REQUEST FOR PUBLIC COMMENT

Exclusionary Conduct

(Comments Requested by July 15, 2005)

1. What are the circumstances in which a firm’s refusal to deal with (or discrimination against) rivals in adjacent markets violates Section 2 of the Sherman Act? Does the Supreme Court’s decision in Verizon Communications, Inc. v. Law Offices of Curtis V. Trinko, LLP, 540 U.S. 398 (2004), state an appropriate legal standard in this respect?

2. Should the essential facilities doctrine constitute an independent basis of liability for single-firm conduct under Section 2 of the Sherman Act?

3. What should be the standards for determining when a firm’s product bundling or bundled pricing violates Section 2 of the Sherman Act?

4. How should the standards for exclusionary or anticompetitive conduct be determined (e.g., through legislation, judicial development, amicus efforts by DOJ and FTC), particularly if you believe the current standards are not appropriate or clear?