



July 14, 2005

Deborah A. Garza, Chair
Jonathan R. Yarowsky, Vice Chair
Antitrust Modernization Commission
1120 G Street, NW
Suite 810
Washington, DC 20005

Dear Ms. Garza and Mr. Yarowsky:

On behalf of the U.S. Apple Association (USApple), I am writing in response to the Federal Register notice of May 19, 2005 requesting comments on issues being studied by the Commission.

In particular, USApple would like to voice its support for the Export Trading Company Act and Webb-Pomerene Acts and strongly urge that the Commission not recommend the elimination or limitation of these laws to the President and Congress.

USApple is the national trade association representing all segments of the apple industry. Our members include 40 state apple associations representing 7,500 apple growers throughout the country, as well as over 400 individual firms involved in the apple business.

A variety of export trading companies exist in our industry to facilitate apple export trade and expand global competitiveness. Our industry is composed of many small businesses, including family-owned and operated apple orchards. They are able to pool resources, identify strategies for specific overseas markets and capitalize on economies of scale, all of which are critical in order to compete globally.

The U.S. apple industry needs the opportunity to utilize export trading companies to succeed and compete effectively in foreign markets. The clarity of the Export Trading Company Act allows our industry to engage in joint export trade. This law helps reduce variable costs of transportation, warehousing and handling by enabling U.S. exporters to negotiate better rates for larger volumes of trade. It allows exporters to consolidate market research and administrative costs and to mitigate risks associated with non-payment by buyers, demand slumps, or disruption in deliveries caused by political or natural events in particular markets.

At a time when U.S. trade deficits are routinely setting record highs and American agricultural imports threaten to exceed food exports, it would be unthinkable for the Antitrust Modernization Commission (AMC) to come to the conclusion that these laws merit repeal.

703 442-8850
800 781-4443
fax 703 790-0845

Web site www.usapple.org

8233 Old Courthouse Road, Suite 200 ★ Vienna, VA 22182-3816 USA

Ms. Deborah A. Garza, Chair
Jonathan R. Yarowsky, Vice Chair
Antitrust Modernization Commission
July 14, 2005
Page Two

Although the joint export trade provisions (with huge benefits and zero costs) can easily satisfy whatever standards the AMC may choose to apply in its review, we strongly reject the notion that supporters should have to bear the burden of proving that the benefits of an existing law exceed its costs. It should go without saying that the burden of proof rests with anyone attempting to alter an established law of Congress. In this same vein, the joint export trade provisions should not be subject to a "sunset" provision. If these laws continually were to be continually up for renewal at regular intervals, the legal certainty and protections they afford would be cast into doubt, and it would impinge on the long-term planning and contracting in which joint exporters engage.

Any attempts to change U.S. antitrust law should, at a minimum, do no harm to the U.S. economy. There can be no doubt that the repeal of the ETC and Webb-Pomerene Acts would harm the U.S. economy, including members of export trading companies operating in the U.S. apple industry.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Nancy E. Foster". The signature is written in a cursive style with a large, stylized initial "N".

Nancy E. Foster
President & CEO