

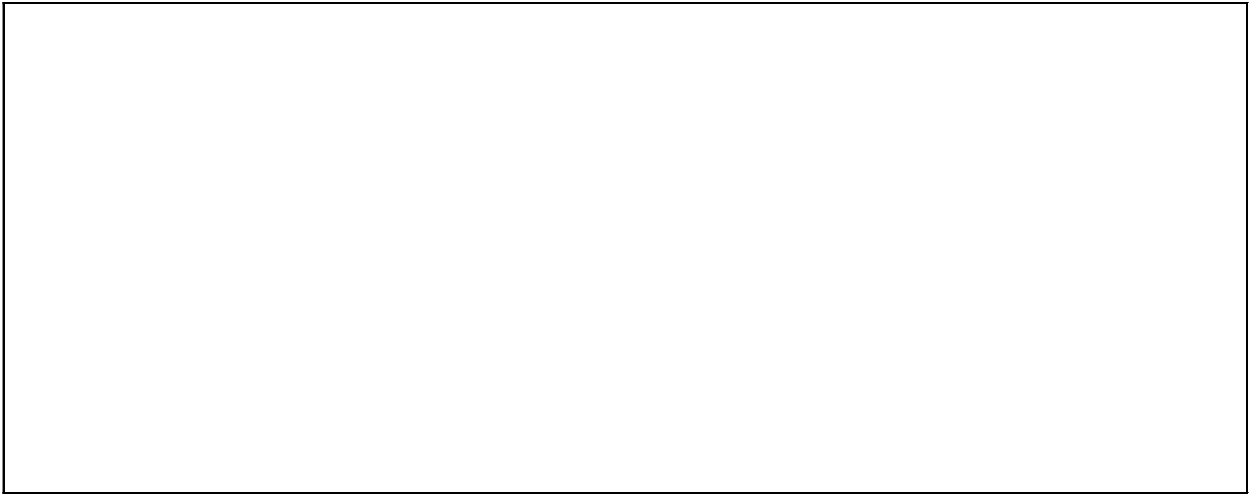
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Organisation de Coopération et de Développement Economiques
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1) Commission Studies and Reports

Introduction

1. This report describes federal antitrust developments in the United States for the period October 1, 2004, through September 30, 2005 ("FY 2005"). It summarizes the activities of both the Antitrust Division ("Division") of the U.S. Department of Justice ("Department" or "DOJ") and the Bureaus of Competition and Economics of the Federal Trade Com

! the Division will ensure that remedies are completely implemented and will fully enforce its judgments.

5. On March 2, 2005, the revised notification filed in the Division for the case of Scott & Bennett (Case No. 32.0542) Antitrust Im

other's authorities for appropriate law enforcement action. The "positive comity" agreement is very similar to the agreement signed by the U.S. and the European Communities in 1998, and establishes conditions under which the requesting country will normally agree to defer initiating its own enforcement activity.

10. The Commission and Department of Justice participated in the Fourth Annual International Competition Network (ICN) conference, which was held in Bonn, Germany. The conference was the largest gathering of competition officials, with more than 400 delegates, including representatives of 80 competition agencies, experts from international organizations, and members of the legal, business, consumer, and academic communities. The conference presented the work of four ICN working groups focused on mergers, cartels, competition policy implementation, and antitrust enforcement

21. In a district court decision, *Stolt-Nielsen S.A., v. United States*, 352 F. Supp. 2d 553 (E.D. Pa. 2005), the court permanently enjoined the United States from seeking the indictment of Stolt-Nielsen Transportation Group (“Stolt-Nielsen”), a member of a conspiracy to fix prices and allocate customers in the ocean parcel-tanker industry, and a Stolt-Nielsen executive. Stolt-Nielsen had received conditional leniency

Hoffman-LaRoche Ltd. v. Empagran S.A., 542 U.S. 155 (2004), that the foreign injury they suffered as purchasers of vitamins outside the United States was linked to, and not independent of, the domestic effects of an international vitamin price-fixing arrangement. The plaintiffs' claa0

charging that the NAR's modified policy continues to prevent Internet-based real estate brokers from offering better services and lower costs to consumers. The modified policy provides for a "blanket opt-out," similar to the opt-out provision in the initial policy, but specifically exempts NAR's official website from the blanket opt out. NAR's modified policy, like its original policy, denies brokers using new technologies and business models the same benefits of MLS membership available to their competitor brokers, ultimately stif

3) *FTC Non-Merger Enforcement Actions*

39. In FY 2005, there were significant developments in the Commission's non-merger enforcement in the form of consent1ot68o4.4793 708.2014 04 497.6182 74.04 96.1741 6958.2014 Tm(e)TjETBT/TT0 1 Tf11.0417 0

- ! **Partners Health Network:** In September 2005, the Commission approved a final settlement with this physician-hospital group, consisting of 225 physicians practicing in the Pickens County, South Carolina area. The charges claimed that Partners Health Network orchestrated and carried out agreements among its physician members to set the prices they would accept from health plans and to refuse to deal with health plans that did not agree to its collectively determined prices. The consent order settling the FTC's charges prohibits the physician-hospital group from engaging in this type of anticompetitive conduct in the future.

42. Energy: The FTC has been active in prosecuting unlawful conduct in the petroleum and natural gas industries.

- ! **Chevron/Unocal:** In June 2005, the Commission accepted two consent orders to resolve the Commission's complaint against Union Oil Company of California (Unocal) and antitrust concerns arising from Chevron's proposed \$18 billion acquisition of Unocal. The settlement resolved allegations of monopolization through anticompetitive abuses of the regulatory process related to California reformulated gasoline in connection with certain Unocal patents. The acquisition raised concerns that Chevron could use information obtained through patent licenses to facilitate coordinated interaction among itself and other refiners and marketers, thereby leading to higher prices for reformulated gasoline. By the terms of the order, the combined firm agreed not to enforce its relevant patents or collect royalties on those patents.

43. Other Non-merger Enforc

stating that its purchase of pharmaceuticals to be dispensed to patients treated by its clinic physicians is

acquisition would have reduced the number of island gasoline marketers that had guaranteed access to supply from five to four, and the number of suppliers selling to unintegrated retailers from three to two. Aloha subsequently announced a long-term agreement with a third party, Mid Pac Petroleum, that would give Mid Pac substantial rights to use the terminal to import gasoline into Hawaii. The court then dismissed the Commission's complaint upon the Commission's request.

51. **Novartis/Eon Labs:** In July 2005, The Commission required the parties to div

56. ALLTEL Corporation/Western Wireless: On July 6, 2005, the Department announced that it had reached a s

4. Regulatory and Trade Policy Matters

A. Regulatory Policies

1) Joint FTC-DOJ Activities: Federal and State Regulatory Matters

60. The Department and FTC filed comments in FY 2005 with authorities in several states – Oklahoma, Missouri, Texas, and Alabama – in opposition to proposals that would restrict the ability of local real estate professionals to offer customized real estate services. Full-service brokers charge consumers a single price for a bundle of individual real estate services. In contrast

transmission services. The Commission stated that FERC could make efficient generation entry more probable by reducing long-term transmission risk. The Commission suggests that FERC should coordinate its policies to reduce transmission risk with its policies to promote efficient transmission investment projects. The second comment concerned the need to standardize the way in which transmission owners calculate the amount of capacity available for unaffiliated us 0 0 11.04 287.5816 682.2817 Tm(i)T7TBT/TT0 1 Tf11.04

the applicants already have already engaged in significant integration of their activities and could achieve a substantial portion of the claimed benefits through code-sharing of the type that presents minimal antitrust risks.

B. DOJ and FTC Trade Policy Activities

69. Both the Division and the FTC are involved extensively in interagency discussions and decision-making with respect to the formulation and implementation of U.S. international trade and investment policy as concerns competition policy. The Division participates in interagency trade policy discussions chaired by the Office of the U.S. Trade Representative and actively follows various WTO negotiations. The Division provides antitrust and other legal advice to U.S. trade agencies, and has been actively involved in certain NAFTA Chapter 11 arbitrations relevant to competition issues. The Division also works with other Justice components (including the Criminal, Environment, and Civil Divisions) on international trade and investment issues that affect th

demand for crude oil has grown significantly over the past two decades, thus leading to higher prices at the pump. Regional differences in access to gasoline supplies and environmental requirements for gasoline affect average retail prices and the variability of regional prices. Different regions of the country di

A Variance Screen For Collusion, Rosa M. Abrantes-Metz, Luke M. Froeb, John F. Geweke, Christopher T. Taylor, March 2005.

Pharmaceutical Development Phases: A Duration Analysis, Rosa M. Abrantes-Metz, Christopher P. Adams, and Albert Metz, October 2004.

APPENDICES

Department of Just

	FTE	Amount (\$ in thousands)
Nonmerger Enforcement	104.1	\$13 911.1
<i>Bureau of Competition</i>	84.8	\$11 373.1
<i>Bureau of Economics</i>	9.1	\$1 226.3
<i>Regional Offices</i>	10.2	\$1 311.7