



Department of Justice

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ANTITRUST DIVISION ANNOUNCES NEW STREAMLINED PROCEDURE FOR PARTIES SEEKING TO MODIFY OR TERMINATE OLD SETTLEMENTS AND LITIGATED JUDGMENTS

Procedure Will Lower Costs and Expedite Review for Parties

WASHINGTON — The Department of Justice’s Antitrust Division today announced a new streamlined procedure that will lower the costs and expedite the review process for parties seeking to modify or terminate old antitrust settlements and litigated judgments.

The new voluntary procedure, which is effective immediately, updates a 1999 protocol. The expedited process can be used by parties seeking to modify or terminate perpetual decrees—settlements and litigated judgments—entered prior to 1980.

In 1979, the department determined that entering into perpetual decrees was not in the public interest. Since that time, decrees have included “sunset” provisions that will automatically terminate them after a term of years, not to exceed 10 years. Most decrees entered into before 1980 do not contain this provision.

“The new streamlined procedure will expedite the review process for legacy decrees and will benefit both the defendants and the department by eliminating costly and time intensive investigations,” said Bill Baer, Assistant Attorney General in charge of the Department of Justice’s Antitrust Division. “The Antitrust Division will continue to look for ways to incorporate procedural efficiencies whenever possible as it is an important part of effective antitrust enforcement.”

Pre-1980 perpetual decrees cannot be terminated or modified except by court order. Since 1980, there have been significant changes in markets and technology and substantial changes in antitrust law. Going forward, the department will advise courts that pre-1980 “legacy” decrees, except in limited circumstances, are presumptively no longer in the public interest. Those limited circumstances may include when there is a long-standing reliance by industry participants on the decree.

The updated procedure differs from the present procedure in two important ways. First, the party seeking termination or modification will no longer be subject to the extensive discovery that was required by the 1999 protocol. This should result in a substantial reduction in the cost of seeking decree termination. Second, when responding to a request to terminate or modify

qualifying legacy decrees, the department will no longer conduct an in-depth investigation into the relevant markets due to the significant changes that have taken place. The updated procedure can be found in the [Division Manual](#) on the Antitrust Division's website.

Under the protocol, the requesting party will publish, at its own expense, notice of its intent to seek termination or modification and invite interested parties to provide the Antitrust Division with relevant information. The division will work with the requesting party to determine what form of cost-effective notice is appropriate. Because the process is expedited, the division believes that a pre-filing public comment period best serves the public interest by allowing interested parties to come forward early in the process so that their concerns may be considered and addressed prior to the filing of a motion to modify or terminate. The division will take into account issues that are brought to its attention and address them as appropriate. Other parts of the 1999 protocol will remain in effect.

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