

Abandonment of Merger Highlights Potential Antitrust Scrutiny of Transactions Not Subject to Premerger Review

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On June 9, the Federal Trade Commission (the "FTC" or "Commission") issued statements regarding the announcement by Endocare, Inc. that it was terminating its proposed merger with Galil Ltd. in the midst of the Commission's investigation of that merger. The transaction was not reportable under the Hart-Scott-Rodino Act (the "HSR Act"), and yet the parties appear to have received subpoenas from the FTC seeking information not unlike that typically sought by a "second request." The investigation appears to have continued for a period of approximately six months before Endocare announced that it was terminating the proposed merger.