

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

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In the Matter of)	
)	
PENN NATIONAL GAMING, INC.,)	Docket No. C-4143
a corporation.)	
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)	

COMPLAINT

Pursuant to the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“Commission”), having reason to believe that Respondent Penn National Gaming, Inc. (“PNG”), a corporation subject to the jurisdiction of the Commission, has agreed to acquire Argosy Gaming Company (“Argosy”), a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act (“FTC Act”), as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENT

1. Respondent PNG is a corporation organized, existing and doing business under and by virtue of the laws of the state of Pennsylvania, with its offices and principal place of business located at 825 Berkshire Blvd., Suite 200, Wyomissing, Pennsylvania 19610.
2. Respondent PNG is an owner and operator of casinos, as well as horse racetracks and associated off-track wagering facilities (“OTWs”). The company owns or operates nine casinos located in Colorado, Illinois, Louisiana, Mississippi, West Virginia, and Ontario, Canada. It also owns two racetracks and eleven OTWs in Pennsylvania, owns one racetrack in West Virginia, and, through a joint venture, owns and operates a racetrack in New Jersey.

3. Respondent PNG is, and at all times herein has been, engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affects commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. THE ACQUIRED COMPANY

4. Argosy is a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its offices and principal place of business located at 219 Piasa Street, Alton, Illinois 62002.
5. Argosy is an owner and operator of six casinos located in Illinois, Missouri, Louisiana, Indiana and Iowa.

III. THE ACQUISITION

6. PNG and Argosy entered into a stock Purchase Agreement dated as of November 3, 2004 (the “Purchase Agreement”) whereby PNG agreed to acquire Argosy for approximately \$2.2 billion (the “Acquisition”).

IV. THE RELEVANT MARKET

7. For the purposes of this Complaint, the relevant line of commerce in which to analyze the effects of the Acquisition is casino services. Casino services include a combination of slot machine, video poker machine, and table gaming services, and associated amenities such as parking, food and beverages, and entertainment.
8. For the purposes of this Complaint, the Baton Rouge, Louisiana, metropolitan area is the relevant area in which to analyze the effects of the Acquisition in the relevant line of commerce.

V. THE STRUCTURE OF THE MARKET

9. The Baton Rouge, Louisiana, metropolitan area market for casino services is highly concentrated. PNG and Argosy are the only two suppliers of casino services in Baton Rouge, Louisiana.

VI. ENTRY CONDITIONS

10. Entry into the relevant market would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the Acquisition. The state of Louisiana allows for the licensing of fifteen riverboat casinos across the state, and all fifteen licenses have been awarded. The relocation of an existing Louisiana riverboat casino to the Baton

Rouge, Louisiana, metropolitan area to deter or counteract the anticompetitive effects described in paragraph 11 is unlikely to occur in a timely manner because of, among other things, the time and cost associated with acquiring the necessary state, parish, and city approvals.

VII. EFFECTS OF THE ACQUISITION

11. The effects of the Acquisition, if consummated, may be substantially to lessen competition and to tend to create a monopoly in the relevant market in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, by eliminating actual, direct, and substantial competition between PNG and Argosy through a merger to monopoly in the relevant market, thereby: (i) increasing the likelihood that PNG would exercise market power in this market; (ii) reducing existing incentives to improve casino quality or pursue casino improvements; and, (iii) increasing the likelihood that customers would be forced to pay higher prices.

VIII. VIOLATIONS CHARGED

12. The Purchase Agreement described in Paragraph 6 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.
13. The Acquisition described in Paragraph 6, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-sixth day of July, 2005, issues its Complaint against said Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: