



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

November 6, 2014

**H.R. 5402  
Standard Merger and Acquisition Reviews Through  
Equal Rules Act of 2014**

*As ordered reported by the House Committee on the Judiciary on September 10, 2014*

CBO estimates that implementing H.R. 5402 would not significantly affect discretionary spending. Enacting H.R. 5402 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Under current law, both the Federal Trade Commission (FTC) and the Department of Justice (DOJ) enforce federal antitrust laws, though in some instances, the manner in which that authority is exercised is different in the two agencies. H.R. 5402 would amend the Clayton Act and the Federal Trade Commission Act to align certain procedures followed by the FTC to review a proposed merger or acquisition with those followed by DOJ.

Specifically, the bill would:

- Harmonize the standard each agency must meet before a federal court can issue a preliminary injunction against a proposed transaction;
- Direct the FTC to resolve a contested merger or acquisition through a federal court rather than through administrative litigation; and
- In cases where the FTC and the parties reach an agreement that allows the merger or acquisition to proceed, require the agency to submit the agreement to the federal court for its approval.

CBO expects that the FTC's efforts to prepare for and litigate a contested merger in federal court using the new standard specified in H.R. 5402 would not require a significant increase in staffing levels. Over the past five years, the FTC has filed 6 preliminary injunctions in federal court. Based on information from the agency, CBO expects that volume to remain relatively constant over the next five years.

Similarly, the FTC approved, on average, fewer than 15 agreements related to proposed mergers over each of the past five years. Under H.R. 5402, those agreements would be considered by the federal courts rather than the FTC under similar, though not identical, procedures. Taking into account the small number of agreements sought each year and the fact that the FTC follows procedures similar to those required in H.R. 5402, we estimate the increased workloads resulting from the new requirement would have an insignificant effect on the FTC's staffing levels and on the workload of the federal courts.

H.R. 5402 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.