

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before December 15, 1989), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Director may determine in regulations to be appropriate.

(4) Reviewability of imposition of penalty

The Secretary's¹ determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (c).

(c) Judicial review of agency determination**(1) In general**

After exhausting all administrative remedies established by the Director under subsection (b)(1), a person aggrieved by a final order of the Director assessing a penalty under this section may seek judicial review pursuant to section 1710 of this title.

(2) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Director.

(d) Action to collect penalty

If any person fails to comply with the determination or order of the Director imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (b) and (c), the Director may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's¹ determination or order imposing the penalty shall not be subject to review.

(e) Settlement by Director

The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) "Knowingly" defined

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(g) Regulations

The Director shall issue such regulations as the Director deems appropriate to implement this section.

(h) Use of penalties for administration

Civil money penalties collected under this section shall be paid to the Director and, upon ap-

proval in an appropriation Act, may be used by the Director to cover all or part of the cost of rendering services under this chapter.

(Pub. L. 90-448, title XIV, §1418a, as added Pub. L. 101-235, title I, §111(a), Dec. 15, 1989, 103 Stat. 2014; amended Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" wherever appearing.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Pub. L. 101-235, title I, §111(b), Dec. 15, 1989, 103 Stat. 2016, provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

"(1) violations referred to in the amendment that occur on or after the effective date of this section [Dec. 15, 1989]; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of violation referred to in the amendment that occurs on or after such date."

§ 1718. Rules, regulations, and orders

The Director shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon him elsewhere in this chapter. For the purpose of his rules and regulations, the Director may classify persons and matters within his jurisdiction and prescribe different requirements for different classes of persons or matters.

(Pub. L. 90-448, title XIV, §1419, Aug. 1, 1968, 82 Stat. 598; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" in two places.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§ 1719. Jurisdiction of offenses and suits

The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this chapter and under the rules and regulations prescribed by the Director pursuant thereto, and concurrent with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created

¹ So in original. Probably should be "Director's".

by this chapter. Any such suit or action may be brought to enforce any liability or duty created by this chapter. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254 and 1291 of title 28. No case arising under this chapter and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where the United States or any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the Director in any proceeding under this chapter brought by or against him in the Supreme Court or such other courts.

(Pub. L. 90-448, title XIV, §1420, Aug. 1, 1968, 82 Stat. 598; Pub. L. 100-628, title X, §1089(b), Nov. 7, 1988, 102 Stat. 3283; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” in two places.

1988—Pub. L. 100-628 struck out “(a)” after section designation.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§ 1719a. Repealed. Pub. L. 104-66, title I, § 1071(c), Dec. 21, 1995, 109 Stat. 720

Section, Pub. L. 90-448, title XIV, §1421, as added Pub. L. 96-153, title IV, §409, Dec. 21, 1979, 93 Stat. 1132, directed Secretary to submit to Congress biennial reports on administration of this chapter and its impact upon land development industry and purchasers and lessees of undeveloped land.

§ 1720. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

(Pub. L. 90-448, title XIV, §1422, formerly §1421, Aug. 1, 1968, 82 Stat. 599; renumbered §1422, Pub. L. 96-153, title IV, §409, Dec. 21, 1979, 93 Stat. 1132.)

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

CHAPTER 43—NEWSPAPER PRESERVATION

Sec.

1801. Congressional declaration of policy.

Sec.

1802. Definitions.

1803. Antitrust exemptions.

1804. Reinstatement of joint operating arrangements previously adjudged unlawful under antitrust laws.

§ 1801. Congressional declaration of policy

In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this chapter.

(Pub. L. 91-353, §2, July 24, 1970, 84 Stat. 466.)

SHORT TITLE

Pub. L. 91-353, §1, July 24, 1970, 84 Stat. 466, provided that: “This Act [enacting this chapter] may be cited as the ‘Newspaper Preservation Act.’”

SEPARABILITY

Section 6 of Pub. L. 91-353 provided that: “If any provision of this Act [enacting this chapter] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby.”

§ 1802. Definitions

As used in this chapter—

(1) The term “antitrust law” means the Federal Trade Commission Act [15 U.S.C. 41 et seq.] and each statute defined by section 4 thereof [15 U.S.C. 44] as “Antitrust Acts” and all amendments to such Act and such statutes and any other Acts in pari materia.

(2) The term “joint newspaper operating arrangement” means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(3) The term “newspaper owner” means any person who owns or controls directly, or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term “newspaper publication” means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper pub-