

# AntitrustConnect Blog

## Higher Premerger Filing Fees Included in Senate Appropriations Proposal

Jeffrey May (Wolters Kluwer) · Monday, September 26th, 2011

The Senate Appropriations Committee has approved legislation that, in addition to funding the Federal Trade Commission next year, would increase the Hart-Scott-Rodino (HSR) Act premerger filing fees that help fund the agency. The legislation ([S. 1573](#)) also would block efforts to relocate the headquarters of the FTC from its current location at 600 Pennsylvania Avenue, unless the government were to receive fair market value for the property.

The proposed Financial Services and General Government Appropriations Bill for Fiscal Year 2012 would increase the fees that parties must pay when notifying the FTC and Department of Justice Antitrust Division of a large acquisition or merger under the HSR Act. Beginning in FY 2013, the filing fees would be increased based on changes in the gross national product. A new tier for merger transactions valued at over \$1 billion also would be created and a \$500,000 filing fee would be imposed on those transactions.

Currently, the maximum filing fee is \$280,000. That fee would increase to \$360,000 for transactions valued at \$659.5 million or more but less than \$1 billion. A \$125,000 filing fee, currently required for reportable transactions valued at at least \$131.9 million but less than \$659.5 million, would increase to \$160,000. The fee for the smallest reportable transaction would increase from \$45,000 to \$60,000, under the proposal. The HSR filing fees were last increased in 2001.

### FTC Funding

The Senate appropriations measure would provide \$311,563,000 in funding for the FTC in FY 2012. The Senate Appropriation Committee's recommendation is \$20,200,000 above the FY 2011 enacted level and \$14,437,000 below the budget request. The additional \$20,200,000 is intended to be utilized for the replacement of the FTC's two satellite offices because the majority of that space will no longer be available for occupancy after August 2012. In July, the House Appropriation Committee recommended \$284,067,000 for the agency, which is \$7,296,000 less than FY 2011 and \$41,933,000 less than the budget request ([H.R. 2434](#); House Report 112-136).

### FTC Relocation

The Senate appropriations measure would impede efforts in Congress to transfer the FTC's headquarters building to the National Gallery of Art. The proposed "Federal Trade Commission and National Gallery of Art Facility Consolidation, Savings, and Efficiency Act of 2011" ([H.R.](#)

690), introduced in February by House Transportation and Infrastructure Committee Chairman John Mica (Florida), would transfer control of the building at 600 Pennsylvania Avenue, called the Apex Building, to the National Gallery of Art. The FTC would be relocated to another government-owned building in Washington, D.C., under the proposal. More recently, Rep. Mica included provisions calling for the relocation of the FTC and transfer of the 600 Pennsylvania Avenue property to the National Gallery of Art in legislation proposing a “National Women’s History Museum” (H. R. 2844).

In Senate Report 112-79, the Appropriations Committee expressed concern that the transfer of the building would result in taxpayers surrendering a valuable asset without any compensation. Moreover, the government would be required to buy or lease replacement space for a new FTC headquarters, which would require additional federal spending, it was noted.

Thus, the proposed Senate legislation would preclude the conveyance of the FTC headquarters building to the National Gallery or other entity unless the government receives fair market value for the property. The committee directed the FTC and the General Services Administration to keep it apprised of the cost of proposals related to the building at 600 Pennsylvania Avenue.

### **Department of Justice Antitrust Division Appropriations**

The Senate Appropriations Committee approved the financial services appropriations bill on September 15. On the same day, it approved the Commerce, Justice, Science and Related Agencies Appropriations Bill (S. 1572).

In that bill, the committee recommended providing \$159,587,000 in appropriations for the Department of Justice Antitrust Division for FY 2012. The recommendation is \$3,257,000 below the FY 2011 enacted level and \$6,634,000 below the budget request (Senate Report 112-78).

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