

117TH CONGRESS
2^D SESSION

H. R. 3843

[Report No. 117-]

To promote antitrust enforcement and protect competition through adjusting premerger filing fees, and increasing antitrust enforcement resources.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2021

Mr. NEGUSE (for himself, Mrs. SPARTZ, Mr. CICILLINE, Mr. BUCK, Mr. NADLER, and Mr. ROY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER --, 2022

Reported from the Committee on the Judiciary with amendments

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 11, 2021]

A BILL

To promote antitrust enforcement and protect competition through adjusting premerger filing fees, and increasing antitrust enforcement resources.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Merger Filing Fee Mod-*
5 *ernization Act of 2022”.*

6 **SEC. 2. PREMERGER NOTIFICATION FILING FEES.**

7 *Section 605 of Public Law 101–162 (15 U.S.C. 18a*
8 *note) is amended—*

9 *(1) in subsection (b)—*

10 *(A) in paragraph (1)—*

11 *(i) by striking “\$45,000” and inserting*
12 *“\$30,000”;*

13 *(ii) by striking “\$100,000,000” and*
14 *inserting “\$161,500,000”;*

15 *(iii) by striking “2004” and inserting*
16 *“2022”; and*

17 *(iv) by striking “2003” and inserting*
18 *“2021”;*

19 *(B) in paragraph (2)—*

20 *(i) by striking “\$125,000” and insert-*
21 *ing “\$100,000”;*

22 *(ii) by striking “\$100,000,000” and*
23 *inserting “\$161,500,000”;*

24 *(iii) by striking “but less” and insert-*
25 *ing “but is less”; and*

1 *(iv) by striking “and” at the end;*

2 *(C) in paragraph (3)—*

3 *(i) by striking “\$280,000” and insert-*
4 *ing “\$250,000”; and*

5 *(ii) by striking the period at the end*
6 *and inserting “but is less than*
7 *\$1,000,000,000 (as so adjusted and pub-*
8 *lished);”;* and

9 *(D) by adding at the end the following:*

10 *“(4) \$400,000 if the aggregate total amount de-*
11 *termined under section 7A(a)(2) of the Clayton Act*
12 *(15 U.S.C. 18a(a)(2)) is not less than \$1,000,000,000*
13 *(as so adjusted and published) but is less than*
14 *\$2,000,000,000 (as so adjusted and published);*

15 *“(5) \$800,000 if the aggregate total amount de-*
16 *termined under section 7A(a)(2) of the Clayton Act*
17 *(15 U.S.C. 18a(a)(2)) is not less than \$2,000,000,000*
18 *(as so adjusted and published) but is less than*
19 *\$5,000,000,000 (as so adjusted and published); and*

20 *“(6) \$2,250,000 if the aggregate total amount de-*
21 *termined under section 7A(a)(2) of the Clayton Act*
22 *(15 U.S.C. 18a(a)(2)) is not less than \$5,000,000,000*
23 *(as so adjusted and published).”;* and

24 *(2) by adding at the end the following:*

1 “(c)(1) For each fiscal year commencing after Sep-
2 tember 30, 2022, the filing fees in this section shall be in-
3 creased each year by an amount equal to the percentage
4 increase, if any, in the Consumer Price Index, as deter-
5 mined by the Department of Labor or its successor, for the
6 year then ended over the level so established for the year
7 ending September 30, 2021.

8 “(2) As soon as practicable, but not later than Janu-
9 ary 31 of each year, the Federal Trade Commission shall
10 publish the adjusted amounts required by paragraph (1).

11 “(3) The Federal Trade Commission shall not adjust
12 amounts required by paragraph (1) if the percentage in-
13 crease described in paragraph (1) is less than 1 percent.

14 “(4) An amount adjusted under this section shall be
15 rounded to the nearest multiple of \$5,000.

16 “(5) For each fiscal year commencing after September
17 30, 2022, through September 30, 2027, the Federal Trade
18 Commission and Department of Justice shall include in its
19 joint annual report pursuant to the Hart-Scott-Rodino
20 Antitrust Improvements Act of 1976 (15 U.S.C. 18(a) et
21 seq.) the following:

22 “(A) the increase in funds made available to the
23 Federal Trade Commission and the Department of
24 Justice, respectively, through the adjustment in
25 premerger notification filing fees in 15 U.S.C. 18(a)

1 *from the funds made available to the Federal Trade*
2 *Commission and the Department of Justice, respec-*
3 *tively, from premerger notification filing fees as the*
4 *fees were determined in fiscal year 2021;*

5 *“(B) the total revenue derived from premerger*
6 *notification filing fees, by tier, and how such revenue*
7 *is used by the Federal Trade Commission and the De-*
8 *partment of Justice, respectively; and*

9 *“(C) the gross cost of operations of the Federal*
10 *Trade Commission and the Department of Justice, re-*
11 *spectively, associated with activities related to the use*
12 *of revenue derived from premerger notification filing*
13 *fees.*

14 *“(6) The Federal Trade Commission shall report, in*
15 *addition to the requirements listed in paragraph (5), a list-*
16 *ing of all cases where the Federal Trade Commission took*
17 *or declined to take action on a 3 to 2 vote and what percent-*
18 *age of actions of the Federal Trade Commission were de-*
19 *cided on a 3 to 2 vote.*

20 *“(7) The Federal Trade Commission and the Depart-*
21 *ment of Justice shall make the joint annual report pursuant*
22 *to the Hart-Scott-Rodino Antitrust Improvements Act of*
23 *1976 (15 U.S.C. 18(a) et seq.) available to the Senate Com-*
24 *mittee on the Judiciary and the House Committee on the*
25 *Judiciary and shall, for fiscal years 2022 through 2027,*

1 *no later than July 1, present a summary of the joint annual*
2 *report for the preceding fiscal year, including the informa-*
3 *tion required in paragraph (5) and (6) of this Act, to the*
4 *Senate Committee on the Judiciary and the House Com-*
5 *mittee on the Judiciary.*

6 “(8) *None of the funds collected by the Federal Trade*
7 *Commission from premerger notification filing fees under*
8 *15 U.S.C. 18(a) and allocated by the Federal Trade Com-*
9 *mission shall be available for obligation or expenditure by*
10 *the Federal Trade Commission and the Department of Jus-*
11 *tice in excess of the amounts appropriated by Congress for*
12 *spending authority from offsetting collections, including*
13 *premerger notification filings under the Hart-Scott Rodino*
14 *Antitrust Improvements Act of 1976.”*

15 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

16 *There is authorized to be appropriated for fiscal year*
17 *2022—*

18 (1) *\$252,000,000 for the Antitrust Division of*
19 *the Department of Justice; and*

20 (2) *\$418,000,000 for the Federal Trade Commis-*
21 *sion.*

Amend the title so as to read: “A bill to protect competition and promote antitrust enforcement by adjusting premerger filing fees to increase antitrust enforcement resources.”