



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 16, 2015

H.R. 2745 **Standard Merger and Acquisition Reviews Through** **Equal Rules Act of 2015**

As ordered reported by the House Committee on the Judiciary on September 30, 2015

CBO estimates that implementing H.R. 2745 would not have a significant effect on discretionary spending. Enacting H.R. 2745 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2745 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

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 the two agencies exercise that authority is different. H.R. 2745 would amend the Clayton Act and the Federal Trade Commission Act to align certain procedures followed by the FTC when it reviews a proposed merger or acquisition with the procedures 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; and
- Direct the FTC to resolve certain contested mergers or acquisitions through a federal court rather than through administrative litigation.

CBO expects that the FTC's efforts to prepare for and litigate a contested merger in federal court using the harmonized standard specified in H.R. 2745 would not require a significant increase in staffing levels. Over the past five years, the FTC has filed eight 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 the past five years. Under H.R. 2745, 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. 2745, CBO estimates 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. 2745 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 H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.