manufacture and sale of portland cement and ready-mixed concrete in New York City area.	American Cement 1 of 10 largest producers and sellers of portland cement in United States and 1 of principal suppliers of portland cement in New York City area; Hickey 1 of 5 largest consumers of portland cement in the New York City area.	324	Consent order, Jan. 20, 1964, requiring divestiture of M. F. Hickey Co. Divestiture accomplished (1964).
35. Nov. 13, 1963, D–8606	Frito-Lay, Inc. (8 companies in potato chips, corn chips, and pretzels).	Manufacture and sale of potato chips, corn chips, and pretzels in United States and specified regions.	41 percent of U.S. sales of potato chips in 4 companies (Frito-Lay, 1st); 85 percent of U.S. sales of corn chips in 4 companies (Frito-Lay, 1st); and 60 percent of U.S. sales of pretzels in 4 companies (Frito-Lay, 2d).	209	Suit to enjoin proceedings pending in district court (Texas).
36. Sept. 30, 1953, D–8600.	General Foods Corp. (S.O.S. Co.).	Manufacture, distribution, and sale of household steel wool nationally.	98.6 percent of U.S. household steel wool sales in 2 of 5 companies, S.O.S. being 1st with 51 percent of market.	203	Appeal of initial decision of hearing examiner, Dec. 18, 1964, requiring divestiture. Pending, before Commission.
37. July 15, 1963, D–8585.	Lone Star Cement Co. (Pioneer Sand & Gravel Co., Southern Materials Co., Inc.).	Manufacture and sale of portland cement and ready-mix concrete in Seattle area (Pioneer), and Norfolk, Richmond, or Jacksonville area (Southern Materials).	Lone Star major supplier of portland cement and acquired companies among largest purchasers of portland cement in their respective areas.	324	Consent order, Jan. 19, 1965, requiring divestiture of 25 of 31 plants; acquisitions of concrete corporations in Virginia, Florida, and Washington prohibited for a 2-year period. Divestiture not yet accomplished.
38. May 16, 1963, D–8572..	Diamond Alkali Co. (Bessemer Limestone and Cement Co.).	Manufacture and sale of portland cement in northeastern Ohio and northwestern Pa.	Over 33½ percent of sales of portland cement in northeastern Ohio and northwestern Pennsylvania in 2 of 13 companies; Diamond Alkali, 1st and Bessemer, 3d in same area.	324	Appeal of initial order of hearing examiner requiring divestiture, May 15, 1964. Pending, before Commission.
39. Mar. 26, 1963, C–322..	High Voltage Engineering Corp. (Applied Radiation Corp.).	Design, development, manufacture and sale of particle accelerators nationally.	90 percent of U.S. dollar sales of particle accelerators in 2 of 7 companies (High Voltage, 1st and Applied Radiation, 2d) and 78 percent of U.S. sales of linear particle accelerators in 2 or 4 companies in the industry.	382	Consent order, Feb. 14, 1963, requiring divestiture. Divestiture not yet accomplished.
40. Jan. 12, 1962, D–8458..	The Grand Union Co. (Schaffer Stores Co., Inc., Sunrise Supermarkets Corp.).	Purchase, sale, and distribution of grocery products in specified sections and subsections of the country and also nationally.	In 1958, the 4 largest chains accounted for about 44 percent of the total chainstore sales, the 8 largest, 62 percent and the 20 largest, 77 percent; chainstore sales accounted for about 44 percent of total grocery stores sales that year and Grand Union ranked as 9th largest chain.	541	Appeal of initial decision of Hearing examiner dismissing complaint, Oct. 4, 1963. Oral reargument ordered by Commission, May 3, 1965.
41. Jan. 27, 1961, D–8280.	American Marietta Co. (29 companies manufacturing concrete products, mainly pipe).	Supply, production, and sale of concrete pipe and related products, construction aggregates, lime and cement in certain States.	American Marietta 1 of largest U.S. manufacturers of concrete pipe and industrial finishes; acquired companies were leading regional factors in 1 or more of relevant product lines.	324	Consent order, Mar. 12, 1963, requiring American Marietta (now Martin-Marietta) to sell 75 plants and properties acquired since 1954 and prohibiting acquisitions in specified areas for a 10-year period in some cases and for a 7-year period in other cases. Divestiture not yet fully accomplished.

42. Dec. 14, 1960, D–8220.	Leslie Salt Co. (Deseret Salt Co., California Salt Co.).	Production and sale of salt, evaporated salt, and rock salt in Washington, Oregon, and Utah (Deseret), and Arizona, California, and Nevada (California Salt).	84 percent of total U.S. salt shipments In 6 companies and 82 percent of total U.S. evaporated salt shipments in 6 companies.	289 Consent order, Dec. 8, 1961, requiring sale of Deseret Salt Co. Divestiture not yet accomplished.
43. Sept. 26, 1960, D–8122.	Ekco Products Co. (McClintock Manufacturing Co., commercial meat-handling equipment line of Blackman Stamping & Manufacturing Co.).	Production, sale, distribution, and jobbing of commercial meat-handling equipment.	No competition nationally in marketing a complete line of meat-handling equipment; Ekco 1st in United States in production of baking pans for commercial and industrial use; McClintock 1st in United States in aluminum meat-handling platters, pans, and lugs.	355 Final order, June 30, 1964, requiring full divestiture of McClintock and prohibiting acquisition, without prior FTC approval, of the whole or part of any corporation in the manufacture and sale of commercial meat-handling equipment. Appealed to court of appeals in 1964. Pending (CA–7).
44. July 8, 1960, D–8034--	Hooker Chemical Corp. (Durez Plastics & Chemicals, Inc., and assets of Monsanto Chemical Co. used in manufacture of phenolic molding materials).	Production and sale nationally of phenolic molding materials and general purpose electrical molding materials.	80 percent of U.S. sales of phenolic molding materials in 3 companies (Durez 1st and Monsanto 3d in production).	282 Consent order, Aug. 22, 1961, requiring divestiture of Monsanto assets used in manufacture of phenolic molding materials. Divestiture accomplished (1962).
45. June 27, 1960, filed D–8027, Kaiser Steel Corp.; dismissed Mar. 16, 1961; superseded by D–8341, Kaiser Industries Corp.; filed Mar. 16, 1961.	Kaiser Industries Corp. (45 percent of voting stock of Allison Steel Co.).	Manufacture, fabrication, erection, and sale of primary and structural steel and aluminum and other steel and aluminum products in Maricopa County, Ariz., and other sections of the country.	Trend toward concentration through merger of nonintegrated fabricators of steel and aluminum products with integrated producers of primary steel and aluminum.	344 Dismissed by Commission, Aug. 2, 1963.
46. June 24, 1960, D–7993.	Inland Container Corp. (Louisville, Ky.), corrugated shipping container plant and other assets of General Box Co.	Manufacture and sale of corrugated shipping containers in Louisville, Ky. area.	6 corrugated shipping container plants in a 10-mile radius of Louisville; Inland Container 3d in United States in shipments of corrugated shipping containers.	265 Commission order, July 31, 1964, required divestiture of General Box Co. Appealed in 1964, pending (CA–7).
47. June 24, 1960, D–7973.	Minnesota Mining & Manufacturing (American Lava Corp., Irving Varnish & Insulator Co., Mica Insulator Co., Prehler Electrical Insulator Co., Insulation & Wires, Inc.).	Purchase, production, sale and distribution of electrical insulation products in United States and specified areas.	Prehler 2d largest distributor of electrical insulation equipment in United States and Insulation & Wires, Inc., was 3d largest.	364 Consent order, Aug. 24, 1961, requiring divestiture of Insulation & Wire division. Divestiture fully accomplished (1961).
48. June 15, 1960 D–7946-	Union Bag-Camp Paper Co. (Camp Manufacturing Co., Universal Paper Bag Co., 51½ percent of Highland Container Co., majority of stock of the Eastern Box Co., Allied Container Corp., River Raisin Paper Co.).	Production and sale of grocery bags and sacks, corrugated shipping containers, liner board and corrugated material, merchandise bags, shipping sacks, and bag and shipping sack paper in eastern United States.	8 largest companies accounted for 36 percent of corrugated container shipments in 1958 and the 20 largest 55 percent.	263 Consent order, Feb. 12, 1965, requiring divestiture of 5 corrugated box plants located in Maryland, Michigan, Illinois, and Pennsylvania and the grocers bag and sack plant in Richmond, Va. The order prohibiting further acquisitions for a 10-year period, without prior FTC approval, in Kraft paper and in the board converting field and required Union Bag to make available to jobbers, distributors, users, and converters, specified amounts of coarse paper. Divestiture not yet accomplished.

ACQUISITIONS CHALLENGED BY THE FEDERAL TRADE COMMISSION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
49. June 14, 1960, D–7938	Campbell-Taggart Associated Bakeries, Inc. (Grocers Baking Co., Mead's Fine Bread Co., and 4 California bakeries).	Production and sale of bread and bread-type rolls in northern California, State of Kentucky generally and west Texas and eastern New Mexico.	Campbell-Taggart 2d in United States in commercial baking; Grocers Baking 1 of 10 largest U.S. commercial bakers and 1st in Kentucky in shipments of bread and bakery products; Mead 1 of the largest independent wholesale bakeries in certain areas of Texas and New Mexico; 4 California bakeries 1st collectively in operating areas.	205	Pending, before hearing examiner.
50. June 14, 1960, D–7939.	Permanente Cement Co. (98 percent of capital stock of Olympic Portland Cement Co., Ltd. Ready-mix Concrete Co., and Pacific Building Materials Co.).	Manufacture and sale of cement, aggregates and wet-mix concrete in western Washington and Portland, Oreg.	4 companies in Washington competed in the sale of cement and 4 of 16 companies in Portland area had a substantial capacity to distribute aggregates and ready-mixed concrete.	324	Consent order, Mar. 23, 1965, requiring Permanente to sell Olympic Portland Cement Co. within 4 years, and both Pacific Building Materials Co., and Ready-mix Concrete Co. within 2 years. Permanente forbidden to acquire any part of share capital or assets of any corporation manufacturing or selling ready-mixed concrete in Oregon and Washington, for a 2-year period. Divestiture not yet accomplished.
51. May 5, 1960, D–7880	Continental Baking Co. (Southern California Baking Co., Smith Baking Co., Royal Baking Co., Morton Packing Co., DeCarlo's National Bakery, Inc., Omar, Inc., Rochester Bread Co., Braun Baking Co.).	Manufacture and distribution of bread and bread-type rolls in Indianapolis, Omaha, and Columbus.	Continental 1st in United States in commercial baking of white bread; acquired companies were independent wholesale bakeries of local and regional importance operating in widely separated localities; Omar was 1 of the 10 largest bakers in the country.	205	Consent order, Apr. 2, 1962, requiring divestiture of Omar, Inc. Divestiture accomplished (1963).
52. Mar. 18, 1960, D–7833.	Crane Co. (Chapman Valve Manufacturing Co.; Briggs Manufacturing Co., National United States Radiator Corp., Swartwout Co., Inc., Pipe Fabricators, Inc.).	Production, distribution, and sale of valves and fittings, plumbing fixtures and fittings, heating equipment and auxiliary products, fabricated steel pipe.	Crane 1st of largest in United States in manufacture of complete line of valves and fittings, and important United States manufacturer of plumbing fixtures and equipment, heating apparatus and steel pipe.	349	Dismissed by FTC, Oct. 15, 1962.
53. Feb. 4, 1960, D–7770	Warner Co. (Chester Materials Co., W. E. Johnson, Inc.).	Production and sale of ready-mixed concrete and fine aggregates (sand) sold to producers of ready-mixed concrete in Philadelphia, Chester, and Paoli, Pa., and areas of overlap.	83 percent of Philadelphia-Chester-Paoli area sales of ready-mixed concrete in 6 of 15 companies.	327	Dismissed by Commission, May 15, 1963.
54. Jan. 4, 1960, D–7113	Simpson Timber Co. (M & M Wood-Working Co.).	Production and sale of redwood lumber and byproducts nationally.	36 percent of U.S. redwood production in 2 companies; number of producers declined substantially since 1947.	242	Consent order, Jan. 4, 1962, requiring Simpson to sell or divest itself of ownership of a specified amount of redwood timber and/or redwood logs over a 12-year period; also restricted ownership of redwood timber and prohibited acquisition for a 10-year period,

				without prior FTC approval, of certain types of redwood sawmills. Divestiture proceeding as ordered.
55. Nov. 4, 1959, D–7652	ABC Vending Corp. (Confection Cabinet Corp., Charles Sweets Co. & Charles Sweets Concession Co.)	Operation of vending concessions in indoor and outdoor motion picture theaters, other locations particularly in the metropolitan areas.	ABC 1st U.S. concessionaire in motion picture theaters, 1st in United States in manufacture and distribution of popcorn and one of the leading dispensers in United States of soft drinks through vending machines; Confection Cabinet, 2d U.S. concessionaire in motion picture theaters.	534 Consent order, Oct. 22, 1964, requiring divestiture of not less than $4,000,000 of motion picture concessions and rights, with not less than $3,000,000 in the New York and Philadelphia film exchange area; specified acquisitions of concessions prohibited for 3-year period. Divestiture not yet accomplished.
56. Apr. 1, 1959, D–7464	Kroger Co. (5 corporations in chain grocery business).	Processing, manufacture, purchase, and distribution of products sold in grocery stores.	In 1958, the 4 largest chains accounted for 49 percent of total chainstore sales. The 8 largest, 62 percent; and the 20 largest, 77 percent. Chainstore sales accounted for 44 percent of total grocery store sales and Kroger ranked as the 3d largest chain in 1958.	534 Pending, before hearing examiner.
57. Mar. 26, 1959, D–7453	National Tea Co. (23 grocery chains).	Grocery chain stores	In 1958, the 4 largest chains accounted for 44 percent of total chainstore sales. The 8 largest, 62 percent; and the 20 largest, 77 percent. Chainstore sales accounted for 44 percent of total grocery store sales and National Tea ranked as the 5th largest chain in 1958.	541 Appeal of initial order of hearing examiner in 1963 dismissing complaint. Oral reargument ordered by Commission, May 3, 1965.
58. Dec. 2, 1958, D–7323	Diamond Crystal Salt Co. (Jefferson Island Salt Co.).	Production of dry salt (includes evaporated and rock salt) in United States generally and specified 9-State area.	70 percent of U.S. dry salt sales in 6 companies, 69 percent of U.S. rock salt in 3 companies, and 75 percent of U.S. evaporated salt sales in 5 companies.	289 Consent order, Feb. 4, 1960, requiring divestiture of specified property and requiring specified offers of rock salt to qualified salt producers. Divestiture accomplished. (1960)
59. Mar. 26, 1948, D–7095	Dresser Industries, Inc. (Canadian Industrial Minerals, Ltd.) (Superbar Co.).	Production and sale of crude barite and crushed and ground barite.	63 percent of U.S. production of crude barite in 2 companies and 82 percent of U.S. sales of crushed and ground barite in 2 companies. Dresser 1st in U.S. production of barite.	329 Dismissal of complaint; sustained by the Commission, July 24, 1963.
60. Mar. 26, 1958, D–7096	National Lead Co. (L. A. Wood, Inc., Barytes Mining Co.).	Production, processing, and sale of crude barite and crushed and ground barite.	63 percent of U.S. production of crude barite in 2 companies and 82 percent of U.S. sales of crushed and ground barite in 2 companies.	147 Dismissed by Commission, July 24, 1963.
61. Dec. 27, 1957, D–7009	Reynolds Metals Co. (Arrow Brands, Inc.).	Production and sale of aluminum foil for florist trade.	Approximately 8 U.S. companies manufacture and sell aluminum foil to florist trade.	355 Order of divestiture by Commission. Affirmed by Court of Appeals, Sept. 27, 1962, and the order modified (CA–DC).
62. Dec. 18, 1957, D–7000	Consolidated Foods Corp. (Gentry, Inc.).	Supply and purchase of dried foods seasoning including onions, garlic, chili powder, and paprika.	Gentry 1 of few consequential firms in onion and garlic dehydrating and processing industry.	203 FTC order of divestiture, Mar. 22, 1963; sustained by Supreme Court, Apr. 28, 1965.
63. Sept. 30, 1957, D–6901.	The Procter & Gamble Co. (The Clorox Chemical Co.).	Production and sale of household liquid bleach.	64 percent of U.S. production of household liquid bleach in 2 companies.	284 Order, Nov. 26, 1963, requiring divestiture. Appeal taken, Feb. 13, 1964. Pending (CA–6).
64. July 25, 1957, D–6852.	National Sugar Refining Co. (refinery and mill of Godchaux Sugars, Inc.).	Production and sale of refined sugar in States east of the Mississippi and in Arkansas, Iowa, Louisiana, Missouri, and Oklahoma.	58 percent of refined sugar deliveries east of the Mississippi River and Arkansas, Iowa, Louisiana, Missouri, and Oklahoma, in 5 companies; sugar refining companies decreased from 112 in 1939 to 88 in 1954.	206 Consent order, Feb. 1, 1962, prohibited acquisition of any domestic sugar refiner or beet processor for 5 years. Acquired assets had been sold in 1961 prior to entry of order.

ACQUISITIONS CHALLENGED BY THE FEDERAL TRADE COMMISSION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
65. July 8, 1957, D–6826	Union Carbide Corp. (Visking Corp.).	Manufacture, sale, and distribution of polyethylene resin, polyethylene film, and synthetic sausage casings.	Union Carbide 1st in United States in capacity for producing polyethylene resins; Visking 1st in United States in production of polyethylene film and in sales of synthetic sausage casings.	282	Order, Sept. 21, 1961, requiring divestiture of Visking. Visking sold to Ethyl Corp. (1963.).
66. June 14, 1957, D–6820.	Automatic Canteen Co. of America (The Rowe Corp.).	Manufacture, leasing, and operation of vending machines and purchase of vending machine merchandise in 20 cities and United States generally.	Only 3 of 5,700 operators of vending machines conducted operations on a national scale; Automatic Canteen 1st in United States in operation of vending machine lines; Rowe 1st in United States in operation of cigarette vending machines.	358	Consent order, Apr. 24, 1958, requiring divestiture in 14 locations, a 10-year prohibition against acquisition of vending machine manufacturers, and restrictions on sale to Rowe outlets. Divestiture accomplished (1959).
67. Dec. 13, 1956, D–6689.	Gulf Oil Corp. (Warren Petroleum Corp.).	Production, purchase, and sale of crude oil, natural gas, natural gasolines, LP-gas and derivatives.	Gulf 2d in United States in natural gas liquid reserves, 14th in production of natural gas liquids and 1st in production and sale of butadiene; Warren largest independent producer and purchaser of natural gasoline and LP-gas and largest seller of LP-gas to dealers and distributors of natural gasoline.	291	Consent order, Jan. 5, 1960, requiring partial divestiture of certain natural gasoline facilities. Divestiture accomplished (1964).
68. Nov. 6, 1956, D–6676	International Paper Co. (Long Bell Lumber Corp.).	Papers and paperboard nationally and Western States particularly.	International Paper largest in capacity to produce paper and paperboard and in the production of kraft board; Long Bell 2d in Pacific Northwest in production of lumber and a leading company in the production of plywood.	242	Consent order, June 17, 1957, requiring divestiture of 12 percent stock interest held by Long Bell in Longview Fibre Co. and requiring specified output from proposed western paper and paperboard mill to be sold to independents. Divestiture not yet fully accomplished.
69. Oct. 30, 1956, D–6670	Erie Sand & Gravel Co. (Sandusky division of Kelley Island Co.).	Production and sale of lake sand along southern shore of Lake Erie.	92 percent of southern shore area of Lake Erie sales of lake sand in 2 companies; Erie was 2d and Kelley's Sandusky division 1st in the area.	144	Order of divestiture in 1959. Remanded to FTC by court of appeals (CA–3) in 1961 for redetermination of geographic market. Kelley Island sold in 1961. Case dismissed as moot Jan. 4, 1962.
70. Oct. 16, 1956, D–6653	Beatrice Food Corp. (all or part of the stock or assets of 76 corporate and 98 noncorporate dairy products concerns).	Manufacture, purchase, processing, and distribution of dairy products.	In 1958, 8 companies had 31 percent of U.S. fluid milk shipments (Beatrice was 4th largest) and 9 companies had 44 percent of U.S. frozen dessert shipments (Beatrice 4th largest).	202	Appeal of initial decision of hearing examiner in 1964 requiring partial divestiture and prohibiting specified acquisitions for a 10-year period. Pending before Commission.
71. Oct. 16, 1956, D–6652	The Borden Co. (all or part of the stock or assets of 51 corporate and 81 noncorporate dairy products concerns).	----do----------	In 1958, 8 companies had 31 percent of U.S. shipments of fluid milk (Borden 1st with 9 percent) and 9 companies had 44 percent of U.S. shipments of frozen desserts (Borden 2d with 11 percent).	202	Consent order, Apr. 15, 1964, requiring specified divestiture and prohibiting specified acquisitions without FTC approval for a 10-year period. Divestiture not yet accomplished.
72. Oct. 16, 1956, D–6651.	National Dairy Products Corp. (all or part of the stock or assets of 21 dairy products corporations and 18 other dairy products concerns).	-----do----------	In 1958, 8 companies had 31 percent of U.S. fluid milk shipments (National 2d with 9 percent) and 9 companies had 44 percent. of U.S. frozen dessert shipments (National 1st with 13 percent).	202	Consent order, Jan. 30, 1963, requiring sale of 2 dairy companies and prohibiting acquisition of a domestic manufacturer, processor, or seller of certain dairy products for 10 years without prior approval of FTC. Divestiture fully accomplished (1964).

73. Oct. 11, 1956, D–6646.	The Vendo Co. (Vendolator Mfg. Co.).	Production and sale of coin-operated vending machines to dispense bottled soft drinks.	Vendo 1st in United States in manufacture of coin-operated vending machines to dispense bottled soft drinks.	358	Consent order, Sept. 6, 1957, requiring divestiture of trademarks and patents acquired in merger and prohibiting acquisition of stock or assets of any company making or selling vending machines built to dispense bottled drinks. Divestiture accomplished (1960).
74. Aug. 17, 1956, D–6608.	Fruehauf Trailer Co. (Carter Manufacturing Co. and Carter, Inc.; Brown Equipment and Manufacturing Co.; Hobbs Manufacturing Co.; Strick Corp.; Independent Metal Products Co., and Hyde Corp.) 1947–58.	Truck-trailers, aluminum truck-trailers and dump trailers.	Fruehauf 1st in United States in manufacture, sales, and servicing of truck-trailers.	371	Cross appeals of initial decision of hearing examiner, Dec. 20, 1963, ordering partial divestiture. Pending, before Commission.
75. June 1, 1956, D–6559.	Scott Paper Co. (Soundview Pulp Co., Detroit Sulphite Pulp & Paper Co., Hollingsworth & Whitney Co.).	Production, distribution, and sale of sanitary paper products and household waxed paper.	Scott 1st in United States in sale of sanitary paper products (approximately 3 times more than nearest competitor).	262	Consent order, Apr. 23, 1964, prohibiting specified acquisitions and other acquisitions for a 10-year period. Divestiture of certain paper machines ordered.
76. May 22, 1956, D–6557.	Brillo Manufacturing Co., Inc. (Williams Co.).	Production and sale of steel wool and steel wool products.	90 percent of U.S. sales of steel wool and steel wool products for household use in 2 companies, and 55 percent of U.S. sales for industrial use in 2 companies; Brillo largest producer and Williams 1 of 4 largest producers of steel wool and steel wool products.	329	Final order, Jan. 17, 1964, requiring divestiture of certain assets and prohibiting sale to Williams customers for a 5-year period. Divestiture accomplished (1965).
77. Mar. 12, 1956, D–6527.	Scovill Manufacturing Co. (DeLong Hook & Eye Co.).	Production and sale of safety pins and common pins nationally.	Scovill 1st in United States in manufacture of safety pins and common pins and DeLong 1 of principal factors.	396	Consent order, Aug. 7, 1956, requiring limited divestiture. Divestiture accomplished (1956).
78. Jan. 17, 1956, D–6495.	Foremost Dairies, Inc. (30 dairy products corporations).	Purchase, processing, and distribution of dairy products.	In 1958, 8 companies had 31 percent of U.S. shipments of fluid milk (Foremost 3d) and 9 companies had 44 percent of U.S. shipments of frozen desserts (Foremost 3d).	202	Commission order, Apr. 30, 1962; modified order, Mar. 5, 1965, requiring divestiture of 36 acquired processing plants (in ice cream, fluid milk, and orange juice) and 57 sales branches and prohibiting for a period of 10 years, without prior FTC approval, any acquisition of fluid milk or ice cream companies. Divestiture fully accomplished (1965).
79. Dec. 8, 1955, D–6478.	A. G. Spalding & Bros., Inc. (Rawlings Manufacturing Co.).	Manufacture and distribution of athletic goods.	Both companies among 4 largest manufacturers and distributors of athletic goods.	394	Order in 1960 requiring divestiture upheld by Court of Appeals (CA–3) Mar. 22, 1962. Divestiture accomplished (1963).
80. June 30, 1955, D–6388.	Farm Journal, Inc. ("Better Farming" magazine, a publication of Curtis Publishing Co.).	Publication, distribution, and sale of agricultural publications and advertising in such publications.	100 percent of U.S. net paid circulation in monthly farm magazines with a circulation of 1,000,000 or more in 6 companies; Farm Journal was 1st and "Better Farming" was 2d.	272	Order of limited divestiture, July 17, 1956. Divestiture accomplished (1956).

ACQUISITIONS CHALLENGED BY THE FEDERAL TRADE COMMISSION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
81. June 30, 1955, D–6391	Union Bag & Paper Corp. (Agreement to increase holdings of Hankins Container Co., to 66⅔ percent of authorized and outstanding stock).	Manufacture, sale, and distribution of container board, corrugated boxes and sheets, particularly east of Mississippi River.	4 largest companies accounted for 42 percent of 1954 U.S. container board shipments, 8 largest 59 percent, and 20 largest 83 percent.	263	Consent order, March 23, 1956, limiting future acquisitions of stock in Hankins.
82. Feb. 15, 1954, D–6180	Crown Zellerbach Corp. (St. Helen's Pulp & Paper Co.).	Purchase of pulp and manufacture, conversion, and jobbing of Kraft paper and paper products in the Western States, particularly the Pacific Coast States.	85 percent of Pacific coast sales of specified Kraft paper and paper products in 3 companys; Crown Zellerbach, 2d in United States and 1st in Pacific Coast States in manufacture of pulp and paper; Crown was 1st and St. Helen's 2d in Pacific Coast States in manufacture of specified Kraft paper products.	262	Order of divestiture, Dec. 26, 1957, upheld by Court of Appeals (CA–9) in 1961 and certiorari denied by Supreme Court, in 1962. Divestiture accomplished (1964).
83. Jan. 9, 1954, filed, July 13, 1954, amended, D–6156.	Luria Bros. & Co., Inc. (all or substantial part of Pueblo Compressed Steel Corp., A. M. Wood & Co., Inc., Lipsett, Inc., Lipsett Steel Products, Inc., Southwest Steel Corp., Apex Steel & Supply Co. & Cermack-Laflin Corp.).	Production and sale of iron and steel scrap in various sections of United States.	Luria 1st in United States in purchase and sale of iron and steel scrap; acquired firms large or largest dealers in their respective areas.	344	Order of Commission, Feb. 13, 1963, requiring divestiture. Appealed to Court of Appeals. Pending (CA–3).
84. June 16, 1952, D–6000.	Pillsbury Mills, Inc. (Ballard & Ballard Co., Duff's Baking Mix Div. of Am. Home Products Corp.).	Production and sale of family flour, bakery flour and prepared flour base mixes in various sections of the United States, particularly the Southeast.	38 percent of U.S. industry capacity in flour milling in 9 companies and 70 percent of U.S. sales of flour-base mixes in 7 companies.	204	Appeal of order in 1960 requiring divestiture. Pending in Court of Appeals (CA–5).

APPENDIX C

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967

85. Oct. 19, 1966, C–66–H–695.	First City Bank of Houston (Southern National Bank of Houston).	Commercial banking	Largest commercial bank in Harris County and in the Houston metropolitan area.	602	Government moved to dismiss suit May 31 1967, in view of abandonment of the merger plan.
86. Oct. 11, 1966, C–2576.	AMFAC, Inc. (H.C. & D., Ltd.)	Seller of a very wide variety of building materials.	Through its wholesale division, it is the largest seller of building materials in Hawaii, accounting for approximately 30 percent of total sales.	521	Court dismissed the suit Nov. 1, 1966, pursuant to a stipulation by the defendants that they would not proceed with their proposed plan of reorganization.

87. Sept. 30, 1966, C–41254.	Ritter Pfaudler Corp. (M. F. Patterson Dental Supply Co. of Delaware).	Manufacture and sale of dental equipment and medical and hospital equipment.	Has been and is the leading firm in the manufacture and sale of dental equipment for use by dentists, with approximately 50 percent of total sales of such equipment.	384	Pending before district court, Sept. 1, 1967.
88. Sept. 30, 1966, C–41253.	The Dentists' Supply Co. of New York (L. D. Caulk Co. and the Ransom & Randolph Co.).	Manufacture and sale of artificial teeth, dental drill, dental waxes, porcelains, and other miscellaneous dental products.	The leading manufacturer of artificial teeth in the United States with approximately 70 percent of total sales in the United States and for export.	384	Do.
89. Sept. 30, 1966, C–41252.	Pennsalt Chemicals Corp. (S. S. White Co.).	Chemicals; specialized process equipment.	A leading manufacturer of basic chemicals, chemical specialties and intermediates, and specialized process equipment.	281	Do.
90. Sept. 14, 1966.....	Hearst Corp.; New York World-Telegram Corp.; New York Herald Tribune, Inc. (World Journal Tribune, Inc.).	Newspapers (general circulation).	Organized and existing in Delaware, Hearst was a publisher of an afternoon, daily, and Sunday newspaper and the Tribune, a morning, daily, and Sunday; in New York City, the World-Telegram published an afternoon daily.	271	Merger abandoned; consent judgment Nov. 7, 1966, requiring surviving newspaper firm to waive its rights to the publication of 19 features and syndicated columns in the New York City area.
91. July 13, 1966, C–66–1154–FW.	Phillips Petroleum Co. (Tidewater Oil).	Petroleum products; crude oil..	The 19th largest integrated oil companies in the United States, Phillips and Tidewater directly or indirectly produce over ½ the crude oil in the United States; own 82 percent of the refining capacity and account for over 87 percent of the refinery runs in the United States; either own or control the major part of the interestate pipeline facilities for crude oil and refined petroleum products transportation in the United States; and market approximately 68 percent of the gasoline in the United States.	291	Pending before district court, Sept. 1, 1967.
92. June 21, 1966, C–66248.	Reed Roller Bit Co. (American Machines & Foundry Co. and AMF).	Oil well drilling equipment; pneumatic tools and accessories, cast tungsten carbide products, and oil metering devices.	Major manufacturer of oil well drilling equipment and also manufacturer of penumatic tools and accessories, cast tungsten carbide products, and oil metering devices.	352	District court held that the merger violated Sec. 7 of the Clayton Act, June 22, 1967, and ordered partial divestiture.
93. June 17, 1966, C–9433.	First National Bank of State College (Peoples National Bank of State College).	Commercial banking.....	Largest commercial bank headquartered in Centre County and the 2d largest with offices located therein (reference is made to the Borough of State College).	602	Pending before district court, Sept. 1, 1967.
94. June 10, 1966, C–2540.	First National Bank of Hawaii (Cook Trust Co.).	....do.....	2d largest commercial bank in the State of Hawaii and in the county of Honolulu.	602	Do.
95. Apr. 25, 1966, C–66, Civ. 1175.	Schenley Industries, Inc. (Buckingham Corp.)	Scotch whiskey.....	In 1964, Schenley was the 4th largest company in the United States engaged in distilling, importing, and distributing spirits in the United States (approximately 10 percent of the industry).	208	Do.
96. Apr. 1, 1966, C–40032.	Provident National Bank (Central Penn National Bank of Philadelphia).	Commercial banking.....	In 1956 Provident was the 5th largest commercial bank in a 4-county area and Central Penn the 6th largest. The 5 largest commercial banks controlled 73 percent of total assets, 74 percent of total loans, and 54 percent of all banking offices of the 37 banks doing business in the area.	602	U.S. Supreme Court reversed the decision of the district court, remanded the case, and stayed the merger pending completion of hearings and appeals, Mar. 27, 1967.

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
97. Mar. 28, 1966, C–66–885.	National Cleaning Contractors, Inc. (Kinney Service Corp.).	Cleaning and maintenance contractors.	Directly or indirectly is engaged in the general cleaning and maintenance contracting business in New York City, Metropolitan New York area, Metropolitan Los Angeles area, also Arizona, Connecticut, Georgia, Illinois, Missouri, Ohio, and Pennsylvania.	739	Consent judgment, July 25, 1966, requiring National to divest themselves of cleaning and maintenance business in New York of at least $7,800,000 gross return per year and limiting future acquisitions.
98. Dec. 30, 1965, C–653963.	First National City Bank, et al. (Carte Blance credit card business of Hilton Credit Corp.).	Credit cards	In 1964, 2d largest commercial bank in United States and largest commercial bank in New York; provided approximately 38 percent of all consumer credit in United States.	602	Pending before district court, Sept. 1, 1967.
99. Dec. 28, 1965, C–65–1406.	Pittsburgh Brewing Co., et al. (Duquesne Brewing Co.).	Beer brewing	In Metropolitan Pittsburgh and in western Pennsylvania, Pittsburgh Brewing is the largest seller of beer and Duquesne the 2d largest. Each is among the 30 leading brewers in the United States.	208	Consent judgment, May 31, 1966, prohibiting Pittsburgh Brewing from acquiring Duquesne, or, for 5 years, any brewery in certain parts of Pennsylvania, Ohio, West Virginia, Maryland, and New York.
100. Nov. 11, 1965, C–65, civ. 3372.	Rheingold Corp. (Jacob Ruppert).	Beer brewing	In 1964, the 11th largest brewers in the Nation and 2d largest in the Northeast; made 3.1 percent of industry sales.	208	Dismissed, Mar. 31, 1966.
101. Oct. 4, 1965, C–38980.	Herff Jones (John Roberts Manufacturing Co., Inc.)	School rings (class)	In 1964, Herff ranked 2d in the class ring industry (24 percent of the industry).	391	Pending before district court, Sept. 1, 1967.
102. Sept. 30, 1965, C–65C–253.	Allis-Chalmers (Simplicity Manufacturing Co.).	Riding garden tractors	In 1964, 6th largest in sales of riding garden tractors and attachments to dealers in the United States, representing about 8 percent of total domestic sales.	679	Do.
103. Aug. 4, 1965, C–65–838.	Pennzoil Co. (Kendall Refining Co.).	Grade crude oil products	In 1964 Pennzoil and Kendall ranked 1st and 2d in Penn Grade crude production with approximately 25 and 3 percent, respectively, of total production. Their combined production amounted to almost 10 times as much as the next largest producer.	291	Consent judgment, Apr. 4, 1966, permanently barring the merger.
104. July 13, 1965, C–3523.	Falstaff Brewing Corp. (Narragansett Brewing Co.).	Beer brewing	In 1964 Falstaff, the 4th largest brewer in the Nation, accounted for about 5.9 percent of U.S. beer sales. Narragansett, the 21st largest producer, accounted for 1.3 percent of U.S. beer sales, and 21 percent of all New England sales. The top 25 accounted for 82 percent of all U.S. beer sales.	208	Pending before district court, Sept. 1, 1967.
105. July 7, 1965, C–65C–241.	Mercantile Trust Co. National Association (Security Trust Co.).	Commercial banking	Mercantile Trust was the largest commercial bank in St. Louis, and Security Trust the 5th largest. The 2 leading banks accounted for 55.5 percent of the total deposits and 56.1 percent of the total loans held by the city's 25 banks. The proposed merger would increase these percentages to 59.6 and 60.1 percent, respectively.	602	District court dismissed complaint, Nov. 19, 1966; Government given leave to amend its complaint.
106. June 28, 1965, C–11474.	Russell Stover Candies, Inc. (Fanny Farmer Candy Shops).	Candy (manufactured, boxed, and packaged).	Russell Stover was the largest manufacturer of high quality boxed candy, while Fanny Farmer was the 4th largest.	207	Merger terminated; Government dismissed suit, June 29, 1967.

107. June 11, 1965, C–10980.	Hat Corp. of America (Stylepak Industries, Inc.).	Hats manufacturing	HCA is the top manufacturer of men's hats, accounting for 30 percent of annual sales in the $48 million a year business. Stylepak was the 8th largest.	235	Consent judgment, May 16, 1967, limiting future acquisitions by Hat Corp., and requiring divestiture of designated trademarks, trade names, and brand names.
108. June 9, 1965, C–611–65.	Curtis Circulation Co. and Select Magazines (National Service Magazine) (joint venture).	Publication of periodicals	Curtis and Select are the Nation's 2 largest magazine distributors, accounting for 35 percent of all magazines, children's books, and paperback books. There are 13 national distributors in the United States.	272	Pending before district court, Sept. 1, 1967.
109. May 19, 1965, CA–31018.	American Hospital Supply Corp. (H. W. Curtin & Co.).	Scientific supplies (distribution).	A merger between American Hospital and Curtin would result in the largest scientific supply distributor in the United States.	508	Consent judgment, Nov. 20, 1967, barring American Hospital from acquiring W. H. Curtin & Co.
110. Apr. 19, 1965, C–02270.	Champion Papers, Inc. (Carpenter Paper Co., Whitaker Paper Co., and Sample-Durick Co., Inc.).	Paper products manufacturing	Champion, a leading producer of pulp and paper, with sales of $364,000,000, was the largest supplier of Carpenter and Whitaker.	262	Pending before district court, Sept. 1, 1967.
111. Apr. 6, 1965, C–345–65.	R. J. Reynolds Tobacco Co. (Penick & Ford, Ltd., Inc.),	Cornstarch and dextrine	4 leading producers of corn wet milling products accounted for 68 percent of value of shipments in 1958.	211	Pending before district court, Sept. 1, 1967.
112. Mar. 5, 1965, C–65–366–EC.	The Times Mirror Co. (the Sun Co., all or a majority of outstanding stock).	Daily newspapers in Metropolitan Los Angeles and surrounding areas.	The Los Angeles Times is the only morning newspaper circulated and sold throughout this market. (The San Bernardino Sun was largest morning newspaper competing against the Times.)	271	Do.
113. Jan. 4, 1965, C–1969–Tucson.	Citizen Publishing Co., et al. (Star Publishing Co.).	Daily newspapers in Tucson, Ariz.	The acquiring and acquired companies publish the 2 daily newspapers in Tucson.	271	Do.
114. Dec. 30, 1964, C–1174–64.	Aluminum Ltd., et al. (National Distillers & Chemical Corp., aluminum facilities of).	Aluminum siding, venetian blinds, awnings, and primary aluminum.	Big 3 domestic producers accounted for 83 percent of total domestic production of primary aluminum. (Aluminum is largest producer of primary aluminum in the world.)	333, 349	Consent judgment, Nov. 6, 1966, requiring Aluminum to sell assets of 1 plant.
115. Dec. 21, 1964, C–64–1775–PH.	American Pipe & Construction Co. (U.S. Industries, Inc.).	Small diameter pressure pipe (steel and concrete) in 8 Western States.	American and U.S. industries had 38 percent of annual sales (American No. 1, United States, No. 3).	326	Pending in district court, Sept. 1, 1967.
116. Dec. 8, 1964, C–64C–2040.	Abbott Laboratories, et al. (Nuclear-Chicago Corp.).	Nuclear instruments	"Big 3" have 50 percent of sales (Nuclear No. 1 producer).	283	Merger abandoned. Therefore, district court dismissed complaint without prejudice, Sept. 7, 1965.
117. Nov. 19, 1964, C–64–178.	The Lima News, et al. (the Lima Citizen).	Daily newspapers in Lima, Ohio.	These are the only 2 daily newspapers in Lima.	271	Consent judgment, Nov. 30, 1965, requiring Lima News to divest itself of Lima Citizen.
118. Oct. 22, 1964, C–954–64.	Standard Oil Co. (New Jersey) (Potash Co. of America).	Mining, refining, and sale of potash.	PCA, in 1963, sold over 16 percent of the potash sold by North American producers.	291	District court permanently enjoined Standard Oil (New Jersey) from acquiring PCA, Mar. 31, 1966.
119. Sept. 22, 1964, C–64–C–1605.	Commercial Credit Co. (General Finance Co.).	Personal (small) loans made by finance companies.	10 leading companies had about 57 percent of value of small loans made in Illinois in 1961 (General No. 1, 14 percent), (Commercial, No. 6, 4 percent).	614	Dismissed, Sept. 30, 1964; stipulation dismissing action as defendants abandon merger agreement.
120. Aug. 10, 1964, C–3849.	Third National Bank in Nashbille (Nashville Bank & Trust Co.).	Commercial banking in the Nashville area.	3 largest banks, including the resulting bank, would hold about 98 percent of the deposit and loans in Metropolitan Nashville.	602	District court ruled that merger did not violate the antitrust standards of 1966 amendment to the 1960 Bank Merger Act, Nov. 22, 1966.
121. Aug. 3, 1964, C–42672.	Dymo Industries, Inc. (Roovers-Lotsch Corp.).	Embossing tools and tape	Roovers and Dymo were the only producers of embossing tools and tape at the time of the acquisition.	357	Pending in District Court Sept. 1, 1967.
122. July 30, 1964, C–709–64.	Chrysler Corp. (Mack Trucks, Inc.).	Trucks and diesel engines	The 4 leading truck manufacturers account for about 90 percent of domestic unit truck sales.	371	Preliminary injunction prohibiting the acquisition granted Aug. 17, 1964.
123. June 19, 1964, C–64, civ. 1912.	General Telephone & Electric Corp. (Western Utilities Corp. and its 3 affiliates).	Telephone equipment used in furnishing telephone services.	General and Bell Systems own 90 percent of telephones in operation in United States.	366	Government dismissed suit, Nov. 14, 1966.

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
124. May 27, 1964, C–5656.	The E. W. Scripps Co. (The Cincinnati Enquirer).	Daily newspapers in Cincinnati, Ohio area.	There were 3 daily newspapers published in Cincinnati prior to 1956.	271	Pending in district court, Sept. 1, 1967.
125. Apr. 15, 1964, C–64, civ. 1175.	Allied Chemical (General Foam).	Chemicals used in plastic foram production, especially TDI.	Allied is 4th largest chemical company in United States. Allied manufactures 15 percent of plastic foam in United States; General is 2d largest manufacturer of plastic foam, with 14 percent.	281	Consent decree, Jan. 7, 1965. Allied enjoined from acquiring or holding any interest in General; also prohibited from establishing interlocks through directors, officers, or employees.
126. Apr. 14, 1964, C–6–490–HW.	Humble Oil Co. (Tidewater Oil Co., western operation. Agreement to merge Nov. 22, 1963.).	Oil and products, Western States.	7 companies account for over 80 percent of gasoline sales in the area comprising the States of California, Washington, Oregon, Nevada, and Arizona.	291	Dismissed, May 1, 1964; merger abandoned.
127. Apr. 13, 1964, C–64–342.	The Monsanto Co. and Farbenfabriken Bayer, AG (joint venture "Mobay Chemical Co., Inc.").	Plastic foam ingredients	Mobay, Du Pont, and Allied Chemical produce most of the TDI and other isocyanates manufactured in the United States; Mobay is the leading producer.	281	Consent judgment, Mar. 20, 1967, requiring Monsanto to sell its interest in Mobay to Bayer and prohibiting Monsanto from competing with Mobay or from restricting Bayer's operation of Mobay.
128. Mar. 31, 1964, C–35420.	Crown Textile Manufacturing Co., Inc. (inventory and names of Puritan Looms, Arel Dillon) (York-Dixie Co. Arel Dillon hair canvas manufacturing plant).	Hair canvas (used in manufacture of suits and jackets).	5 firms produced virtually all the hair canvas consumed in the United States. Crown had 58 percent of sales; Puritan 16 percent.	229	Consent judgment, May 24, 1965, requiring divestiture of Dillon, S.C., plant.
129. Feb. 19, 1964, C–42127.	Jos. Schlitz Brewing Co. (stock acquisition of John Labatt, Ltd.).	Beer	10 leading brewing firms accounted for 55 percent of beer sold in United States in 1962 (Schlitz No. 2, 7 percent of market).	208	U.S. Supreme Court affirmed decision of district court, ordering Schlitz to divest itself of Burgermeister assets and Labatt stock.
130. Jan. 20, 1964, C–2235.	Alexander & Baldwin, Ltd., el al. (ownership by Matson Navigation Co. by 4 of "Big 5" Hawaiian companies).	Water transportation	Matson carries 80 percent of all cargo shipped between the mainland and Hawaii.	442	Consent decree, Aug. 17, 1964. Castle & Cooke, Inc., C. Brewer & Co., Ltd., and American Factors, Ltd. required to divest their stock interest in Matson Navigation Co. within 60 days and to sell the stock to Alexander & Baldwin, Ltd.; prohibited interlocking directorates between Matson and its subsidiaries and Castle, Brewer, and American Factors; prohibited Matson from seating on its board of directors officials of 5th member of Hawaii's "Big 5," Theo. H. Davies & Co., Ltd., prohibited in perpetuity interlocks among "Big 5"; prohibited these companies from acting as freight agent for Matson.
131. Oct. 10, 1963, C–3723.	The Calumet National Bank of Hammond. (Mercantile National Bank of Hammond).	Commercial banking in the Hammond, Ind., area.	5 leading banks hold 74 percent of the total loans held by all area banks.	602	Dismissed; merger abandoned, Nov. 6, 1963.
132. Oct. 8, 1963, C–41808.	Crocker-Anglo National Bank (Citizens National Bank).	Commercial banking in California.	As of the end of 1962 the 5 largest commercial banks accounted for 80 percent of total loans and discounts.	602	District court sent merger to Comptroller for determination of the propriety of the merger under the 1966 amendment to the 1960 Bank Merger Act, Oct. 6, 1966.
133. June 5, 1964, C–41541.	F.M.C. (American Viscose Corp.).	Industrial chemicals packaging machinery.	In 1962, AVC produced over 55 percent of the viscose staple and about 35 percent of the rayon and acetate fibers consumed in that year.	281, 35	Dismissed on motion of Government after preliminary injunction denied, Oct. 28, 1963.

134. May 29, 1963, C–2680.	Cities Service Co. (joint venture with Continental Oil Co.) "Petroleum Chemicals, Inc."	Ammonia products used in fertilizers.	Petroleum Chemicals, in 1961, sold about 21 percent of the ammonia used in fertilizer in 9 States between Texas and Indiana, and about 45 percent of the amount so used in Illinois.	291, 281	Consent decree, June 29, 1963. Cities Service was ordered to divest its interest in PCI unless it acquired full stock ownership of PCI; if 100-percent ownership was obtained, it was to divest itself of Mid-South Chemical Corp.; joint ventures between Cities Service and Continental involving plant food were barred permanently. Divestiture of Mid-South was not accomplished.
135. May 13, 1963, C–3123.	Branch River Wool Combing Co., Inc. (French Worsted-combing division's machinery).	Wool tops and products	The 5 leading topmakers and their affiliated commission combers produced approximately 71 percent of all wool top combed in 1960.	229	Consent decree, Apr. 13, 1964. Branch River required to divest itself of all assets acquired from French Worsted within 1 year. Forbidden from acquiring any assets, stock, goodwill, or financial interest in a wool tops manufacturer for 5 years; in the subsequent 5 years, any acquisition must be approved by the court. French Worsted reacquired machinery from Branch Wool prior to entry of judgment.
136. Feb. 14, 1963, C–63–124.	Ingersoll-Rand Co. (3 leading manufacturers of coal mining machinery and other mining equipment).	Coal minining machinery and equipment.	33 percent of 1961 annual sales of underground coal mining machinery and equipment controlled by defendants.	353	Consent decree, May 5, 1964. Acquisitions of Goodman Manufacturing Co. and Galis Electric & Machine Co. were enjoined; the acquisition of Lee-Norse Co. was allowed. Rand prohibited from acquiring any interest in this area for 10 years, except with court approval. It was also prohibited from "raiding" personnel of any equipment manufacturer for 10 years. Galis was acquired in March 1964 by A. M. Byers Co., which is controlled by General Tire & Rubber Co.
137. Jan. 14, 1963, C–63C–80.	General Motors Corp. (2 locomotive manufacturers, now GM's diesel division).	Railroad locomotives	There are 3 manufacturers of railroad locomotives. GM accounted for 80 percent of the dollar value of domestic sales in 1959.	371	Government moved to dismiss the case, June 2, 1967, as evidence was insufficient to establish the alleged violations.
138. Dec. 31, 1962, C–4227.	Newmont Mining Corp. (capital stock in Phelps Dodge Corp. and Magma Copper Co.	Production and sale of copper products.	In 1961, 4 companies produced over 79 percent of domestic copper ore and had over 88 percent of domestic smelting capacity. Newmont, Magma, and Phelps Dodge are among the largest copper companies in the United States.	671	Consent judgment, Apr. 14, 1966, requiring Newmont's divestiture of Phelps.
139. Dec. 28, 1962, C–4550–PHX.	The Valley National Bank of Arizona (Arizona bank).	Commercial banking in Arizona.	The 4 leading banks control nearly 94 percent of Arizona's bank resources (Valley National is No. 1 and Arizona Bank No. 3).	602	Consent judgment, Nov. 23, 1966, prohibiting Valley National Bank and Arizona Bank from acquiring capital stock in any other Arizona bank for 5 years.
140. Nov. 9, 1962, C–14130–3.	Chicago Title & Trust Co. (Kansas City Title Insurance Co.).	Title insurance	Chicago Title wrote over 95 percent of title insurance in Illinois in 1960.	636	Consent judgment, May 23, 1966, prohibited Chicago Title from acquiring for 5 years any title insurance company in Missouri, Wisconsin, or Illinois. Also, divestiture of designated title insurance companies was required.
141. Nov. 8, 1962, C–62, civ. 3686.	General Dynamics Corp. (Liquid Carbonic Corp.).	Carbon dioxide	4 leading suppliers accounted for 80 percent of sales in 1959. (General No. 1, 29 percent.)	281	District court found for Government, Aug. 26, 1966, ordering General Dynamics to divest itself of Liquid Carbonic.
142. Oct. 9, 1962, C–62–1374.	Richfield Oil Co., Cities Service Co., Sinclair Oil Corp., et al. (acquisition of stock of Richfield).	Refined petroleum products sold in 6 States: California, Oregon, Washington, Idaho, Nevada, and Arizona.	In 1960, Richfield's sales of gasoline comprised over 10 percent of total gasoline sales in this area.	291	Dismissed, Jan. 11, 1966, by district court, with stipulation that Cities Service and Sinclair Oil will divest themselves of all Richfield stock.

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
143. Oct. 3, 1962, C–32125.	Stauffer Chemical Co. (American Viscose Corp.).	Industrial chemicals—carbon bisulfide; caustic soda; sulfuric acid; salt cake.	4 largest firms accounted for 61 percent of the value of shipments of alkalies and chlorine, 47 percent of industrial organic chemicals, and 27 percent of industrial inorganic chemicals in 1958.	281	Dismissed; with mutual consent, merger never consummated, Nov. 20, 1962.
144. Aug. 13, 1962, C–1116–62–K.	Thrifty Drug Stores, Inc. (Sav-On Drugs, Inc.).	Prescription drugs, retail sale in Los Angeles area.	Thrifty had 10 percent and Sav-On 6 percent of dollar sales of prescription drugs sold by Los Angeles area pharmacies in 1961.	591	Dismissed, Dec. 14, 1964. District court granted defendants' motion to dismiss on ground of mootness since Thrifty had sold all its Sav-On stock back to Sav-On during October–November 1964.
145. July 27, 1962, C–62C–1453.	Parents' Magazine Enterprises, Inc. (A. C. McClurg).	Wholesale distributor of books.	5 book wholesalers control 68 percent of the gross sales of all books by book wholesalers (Parents, 2d, 14.3 percent; McClurg 3d, 13.6 percent).	260	Consent decree, Jan. 28, 1963. Parents restrained from acquiring assets or stock of McClurg for 5 years.
146. July 13, 1962, C–62–942–WM.	M.C.A., Inc. (Decca Records, Inc., and its subsidiary, Universal Pictures, Inc.).	Talent agencies; recordings; motion pictures.	From 1952 through 1962, MCA was the only organization that was both a talent agency and a TV production company. Decca was 4th largest recording company in United States.	791	Consent decree, Oct. 18, 1962. M.C.A. to dissolve its talent agency and refrain from influencing its clients in the choice of a new agent. M.C.A. prohibited from acquiring any major TV, motion picture, or record company for 7 years without approval of Department of Justice or the court. (Also Universal Pictures to sell its film library (Universal a subsidiary of Decca, an M.C.A. acquisition).)
147. Mar. 5, 1962, C–62C–60.	Gimbel Bros., Inc. (Ed. Schuster & Co., Inc.).	Department store sales of "general merchandise."	Companies account for 57 percent of Milwaukee department store retail sales.	531	Dismissed without prejudice on stipulation of both parties, Jan. 2, 1964.
148. Feb. 15, 1962, C–40529.	Kimberly-Clark Corp. (Blake, Moffit & Towne).	Sale of paper and paper products in Western United States.	Kimberly leading producer of some types; Blake, a big western wholesaler.	264	Pending; district court held that acquisition was in violation of sec. 7, Feb. 17, 1967.
149. Jan. 31, 1962, C–62C–43.	Anheuser-Busch (Rahr Malting Co.).	Malt beer manufacturing and sales.	Rahr: No. 2 independent malt producer. Busch: 9 percent of U.S. brewed beer.	208	Case dismissed, June 17, 1966, without prejudice.
150. Dec. 6, 1961, C–1542–61.	America Corp. (the Republic Corp.).	Professional film processing---	4 largest companies process 85 percent of professional film.	782	Consent decree, Oct. 28, 1963. Republic enjoined from acquiring or holding any interest in America; from acquiring any business other than one in the Midwest and Metropolitan New York City; and from any agreement with America to allocate, refer, or solicit business.
151. Nov. 29, 1961, C–21911.	Ford Motor Co. (Electric Autolite Co.).	Manufacture and sale of automotive parts, especially electrical components; spark plugs.	The 3 leading producers of spark plugs accounted for more than 90 percent of total production in 1960 (Electric Autolite among "Big 3").	362, 371	Pending in district court, Sept. 1, 1967.
152. Sept. 19, 1961, C–40212.	Standard Oil Co. (Ind.) and Getty Oil Co. (Honolulu Oil Corp.).	Production and sale of crude oil, natural gas, and natural gas liquids.	Standard 5th in assets, Honolulu 26th. Honolulu—3d largest independent producer of crude oil.	291	Dismissed, June 19, 1964. District court granted defendants' motion for dismissal. An appeal was not taken.
153. Sept. 8, 1961, C–61C–3194.	Manufacturers Trust Co. (The Hanover Bank).	Commercial banking in New York City.	Top 5 have 70 percent of deposits, 71 percent of assets, and 72 percent of loans.	602	Case dismissed, Mar. 7, 1966, in view of the enactment of the Bank Merger Act Amendments of 1966.

154. Aug. 29, 1961, C-61C-1441.	Continental Illinois National Bank & Trust Co. of Chicago (City National Bank & Trust	Commercial banking deposits and loans in Chicago, especially the Loop.	Chicago: top 4, 62 percent of deposits; top 4, 70 percent of loans; top 4, 83 percent of time deposits. Chicago Loop: top 3 have 72	602	Case dismissed, Mar. 11, 1966, in view of the enactment of the Bank Merger Act Amendment of 1966.
155. Aug. 16, 1961, C-8871.	Ling-Temco Electronics, Inc. (Chance Vought Corp.).	Electronics and aerospace industry products—design, development, manufacture, and sale (especially to Government), in United States, and southwest United States.	Both companies "major" or "leading."	372	Court found for defendants, Nov. 24, 1961. No appeal was taken.
156. July 11, 1961, C-885-61-K.	Suburban Gas (13 LP gas companies in Arizona, Oregon, and Washington).	Gas sale in these States	Suburban dominant in Washington, Oregon, and Arizona.	598	Consent decree, Sept. 17, 1962. Suburban to divest itself of all business and assets acquired from Color Gas Co. in Washington and Oregon; and all stock and assets of Suburban Gas of Springfield, Suburban Gas of Vancouver, and Suburban Gas of Longview. Defendants enjoined for 3 years from any acquisition in Washington, Oregon, or Arizona, except upon 30 days' notice to Government. Divestiture was accomplished.
157. May 16, 1961, C-4763.	Continental Oil Co. (Malco Refineries, Inc., substantially all assets of).	Crude oil; gasoline; production, purchase, sale, and refining; New Mexico.	7 refineries have 100 percent of New Mexico refining capacity. Merging companies combined have 43 percent of New Mexico refining capacity and 22 percent of New Mexico gas sales.	291	Supreme Court, on May 29, 1967, vacated the judgment of the district court which had been for defendant, and remanded the case to it for further consideration.
158. Apr. 28, 1961, C-2795.	Kaiser Aluminum & Chemical Corp. (U.S. Rubber, Wire & Cable Department.)	Production and sale of electrical conductors, especially aluminum wire and cable.	Top 5 have 80 percent of aluminum wire and cable shipments. Top 3 have 70 percent of shipments of insulated and covered aluminum wire and cable.	335	Consent decree, Feb. 23, 1965. Kaiser to attempt to sell its Bristol, R.I., wire and cable plant within 9 months; if it cannot sell, Kaiser to retain plant. Kaiser enjoined for 5 years from acquiring stock or assets in any company manufacturing electrical conductor wire or cable products.
159. Apr. 27, 1961, C-61C-148.	Kaiser Aluminum & Chemical Corp. (Kawneer Co.).	Manufacture and sale of aluminum extrusions, ingots, residential and nonresidential windows, doors, store fronts, entrance and curtain walls.	4 largest companies have 94 percent of primary aluminum production. Alcoa No. 1 producer.	335, 344	Dismissed, Nov. 27, 1962. Kawneer was acquired by American Metal Climax, Inc., on Aug. 31, 1962, thus case moot. Kaiser permanently enjoined from acquiring any stock or assets of Kawneer.
160. Apr. 27, 1961, C-61C-147.	Alcoa (Cupples Products Corp.).	Production and sales of aluminum windows, doors, door frames, entrances and curtain walls; extrusions; aluminum.	4 largest companies have 94 percent of primary aluminum production; Cupples No. 1 curtain wall producer.	335, 344	District court found for the Government, Dec. 4, 1964; court ordered full divestiture of Cupples including Corona, Calif., plant constructed after acquisition of Cupples. Implementation of divestiture order pending.
161. Mar. 2, 1961, C-61C-54.	The Bank Stock Corp. of Milwaukee (Northern Bank, The Bank of Commerce, and Marshall & Ilsley Bank).	Commercial banking in the city and county of Milwaukee, Wis.	As of June 1959, the 4 largest banks accounted for about 80 percent of the total bank assets, deposits, loans, and discounts in the city and 71 percent of assets and deposits and 72 percent of the loans and discounts in the county.	602, 671	Supreme Court ruled, June 22, 1967, that the 1966 amendment to the Bank Holding Company Act made bank merger standards applicable to bank holding companies, and therefore the district court has jurisdiction.
162. Mar. 1, 1961, Civ. 1424.	First National Bank & Trust Co. of Lexington (Security Trust Co.).	Commercial banking in Lexington, Ky.	First National 1st and Security 4th largest commercial banks in Lexington.	602	District court, Feb. 1, 1967, held that Bank Merger Act Amendment of 1966 immunized this merger from antitrust attack.
163. Feb. 25, 1961, C-29287.	The Philadelphia National Bank (Girard Trust Corn Exchange Bank).	Commercial banking in Philadelphia.	5 banks have 80 percent of assets in Philadelphia area.	602	Merger enjoined by Supreme Court, June 17, 1963.

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
164. Feb. 17, 1961, C–61–113.	Koppers Co., Inc. (Thomas Flexible Coupling Co., controlling interest).	Manufacture and sale to commercial customers of flexible and metal flexible couplings.	Koppers No. 1 manufacturer; Thomas largest exclusive manufacturer of flexible couplings.	356	Merger enjoined by district court, Jan. 24, 1962. Divestiture was ordered. Thomas Flexible Coupling was sold to Chain Belt Co. (now Rex Chainbelt, Inc.), Milwaukee, Wis., Sept. 19, 1962.
165. Jan. 19, 1961, C–61, civ. 241.	American Smelting & Refining (General Cable Corp., Revere Copper & Brass, Inc. controlling stock interest in each).	Copper; copper wire and cable; copper and copper base products, production, fabrication, and sale.	Copper: top 3, 65 percent of mining; top 4, 85 percent of smelting; top 5, 95 percent of electrolytic refining; and top 12, 50 percent of fabrication.	333,346,36	Consent judgment, Mar. 14, 1967. barring American Smelting from having affiliate in common with the 2 acquired fabricating firms.
166. Jan. 19, 1961, C–61, civ. 240.	General Cable Corp. (wire and cable companies).	Electric wire and cable. Wire and cable product: production, distribution, and sale.	4 largest companies had 65 percent of the value of shipments in 1958. General Cable is one of the 2 largest manufacturers.	335	Consent decree, Feb. 28, 1964. Gen'l. Cable forbidden to acquire any interest in an appliance cord or communication wire and cable manufacturer for 8 years, except on application to the Court.
167. Jan. 6, 1961, C–9004..	Greater Buffalo Press, Inc. (The International Color Printing Co.).	Color comic supplement printing, United States.	3 companies have 73 percent of dollar purchases of color comic supplement printing; 3 companies sell 80 percent of unit supplements.	271	Consent judgment, Aug. 31, 1965.
168. Jan. 6, 1961, C–2282..	Olin-Mathieson & Pennsalt (Penn-Olin Chemical Co. joint venture).	Sodium chlorate; chlorate and perchlorate chemicals; chemicals and chemical products generally.	3 companies have 100 percent of sales.....	281	Federal District Court in Washington ruled for 2d time that joint venture did not violate Clayton Act, Oct. 12, 1965. Pending Supreme Court remanded case to the district court on June 22, 1964. (It reversed the May 1, 1963, district court finding for defendants.)
169. Dec. 9, 1960, C–1–378P–H.	Phillips Petroleum Co. (14.8 percent of stock outstanding; Union Oil Co. of Calif.).	Production, sale and purchase of petroleum and its derivatives and byproducts in United States, primarily Western States.	Phillips 1st to 10th, Union 10th to 17th in production, sale of relevant products.	291	Dismissed on motion of the Government, Jan. 27, 1964. Phillips disposed of all shares by transferring them to Donald K. Ludwig, an individual whose principal interests were in shipping. July 19, 1963.
170. Oct. 5, 1960; amended Oct. 13, 1960, C–60, Civ. 3857.	American Cyanamid Co. (Formica Co.).	Manufacturer of melamine.....	Cyanamid produced in 1958, 86 percent of melamine produced in United States; Monsanto produced 14 percent.	281	Consent decree, Aug. 4, 1964. Court ordered divestiture of portion of Willow Island, W. Va., plant devoted to melamine production and a prohibition for 10 years against acquiring producers of melamine. Willow Island plant was sold to Fisher Chemical Co., New York City.
171. Oct. 3, 1960, C–10–292.	Ryder System, Inc. (17 truck renting and leasing companies).	Truck renting and leasing in United States and specific areas.	Less than 5 companies have 100 percent of national renting and leasing business.	751	Consent decree, June 15, 1961. Ryder to divest itself of all rights, titles, interests in: Atlanta (100 trucks), Chicago (100), Dallas (75), Memphis (50), and Nashville (75) within 1 year. Enjoined for 3 years from acquiring any competing firms in 65 cities where Ryder had more than 50 trucks. Divestiture was accomplished.

172. Aug. 25, 1960, C–3324.	West Virginia Pulp & Paper Co. (U.S. Envelope Co., majority of outstanding stock).	Production and sale of paper and paper products, including envelopes.	U.S. Envelope has 18 percent of domestic sales.	262 Consent judgment, Feb, 10, 1966, prohibits West Virginia from selling any paper to U.S. Envelope as long as it retains any U.S. Envelope capital stock.
173. June 30, 1960, C–20266.	Cunningham Drug Stores, Inc. (Kinsel Drug Co., 81 percent of outstanding stock in 1958; remainder subsequently.)	Distribution of heath products in the Detroit area through drugstores.	Cunningham and Kinsel were Nos. 1 and 2 drug chains, respectively; 6 companies operated 4 or more drugstores.	591 Dismissed on motion of Government, Apr. 11, 1963.
174. June 28, 1960, C–75360–TC.	Bliss & Laughlin (Sierra Drawn Steel Corp.).	Cold-finished steel bars, production and sale, Arizona, California, Oregon, and Washington.	2 companies have 53 percent of sales in 4-State area. Bliss and Sierra have 30 percent in 4-State area.	331 District court judgment for defendant, Mar. 27, 1962; remanded by Supreme Court in light of Brown Shoe case; judgment by district court again for defendant, Apr. 15, 1963. Complaint dismissed by Government, June 6, 1963.
175. June 23, 1960, C–6–109.	Maremont Automotive products (Saco-Lowell Shops, controlling interest).	Production and sale of automotive exhaust systems and parts.	5 companies have 97 percent of systems and replacement parts in the United States.	371 Consent decree, Dec. 9, 1960. Maremont to divest itself of all facilities related to manufacture of mufflers acquired from Saco-Lowell. Maremont and Saco-Lowell are (a) enjoined from purchasing any stock or assets of Nu Era or the purchaser of the assets of Saco-Lowell; (b) enjoined for 3 years from acquiring stock or assets of any automotive muffler manufacturer; and (c) enjoined for 5 years from acquiring any stock or assets of any manufacturer or distributor (except at retail) of automotive mufflers without court approval. Divestiture not accomplished.
176. Apr. 1, 1960, C–12776.	Gamble-Skogmo, Inc. (Western Auto Supply Co., controlling interest).	Sale and distribution through retail stores of auto supplies and accessories, home appliances, and consumer hardware.	Companies are No. 1 (Western) and No. 2 (Gamble) in sales of particular products through chains of specialized retail stores, and associate retail stores.	553 Consent decree, July 18, 1960. Divestiture of Wasco was ordered. In July 1960 Beneficial Finance Co. acquired about 47 percent of Wasco stock. Wasco was merged into Beneficial on Oct. 27, 1961.
177. Apr. 1, 1960, C–8030.	Alcoa (Rome Cable Corp.)_____	Production and sales of wire and cable products and accessories, including conduit and cable devices.	"A few" companies have "a large percentage" of wire and cable products.	333 Merger enjoined by Supreme Court, June 1, 1964. Divestiture hearings in district court pending.
178. Mar. 25, 1960, C–336–60.	Von's Grocery Co. (Shopping Bag Food Stores).	Purchase, distribution, and sale of groceries and related products through supermarket chains in Los Angeles.	20 chains have 50 percent of Los Angeles sales. (Merging companies would have 8 percent, would rank No. 2.)	541 Dismissed, Sept. 14, 1964. District court granted defendants' motion for dismissal. Appeal to Supreme Court is pending.
179. Feb. 15, 1960, C–13032.	National Steel Corp. (Metallic Building Co., 75 percent of stock).	Production and sale of prefabricated metal buildings and components thereof.	National is a "leader," Metallic a "leader" in Southwest.	331 Dismissed, Dec. 3, 1964. District court granted defendants' motion for dismissal.
180. Dec. 31, 1959, C–19696.	The Standard Oil Co. (Ohio) (Leonard Refineries, Inc.).	Production and sale of petroleum products; distribution and sale of TBA.	Standard accounts for approximately 30 percent of the total sales of gasoline in Ohio.	291 Dismissed, Jan. 22, 1960. Acquisition abandoned.
181. Nov. 20, 1959, C–114_	National Homes Corp. (7 prefabricated houses).	Production and sale of prefabricated houses.	12 companies have 50 percent, 20 companies have 73 percent of sales of prefabricated houses. National is No. 1 with 25 percent.	243 Consent decree, Dec. 1, 1962. National to sell 4 of the acquired companies; further acquisitions in this area prohibited for 5 years, except upon application to the court. Divestiture was achieved.

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
182. Oct. 16, 1959, C–151–370.	General Motors Corp. (Euclid Road Machinery Co.).	Manufacture and sale of off-highway earthmoving equipment and related components, parts, and accessories.	For a number of years prior to 1953, Euclid was the leading producer; it produced over 50 percent of the Nation's off-highway dump trucks.	353, 371	Pending, before district court.
183. Oct. 1, 1959, C–59C–215.	Pabst Brewing Co. (Blatz Brewing Co., subsidiary of Schenley Industries).	Sale of beer in Wisconsin, Illinois, and Michigan.	69 percent of national sales in 25 companies.	208	Dismissed, Oct. 30, 1964. The district court granted defendants' motion for dismissal. An appeal to the Supreme Court is pending.
184. Sept. 15, 1959, C–150–267.	United Artists Corp. (assets, including film library, of Associated Artists Productions Corp.; distributor rights for RKO film library).	Distribution and licensing of feature films for TV.	8 major film libraries distributed by 7 distributors.	781, 50	Dismissed on motion of the Government, Feb. 5, 1962.
185. Aug. 24, 1959, C–4485.	Diebold, Inc. (Herring-Hall-Marvin Safe Co.).	Bank vaults and safes; safe and vault doors and related equipment. Fire-resistive bank and filing equipment.	3 companies produce 10 percent of bank vault equipment and related products.	349	Consent decree, May 10, 1963. Divestiture of assets of Herring-Hall-Marvin within 1 year; if buyer not found, may be retained.
186. June 22, 1959, C–147–231.	Kennecott Copper Corp. (the Okonite Co.).	Production, fabrication and sale of copper and copper products, especially copper wire and cable.	3 or 4 companies have 100 percent of U.S. copper production at all stages.	333, 34	Merger enjoined by district court, July 2, 1964. Full divestiture of the stock and business of the Okonite Co. ordered, Nov. 24, 1964. Kennecott prohibited for 5 years from date of divestiture from acquiring stock, assets, or business of any company engaged in production, fabrication or sale of refined copper or insulated wire and cable or paper insulated power cable.
187. May 1, 1959, C–145–364.	The Hertz Corp. (37 motor vehicle renting and leasing companies.)	Motor vehicle renting and leasing in United States, especially New England, Florida, and metropolitan New York City.	Hertz No. 1 during past 5 years----------	751	Consent decree, June 29, 1960. Hertz to sell all assets to Courture Rent A Car system, assets of a New York City motor truck leasing and rental business "within a reasonable time." Enjoined for 3 years from acquiring any auto or truck renting/leasing business in certain large cities; and entering (except in limited instances) agreements not to compete. Divestiture was accomplished.
188. Mar. 30, 1959, C–38139.	Firstamerica Corp. (California Bank, 80 percent or more of stock).	Banking services, Los Angeles, metropolitan area, State of California and other Western States.	Los Angeles: top 4 have 82 percent of deposits and loans. California: top 4 have 66 percent of State banking offices; 66 percent of deposits; 67 percent of loans and discounts.	602, 671	Consent decree, Sept. 27, 1960. Firstamerica to set up a new bank, then divest itself of any interest in this bank within 2 years. First Western Bank & Trust Co. (Los Angeles) was incorporated on Feb. 9, 1961; on Jan. 2, 1963, Firstamerica (now Western Bank Corp.) sold all its stockholdings (93 percent) in First Western to Greatamerica Corp., Dallas, Tex.

189. Oct. 30, 1958, C–8906.	Anheuser-Busch (Miami brewery of American Brewing Co., City Products Corp., and Wagner Brewing Co.)	Production and sale of beer in Florida.	25 companies have 69 percent of national beer sales. Busch: 1st in United States, 3d in Florida sales. American 3d in Florida sales, 1st in Florida capacity.	208 Consent decree, Jan. 11, 1960. Busch to divest itself of all assets of the Miami brewery; permanently enjoined from acquiring any interest in a Florida brewery; enjoined for 5 years from acquiring any brewery in the United States except upon application to the court. Miami brewery was sold on June 30, 1961, to National Brewing Co., Inc., Baltimore, Md.
190. July 8, 1958, C–135–219.	Lever Bros. Co. (Monsanto's "All"—trademarks, patents, packaging material).	Production and sale of detergents.	3 companies have 84 percent of household packaged and liquid detergents.	284 Court found for defendant, Apr. 30, 1963. No appeal was taken; dismissed by district court.
191. June 27, 1958, C–6111.	National Alfalfa Dehydrating & Milling Co. (Saunders Mills, Inc.).	Dehydrated alfalfa, United States (excluding 7 Western States).	Merging companies have 22 percent of market area.	204 Consent decree; Mar. 15, 1963. National to sell "certain listed assets," enjoined for 5 years from acquiring assets or stock of an alfalfa producer, marketer, or storage concern in the United States. Divestiture was not accomplished.
192. Apr. 10, 1958, C–132–86.	Columbia Pictures Corp. (Universal Pictures, Screen Gems).	Distribution of motion picture films for TV exhibition.	Screen Gems was granted an exclusive license for the TV distribution of over 600 Universal features.	781 District court finding for defendants, June 29, 1960. Complaint dismissed on merits.
193. Feb. 18, 1958, C–15–58.	Lucky Lager Brewing Co. (Fisher Brewing Co.).	Sale of beer, Utah	Lucky: 1st in West, 12th in United States Fisher: 1st in Utah capacity. Top 25 have 60 percent national sales.	208 Consent decree, Oct. 6, 1958. Lucky to sell entire interest in Fisher plant; permanently enjoined from making any acquisition in United States except upon application to court. If Lucky failed tosell the Fisher plant, Lucky was perpetually enjoined from selling more than 39 percent of the beer consumed in Utah. Divestiture was not accomplished.
194. July 22, 1957, C–143–57.	El Paso Natural Gas Co. (Pacific Northwest Pipeline Corp., 99 percent of outstanding stock).	Pipeline transport and sale of natural gas; Western States.	Only 2 pipelines purchasing and transporting out of San Juan basin.	492 Merger enjoined by Supreme Court, Apr. 6, 1964. Divestiture hearings are pending.
195. Feb. 15, 1957, C–22080.	Jerrold Electronics Corp. (9 community TV antenna systems).	Setting up and servicing such systems.	Merging companies alleged to have 2 to 10 percent of U.S. market.	366 Consent decree, Oct. 11, 1960. Jerrold was enjoined until Apr. 2, 1962 from acquiring any share of the stock or assets, or any controlling, ownership or managerial interest in any community TV antenna system already built at the time of the proposed acquisition.
196. Dec. 12, 1956, C–115–328.	Bethlehem Steel Corp. (Youngstown Sheet & Tube Co.).	Variety of iron and steel products; production and sale.	Top 4 have 58 percent of iron and steel. Concentration similar in manufacture of certain finished products.	331 Merger enjoined by District court, Nov. 20. 1958.
197. Dec. 4, 1956, C–7686.	Owens-Illinois Glass Co. (National Container Corp.).	Containers generally; glass containers; containerboard; shipping containers.	3 companies have 60 percent of U.S. glass container production.	321 Consent decree, July 8, 1963. Owens to divest itself of a large paperboard mill and 5 fiber box manufacturing plants within 4 years.
198. Nov. 21, 1956, C–4482–56.	Maryland & Virginia Milk Producers Association (Embassy Dairy).	Production and sale of milk to District of Columbia area dealers.	The association was a substantial supplier of milk for resale as fluid milk in the area comprising the District of Columbia and surrounding counties. Embassy was a substantial outlet in the Washington metropolitan area.	203, 50 Divestiture order affirmed by Supreme Court, May 2, 1960. Separate consent decree, Nov. 22, 1960, requiring defendant to dispose of all Richfield assets and Simpson Bros., Inc., trading as Model Farm Dairy, within 1 year. Embassy Dairy, Inc., was sold to Metropolitan Food Corp., Alexandria, Va. (Metropolitan subsequently sold Embassy to Southland Corp., Dallas, Tex.).

ACQUISITIONS CHALLENGED BY ANTITRUST DIVISION, 1951–JULY 1, 1967—Continued

Number, date of complaint, and FTC docket No.	Company challenged and acquired company	Markets	Company and industry characteristics	Standard industrial classification	Status of case as of Sept. 30, 1967
199. Oct. 30, 1956, C–114–177.	Continental Can Co., Inc. (Robert Gair Co., Inc.).	Paperboard products, flexible packaging products, paper containers, containers generally.	2 companies have 88 percent of U.S. tin can sales, 50 percent of glass container production; 3 companies have 50 percent of metal closures production.	322, 341	Stipulation and order by district court dismissing ease without prejudice, Sept. 8, 1965.
200. Sept. 10, 1956, C–112–387.	Continental Can Co., Inc. (Hazel-Atlas Glass Co.).	Metal cans, glass bottles, plastic bottles, metal closures, containers generally.	Companies combined have 30 percent of metal can sales, 9 percent of plastic squeeze bottle sales, 18 percent of manufacture of metal closures, 82 percent of fiber drums manufacture. (All for United States.)	322, 341	Merger enjoined by Supreme Court, Sept. 23, 1964. It ordered divestiture. Continental Can sold 8 glass container plants to Brockway Glass Co., Brockway, Pa. (Oct. 10, 1964) and 1 glass container plant to Alex H. Kerr & Co., Santa Ana, Calif. (January 1965); a closure and a glass tableware plant in West Virginia were retained with the district court's permission.
201. Mar. 30, 1956, C–14469.	American Radiator & Standard Sanitary Corp. (Mullins Manufacturing Corp.).	Bathtubs, kitchen sinks, steel kitchen cabinets—production, distribution, and sale.	Mullins: 27 percent of kitchen sinks, 30 percent of kitchen steel cabinets.	343	Consent decree, Sept. 20, 1960. American to divest itself of Youngstown Kitchen Division including all assets added since the acquisition and used in the Youngstown business at the time of the decree; also to divest itself of the Liberty plant in Warren, Ohio, and Plant No. 3 in Salem, Ohio (these plants were owned by Mullins but hadn't been used in the business since the merger); also to divest itself of any interest in In-Sink-Erator. The net assets of Youngstown Kitchen Division were sold, on Nov. 15, 1961, to Mullins Manufacturing Corp., Salem, Ohio.
202. Nov. 28, 1955, C–10527.	Brown Shoe Co. (G. R. Kinney Co., Inc.).	Shoes; production, distribution, and sale.	In 1954, the 4 largest companies shipped about 30 percent of the value of shipments of all footwear (except rubber).	314	Merger enjoined by Supreme Court, June 25, 1962. Divestiture of Kinney ordered. Brown sold Kinney to F. W. Woolworth Co. on Aug. 31, 1963.
203. Sept. 7, 1955, C–6429–M.	Minute Maid Corp. (Snow Crop Division, Clinton Foods).	Production, distribution, and sale of frozen citrus juices; and purchase of citrus fruits.	50 percent of frozen juice capacity in 3 companies. Minute Maid and Snow Crop are No. 1, No. 3, respectively.	203, 50	Consent decree, Sept. 7, 1955. Minute Maid to dispose of frozen concentrate facilities in Dunedin and Frostproof, Fla. After Nov. 1, 1958, perpetually enjoined from operating any of the frozen concentrate facilities now operating at Davenport, Fla.; perpetually enjoined from acquiring any right, title, or interest in Dunedin and Frostproof, Fla. plants; until divestiture ordered is accomplished, no acquisitions permitted; for 5 years from sale or divestiture of Dunedin and Frostproof plants, enjoined from acquiring any interest in any frozen concentrate facility (except with court consent). Full divestiture accomplished.

204. Apr. 27, 1955, C–1889–55.	Hilton Hotels Corp. (Statler Hotels).	Hotel business (especially national and regional conventions).	Hilton is the largest hotel chain in the world and Statler is one of the largest hotel chains in the world; Hilton did a large part of the convention business in some of the most important convention cities in the United States.	701	Consent decree, Feb. 6, 1956. Hilton to dispose of Jefferson (St. Louis), Mayflower (Washington), and either New Yorker or Roosevelt (New York City) Hotels within a reasonable time. Future acquisitions (for almost 5 years) were prohibited if they would increase the number of listed hotels controlled by either or both defendants to more than a prescribed number in certain cities. Divestiture was accomplished.
205. Mar. 29, 1955, C–20001.	General Shoe Corp. (Delman, Inc.).	Production, sale, distribution of shoes.	In 1954 the 4 largest companies shipped about 30 percent of the value of shipments of all footwear (except rubber).	314	Consent decree, Feb. 17, 1956. General Shoe to sell or divest itself of any and all capital stock (owned or controlled) in any shoe manufacturer or shoe retailer other than a subsidiary. For 5 years General Shoe (a) must purchase at least 20 percent of shoes sold in affiliated retail outlets from other manufacturers; (b) enjoined from stated discrimatory practices. Enjoined until Oct. 1, 1956, from acquiring any shoe manufacturer, wholesaler, or retailer; after Oct. 1, 1956, for 5 years, may acquire such firms only with Government approval or affirmative showing to court that acquisition is lawful.
206. Feb. 14, 1955, C–1686.	Schenley Industries, Inc. (Park & Tilford Distillers, 70 percent of stock outstanding).	Production and sale of whisky; sale of cooperage.	Merger would result in 59 percent of U.S. whisky-producing capacity in 4 firms; 66 percent of actual production in 4 firms; 72 percent of U.S. whisky bottling in 4 firms; 54 percent of storage capacity in 4 firms; and 75 percent of whisky sales in 4 firms.	208	Consent decree, Apr. 3, 1957. Schenley enjoined for 10 years from acquiring any corporation engaged in distilling and distribution of whisky in botties, except upon application to the Attorney General (and then to the court, if the Attorney General does not approve).

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