

ANTITRUST MODERNIZATION COMMISSION

MINUTES OF MEETING ON JULY 26, 2006

The Antitrust Modernization Commission met on July 26, 2006, at 1111 Pennsylvania Avenue, N.W., in Washington, D.C. This meeting was announced to the public in advance through publication of a notice in the *Federal Register*. See 71 Fed. Reg. 35,059-60 (June 23, 2006). Andrew Heimert, the Executive Director & General Counsel, served as Designated Federal Officer for the meeting. The Chair called the meeting to order at 9:31 a.m. A quorum of Commissioners was present.

Participating:

Deborah A. Garza, Chair
Jonathan R. Yarowsky, Vice-Chair
Bobby R. Burchfield, Commissioner
Dennis W. Carlton, Commissioner
Jonathan M. Jacobson, Commissioner
Donald G. Kempf, Jr., Commissioner
Sanford M. Litvack, Commissioner
Debra A. Valentine, Commissioner
John L. Warden, Commissioner

Andrew J. Heimert, Executive Director & General Counsel

Also present:

Susan S. DeSanti, Senior Counsel
William F. Adkinson, Jr., Counsel
Nadine Jones, Counsel
Marni B. Karlin, Counsel
Kristen Gorzelany, Paralegal
James Abell, Summer Intern

I. Remarks of Chair

The Chair offered opening remarks, welcoming the public to the meeting and setting out the process for deliberations. She explained that this meeting was being held to review tentative recommendations agreed to by a majority of Commissioners in previous meetings and to refine the wording of those recommendations where appropriate. The Chair explained that, prior to the meeting, all Commissioners were provided with a list of “Potential Recommendations for Review” for which at least four Commissioners previously expressed support. The list of potential recommendations was designed to help focus discussion on outstanding issues and facilitate any necessary further deliberations. Commissioners were free to propose additional recommendations as well as modifications to those set out in the list. All documents were made available to the public at the meeting and in advance on the Commission’s website.

II. Discussion of Issues

The Commission reviewed potential recommendations in the following areas, corresponding to the list of Potential Recommendations for Review: 1) criminal remedies; 2) government civil remedies; 3) indirect purchaser litigation; 4) civil remedies; 5) state enforcement institutions; 6) federal enforcement institutions; 7) federal merger enforcement-process; 8) federal merger enforcement-substance; 9) exclusionary conduct; 10) Robinson-Patman Act; 11) the patent/antitrust interface; 12) the state action doctrine; 13) statutory immunities and exemptions; 14) regulated industries; 15) international antitrust.

The Commissioners reviewed each potential recommendation in these areas. Commissioners clarified their votes as appropriate, and offered wording changes to recommendations that were then discussed. Where a majority of all Commissioners (i.e., seven or more) agreed to change the wording of a potential recommendation, those changes were noted by staff, who were instructed to make those changes for purposes of drafting the Commission's Report.

The meeting was adjourned at 2:45 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

Deborah A. Garza
Chair, Antitrust Modernization Commission