

SUBCHAPTER VI—GENERAL PROVISIONS

§§ 4271 to 4278. Repealed. Pub. L. 102-555, § 4, Oct. 28, 1992, 106 Stat. 4166

Section 4271, Pub. L. 98-365, title VI, § 601, July 17, 1984, 98 Stat. 463, related to nondiscriminatory availability of unenhanced data and public availability of terms and conditions for data sales.

Section 4272, Pub. L. 98-365, title VI, § 602, July 17, 1984, 98 Stat. 463; Pub. L. 102-567, title I, § 114(c), Oct. 29, 1992, 106 Stat. 4279, provided for archiving of land remote-sensing data.

Section 4273, Pub. L. 98-365, title VI, § 603, July 17, 1984, 98 Stat. 464; Pub. L. 100-147, title III, § 308, Oct. 30, 1987, 101 Stat. 877, related to nonreproduction of unenhanced data.

Section 4274, Pub. L. 98-365, title VI, § 604, July 17, 1984, 98 Stat. 464, related to reimbursement of Federal agencies for assistance to remote-sensing system operators.

Section 4275, Pub. L. 98-365, title VI, § 605, July 17, 1984, 98 Stat. 464, related to acquisition of equipment from Landsat system.

Section 4276, Pub. L. 98-365, title VI, § 606, July 17, 1984, 98 Stat. 465, related to radio frequency allocation.

Section 4277, Pub. L. 98-365, title VI, § 607, July 17, 1984, 98 Stat. 465, directed Secretary of Commerce to consult with Secretary of Defense on chapter's effect on national security matters, with Secretary of State on chapter's effect on international obligations, and provided for reimbursement of system operators for certain costs.

Section 4278, Pub. L. 98-365, title VI, § 609, July 17, 1984, 98 Stat. 466; Pub. L. 99-62, July 11, 1985, 99 Stat. 118, authorized appropriations for chapter.

For similar provisions, see section 5651 et seq. of this title.

SUBCHAPTER VII—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

§§ 4291, 4292. Repealed. Pub. L. 102-555, § 4, Oct. 28, 1992, 106 Stat. 4166

Section 4291, Pub. L. 98-365, title VII, § 701, July 17, 1984, 98 Stat. 466, related to prohibition of commercialization of weather satellites.

Section 4292, Pub. L. 98-365, title VII, § 702, July 17, 1984, 98 Stat. 467, required repeal of chapter prior to any action with respect to the commercialization of weather satellites.

For similar provisions, see section 5671 et seq. of this title.

CHAPTER 69—COOPERATIVE RESEARCH

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§ 4301. Definitions

(a) For purposes of this chapter:

(1) The term "antitrust laws" has the meaning given it in subsection (a) of section 12 of this title, except that such term includes section 45 of this title to the extent that such section 45 of this title applies to unfair methods of competition.

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "Commission" means the Federal Trade Commission.

(4) The term "person" has the meaning given it in subsection (a) of section 12 of this title.

(5) The term "State" has the meaning given it in section 15g(2) of this title.

(6) The term "joint venture" means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts,

(B) the development or testing of basic engineering techniques,

(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes,

(D) the production of a product, process, or service,

(E) the testing in connection with the production of a product, process, or service by such venture,

(F) the collection, exchange, and analysis of research or production information, or

(G) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), (E), and (F),

and may include the establishment and operation of facilities for the conducting of such venture, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture, but does not include any activity specified in subsection (b) of this section.

(b) The term "joint venture" excludes the following activities involving two or more persons:

(1) exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service if such information is not reasonably required to carry out the purpose of such venture,

(2) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the marketing, distribution, or provision by any person who is a party to such venture of any product, process, or service, other than—

(A) the distribution among the parties to such venture, in accordance with such ven-

ture, of a product, process, or service produced by such venture,

(B) the marketing of proprietary information, such as patents and trade secrets, developed through such venture formed under a written agreement entered into before June 10, 1993, or

(C) the licensing, conveying, or transferring of intellectual property, such as patents and trade secrets, developed through such venture formed under a written agreement entered into on or after June 10, 1993,

(3) entering into any agreement or engaging in any other conduct—

(A) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, or produced by, such venture, or

(B) to restrict or require participation by any person who is a party to such venture in other research and development activities,

that is not reasonably required to prevent misappropriation of proprietary information contributed by any person who is a party to such venture or of the results of such venture,

(4) entering into any agreement or engaging in any other conduct allocating a market with a competitor,

(5) exchanging information among competitors relating to production (other than production by such venture) of a product, process, or service if such information is not reasonably required to carry out the purpose of such venture,

(6) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production (other than the production by such venture) of a product, process, or service,

(7) using existing facilities for the production of a product, process, or service by such venture unless such use involves the production of a new product or technology, and

(8) except as provided in paragraphs (2), (3), and (6), entering into any agreement or engaging in any other conduct to restrict or require participation by any person who is a party to such venture, in any unilateral or joint activity that is not reasonably required to carry out the purpose of such venture.

(Pub. L. 98-462, §2, Oct. 11, 1984, 98 Stat. 1815; Pub. L. 103-42, §3(b), (c), June 10, 1993, 107 Stat. 117, 118.)

AMENDMENTS

1993—Subsec. (a)(6). Pub. L. 103-42, §3(b), struck out “research and development” after “joint” in introductory provisions, inserted subpars. (D) and (E), redesignated former subpars. (D) and (E) as (F) and (G), respectively, inserted “or production” after “research” in subpar. (F), substituted “(D), (E), and (F)” for “and (D)” in subpar. (G), and substituted “such venture” for “research” after “facilities for the conducting of” in concluding provisions.

Subsec. (b). Pub. L. 103-42, §3(c)(1), struck out “research and development” before “venture” in introductory provisions.

Subsec. (b)(1). Pub. L. 103-42, §3(c)(2), substituted “if such information is not reasonably required to carry out” for “that is not reasonably required to conduct the research and development that is”.

Subsec. (b)(2). Pub. L. 103-42, §3(c)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production or marketing by any person who is a party to such venture of any product, process, or service, other than the production or marketing of proprietary information developed through such venture, such as patents and trade secrets, and”.

Subsec. (b)(3). Pub. L. 103-42, §3(c)(4), in subpar. (A) substituted “, developments, products, processes, or services not developed through, or produced by,” for “or developments not developed through”, in subpar. (B) substituted “any person who is a party to such venture” for “such party”, and at end of concluding provisions substituted comma for period.

Subsec. (b)(4) to (8). Pub. L. 103-42, §3(c)(5), added pars. (4) to (8).

SHORT TITLE OF 1993 AMENDMENT

Section 1 of Pub. L. 103-42 provided that: “This Act [enacting section 4306 of this title, amending this section and sections 4302 to 4305 of this title, enacting provisions set out as notes under this section and section 4305 of this title, and amending a provision set out as a note under this section] may be cited as the ‘National Cooperative Production Amendments of 1993’.”

SHORT TITLE

Section 1 of Pub. L. 98-462, as amended by Pub. L. 103-42, §3(a), June 10, 1993, 107 Stat. 117, provided that: “This Act [enacting this chapter] may be cited as the ‘National Cooperative Research and Production Act of 1993’.”

COOPERATIVE RESEARCH AND PRODUCTION; CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE

Section 2 of Pub. L. 103-42 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) technological innovation and its profitable commercialization are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

“(2) cooperative arrangements among nonaffiliated businesses in the private sector are often essential for successful technological innovation; and

“(3) the antitrust laws may have been mistakenly perceived to inhibit procompetitive cooperative innovation arrangements, and so clarification serves a useful purpose in helping to promote such arrangements.

“(b) PURPOSE.—It is the purpose of this Act [see Short Title of 1993 Amendment note above] to promote innovation, facilitate trade, and strengthen the competitiveness of the United States in world markets by clarifying the applicability of the rule of reason standard and establishing a procedure under which businesses may notify the Department of Justice and Federal Trade Commission of their cooperative ventures and thereby qualify for a single-damages limitation on civil antitrust liability.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4305, 4306 of this title; title 42 section 13541.

§ 4302. Rule of reason standard

In any action under the antitrust laws, or under any State law similar to the antitrust laws, the conduct of any person in making or performing a contract to carry out a joint venture shall not be deemed illegal per se; such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in properly defined, relevant research, development, prod-