EXECUTIVE ORDER NO. 12022

Ex. Ord. No. 12022, Dec. 1, 1977, 42 F.R. 61441, as amended by Ex. Ord. No. 12052, Apr. 7, 1978, 43 F.R. 15133, which related to the National Commission for the Review of Antitrust Laws and Procedures, was revoked by Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

ANTITRUST ACTS AND LAWS DEFINED IN OTHER SECTIONS

Antitrust acts and laws are defined in sections 12, 44, 1311, 1802, 3301, 3503, 4002, 4021, 4301, 6211 of this title; title 10 section 7430; title 12 sections 1828, 1831u, 1841, 1849; title 16 section 2602; title 17 section 109; title 28 section 1407; title 30 sections 184, 1413; title 33 section 1502; title 40 section 488; title 42 sections 5417, 5909, 6202, 8235f, 9102; title 43 sections 1331, 1770; title 45 section 791; title 46 App. section 1702; title 49 sections 10706, 41308; title 50 App. sections 1941a, 2158.

§ 1. Trusts, etc., in restraint of trade illegal; penalty

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.

(July 2, 1890, ch. 647, § 1, 26 Stat. 209; Aug. 17, 1937, ch. 690, title VIII, 50 Stat. 693; July 7, 1955, ch. 281, 69 Stat. 282; Pub. L. 93–528, § 3, Dec. 21, 1974, 88 Stat. 1708; Pub. L. 94–145, § 2, Dec. 12, 1975, 89 Stat. 801; Pub. L. 101–588, § 4(a), Nov. 16, 1990, 104 Stat. 2880.)

AMENDMENTS

1990—Pub. L. 101–588 substituted ''$10,000,000'' for ''one million dollars'' and ''$350,000'' for ''one hundred thousand dollars''.

1975—Pub. L. 94–145 struck out from first sentence two provisos granting anti-trust exemption to State fair trade laws.

1974—Pub. L. 93–528 substituted ''a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years'' for ''a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year''.

1955—Act July 7, 1955, substituted ''fifty thousand dollars'' for ''five thousand dollars''.

1937—Act Aug. 17, 1937, inserted two provisos.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 4 of Pub. L. 94–145 provided that: ''The amendments made by sections 2 and 3 of this Act [amending this section and section 45 of this title] shall take effect upon the expiration of the ninety-day period which begins on the date of enactment of this Act [Dec. 12, 1975].''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–297, § 1, Oct. 27, 1998, 112 Stat. 2824, provided that: ''This Act [enacting section 27a of this title and provisions set out as a note under section 27a of this title] may be cited as the 'Curt Flood Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENTS

Pub. L. 105–43, § 1, Sept. 17, 1997, 111 Stat. 1140, provided that: ''This Act [enacting and amending provisions set out as notes below] may be cited as the 'Need-Based Educational Aid Antitrust Protection Act of 1997'.''

Pub. L. 105–26, § 1, July 3, 1997, 111 Stat. 241, provided that: ''This Act [amending sections 37 and 37a of this title and enacting provisions set out as notes under section 37 of this title] may be cited as the 'Charitable Donation Antitrust Immunity Act of 1997'.''

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–63, § 1, Dec. 8, 1995, 109 Stat. 687, provided that: ''This Act [enacting sections 37 and 37a of this title and provisions set out as a note under section 37 of this title] may be cited as the 'Charitable Gift Annuity Antitrust Relief Act of 1995'.''

SHORT TITLE OF 1990 AMENDMENT

Section 1 of Pub. L. 101–588 provided: ''That this Act [amending this section and sections 2, 3, 15a, and 19 of this title and repealing section 20 of this title] may be cited as the 'Antitrust Amendments Act of 1990'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–544, § 1, Oct. 24, 1984, 98 Stat. 2750, provided: ''That this Act [enacting sections 34 to 36 of this title and provisions set out as a note under section 34 of this title] may be cited as the 'Local Government Antitrust Act of 1984'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–290, title IV, § 401, Oct. 8, 1982, 96 Stat. 1246, provided that: ''This title [enacting section 6a of this title and amending section 45 of this title] may be cited as the 'Foreign Trade Antitrust Improvements Act of 1982'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–493, § 1, Dec. 2, 1980, 94 Stat. 2568, provided: ''That this Act [enacting section 26a of this title] may be cited as the 'Gasohol Competition Act of 1980'.''

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94–435, Sept. 30, 1976, 90 Stat. 1383, provided: ''That this Act [enacting sections 15c to 15h, 18a, and 66 of this title, amending sections 12, 15b, 16, 26, and 1311 to 1314 of this title, section 1505 of Title 18, Crimes and Criminal Procedure, and section 1407 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under sections 8, 15c, 18a, and 1311 of this title] may be cited as the 'Hart-Scott-Rodino Antitrust Improvements Act of 1976'.''

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–145 provided: ''That this Act [amending this section and section 45 of this title and enacting provisions set out as a note under this section] may be cited as the 'Consumer Goods Pricing Act of 1975'.''

SHORT TITLE OF 1974 AMENDMENT

Section 1 of Pub. L. 93–528 provided: ''That this Act [amending this section and section 2, 3, 16, 28, and 29 of this title, section 401 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and sections 43, 44, and 45 of former Title 49, Transportation, and enacting provisions set out as notes under this section and section 29 of this title] may be cited as the 'Antitrust Procedures and Penalties Act'.''

SHORT TITLE

Pub. L. 94–435, title III, § 305(a), Sept. 30, 1976, 90 Stat. 1397, added immediately following the enacting clause of act July 2, 1890, the following: ''That this Act [this section and sections 2 to 7 of this title] may be cited as the 'Sherman Act'.''

YEAR 2000 INFORMATION AND READINESS DISCLOSURE

Pub. L. 105–271, Oct. 19, 1998, 112 Stat. 2386, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Year 2000 Information and Readiness Disclosure Act'.

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds the following:

''(1)(A) At least thousands but possibly millions of information technology computer systems, software programs, and semiconductors are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process those dates.

''(B) The problem described in subparagraph (A) and resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, government, and safety and defense systems, in the United States and throughout the world.

''(C) Reprogramming or replacing affected systems before the problem incapacitates essential systems is a matter of national and global interest.

''(2) The prompt, candid, and thorough disclosure and exchange of information related to year 2000 readiness of entities, products, and services—

''(A) would greatly enhance the ability of public and private entities to improve their year 2000 readiness; and

''(B) is therefore a matter of national importance and a vital factor in minimizing any potential year 2000 related disruption to the Nation's economic well-being and security.

''(3) Concern about the potential for legal liability associated with the disclosure and exchange of year 2000 readiness information is impeding the disclosure and exchange of such information.

''(4) The capability to freely disseminate and exchange information relating to year 2000 readiness, solutions, test practices and test results, with the public and other entities without undue concern about litigation is critical to the ability of public and private entities to address year 2000 needs in a timely manner.

''(5) The national interest will be served by uniform legal standards in connection with the disclosure and exchange of year 2000 readiness information that will promote disclosures and exchanges of such information in a timely fashion.

''(b) PURPOSES.—Based upon the powers contained in article I, section 8, clause 3 of the Constitution of the United States, the purposes of this Act are—

''(1) to promote the free disclosure and exchange of information related to year 2000 readiness;

''(2) to assist consumers, small businesses, and local governments in effectively and rapidly responding to year 2000 problems; and

''(3) to lessen burdens on interstate commerce by establishing certain uniform legal principles in connection with the disclosure and exchange of information related to year 2000 readiness.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ANTITRUST LAWS.—The term 'antitrust laws'—

''(A) has the meaning given to it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

''(B) includes any State law similar to the laws referred to in subparagraph (A).

''(2) CONSUMER.—The term 'consumer' means an individual who acquires a consumer product for purposes other than resale.

''(3) CONSUMER PRODUCT.—The term 'consumer product' means any personal property or service which is normally used for personal, family, or household purposes.

''(4) COVERED ACTION.—The term 'covered action' means a civil action of any kind, whether arising under Federal or State law, except for an action brought by a Federal, State, or other public entity, agency, or authority acting in a regulatory, supervisory, or enforcement capacity.

''(5) MAKER.—The term 'maker' means each person or entity, including the United States or a State or political subdivision thereof, that—

''(A) issues or publishes any year 2000 statement;

''(B) develops or prepares any year 2000 statement; or

''(C) assists in, contributes to, or reviews, reports or comments on during, or approves, or otherwise takes part in the preparing, developing, issuing, approving, or publishing of any year 2000 statement.

''(6) REPUBLICATION.—The term 'republication' means any repetition, in whole or in part, of a year 2000 statement originally made by another.

''(7) YEAR 2000 INTERNET WEBSITE.—The term 'year 2000 Internet website' means an Internet website or other similar electronically accessible service, clearly designated on the website or service by the person or entity creating or controlling the content of the website or service as an area where year 2000 statements concerning that person or entity are posted or otherwise made accessible to the general public.

''(8) YEAR 2000 PROCESSING.—The term 'year 2000 processing' means the processing (including calculating, comparing, sequencing, displaying, or storing), transmitting, or receiving of date data from, into, and between the 20th and 21st centuries, and during the years 1999 and 2000, and leap year calculations.

''(9) YEAR 2000 READINESS DISCLOSURE.—The term 'year 2000 readiness disclosure' means any written year 2000 statement—

''(A) clearly identified on its face as a year 2000 readiness disclosure;

''(B) inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form; and

''(C) issued or published by or with the approval of a person or entity with respect to year 2000 processing of that person or entity or of products or services offered by that person or entity.

''(10) YEAR 2000 REMEDIATION PRODUCT OR SERVICE.—The term 'year 2000 remediation product or service' means a software program or service licensed, sold, or rendered by a person or entity and specifically designed to detect or correct year 2000 processing problems with respect to systems, products, or services manufactured or rendered by another person or entity.

''(11) YEAR 2000 STATEMENT.—

''(A) IN GENERAL.—The term 'year 2000 statement' means any communication or other conveyance of information by a party to another or to the public, in any form or medium—

''(i) concerning an assessment, projection, or estimate concerning year 2000 processing capabilities of an entity, product, service, or set of products and services;

''(ii) concerning plans, objectives, or timetables for implementing or verifying the year 2000 processing capabilities of an entity, product, service, or set of products and services;

''(iii) concerning test plans, test dates, test results, or operational problems or solutions related to year 2000 processing by—

''(I) products; or

''(II) services that incorporate or utilize products; or

''(iv) reviewing, commenting on, or otherwise directly or indirectly relating to year 2000 processing capabilities.

''(B) NOT INCLUDED.—For the purposes of any action brought under the securities laws, as that term is defined in section 3(a)(47) of the Securities Ex-

change Act of 1934 (15 U.S.C. 78c(a)(47)), the term 'year 2000 statement' does not include statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(i) [78*l*(i)]), or disclosures or writing that when made accompanied the solicitation of an offer or sale of securities.

''SEC. 4. PROTECTION FOR YEAR 2000 STATEMENTS.

''(a) EVIDENCE EXCLUSION.—No year 2000 readiness disclosure, in whole or in part, shall be admissible against the maker of that disclosure to prove the accuracy or truth of any year 2000 statement set forth in that disclosure, in any covered action brought by another party except that—

''(1) a year 2000 readiness disclosure may be admissible to serve as the basis for a claim for anticipatory breach, or repudiation of a contract, or a similar claim against the maker, to the extent provided by applicable law; and

''(2) the court in any covered action shall have discretion to limit application of this subsection in any case in which the court determines that the maker's use of the year 2000 readiness disclosure amounts to bad faith or fraud, or is otherwise beyond what is reasonable to achieve the purposes of this Act.

''(b) FALSE, MISLEADING AND INACCURATE YEAR 2000 STATEMENTS.—Except as provided in subsection (c), in any covered action, to the extent that such action is based on an allegedly false, inaccurate, or misleading year 2000 statement, the maker of that year 2000 statement shall not be liable under Federal or State law with respect to that year 2000 statement unless the claimant establishes, in addition to all other requisite elements of the applicable action, by clear and convincing evidence, that—

''(1) the year 2000 statement was material; and

''(2)(A) to the extent the year 2000 statement was not a republication, that the maker made the year 2000 statement—

''(i) with actual knowledge that the year 2000 statement was false, inaccurate, or misleading;

''(ii) with intent to deceive or mislead; or

''(iii) with a reckless disregard as to the accuracy of the year 2000 statement; or

''(B) to the extent the year 2000 statement was a republication, that the maker of the republication made the year 2000 statement—

''(i) with actual knowledge that the year 2000 statement was false, inaccurate, or misleading;

''(ii) with intent to deceive or mislead; or

''(iii) without notice in that year 2000 statement that—

''(I) the maker has not verified the contents of the republication; or

''(II) the maker is not the source of the republication and the republication is based on information supplied by another person or entity identified in that year 2000 statement or republication.

''(c) DEFAMATION OR SIMILAR CLAIMS.—In a covered action arising under any Federal or State law of defamation, trade disparagement, or a similar claim, to the extent such action is based on an allegedly false, inaccurate, or misleading year 2000 statement, the maker of that year 2000 statement shall not be liable with respect to that year 2000 statement, unless the claimant establishes by clear and convincing evidence, in addition to all other requisite elements of the applicable action, that the year 2000 statement was made with knowledge that the year 2000 statement was false or made with reckless disregard as to its truth or falsity.

''(d) YEAR 2000 INTERNET WEBSITE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in any covered action other than a covered action involving personal injury or serious physical damage to property, in which the adequacy of notice about year 2000 processing is at issue, the posting, in a commercially reasonable manner and for a commercially reasonable duration, of a notice by the entity charged with giving such notice on the year 2000 Internet website of that entity shall be deemed an adequate mechanism for providing that notice.

''(2) EXCEPTION.—Paragraph (1) shall not apply if the court finds that the use of the mechanism of notice—

''(A) is contrary to express prior representations regarding the mechanism of notice made by the party giving notice;

''(B) is materially inconsistent with the regular course of dealing between the parties; or

''(C) occurs where there have been no prior representations regarding the mechanism of notice, no regular course of dealing exists between the parties, and actual notice is clearly the most commercially reasonable means of providing notice.

''(3) CONSTRUCTION.—Nothing in this subsection shall—

''(A) alter or amend any Federal or State statute or regulation requiring that notice about year 2000 processing be provided using a different mechanism;

''(B) create a duty to provide notice about year 2000 processing;

''(C) preclude or suggest the use of any other medium for notice about year 2000 processing or require the use of an Internet website; or

''(D) mandate the content or timing of any notices about year 2000 processing.

''(e) LIMITATION ON EFFECT OF YEAR 2000 STATEMENTS.—

''(1) IN GENERAL.—In any covered action, a year 2000 statement shall not be interpreted or construed as an amendment to or alteration of a contract or warranty, whether entered into by or approved for a public or private entity.

''(2) NOT APPLICABLE.—

''(A) IN GENERAL.—This subsection shall not apply—

''(i) to the extent the party whose year 2000 statement is alleged to have amended or altered a contract or warranty has otherwise agreed in writing to so alter or amend the contract or warranty;

''(ii) to a year 2000 statement made in conjunction with the formation of the contract or warranty; or

''(iii) if the contract or warranty specifically provides for its amendment or alteration through the making of a year 2000 statement.

''(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall affect applicable Federal or State law in effect as of the date of enactment of this Act [Oct. 19, 1998] with respect to determining the extent to which a year 2000 statement affects a contract or warranty.

''(f) SPECIAL DATA GATHERING.—

''(1) IN GENERAL.—A Federal entity, agency, or authority may expressly designate a request for the voluntary provision of information relating to year 2000 processing, including year 2000 statements, as a special year 2000 data gathering request made pursuant to this subsection.

''(2) SPECIFICS.—A special year 2000 data gathering request made under this subsection shall specify a Federal entity, agency, or authority, or, with its consent, another public or private entity, agency, or authority, to gather responses to the request.

''(3) PROTECTIONS.—Except with the express consent or permission of the provider of information described in paragraph (1), any year 2000 statements or other such information provided by a party in response to a special year 2000 data gathering request made under this subsection—

''(A) shall be exempt from disclosure under subsection (b)(4) of section 552 of title 5, United States Code, commonly known as the 'Freedom of Information Act';

''(B) shall not be disclosed to any third party; and

''(C) may not be used by any Federal entity, agency, or authority or by any third party, directly or indirectly, in any civil action arising under any Federal or State law.

''(4) EXCEPTIONS.—

''(A) INFORMATION OBTAINED ELSEWHERE.—Nothing in this subsection shall preclude a Federal entity, agency, or authority, or any third party, from separately obtaining the information submitted in response to a request under this subsection through the use of independent legal authorities, and using such separately obtained information in any action.

''(B) VOLUNTARY DISCLOSURE.—A restriction on use or disclosure of information under this subsection shall not apply to any information disclosed to the public with the express consent of the party responding to a special year 2000 data gathering request or disclosed by such party separately from a response to a special year 2000 data gathering request.

''SEC. 5. TEMPORARY ANTITRUST EXEMPTION.

''(a) EXEMPTION.—Except as provided in subsection (b), the antitrust laws shall not apply to conduct engaged in, including making and implementing an agreement, solely for the purpose of and limited to—

''(1) facilitating responses intended to correct or avoid a failure of year 2000 processing in a computer system, in a component of a computer system, in a computer program or software, or services utilizing any such system, component, program, or hardware; or

''(2) communicating or disclosing information to help correct or avoid the effects of year 2000 processing failure[.]

''(b) APPLICABILITY.—Subsection (a) shall apply only to conduct that occurs, or an agreement that is made and implemented, after the date of enactment of this Act [Oct. 19, 1998] and before July 14, 2001.

''(c) EXCEPTION TO EXEMPTION.—Subsection (a) shall not apply with respect to conduct that involves or results in an agreement to boycott any person, to allocate a market, or to fix prices or output.

''(d) RULE OF CONSTRUCTION.—The exemption granted by this section shall be construed narrowly.

''SEC. 6. EXCLUSIONS.

''(a) EFFECT ON INFORMATION DISCLOSURE.—This Act does not affect, abrogate, amend, or alter the authority of a Federal or State entity, agency, or authority to enforce a requirement to provide or disclose, or not to provide or disclose, information under a Federal or State statute or regulation or to enforce such statute or regulation.

''(b) CONTRACTS AND OTHER CLAIMS.—

''(1) IN GENERAL.—Except as may be otherwise provided in subsections (a) and (e) of section 4, this Act does not affect, abrogate, amend, or alter any right established by contract or tariff between any person or entity, whether entered into by a public or private person or entity, under any Federal or State law.

''(2) OTHER CLAIMS.—

''(A) IN GENERAL.—In any covered action brought by a consumer, this Act does not apply to a year 2000 statement expressly made in a solicitation, including an advertisement or offer to sell, to that consumer by a seller, manufacturer, or provider of a consumer product.

''(B) SPECIFIC NOTICE REQUIRED.—In any covered action, this Act shall not apply to a year 2000 statement, concerning a year 2000 remediation product or service, expressly made in an offer to sell or in a solicitation (including an advertisement) by a seller, manufacturer, or provider, of that product or service unless, during the course of the offer or solicitation, the party making the offer or solicitation provides the following notice in accordance with section 4(d):

''‘Statements made to you in the course of this sale are subject to the Year 2000 Information and Readiness Disclosure Act (___ U.S.C. ___). In the case of a dispute, this Act may reduce your legal rights regarding the use of any such statements, unless otherwise specified by your contract or tariff.’

''(3) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to preclude any claims that are not based exclusively on year 2000 statements.

''(c) DUTY OR STANDARD OF CARE.—

''(1) IN GENERAL.—This Act shall not impose upon the maker of any year 2000 statement any more stringent obligation, duty, or standard of care than is otherwise applicable under any other Federal law or State law.

''(2) ADDITIONAL DISCLOSURE.—This Act does not preclude any party from making or providing any additional disclosure, disclaimer, or similar provisions in connection with any year 2000 readiness disclosure or year 2000 statement.

''(3) DUTY OF CARE.—This Act shall not be deemed to alter any standard or duty of care owed by a fiduciary, as defined or determined by applicable Federal or State law.

''(d) INTELLECTUAL PROPERTY RIGHTS.—This Act does not affect, abrogate, amend, or alter any right in a patent, copyright, semiconductor mask work, trade secret, trade name, trademark, or service mark, under any Federal or State law.

''(e) INJUNCTIVE RELIEF.—Nothing in this Act shall be deemed to preclude a claimant from seeking injunctive relief with respect to a year 2000 statement.

''SEC. 7. APPLICABILITY.

''(a) EFFECTIVE DATE.—

''(1) IN GENERAL.—Except as otherwise provided in this section, this Act shall become effective on the date of enactment of this Act [Oct. 19, 1998].

''(2) APPLICATION TO LAWSUITS PENDING.—This Act shall not affect or apply to any lawsuit pending on July 14, 1998.

''(3) APPLICATION TO STATEMENTS AND DISCLOSURES.—Except as provided in subsection (b)—

''(A) this Act shall apply to any year 2000 statement made beginning on July 14, 1998 and ending on July 14, 2001; and

''(B) this Act shall apply to any year 2000 readiness disclosure made beginning on the date of enactment of this Act and ending on July 14, 2001.

''(b) PREVIOUSLY MADE READINESS DISCLOSURE.—

''(1) IN GENERAL.—For the purposes of section 4(a), a person or entity that issued or published a year 2000 statement after January 1, 1996, and before the date of enactment of this Act [Oct. 19, 1998], may designate that year 2000 statement as a year 2000 readiness disclosure if—

''(A) the year 2000 statement complied with the requirements of section 3(9) when made, other than being clearly designated on its face as a disclosure; and

''(B) within 45 days after the date of enactment of this Act, the person or entity seeking the designation—

''(i) provides individual notice that meets the requirements of paragraph (2) to all recipients of the applicable year 2000 statement; or

''(ii) prominently posts notice that meets the requirements of paragraph (2) on its year 2000 Internet website, commencing prior to the end of the 45-day period under this subparagraph and extending for a minimum of 45 consecutive days and also uses the same method of notification used to originally provide the applicable year 2000 statement.

''(2) REQUIREMENTS.—A notice under paragraph (1)(B) shall—

''(A) state that the year 2000 statement that is the subject of the notice is being designated a year 2000 readiness disclosure; and

''(B) include a copy of the year 2000 statement with a legend labeling the statement as a ‘Year 2000 Readiness Disclosure’.

''(c) EXCEPTION.—No designation of a year 2000 statement as a year 2000 readiness disclosure under subsection (b) shall apply with respect to any person or entity that—

''(1) proves, by clear and convincing evidence, that it relied on the year 2000 statement prior to the receipt of notice described in subsection (b)(1)(B) and it would be prejudiced by the retroactive designation of the year 2000 statement as a year 2000 readiness disclosure; and

''(2) provides to the person or entity seeking the designation a written notice objecting to the designation within 45 days after receipt of individual notice under subsection (b)(1)(B)(i), or within 180 days after the date of enactment of this Act [Oct. 19, 1998], in the case of notice provided under subsection (b)(1)(B)(ii).

''SEC. 8. YEAR 2000 COUNCIL WORKING GROUPS.

''(a) IN GENERAL.—

''(1) WORKING GROUPS.—The President's Year 2000 Council (referred to in this section as the 'Council') may establish and terminate working groups composed of Federal employees who will engage outside organizations in discussions to address the year 2000 problems identified in section 2(a)(1) to share information related to year 2000 readiness, and otherwise to serve the purposes of this Act.

''(2) LIST OF GROUPS.—The Council shall maintain and make available to the public a printed and electronic list of the working groups, the members of each working group, and a point of contact, together with an address, telephone number, and electronic mail address for the point of contact, for each working group created under this section.

''(3) BALANCE.—The Council shall seek to achieve a balance of participation and representation among the working groups.

''(4) ATTENDANCE.—The Council shall maintain and make available to the public a printed and electronic list of working group members who attend each meeting of a working group as well as any other individuals or organizations participating in each meeting.

''(5) MEETINGS.—Each meeting of a working group shall be announced in advance in accordance with procedures established by the Council. The Council shall encourage working groups to hold meetings open to the public to the extent feasible and consistent with the activities of the Council and the purposes of this Act.

''(b) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working groups established under this section.

''(c) PRIVATE RIGHT OF ACTION.—This section creates no private right of action to sue for enforcement of the provisions of this section.

''(d) EXPIRATION.—The authority conferred by this section shall expire on December 31, 2000.

''SEC. 9. NATIONAL INFORMATION CLEARINGHOUSE AND WEBSITE.

''(a) NATIONAL WEBSITE.—

''(1) IN GENERAL.—The Administrator of General Services shall create and maintain until July 14, 2002, a national year 2000 website, and promote its availability, designed to assist consumers, small business, and local governments in obtaining information from other governmental websites, hotlines, or information clearinghouses about year 2000 processing of computers, systems, products, and services, including websites maintained by independent agencies and other departments.

''(2) CONSULTATION.—In creating the national year 2000 website, the Administrator of General Services shall consult with—

''(A) the Director of the Office of Management and Budget;

''(B) the Administrator of the Small Business Administration;

''(C) the Consumer Product Safety Commission;

''(D) officials of State and local governments;

''(E) the Director of the National Institute of Standards and Technology;

''(F) representatives of consumer and industry groups; and

''(G) representatives of other entities, as determined appropriate.

''(b) REPORT.—The Administrator of General Services shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives [now Committee on Government Reform of House of Representatives] not later than 60 days after the date of enactment of this Act [Oct. 19, 1998] regarding planning to comply with the requirements of this section.''

APPLICATION OF ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID

Pub. L. 103–382, title V, § 568(a)–(d), Oct. 20, 1994, 108 Stat. 4060, 4061, as amended by Pub. L. 105–43, § 2(a), Sept. 17, 1997, 111 Stat. 1140; Pub. L. 105–244, title I, § 102(a)(3), Oct. 7, 1998, 112 Stat. 1618, provided that:

''(a) EXEMPTION.—It shall not be unlawful under the antitrust laws for 2 or more institutions of higher education at which all students admitted are admitted on a need-blind basis, to agree or attempt to agree—

''(1) to award such students financial aid only on the basis of demonstrated financial need for such aid;

''(2) to use common principles of analysis for determining the need of such students for financial aid if the agreement to use such principles does not restrict financial aid officers at such institutions in their exercising independent professional judgment with respect to individual applicants for such financial aid;

''(3) to use a common aid application form for need-based financial aid for such students if the agreement to use such form does not restrict such institutions in their requesting from such students, or in their using, data in addition to the data requested on such form; or

''(4) to exchange through an independent third party, before awarding need-based financial aid to any of such students who is commonly admitted to the institutions of higher education involved, data submitted by the student so admitted, the student's family, or a financial institution on behalf of the student or the student's family relating to assets, liabilities, income, expenses, the number of family members, and the number of the student's siblings in college, if each of such institutions of higher education is permitted to retrieve such data only once with respect to the student.

''(b) LIMITATIONS.—Subsection (a) shall not apply with respect to—

''(1) any financial aid or assistance authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); or

''(2) any contract, combination, or conspiracy with respect to the amount or terms of any prospective financial aid award to a specific individual.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'alien' has the meaning given such term in section 101(3) [101(a)(3)] of the Immigration and Nationality Act (8 U.S.C. 1101(3) [1101(a)(3)]);

''(2) the term 'antitrust laws' has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition;

''(3) the term 'institution of higher education' has the meaning given such term in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001];

''(4) the term 'lawfully admitted for permanent residence' has the meaning given such term in section 101(20) [101(a)(20)] of the Immigration and Nationality Act (8 U.S.C. 1101(20) [1101(a)(20)]);

''(5) the term 'national of the United States' has the meaning given such term in section 101(22)

[101(a)(22)] of the Immigration and Nationality Act (8 U.S.C. 1101(22) [1101(a)(22)]);

''(6) the term 'on a need-blind basis' means without regard to the financial circumstances of the student involved or the student's family; and

''(7) the term 'student' means, with respect to an institution of higher education, a national of the United States or an alien admitted for permanent residence who is admitted to attend an undergraduate program at such institution on a full-time basis.

''(d) EXPIRATION.—Subsection (a) shall expire on September 30, 2001.''

[Pub. L. 105–43, § 2(b), Sept. 17, 1997, 111 Stat. 1140, provided that: ''The amendments made by subsection (a) [amending section 568(a)–(d) of Pub. L. 103–382, set out above] shall take effect immediately before September 30, 1997.'']

SHERMAN ACT REFERRED TO IN OTHER SECTIONS

The Sherman Act [15 U.S.C. 1 to 7] is referred to in sections 12, 15c, 15d, 29, 30, 31, 44, 62, 1012, 1013, 3301, 3503 of this title; title 7 section 225; title 10 section 7430; title 12 sections 1828, 1849; title 16 section 2602; title 30 sections 184, 1413; title 40 section 488; title 42 sections 2135, 5417, 5909, 6202, 8235f, 9102; title 43 sections 970, 1331, 1770; title 45 section 791; title 46 App. section 1702; title 49 section 10706; title 50 App. sections 1941a, 2158.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4, 6, 6a, 7, 18a of this title.

§ 2. Monopolizing trade a felony; penalty

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.

(July 2, 1890, ch. 647, § 2, 26 Stat. 209; July 7, 1955, ch. 281, 69 Stat. 282; Pub. L. 93–528, § 3, Dec. 21, 1974, 88 Stat. 1708; Pub. L. 101–588, § 4(b), Nov. 16, 1990, 104 Stat. 2880.)

AMENDMENTS

1990—Pub. L. 101–588 substituted ''$10,000,000'' for ''one million dollars'' and ''$350,000'' for ''one hundred thousand dollars''.

1974—Pub. L. 93–528 substituted ''a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years'' for ''a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year''.

1955—Act July 7, 1955, substituted ''fifty thousand dollars'' for ''five thousand dollars''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 18a of this title; title 12 section 1849.

§ 3. Trusts in Territories or District of Columbia illegal; combination a felony

Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or both said punishments, in the discretion of the court.

(July 2, 1890, ch. 647, § 3, 26 Stat. 209; July 7, 1955, ch. 281, 69 Stat. 282; Pub. L. 93–528, § 3, Dec. 21, 1974, 88 Stat. 1708; Pub. L. 101–588, § 4(c), Nov. 16, 1990, 104 Stat. 2880.)

AMENDMENTS

1990—Pub. L. 101–588 substituted ''$10,000,000'' for ''one million dollars'' and ''$350,000'' for ''one hundred thousand dollars''.

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1955—Act July 7, 1955, substituted ''fifty thousand dollars'' for ''five thousand''.

§ 4. Jurisdiction of courts; duty of United States attorneys; procedure

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

(July 2, 1890, ch. 647, § 4, 26 Stat. 209; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CODIFICATION

Act Mar. 3, 1911, vested jurisdiction in ''district'' courts, instead of ''circuit'' courts.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorneys'' for ''district attorneys of the United States''. See section 541 et seq. of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5 of this title.

§ 5. Bringing in additional parties

Whenever it shall appear to the court before which any proceeding under section 4 of this