



Hart-Scott-Rodino

Obtaining Information to Prepare the Form



THE FORM

- **Three sections**
 - **Transaction description** **pages 1 - 5**
 - **Company information** **pages 6 - 13**
 - **Overlap identification** **pages 13 & 14**

Transaction

- **Main contact - corporate attorney**
 - **request copies of:**
 - **Letter of Intent or Term Sheet**
 - **Draft Agreement**
 - **immediately ask for:**
 - **timeline**
 - **date for signing the agreement**
 - **date for filing HSR (does agreement specify a date)**
 - **anticipated closing date**

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- **Fee information**
 - who is paying
 - are the parties splitting the fee
- **HSR contact for other party**
 - to coordinate the description
 - to compare NAICS codes
 - to discuss shared 4(c) documents

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Company

- **Main contact**
 - **CFO or controller**
 - **will give you revenue and financial information**
 - **will assist in making other contacts**

Item 4(a)

- SEC Documents
 - download from LivEdgar or Edgar database
 - CAUTION - make sure entire page printed
 - FTC can bounce filing if numbers missing
 - request from contact



Item 4(b)

- Annual reports and balance sheets
 - public companies - download from Website
 - private companies - obtain from contact



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Item 4(c)

- Documents prepared by or for officers or directors to evaluate the acquisition
 - (to be discussed by Bruce Prager)

Item 5

- Acquiring person
 - 1997 and current year revenues by NAICS code for operations conducted in the U.S. for entire company
- Acquired person
 - 1997 and current year revenues by NAICS code for stock or assets being acquired

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- TIP

- accountants will say they did not keep information in 1997 by NAICS
 - check their 1997 Census reports
 - obtain prior HSR Form for codes
- if information is in SIC codes
 - can convert using tables in NAICS books

- Need following publications to work with NAICS
 - *North American Industry Classification System - United States, 1997*
 - *Numerical List of Manufactured and Mineral Products (EC97M31R-NL)*
 - check Census Website to purchase the publications

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- TIP

- use company Website for product listing to help determine NAICS codes
- for manufacturing companies
 - request 1997 and current year revenues by 10-digit NAICS
 - allows you to determine adds/deletes
 - can add to 7-digit and 6-digit codes

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- Item 5 is critical to purpose of HSR
 - compare NAICS to determine overlaps
 - overlaps cause careful review by FTC/DOJ

Item 6(a)

- List of names and addresses of all worldwide entities (limited for acquired persons)
 - company database
 - company secretary's office
 - may take time to update
 - must obtain from company - no source of complete information

Item 6(b)

- Shareholders of 5% or more
 - public companies
 - Form 10-K
 - Proxy Statement
 - private companies & not wholly-owned entities
 - request from company (secretary's office)
 - foreign information difficult to obtain

Item 6(c)

- Holdings (investments) of 5% or more but less than 50%
 - often on database at company
 - sometimes weeks to collect
 - foreign difficult to obtain
 - secretary's office is best resource

Overlap

- Must compare NAICS codes with other party
 - in 801.30 transactions review Target Website for product listings or discuss products with controller

Item 7(c)

- Geographic market
 - most reliable source is contact (often sales/marketing department)
 - check company Website for map
 - check Confidential Information Memorandum for map
 - for 7(c)(iv) - address by state, county, city
 - must obtain from company

Item 8

- Prior acquisitions
 - check footnote of audited financial for acquisitions
 - check prior HSRs
 - ask contact
 - ask corporate attorney

- thank goodness FTC removed assets and sales!