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Department of Justice

Office of Public Affairs

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Department of Justice Announces Initiative to Terminate "Legacy" Antitrust Judgments

The Department of Justice's Antitrust Division today announced an initiative to terminate outdated antitrust judgments.

"Today, we are taking a first step toward freeing American businesses, taxpayers, and consumers from the burden of judgments that no longer protect competition," said Makan Delrahim, Assistant Attorney General for the Justice Department's Antitrust Division. "We will pursue the termination of outdated judgments around the country that presently do little more than clog court dockets, create unnecessary uncertainty for businesses or, in some cases, may actually elicit anticompetitive market conditions."

From the early days of the Sherman Act until the late 1970s, the Division often entered into final judgments that did not include an express termination date. In 1979, the Division adopted the general practice of including sunset provisions that automatically terminate judgments, usually 10 years from entry. However, nearly 1300 "legacy" judgments remain on the books of the Antitrust Division, and nearly all of them likely remain open on the dockets of courts around the country. The vast majority of these judgments no longer protect competition because of changes in industry conditions, changes in economics, changes in law, or for other reasons.

To facilitate the termination of these judgments, the Antitrust Division announced that it will review all of its legacy judgments to identify those that no longer serve to protect competition. The Division has assigned each judgment to a Division attorney, who will examine court papers, internal case files, and publicly available information to determine whether each judgment continues to serve competition.

Although the Antitrust Division's review is ongoing, it already has identified many judgments that it likely will seek to terminate unilaterally after a public comment period. It will begin its efforts by proposing to terminate a set of judgments entered by the federal district courts in Washington, D.C. and Alexandria, Virginia.

The process by which the Antitrust Division intends to seek unilaterally the termination of these outdated judgments is described on a public website (www.justice.gov/atr/JudgmentTermination) that will serve as the primary source of information for the public regarding this initiative. In brief, the process is as follows:

- The Antitrust Division will review its outstanding judgments to identify those that no longer appear to protect competition such that termination would be appropriate.
- When the Antitrust Division identifies judgments it believes are candidates for termination, it will post the name of the related case with a link to the relevant judgment on the public website.
- The public may submit comments regarding each proposed termination to the Division at JudgmentTerminationComments@usdoj.gov within 30 days of the date the judgment is posted on the public website.
- Following the comment period, if the Antitrust Division still believes termination is appropriate, it will seek to terminate the judgment by filing a motion with the appropriate court; the Division will post court filings and any related orders to the public website.

Members of the public are encouraged to check www.justice.gov/atr/JudgmentTermination often. The Antitrust Division will post updates to the website as it continues its ongoing review of legacy judgments and proposes judgments for termination. In addition, the Division has established a mailing list that will provide notice of new postings to the website, including judgments the Division has identified as appropriate for termination. Members of the public may subscribe to the mailing list at <https://public.govdelivery.com/accounts/USDOJ/subscriber/new> .

The Division will post a statement that describes the initiative in detail to the public website, and publish it in the Federal Register. Defendants who have information related to possible termination of a legacy judgment, as well as members of the public who have questions about the initiative, are encouraged to contact Dorothy B. Fountain, Chief Legal Advisor, Antitrust Division, U.S. Department of Justice, at ChiefLegalAdvisor@usdoj.gov.

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