

or other person, with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this subsection have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known.

**(h) Inadmissibility as evidence of proceedings before the district court and the competitive impact statement**

Proceedings before the district court under subsections (e) and (f) of this section, and the competitive impact statement filed under subsection (b) of this section, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United States under section 15a of this title nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding.

**(i) Suspension of limitations**

Whenever any civil or criminal proceeding is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, but not including an action under section 15a of this title, the running of the statute of limitations in respect to every private or State right of action arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter: *Provided, however*, That whenever the running of the statute of limitations in respect of a cause of action arising under section 15 or 15c of this title is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four years after the cause of action accrued.

(Oct. 15, 1914, ch. 323, § 5, 38 Stat. 731; July 7, 1955, ch. 283, § 2, 69 Stat. 283; Pub. L. 93-528, § 2, Dec. 21, 1974, 88 Stat. 1706; Pub. L. 94-435, title III, § 302(2), Sept. 30, 1976, 90 Stat. 1396; Pub. L. 96-349, § 5(a), Sept. 12, 1980, 94 Stat. 1157; Pub. L. 108-237, title II, § 221(b), June 22, 2004, 118 Stat. 668.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsections (a), (b), and (g) to (i), are defined in section 12 of this title.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108-237, § 221(b)(1), inserted at end “Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.”

Subsec. (e). Pub. L. 108-237, § 221(b)(2), designated introductory provisions as par. (1), substituted “court shall” for “court may”, added subpars. (A) and (B) and par. (2), and struck out former pars. (1) and (2) which read as follows:

“(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

“(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.”

Subsec. (g). Pub. L. 108-237, § 221(b)(3), inserted “by any officer, director, employee, or agent of such defendant” before “, or other person” in first sentence.

1980—Subsec. (a). Pub. L. 96-349 made collateral estoppel inapplicable in any action or proceeding brought under the antitrust laws to any finding made by the Commission under the antitrust laws or under section 45 of this title which could give rise to a claim for relief under the antitrust laws; struck out “or by the United States under section 15a of this title,” after “under said laws”; and deleted from proviso “or to judgments or decrees entered in actions under section 15a of this title” after “testimony has been taken”.

1976—Pub. L. 94-435 substituted “private or State right of action” for “private right of action” and “section 15 or 15c” for “section 15”.

1974—Subsecs. (b) to (i). Pub. L. 93-528 added subsecs. (b) to (h) and redesignated former subsec. (b) as (i).

1955—Act July 7, 1955, substituted subsec. (a) for first paragraph, to provide that final judgments in actions under the antitrust laws by the United States shall be prima facie evidence in damage suits by the United States as well as in private damage suits, and substituted subsec. (b) for second paragraph, to provide for a one-year suspension of limitations.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-349, § 5(b), Sept. 12, 1980, 94 Stat. 1157, provided that: “The amendments made by this section [amending this section] shall apply only with respect to actions commenced after the date of the enactment of this Act [Sept. 12, 1980].”

SUSPENSION OF LIMITATION

Act Oct. 10, 1942, ch. 589, 56 Stat. 781, as amended June 30, 1945, ch. 213, 59 Stat. 306, provided for the suspension of any existing statutes of limitations relating to violations of antitrust laws now indictable or subject to civil proceedings under any existing statutes, until June 30, 1946.

FINDINGS AND PURPOSES OF 2004 AMENDMENT

Pub. L. 108-237, title II, § 221(a), June 22, 2004, 118 Stat. 668, provided that:

“(1) FINDINGS.—Congress finds that—

“(A) the purpose of the Tunney Act [probably means section 2 of Pub. L. 93-528 which amended this section] was to ensure that the entry of antitrust consent judgments is in the public interest; and

“(B) it would misconstrue the meaning and Congressional intent in enacting the Tunney Act to limit the discretion of district courts to review antitrust consent judgments solely to determining whether entry of those consent judgments would make a ‘mockery of the judicial function’.

“(2) PURPOSES.—The purpose of this section [amending this section] is to effectuate the original Congressional intent in enacting the Tunney Act and to ensure that United States settlements of civil antitrust suits are in the public interest.”

**§ 17. Antitrust laws not applicable to labor organizations**

The labor of a human being is not a commodity or article of commerce. Nothing contained in

the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

(Oct. 15, 1914, ch. 323, § 6, 38 Stat. 731.)

#### REFERENCES IN TEXT

The antitrust laws, referred to in text, are defined in section 12 of this title.

### § 18. Acquisition by one corporation of stock of another

No person engaged in commerce or in any activity affecting commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another person engaged also in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No person shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more persons engaged in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to persons purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce or in any activity affecting commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning

all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board, the Securities and Exchange Commission in the exercise of its jurisdiction under section 79j of this title,<sup>1</sup> the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Board, or Secretary.

(Oct. 15, 1914, ch. 323, § 7, 38 Stat. 731; Dec. 29, 1950, ch. 1184, 64 Stat. 1125; Pub. L. 96-349, § 6(a), Sept. 12, 1980, 94 Stat. 1157; Pub. L. 98-443, § 9(7), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 104-88, title III, § 318(1), Dec. 29, 1995, 109 Stat. 949; Pub. L. 104-104, title VI, § 601(b)(3), Feb. 8, 1996, 110 Stat. 143.)

#### REFERENCES IN TEXT

Section 79j of this title, referred to in text, was repealed by Pub. L. 109-58, title XII, § 1263, Aug. 8, 2005, 119 Stat. 974.

#### AMENDMENTS

1996—Pub. L. 104-104, in sixth par., struck out “Federal Communications Commission,” after “Secretary of Transportation.”

1995—Pub. L. 104-88, in sixth par., substituted “Surface Transportation Board” for “Interstate Commerce Commission” and inserted “, Board,” after “vesting such power in such Commission”.

1984—Pub. L. 98-443 substituted “Secretary of Transportation” for “Civil Aeronautics Board” and “Commission or Secretary” for “Commission, Secretary, or Board” in sixth par.

1980—Pub. L. 96-349, substituted “person” for “corporation” wherever appearing in first and second pars.; substituted “persons” for “corporations” in second par. and first sentence of third par.; and inserted “or in any activity affecting commerce” after “commerce” wherever appearing in first, second, and third pars.

1950—Act Dec. 29, 1950, amended section generally so as to prohibit the acquisition of the whole or any part of the assets of another corporation when the effect of the acquisition may substantially lessen competition or tend to create a monopoly.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

<sup>1</sup> See References in Text note below.