

S. 1088

IN THE SENATE OF THE UNITED STATES

MARCH 6, 1973

MR. MANSFIELD (for Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect the public interest in fair and impartial execution of the antitrust laws of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this bill may be cited as "The Antitrust Settlement Act
4 of 1973."

5 SEC. 2. (a) Before any court of the United States per-
6 mits any proposed consent judgment on decree or other settle-
7 ment of any suit, action, or proceeding arising under the anti-
8 trust laws and brought by or on behalf of the United States
9 to become final, it shall:

10 (1) direct the United States to publicize the terms
11 of the proposed settlement—

1 (A) by publishing for seven days over a period
2 of two weeks in newspapers of general circulation
3 of the district in which the case has been filed, in
4 Washington, District of Columbia, and in such other
5 districts as the court may direct (i) a summary of
6 the terms of the proposed consent judgment or de-
7 cree or other settlement, (ii) a description of the
8 case (including the alleged conditions which lead
9 the Department of Justice to conclude that the anti-
10 trust laws had been violated), (iii) a list of the
11 materials available under subsection (a) (1) (B)
12 and the places where such material is available for
13 public inspection, and (iv) an invitation to members
14 of the public to send their comments on the terms
15 of the proposed consent judgment or decree or other
16 settlement to the Attorney General; and

17 (B) by making available to members of the
18 public at United States courthouses in every district
19 mentioned in subsection (a) (1) (A), and in such
20 other districts as the court may deem appropriate,
21 copies of the proposed consent judgment or decree
22 or other settlement and such other documents as
23 the court deems necessary to permit meaningful
24 comment by members of the public on the proposed
25 settlement; and

1 (C) by taking such other steps as the court
2 deems appropriate to insure that members of the
3 public have knowledge of the terms of the proposed
4 consent judgment or decree or other settlement and
5 an opportunity to comment thereon; and

6 (2) withhold decision on whether to permit the
7 proposed consent judgment or decree or other settle-
8 ment to become final for at least sixty days, or such
9 other longer period as it deems necessary to allow the
10 public adequate time to comment thereon and the United
11 States and the court adequate time to consider such
12 comments: *Provided, however,* That the court shall not
13 permit the proposed consent judgment or decree or other
14 settlement to become final before the Attorney General
15 has complied with the requirements of subsection (b)
16 and a hearing has been held in compliance with sub-
17 section (c).

18 (b) The Attorney General or his designate shall (1)
19 distribute to the court and to the defendant copies of any
20 comments he receives on the terms of the proposed consent
21 judgment or decree or other settlement, and (2) if no sub-
22 stantial changes of public interest are made in the proposed
23 consent judgment or decree or other settlement, submit to
24 the court, by such date as the court may direct after the ex-
25 piration of any period under subsection (a) (2), a statement

1 that he has taken into consideration the comments, if any,
2 received from members of the public and that he believes the
3 proposed consent judgment or decree or other settlement to
4 be consistent with the antitrust laws and to be in the best
5 interests of the United States, together with a full and com-
6 plete articulation of the reasons for his belief: *Provided*, That
7 if substantial changes of public interest are made in the pro-
8 posed consent judgment or decree or other settlement the
9 provisions of sections (a) and (b) of this section will be
10 applicable as if the proposed consent judgment or decree or
11 other settlement were being presented to the court for the
12 first time.

13 (c) The court shall order that a hearing be held on
14 whether the proposed consent judgment or decree or other
15 settlement should be allowed to become final, unless it finds
16 after the Attorney General has complied with subsection (b)
17 that there is no substantial controversy concerning the pro-
18 posed consent judgment or decree or other settlement. The
19 court may direct that such hearing be held before a special
20 master appointed for that purpose.

21 (d) (1) The costs of any publicity ordered by a court
22 pursuant to this section shall be borne equally by the United
23 States and the defendant.

24 (2) The court, after deciding whether to allow the pro-
25 posed consent judgment or decree or other settlement to

1 become final, may award to any person the actual, necessary
2 and reasonable costs incurred by such person in preparing
3 and presenting comments or preparing and presenting re-
4 sponses to comments (other than the report required of the
5 Attorney General by subsection (b) (2)) pursuant to this
6 Act, whenever the court finds it is in the public interest to
7 make such an award.

8 (e) Nothing in this section shall limit in any way the
9 power of the courts of the United States to make such other
10 orders in connection with a proposed consent judgment or
11 decree or other settlement of any suit, action, or proceeding
12 arising under the antitrust laws or any other laws as the
13 court may lawfully make; nor shall anything in this section
14 limit or expand in any way the power of the courts to accept
15 or reject a proposed consent judgment or decree or other
16 settlement of any suit, action, or proceeding arising under
17 the antitrust laws or any other laws; nor shall anything in
18 this section limit or expand in any way the rights of any
19 person to intervene in any suit, action, or proceeding arising
20 under the antitrust laws or any other laws.

93D CONGRESS
1ST SESSION

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By Mr. BAYH

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