



Department of Justice

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JUSTICE DEPARTMENT'S ANTITRUST DIVISION ISSUES ACHIEVEMENTS REPORT

WASHINGTON, D.C. -- The Department of Justice's Antitrust Division today issued a report summarizing the Division's enforcement actions since October 1992. The Division's principal objective in investigating and prosecuting suspected antitrust law violations is to ensure lower prices for consumers and to provide both consumers and businesses with the benefits of vigorous competition in open markets.

The report emphasizes that the Antitrust Division has been vigorously protecting consumers and businesses by:

- Meeting the challenge of a global economy by prosecuting international price fixing that harms U.S. consumers, and opening markets for American companies abroad.
- Aggressively prosecuting criminal price fixing conspiracies, netting record fines and significant jail sentences.
- Increasing competition in local and long distance telephone service and other telecommunications related markets.
- Successfully preserving competition with aggressive yet rational civil merger and non-merger enforcement.
- Responding to the needs of the business community for clarity and certainty in antitrust enforcement by providing guidelines for health care, intellectual property, the international arena, and through business review letters.
- Increasing cooperation to an unprecedented degree with other law enforcement agencies, including foreign antitrust officials, state attorneys general and other federal agencies.

The report was unveiled at the American Bar Association's Antitrust Section Spring Meeting in Washington, D.C.

In FY 1995 alone, the Division has posted several records including:

- Obtained a total of \$40.4 million in criminal antitrust fines against corporations--the highest ever.
- Procured fines of \$26 million in the commercial explosives industry including the highest corporate criminal antitrust fines against individual corporations.
- Filed 15 consent decrees--the largest number in 15 years--to stop anticompetitive practices through civil remedies.

"The Antitrust Division's record in recent years reaffirms the importance to America's well-being of intelligent, vigorous antitrust enforcement," said, Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division. "By meeting the unique challenges facing antitrust enforcers today--a dynamic economy, increasing globalization, accelerating technological change, and a record-breaking merger wave--the Antitrust Division ensures that open competition on the merits remains a fundamental principle of our economy."

The following represents some highlights of the Division's activities as reflected in the report:

INTERNATIONAL

- Removed anticompetitive restraints imposed on American exports adding up to \$1 billion to U.S. export revenues over the next six years (Pilkington PLC).
- Ensured open competition in international telecommunications markets by obtaining merger settlements that ensure opportunities for American companies (British Telecommunications/MCI and Sprint/France Telecom/Deutsche Telekom).
- Issued jointly with the Federal Trade Commission Antitrust Enforcement Guidelines for International Operations in an effort to protect both American consumers and exporters.
- The Division was instrumental in obtaining the passage of The International Antitrust Enforcement Assistance Act of 1994, legislation that gives the Department and the FTC powerful

new tools to enforce our antitrust laws against international cartels that harm American consumers and businesses.

CRIMINAL

- Broke up an international price fixing cartel in thermal fax paper, resulting in the first criminal antitrust prosecution of a major Japanese corporation (Mitsubishi Corp.).
- Obtained a record \$15 million criminal antitrust fine against a subsidiary of a Norwegian manufacturer of commercial explosives for conspiring to fix prices (Dyno Nobel).
- Broke up other criminal conspiracies that were increasing American consumers' prices for goods such as milk, bread, carpets, residential doors, plastic dinnerware, and steel wool scouring pads.

TELECOMMUNICATIONS

- Played a leading role, working closely with the Administration and Congress to secure the passage of the Telecommunications Act of 1996, legislation that will increase competition and reduce government regulation.
- Supported appropriate waiver requests of the Modified Final Judgment by the Bell companies to engage in new businesses that would not impede competition (Ameritech).
- Established a Telecommunications Task Force made up of lawyers with extensive telecommunications merger experience, and prepared to review the added number of proposed mergers and alliances likely to result from the new law.

MERGERS

- Challenged or restructured a high number of mergers-- since FY 1993, 60 were challenged and of those, 27 were challenged in court, 20 were restructured to alleviate the threat of competition. An additional 33 transactions, which did not involve court proceedings--were abandoned or restructured by the parties as a result of the Division's investigation.
- Protected competition in software markets by challenging the proposed Microsoft/Intuit merger, which Microsoft abandoned after the Division filed suit.
- Protected competition in the telecommunications, healthcare, bread, tissue, software, and waste disposal industries by restructuring proposed transactions.
- Undertook three court trials of merger challenges in the hospital, newspaper and clay industries.
- Undertook a precedent-setting number of joint investigations with State Attorneys General, resulting in significant divestitures of bank branches and deposits in some of the largest bank mergers on record (Fleet Financial

Group/Shawmut, Wells Fargo/First Interstate Bancorp. and U.S. Bancorp/West One).

CIVIL NON-MERGER

- Settled a case against seven major airlines that prohibits them from collaborating among competitors which if allowed to continue could have cost consumers well over \$1 billion in higher ticket prices (Airline Tariff Publishing Co.).

- Saved millions of dollars on weapons procurement for the Department of Defense by challenging an anticompetitive "teaming arrangement" between Alliant Techsystems and Aerojet-General to supply the Defense Department with cluster bombs. The Division's settlement recouped \$12 million for taxpayers.

- Disciplined trade organizations engaged in activities that raised the prices of goods and services their members sold to the public (American Bar Association, National Automobile Dealers Association and the Association of Retail Travel Agents).

- Opened competition in automated teller machine (ATM) access for consumers (Electronic Payment Services).

- Protecting competition in the health care industry through the Division's newly created Health Care Task Force by promoting the development of competitive managed care plans with successful and innovative settlements (Danbury, St. Joseph and Classic Care).

GUIDANCE TO THE BUSINESS COMMUNITY

- Provide guidance on a forward-looking basis to the business community through the Department's Business Review Procedure which allows parties to seek the Antitrust Division's enforcement intentions with respect to specific prospective conduct.

Issued jointly with the Federal Trade Commission for the first time ever:

- Guidelines for licensing of intellectual property that are an important part of the Division's emphasis on promoting innovation.

- Statements of policy in the health care area to provide detailed antitrust guidance with respect to subject areas that play an important role in the health care system.

- Issued jointly with the FTC new guidelines for international operations to replace those issued by the Division in 1988. The guidelines articulate the agencies' resolve to protect both American consumers and American exporters from anticompetitive restraints where there is a direct effect on U.S. commerce.