

any cause of action existing on the effective date hereof [Sept. 30, 1961] in respect to the organized professional team sports of baseball, football, basketball, or hockey.”

§ 1292. Area telecasting restriction limitation

Section 1291 of this title shall not apply to any joint agreement described in the first sentence in such section which prohibits any person to whom such rights are sold or transferred from televising any games within any area, except within the home territory of a member club of the league on a day when such club is playing a game at home.

(Pub. L. 87-331, §2, Sept. 30, 1961, 75 Stat. 732; Pub. L. 89-800, §6(b)(2), Nov. 8, 1966, 80 Stat. 1515.)

AMENDMENTS

1966—Pub. L. 89-800 substituted “described in the first sentence of such section” for “described in such section”.

§ 1293. Intercollegiate and interscholastic football contest limitations

The first sentence of section 1291 of this title shall not apply to any joint agreement described in such section which permits the telecasting of all or a substantial part of any professional football game on any Friday after six o'clock post-meridian or on any Saturday during the period beginning on the second Friday in September and ending on the second Saturday in December in any year from any telecasting station located within seventy-five miles of the game site of any intercollegiate or interscholastic football contest scheduled to be played on such a date if—

(1) such intercollegiate football contest is between institutions of higher learning both of which confer degrees upon students following completion of sufficient credit hours to equal a four-year course, or

(2) in the case of an interscholastic football contest, such contest is between secondary schools, both of which are accredited or certified under the laws of the State or States in which they are situated and offer courses continuing through the twelfth grade of the standard school curriculum, or the equivalent, and

(3) such intercollegiate or interscholastic football contest and such game site were announced through publication in a newspaper of general circulation prior to August 1 of such year as being regularly scheduled for such day and place.

(Pub. L. 87-331, §3, Sept. 30, 1961, 75 Stat. 732; Pub. L. 89-800, §6(b)(3), Nov. 8, 1966, 80 Stat. 1515.)

AMENDMENTS

1966—Pub. L. 89-800 substituted “The first sentence of section 1291 of this title” for “Section 1291 of this title” at beginning of section, extended limitation granted for football contests on game sites located within 75 miles of telecasting stations to include interscholastic contests, redesignated cl. (2) as (3), added a new cl. (2), and, in cl. (3) as so redesignated, substituted “newspaper of general circulation prior to August 1” for “daily newspaper of general circulation prior to March 1” as description of the type newspaper required for the an-

nouncement of the game site of intercollegiate or interscholastic football games.

§ 1294. Antitrust laws unaffected as regards to other activities of professional sports contests

Nothing contained in this chapter shall be deemed to change, determine, or otherwise affect the applicability or nonapplicability of the antitrust laws to any act, contract, agreement, rule, course of conduct, or other activity by, between, or among persons engaging in, conducting, or participating in the organized professional team sports of football, baseball, basketball, or hockey, except the agreements to which section 1291 of this title shall apply.

(Pub. L. 87-331, §4, Sept. 30, 1961, 75 Stat. 732.)

§ 1295. “Persons” defined

As used in this chapter, “persons” means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.

(Pub. L. 87-331, §5, Sept. 30, 1961, 75 Stat. 732.)

CHAPTER 33—BRAKE FLUID REGULATION

§§ 1301 to 1303. Repealed. Pub. L. 89-563, title I, § 117(a), Sept. 9, 1966, 80 Stat. 727

Sections, Pub. L. 87-637, §§1-3, Sept. 5, 1962, 76 Stat. 437, provided for promulgation of standards for hydraulic brake fluid used in motor vehicles and set the penalty for the unlawful sale, importation, or introduction into commerce of fluid not meeting the published standards. See chapter 38 (§1381 et seq.) of this title.

SAVINGS PROVISION

Pub. L. 89-563, title I, §117(b)-(e), Sept. 9, 1966, 80 Stat. 727, provided that persons willfully violating sections 1301 to 1303 and 1321 to 1323 of this title would be punished in accordance with provisions of laws in effect on date of violation, prior to repeal by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

CHAPTER 34—ANTITRUST CIVIL PROCESS

Sec.

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| 1311. | Definitions. |
| 1312. | Civil investigative demands. |
| 1313. | Custodian of documents, answers and transcripts. |
| 1314. | Judicial proceedings. |

§ 1311. Definitions

For the purposes of this chapter—

(a) The term “antitrust law” includes:

(1) Each provision of law defined as one of the antitrust laws by section 12 of this title; and

(2) Any statute enacted on and after September 19, 1962, by the Congress which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to any restraint upon or monopolization of interstate or foreign trade or commerce;

(b) The term “antitrust order” means any final order, decree, or judgment of any court of the United States, duly entered in any case or proceeding arising under any antitrust law;

(c) The term “antitrust investigation” means any inquiry conducted by any antitrust

investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation;

(d) The term “antitrust violation” means any act or omission in violation of any antitrust law, any antitrust order or, with respect to the International Antitrust Enforcement Assistance Act of 1994 [15 U.S.C. 6201 et seq.], any of the foreign antitrust laws;

(e) The term “antitrust investigator” means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any antitrust law;

(f) The term “person” means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law;

(g) The term “documentary material” includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, and any product of discovery;

(h) The term “custodian” means the custodian or any deputy custodian designated under section 1313(a) of this title;

(i) The term “product of discovery” includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission obtained by any method of discovery in any judicial litigation or in any administrative litigation of an adversarial nature; any digest, analysis, selection, compilation, or any derivation thereof; and any index or manner of access thereto; and

(j) The term “agent” includes any person retained by the Department of Justice in connection with the enforcement of the antitrust laws.

(k) The term “foreign antitrust laws” has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994 [15 U.S.C. 6211].

(Pub. L. 87-664, §2, Sept. 19, 1962, 76 Stat. 548; Pub. L. 94-435, title I, §101, Sept. 30, 1976, 90 Stat. 1383; Pub. L. 96-349, §§2(a), 7(a)(1), Sept. 12, 1980, 94 Stat. 1154, 1158; Pub. L. 103-438, §3(e)(1)(A), Nov. 2, 1994, 108 Stat. 4598.)

REFERENCES IN TEXT

This chapter, referred to in opening phrase, was in the original “this Act”, meaning Pub. L. 87-664, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The International Antitrust Enforcement Assistance Act of 1994, referred to in subsec. (d), is Pub. L. 103-438, Nov. 2, 1994, 108 Stat. 4597, which is classified principally to chapter 88 (§6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-438, §3(e)(1)(A)(i), substituted “, any” for “or any” and inserted before semi-

colon at end “or, with respect to the International Antitrust Enforcement Assistance Act of 1994, any of the foreign antitrust laws”.

Subsec. (k). Pub. L. 103-438, §3(e)(1)(A)(ii), added subsec. (k).

1980—Subsec. (g). Pub. L. 96-349, §2(a)(1), extended definition of “documentary material” to include any product of discovery.

Subsec. (h). Pub. L. 96-349, §2(a)(2), substituted a semicolon for period at end.

Subsec. (i). Pub. L. 96-349, §2(a)(3), added subsec. (i).

Subsec. (j). Pub. L. 96-349, §7(a)(1), added subsec. (j).

1976—Subsec. (a). Pub. L. 94-435, §101(1), in par. (1) inserted “and” after semicolon preceding par. (2), struck out par. (2) which included the Federal Trade Commission Act in definition of antitrust law for purposes of this chapter, redesignated par. (3) as (2), struck out “(A)” before “any restraint”, and struck out subpar. (B) which related to any unfair trade practice in or affecting interstate or foreign trade or commerce.

Subsec. (c). Pub. L. 94-435, §101(2), inserted “or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in an antitrust violation;” after “engaged in any antitrust violation”.

Subsec. (f). Pub. L. 94-435, §101(3), included “any natural person” and “any person acting under color or authority of State law” in definition of “person”.

Subsec. (h). Pub. L. 94-435, §101(4), substituted “the custodian” for “the antitrust document custodian”.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-435, title I, §106, Sept. 30, 1976, 90 Stat. 1390, provided that: “The amendments to the Antitrust Civil Process Act [see section 1 of Pub. L. 87-664 set out as a Short Title note under this section] and to section 1505 of title 18, United States Code, made by this title [title I of Pub. L. 94-435] shall take effect on the date of enactment of this Act [Sept. 30, 1976], except section 3(i)(8) of the Antitrust Civil Process Act [section 1312(i)(8) of this title] (as amended by this Act) shall take effect on the later of (1) the date of enactment of this Act [Sept. 30, 1976], or (2) October 1, 1976. Any such amendment which provides for the production of documentary material, answers to interrogatories, or oral testimony shall apply to any act or practice without regard to the date on which it occurred.”

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-349, §1, Sept. 12, 1980, 94 Stat. 1154, provided: “That this Act [amending sections 15, 15a, 15c, 16, 18, and 1311 to 1314 of this title, section 1905 of Title 18, Crimes and Criminal Procedure, and section 1927 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under sections 15, 16, and 18 of this title] may be cited as the ‘Antitrust Procedural Improvements Act of 1980’.”

SHORT TITLE

Pub. L. 87-664, §1, Sept. 19, 1962, 76 Stat. 548, provided: “That this Act [enacting this chapter and amending section 1505 of Title 18, Crimes and Criminal Procedure] may be cited as the ‘Antitrust Civil Process Act’.”

SAVINGS PROVISION

Pub. L. 87-664, §7, Sept. 19, 1962, 76 Stat. 552, provided that: “Nothing contained in this Act [see Short Title note above] shall impair the authority of the Attorney General, the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, or any antitrust investigator to (a) lay before any grand jury impaneled before any district court of the United States any evidence concerning any alleged antitrust violation, (b) invoke the power of any such court to compel the production of any evidence before any such grand jury, or (c) institute any proceeding for the enforcement of any order or process issued in execution of such power, or to punish disobedience of any such order of process by any person, including a natural person.”

§ 1312. Civil investigative demands**(a) Issuance; service; production of material; testimony**

Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation or, with respect to the International Antitrust Enforcement Assistance Act of 1994 [15 U.S.C. 6201 et seq.], an investigation authorized by section 3 of such Act [15 U.S.C. 6202], he may, prior to the institution of a civil or criminal proceeding by the United States thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection any copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.

(b) Contents; return date for demand for product of discovery

Each such demand shall—

(1) state the nature of—

(A) the conduct constituting the alleged antitrust violation, or

(B) the activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation,

which are under investigation and the provision of law applicable thereto;

(2) if it is a demand for production of documentary material—

(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(C) identify the custodian to whom such material shall be made available; or

(3) if it is a demand for answers to written interrogatories—

(A) propound with definiteness and certainty the written interrogatories to be answered;

(B) prescribe a date or dates at which time answers to written interrogatories shall be submitted; and

(C) identify the custodian to whom such answers shall be submitted; or

(4) if it is a demand for the giving of oral testimony—

(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

(B) identify an antitrust investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

Any such demand which is an express demand for any product of discovery shall not be returned or returnable until twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.

(c) Protected material or information; demand for product of discovery superseding disclosure restrictions except trial preparation materials

(1) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony, if such material, answers, or testimony would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States in aid of a grand jury investigation, or

(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this chapter.

(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this chapter) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.

(d) Service; jurisdiction

(1) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

(2) any¹ such demand or any petition filed under section 1314 of this title may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this chapter by such person that such court would have if such person were personally within the jurisdiction of such court.

¹ So in original. Probably should be capitalized.