§ 2135. Antitrust provisions governing licenses

(a) Violations of antitrust laws

Nothing contained in this chapter shall relieve any person from the operation of the following Acts, as amended, “An Act to protect trade and commerce against unlawful restraints and monopolies” approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes” approved August twenty-seven, eighteen hundred and ninety-four; “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes” approved October fifteen, nineteen hundred and fourteen; and “An Act to create a Federal Trade Commission, to defined its powers and duties, and for other purposes” approved September twenty-six, nineteen hundred and fourteen. In the event a licensee is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the laws cited above, to have violated any of the provisions of such laws in the conduct of the licensed activity, the Commission may suspend, revoke, or take such other action as it may deem necessary with respect to any license issued by the Commission under the provisions of this chapter.

(b) Reports to Attorney General

The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate or to tend toward the violation of any of the foregoing Acts, or to restrict free competition in private enterprise.

(c) Transmissions to Attorney General of copies of license applications; publication of advice; factors considered; exceptions

(1) The Commission shall promptly transmit to the Attorney General a copy of any license application provided for in paragraph (2) of this subsection, and a copy of any written request provided for in paragraph (3) of this subsection; and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such application or written request, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

(2) Paragraph (1) of this subsection shall apply to an application for a license to construct or operate a utilization or production facility under section 2133 of this title: Provided, however, That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 2133 of this title unless the Commission determines such review is advisable on the ground that significant changes in the licensee’s activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

(3) With respect to any Commission permit for the construction of a utilization or production facility issued pursuant to subsection (b) of section 2134 of this title prior to December 19, 1970, any person who intervened or who sought by timely written notice to the Commission to intervene in the construction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination shall have the right, upon a written request to the Commission, to obtain an antitrust review under this section of the application for an operating license. Such written request shall be made within 25 days after the date
of initial Commission publication in the Federal Register of notice of the filing of an application
for an operating license for the facility or December 19, 1970, whichever is later.

(4) Upon the request of the Attorney General, the Commission shall furnish or cause to be
furnished such information as the Attorney General determines to be appropriate for the advice
called for in paragraph (1) of this subsection.

(5) Promptly upon receipt of the Attorney General’s advice, the Commission shall publish the
advice in the Federal Register. Where the Attorney General advises that there may be adverse
antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may
participate as a party in the proceedings thereafter held by the Commission on such licensing matter
in connection with the subject matter of his advice. The Commission shall give due consideration
to the advice received from the Attorney General and to such evidence as may be provided during
the proceedings in connection with such subject matter, and shall make a finding as to whether the
activities under the license would create or maintain a situation inconsistent with the antitrust laws
as specified in subsection (a) of this section.

(6) In the event the Commission’s finding under paragraph (5) is in the affirmative, the
Commission shall also consider, in determining whether the license should be issued or continued,
such other factors, including the need for power in the affected area, as the Commission in
its judgment deems necessary to protect the public interest. On the basis of its findings, the
Commission shall have the authority to issue or continue a license as applied for, to refuse to issue
a license, to rescind a license or amend it, and to issue a license with such conditions as it deems
appropriate.

(7) The Commission, with the approval of the Attorney General, may except from any of the
requirements of this subsection such classes or types of licenses as the Commission may determine
would not significantly affect the applicant’s activities under the antitrust laws as specified in
subsection (a) of this section.

(8) With respect to any application for a construction permit on file at the time of enactment into
law of this subsection, which permit would be for issuance under section 2133 of this title, and
with respect to any application for an operating license in connection with which a written request
for an antitrust review is made as provided for in paragraph (3), the Commission, after consultation
with the Attorney General, may, upon determination that such action is necessary in the public
interest to avoid unnecessary delay, establish by rule or order periods for Commission notification
and receipt of advice differing from those set forth above and may issue a construction permit or
operating license in advance of consideration of and findings with respect to the matters covered in
this subsection: Provided, That any construction permit or operating license so issued shall contain
such conditions as the Commission deems appropriate to assure that any subsequent findings and
orders of the Commission with respect to such matters will be given full force and effect.

(9) Applicability.— This subsection does not apply to an application for a license to construct
or operate a utilization facility or production facility under section 2133 or 2134 (b) of this title
that is filed on or after August 8, 2005.

Stat. 784.)

References in Text
The act to protect trade and commerce against unlawful restraints and monopolies, referred to in subsec. (a), is act
July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of
Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under
section 1 of Title 15 and Tables.
Sections seventy-three to seventy-six, inclusive, of an act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, referred to in subsec. (a), are sections 73 to 76 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, as amended, known as the Wilson Tariff Act, which are classified to sections 8 to 11, respectively, of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

“An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes” approved October fifteen, nineteen hundred and fourteen, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, known as the Federal Trade Commission Act, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Prior Provisions

Provisions similar to this section were contained in section 1807 (c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

Amendments

1970—Subsec. (c). Pub. L. 91–560 designated existing provisions as pars. (1), (2), (4), and (5) and amended such provisions by extending the time for the Attorney General to give advice from 90 to 180 days and provided for review of licenses once granted under section 2133 of this title, and when the Attorney General recommends that there be a hearing, authorized the Commission to hold hearings and permit the Attorney General to appear as a party and to make a finding as to whether the activities under the license would be inconsistent with the antitrust laws, and in par. (3), provided for a review of the permit issued under section 2134 (b) of this title, and added pars. (6) to (8).
1964—Subsec. (a). Pub. L. 88–489 struck out “, including the provisions which vest title to all special nuclear material in the United States,” before “shall relieve any person”.

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–273 effective Nov. 2, 2002, and applicable only with respect to cases commenced on or after Nov. 2, 2002, see section 14103 of Pub. L. 107–273, set out as a note under section 3 of Title 15, Commerce and Trade.