

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

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Assistant Administrator.

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ANTITRUST MODERNIZATION COMMISSION

Request for Public Comment

AGENCY: Antitrust Modernization Commission.

ACTION: Request for public comment.

SUMMARY: The Antitrust Modernization Commission requests comments from the public regarding specific questions relating to the issues selected for Commission study.

DATES: Comments are due by July 10, 2006.

ADDRESSES: By electronic mail: *comments@amc.gov*. By mail: Antitrust Modernization Commission, Attn: Public Comments, 1120 G Street, NW., Suite 810, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission. Telephone: (202) 233-0701; e-mail: *info@amc.gov*. Internet: *http://www.amc.gov*.

SUPPLEMENTARY INFORMATION: The Antitrust Modernization Commission was established to "examine whether the need exists to modernize the antitrust laws and to identify and study related issues." Antitrust Modernization Commission Act of 2002, Public Law 107-273, § 11053, 116 Stat. 1856. In conducting its review of the antitrust laws, the Commission is required to "solicit the views of all parties concerned with the operation of the antitrust laws." *Id.* By this request for comments, the Commission seeks to provide a full opportunity for interested members of the public to provide input regarding certain issues selected for Commission study. From time to time, the Commission may issue additional requests for comment on issues selected for study.

Comments should be submitted in written form. Comments should identify the topic to which it relates. Comments need not address every question within the topic. Comments exceeding 1500 words should include a brief (less than 250 word) summary. Commenters may submit additional background materials (such as articles, data, or other information) relating to the topic by separate attachment.

Comments should identify the person or organization submitting the comments. If comments are submitted by an organization, the submission should identify a contact person within the organization. Comments should include the following contact information for the submitter: an address, telephone number, and email address (if available). Comments submitted to the Commission will be made available to the public in accordance with Federal laws.

Comments may be submitted either in hard copy or electronic form. Electronic submissions may be sent by electronic mail to *comments@amc.gov*. Comments submitted in hard copy should be delivered to the address specified above, and should enclose, if possible, a CD-ROM or a 3½ inch computer diskette containing an electronic copy of the comment. The Commission prefers to receive electronic documents (whether by email or on CD-ROM/diskette) in portable document format (.pdf), but also will accept comments in Microsoft Word format.

The AMC has issued this request for comments pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Public Law 107-273, § 11053, 116 Stat. 1758, 1856; Federal Advisory Committee Act, 5 U.S.C. App., 10(a)(3).

Topic for Comment

The Commission requests comment on the following topic.

Civil Remedies

1. The Commission is evaluating a proposal to reform indirect purchaser litigation. The potential reform would consist of three principal components: (1) Legislative overruling of *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977), so that indirect purchaser claims could be brought under federal antitrust law, and *Hanover Shoe, Inc. v. United Shoe Machinery*, 392 U.S. 481 (1968), so as to allow assertion of the pass-on defense; (2) Statutory provisions either (a) to allow removal of all state indirect purchaser actions to federal court to the full extent permitted under Article III, or (b) to preempt state indirect purchaser laws; and (3) Statutory provisions to allow the consolidation of all related direct and indirect purchaser actions in a single Federal district court for pre-trial and trial proceedings.

Should the Commission recommend such reform to Congress? Should the proposal be modified in any respects? In responding, please also comment on the following:

a. Is a provision that would allow removal of state indirect purchaser actions necessary or desirable, in light of the generally applicable removal provisions contained in the Class Action Fairness Act?

b. Is preemption of state indirect purchaser actions necessary or desirable if state indirect purchaser actions may be removed to Federal court?

c. Should the Commission also recommend to Congress that courts be required to use structured proceedings to resolve purchaser claims? Those proceedings would resolve liability in the one phase, determine total damages in another, and allocate damages among direct and indirect claimants in a separate phase. Would structured proceedings work better if courts could combine certain phases of the proceedings, especially liability and total damages, in appropriate cases in the exercise of their discretion?

d. To what extent would the legislative overruling of *Hanover Shoe* create new challenges in the process of certifying appropriate classes of claimants? Can any such challenges be resolved fully through the structured approach suggested in (c) above?

2. The Commission is evaluating a proposal to alter the circumstances in which treble damages are awarded to successful antitrust plaintiffs. The proposal would provide as follows:

The court, in its discretion, may limit the award to single damages based on consideration of the following factors:

a. Whether the violation was *per se* or rule of reason;

b. whether the violation involved single-firm or multi-firm conduct;

c. whether the violation was related to an otherwise pro-competitive joint venture;

d. the state of the development of the law with respect to the challenged conduct as an antitrust violation;

e. whether the challenged conduct was overt or covert;

f. whether the challenged conduct was criminal;

g. whether there has also been a related government action;

h. whether it is a competitor that is alleging the conduct was anticompetitive; and,

i. whether the violation was proven by clear and convincing evidence.

Should the Commission recommend such reform to Congress? Should any of the factors listed above be removed? Are there any other factors that should also be included?

3. Should the Commission recommend to Congress that courts in their discretion be permitted to increase the damages multiplier above three? For

example, should courts be able to increase the multiplier above three where the conduct has significant effects outside the United States for which damages will not be paid?

4. The Commission is evaluating a proposal to change the current regime regarding private antitrust actions. The proposal would provide as follows:

a. In all matters where the government institutes criminal proceedings and obtains a guilty verdict by plea or trial, all unlawful gains made by the defendants and precomplaint and prejudgment interest thereon shall be disgorged in that proceeding, together with such fines as may be provided by law and a civil penalty of 200% of the amount disgorged.

i. The disgorged unlawful gains shall be apportioned among those from whom they were taken directly or indirectly by the criminal court in a summary proceeding to be concluded within 90 days of the entry of a final criminal judgment as to all defendants. Classes of direct and indirect claimants may participate through counsel in that proceeding. Claims of less than \$100 shall be disregarded and the amounts attributable to such claims paid to the Treasury.

ii. Fines and civil penalties shall accrue solely to the Treasury, but the court may award compensation from those amounts to any private party found to have been a material factor in the instigation or successful conduct of the government's investigation and prosecution or to its counsel.

b. In the case of defendants acquitted of criminal charges, private claims may be asserted as otherwise provided by law, but only the actual amount of unlawful gain may be recovered.

Should the Commission recommend such reform to Congress? Should any of the particular components be modified?

Dated: June 12, 2006.

By direction of the Antitrust Modernization Commission.

Andrew J. Heimert,

*Executive Director & General Counsel,
Antitrust Modernization Commission.*

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DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 060505120-6120-01]

Census Information Center Program

AGENCY: Bureau of the Census.

ACTION: Notice; request for proposals.

SUMMARY: The Bureau of the Census (Census Bureau) seeks proposals from eligible organizations to create 15 Census Information Centers. This notice provides information related to eligibility and program requirements. The Census Information Center (CIC) Program is an integral part of the Census Bureau's data dissemination network. The CIC Program was established over 17 years ago to make census data more widely available to nongovernmental organizations representing hard-to-enumerate populations. There are currently 45 such organizations participating as Census Information Centers in the CIC Program. The Census Bureau will consider all complete proposals received before the appropriate deadline.

DATES: Written proposals must be received on or before August 15, 2006.

ADDRESSES: Written proposals should be sent to Mr. Stanley J. Rolark, Chief, Customer Liaison Office, U.S. Census Bureau, 4700 Silver Hill Road, Room 3634, Federal Office Building 3, Washington, DC 20233; Telephone: (301) 763-1544; Fax: (301) 457-4784; E-mail: Stanley.J.Rolark@census.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Ceci A. Villa, Customer Liaison Office, U.S. Census Bureau, 4700 Silver Hill Road, Room 3620, Federal Office Building 3, Washington, DC 20233; Telephone: (301) 763-6415; Fax: (301) 457-4784; E-mail: Ceci.A.Villa@census.gov.

SUPPLEMENTARY INFORMATION: This section provides information on eligibility, program requirements, proposal format and content, submission instructions, selection, and notification process.

Established in 1988, the Census Information Center (CIC) Program is a cooperative venture among the U.S. Census Bureau and national level, community-based organizations and colleges and universities created to serve as auxiliary data distribution centers that reach underserved populations. Accordingly, each Census Information Center has its own target audience often requiring unique information. The CIC Program includes organizations, such as chambers of commerce; minority-serving colleges and universities; civil rights, social justice, and social service groups; think tanks; and research organizations.

The mission of the CIC Program is to provide efficient access to Census Bureau data products through a wide data dissemination network of organizations. Those organizations effectively process and disseminate Census Bureau data to underserved

population groups in easily understandable formats. To accomplish this mission, Census Information Centers work in partnership with the Census Bureau through the Customer Liaison Office.

The Census Information Centers are recognized as official sources of demographic, economic, and social statistics produced by the Census Bureau. Census Information Centers provide training and technical assistance to local governments, businesses, community groups, and other interested data users so that they may access and use Census Bureau data for research, program administration, planning, and decision-making purposes.

Census Information Centers have successfully used census data and local information to support activities promoting change in underserved communities. They have used census data and local statistics to help local communities and minority businesses qualify for reconstruction resources in the wake of the September 11 attack on New York City; establish empowerment zones and revitalization areas in Brooklyn, NY, and Shreveport, LA; obtain youth services and construct after school facilities in local communities in Nashville, TN, and Oakland, CA; provide baseline data to measure the effectiveness of national programs on crime in Washington, DC, public housing; develop ways to link children in need with public services in Minnesota; help local organizations draft grant proposals; and provide American Indians on the Navajo Reservation and across the country access to Temporary Assistance to Needy Families (TANF).

In addition to the Census Information Centers, the Census Bureau's overall data dissemination network includes participants in the State Data Center/Business and Industry Data Center Program, Census Depository Libraries, and the 12 Census Regional Office Partnership and Data Services staff. The combined network includes nearly 2,000 entities located throughout the 48 contiguous states, Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, and the U.S. Virgin Islands. A Memorandum of Agreement is signed with the participants to serve as official repositories for census data.

We are interested in maintaining a CIC Program that represents the Nation's diversity and includes organizations with an interest and ability to provide underserved communities access to Census Bureau data.