

Federal Court Overturns New HSR Rules

February 13, 2026

Introduction. Last night, U.S. District Judge Jeremy D. Kernodle overturned the recently revised rules of the Hart-Scott-Rodino Act (“HSR Act”) in *Chamber of Commerce of the United States of America, et al., v. Federal Trade Commission*.¹ If the ruling is not stayed, it will affect merger filings under the HSR Act. The Court stayed the applicability of the order for seven days, allowing the U.S. Federal Trade Commission (“FTC”) time to request emergency relief from the U.S. Court of Appeals for the Fifth Circuit. The FTC will have until the end of the day, Thursday, February 19, 2026, to request that emergency relief. If the FTC does not request or is unsuccessful in obtaining emergency relief, the Final Rule will be overturned after the seven-day stay, and the previous rules and notification form will be back in play.

This follows an already turbulent week of merger control developments, including requirements to file certain national security-related transactions with the U.S. Department of War, new merger control filing requirements in California that will become effective in January 2027, and the resignation of Gail Slater yesterday as the head of the U.S. Department of Justice, Antitrust Division (“DOJ”).

HSR History. Originally enacted in 1976, with the first premerger notification form following in 1978, the HSR Act and corresponding rules establish guidelines for when transacting parties must notify the antitrust agencies of their transactions. In October 2024, the FTC (in collaboration with the DOJ) released in a Final Rule² the most extensive revisions to the HSR Act since its enactment. The Final Rule, which went into effect in February 2025, involved an expansive change from the prior HSR Act requirements, requiring parties to report significantly more information and provide more documents than was previously necessary.

Case Summary. In January 2025, the U.S. Chamber of Commerce, among other plaintiffs, challenged the Final Rule as unlawful under the Administrative Procedure

¹ *Chamber of Commerce of the United States of America, et al., v. Federal Trade Commission, et al.* Case No. 6:25-cv-9-JDK, ECF No. 75 (E.D. Tex. Feb. 12, 2026).

² The Final Rule, Premerger Notification; Reporting and Waiting Periods Requirements, 89 Fed. Reg. 89,216 (Nov. 12, 2024) (the “Final Rule”).

Act, arguing that it exceeded the FTC's statutory authority and was the product of "arbitrary and capricious" rulemaking. The Court agreed with Plaintiffs for three reasons.

First, the FTC failed to establish that the Final Rule's "benefits would 'reasonably outweigh' its significant and widespread costs."³ Because completing HSR filings would be significantly more costly, both financially and timewise, as the FTC acknowledged, the benefit of such expansion would have to reasonably justify that cost. The FTC failed to establish that justification.

Second, the Court found that the Final Rule is arbitrary and capricious because the FTC did not establish a rational relationship between the benefits and costs of the Final Rule.

Lastly, the FTC failed to "adequately explain its rejection of less costly and burdensome alternatives."⁴ Because the FTC did not sufficiently demonstrate that it had considered reasonable alternatives to the Final Rule to reduce costs and reach the same benefit, the Court found the Final Rule exceeded the scope of the FTC's statutory authority.

The Final Judgment "sets aside and vacates" the Final Rule. The Court stayed the applicability of its decision for seven days, until Thursday, February 19, 2026, to allow the FTC to seek emergency relief from the Fifth Circuit. If the FTC does not seek or receive emergency relief, the Final Rule will be vacated after the seven-day stay. While the Court was not explicit on this point, our expectation is that transacting parties and the agencies would revert to using the prior HSR form. Should that happen, parties can expect a significant decrease in time and cost for their merger notifications, which in turn may increase the appetite for businesses to pursue a merger or acquisition in the first place.

The Debevoise team will continue to monitor developments in this area and will provide additional updates when available.

How Debevoise Can Help. Debevoise lawyers are well-versed in the HSR Act and its reporting requirements, both under the former HSR Act and the amended HSR Act. We are available to advise parties regarding the applicability of their transactions, as well as guide clients through the reporting process and any government investigation and/or litigation that may follow the HSR filing.

³ *Chamber of Commerce v. FTC*, Case No. 6:25-cv-9-JDK, at 2 (citing *Mexican Gulf Fishing Co. v. U.S. Dep't of Com.*, 60 F.4th 956, 965 (5th Cir. 2023)).

⁴ *Id.*

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Please do not hesitate to contact us with any questions.



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