

## Civil Remedies-Government Discussion Outline

*Note:* Italicized text is based on the questions on which the Commission requested comment from the public.

1. *Should the DOJ and/or the FTC have statutory authority to impose civil fines for substantive antitrust violations? If so, in what circumstances and what types of cases should such fines be available? If DOJ and/or the FTC are given such authority, how, if at all, should it affect the availability of damages awarded to private plaintiffs?*

- No additional authority should be given to either DOJ or the FTC to obtain civil fines for substantive antitrust violations.
- Recommend the creation of civil fine authority for the Department of Justice that would add to existing available remedies (such as penalties and monetary equitable remedies).
- Recommend the creation of civil fine authority for the Federal Trade Commission that would add to existing available remedies (such as penalties and monetary equitable remedies).

If civil fine authority is created for either or both the DOJ or FTC

A.

- Fines should be payable to the U.S. government, with no compensation to victims of anticompetitive conduct.
- Fines should be distributed to victims of the anticompetitive conduct where possible.

B.

- Fines should have no effect on damages payable by defendants in parallel actions by states and private parties.
- Fines should offset damages payable by defendant in parallel actions by states and private parties.

2. *Should Congress clarify, expand, or limit the FTC's authority to seek monetary relief under 15 U.S.C. § 53(b)?*

- Recommend statutory change to clarify authority of FTC to seek monetary equitable remedies pursuant to Section 13(b), 15 U.S.C. § 53(b).
- Recommend statutory change to bar FTC from seeking monetary equitable remedies in competition cases pursuant to Section 13(b).
- No change to Section 13(b) is appropriate, but the Commission should urge the FTC not seek monetary equitable remedies under Section 13(b) in competition cases.
- No change to Section 13(b) is appropriate, and the Commission should endorse the FTC's current policy governing the circumstances in which it will seek monetary equitable relief.