

Mutual Trade Services

Michael R. Mace
3916 Laredo Place, Billings, MT 59106
Telephone 406-671-9557 Fax 406-655-2075

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

Submitted by email to comments@amc.gov.

Washington, DC 20005

Dear Ms. Garza and Mr. Yarowsky:

On behalf of Mutual Trade Services, 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, Mutual Trade Services 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.

The rural Montana, North Dakota and Wyoming economic environment necessitates the need for export trading companies who lend a hand to the Tri-state Agricultural Community. Without the antitrust exemption, together as a group they could not organize an export trade business deal. Individually these Agribusiness entrepreneurs' are exceedingly limited and often shut out of an export trade transaction. The antitrust exemption allows these individual farmers the opportunity to jointly commingle agricultural products thus providing a larger dollar volume export trade contract.

Mutual Trade Services and its clients needs joint export trade in order to succeed and compete effectively in foreign markets. The clarity of the Webb-Pomerene/ETC 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, it would be unthinkable for the Antitrust Modernization Commission to come to the conclusion that these laws merit repeal.

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 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 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 exporters such as Mutual Trade Services.

Thank you for your consideration of these comments.

Sincerely,

Michael R. Mace

Cc: Montana Senator; Conrad Burns
Montana Senator; Max Baucus
Montana Representative; Dennis Rehberg
North Dakota Senator; Kent Conrad
Wyoming Representative; Barbara Cubin

North Dakota Senator; Byron Dorgan
North Dakota Representative; Earl Pomeroy
Wyoming Senator; Craig Thomas
Wyoming Senator; Michael Enzi