

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2325

To establish the Antitrust Modernization Commission.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2001

Mr. SENSENBRENNER (for himself, Mr. HYDE, and Mr. HUTCHINSON) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To establish the Antitrust Modernization Commission.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Antitrust Moderniza-  
5 tion Commission Act of 2001”.

6 **SEC. 2. ESTABLISHMENT.**

7       There is established the Antitrust Modernization  
8 Commission (in this Act referred to as the “Commis-  
9 sion”).

10 **SEC. 3. DUTIES OF THE COMMISSION.**

11       The duties of the Commission are—

1           (1) to investigate and to study issues and prob-  
2           lems relating to the modernization of the antitrust  
3           laws,

4           (2) to solicit divergent views of all parties con-  
5           cerned with the operation of the antitrust laws,

6           (3) to evaluate the advisability of proposals and  
7           current arrangements with respect to such issues  
8           and such problems, and

9           (4) to prepare and to submit to the Congress  
10          and the President a report in accordance with sec-  
11          tion 8.

12 **SEC. 4. MEMBERSHIP.**

13          (a) NUMBER AND APPOINTMENT.—The Commission  
14 shall be composed of 12 members appointed as follows:

15           (1) Four members, no more than 2 of whom  
16           shall be of the same political party, shall be ap-  
17           pointed by the President. One of such members shall  
18           be designated by the President as chairperson of the  
19           Commission.

20           (2) Two members shall be appointed by the ma-  
21           jority leader of the Senate.

22           (3) Two members shall be appointed by the mi-  
23           nority leader of the Senate.

24           (4) Two members shall be appointed by the  
25           Speaker of the House of Representatives.

1           (5) Two members shall be appointed by the mi-  
2           nority leader of the House of Representatives.

3           (b) INELIGIBILITY FOR APPOINTMENT.—Members of  
4 Congress shall be ineligible for appointment to the Com-  
5 mission.

6           (c) TERM OF APPOINTMENT.—

7           (1) IN GENERAL.—Subject to paragraph (2),  
8           members of the Commission shall be appointed for  
9           the life of the Commission.

10          (2) EARLY TERMINATION OF APPOINTMENT.—

11          If a member of the Commission who is appointed to  
12          the Commission as—

13                 (A) an officer or employee of a government  
14                 ceases to be an officer or employee of such gov-  
15                 ernment; or

16                 (B) an individual who is not an officer or  
17                 employee of a government becomes an officer or  
18                 employee of a government;

19          then such member shall cease to be a member of the  
20          Commission on the expiration of the 90-day period  
21          beginning on the date such member ceases to be  
22          such officer or employee of such government, or be-  
23          comes an officer or employee of a government, as  
24          the case may be.

1 (d) QUORUM.—Seven members of the Commission  
2 shall constitute a quorum, but a lesser number may con-  
3 duct meetings.

4 (e) APPOINTMENT DEADLINE.—Initial appointments  
5 under subsection (a) shall be made not later than 60 days  
6 after the date of enactment of this Act.

7 (f) MEETINGS.—The Commission shall meet at the  
8 call of the chairperson. The first meeting of the Commis-  
9 sion shall be held not later than 30 days after the date  
10 on which all members of the Commission are first ap-  
11 pointed under subsection (a) or funds are appropriated to  
12 carry out this Act, whichever occurs later.

13 (g) VACANCY.—A vacancy on the Commission shall  
14 be filled in the same manner as the initial appointment  
15 is made.

16 (h) CONSULTATION BEFORE APPOINTMENT.—Before  
17 appointing members of the Commission, the President, the  
18 majority and minority leaders of the Senate, the Speaker  
19 of the House of Representatives, and the minority leader  
20 of the House of Representatives shall consult with each  
21 other to ensure fair and equitable representation of var-  
22 ious points of view in the Commission.

23 **SEC. 5. COMPENSATION OF THE COMMISSION.**

24 (a) PAY.—

1           (1) NONGOVERNMENT EMPLOYEES.—Each  
2 member of the Commission who is not otherwise em-  
3 ployed by a government shall be entitled to receive  
4 the daily equivalent of the annual rate of basic pay  
5 payable for level IV of the Executive Schedule under  
6 section 5315 of title 5 United States Code, as in ef-  
7 fect from time to time, for each day (including travel  
8 time) during which such member is engaged in the  
9 actual performance of duties of the Commission.

10           (2) GOVERNMENT EMPLOYEES.—A member of  
11 the Commission who is an officer or employee of a  
12 government shall serve without additional pay (or  
13 benefits in the nature of compensation) for service  
14 as a member of the Commission.

15           (b) TRAVEL EXPENSES.—Members of the Commis-  
16 sion shall receive travel expenses, including per diem in  
17 lieu of subsistence, in accordance with subchapter I of  
18 chapter 57 of title 5, United States Code.

19 **SEC. 6. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
20 **ANTS.**

21           (a) STAFF.—

22           (1) APPOINTMENT.—The chairperson of the  
23 Commission may, without regard to the provisions of  
24 chapter 51 of title 5 of the United States Code (re-  
25 lating to appointments in the competitive service),

1       appoint and terminate an executive director and  
2       such other staff as are necessary to enable the Com-  
3       mission to perform its duties. The appointment of  
4       an executive director shall be subject to approval by  
5       the Commission.

6               (2) COMPENSATION.—The chairperson of the  
7       Commission may fix the compensation of the execu-  
8       tive director and other staff without regard to the  
9       provisions of chapter 51 and subchapter III of chap-  
10      ter 53 of title 5 of the United States Code (relating  
11      to classification of positions and General Schedule  
12      pay rates), except that the rate of pay for the execu-  
13      tive director and other staff may not exceed the rate  
14      of basic pay payable for level V of the Executive  
15      Schedule under section 5315 of title 5 United States  
16      Code, as in effect from time to time.

17              (b) EXPERTS AND CONSULTANTS.—The Commission  
18      may procure temporary and intermittent services of ex-  
19      perts and consultants in accordance with section 3109(b)  
20      of title 5, United States Code.

21      **SEC. 7. POWERS OF THE COMMISSION.**

22              (a) HEARINGS AND MEETINGS.—The Commission, or  
23      a member of the Commission if authorized by the Commis-  
24      sion, may hold such hearings, sit and act at such time  
25      and places, take such testimony, and receive such evi-

1 dence, as the Commission considers to be appropriate. The  
2 Commission or a member of the Commission may admin-  
3 ister oaths or affirmations to witnesses appearing before  
4 the Commission or such member.

5 (b) OFFICIAL DATA.—The Commission may obtain  
6 directly from any executive agency (as defined in section  
7 105 of title 5 of the United States Code) or court informa-  
8 tion necessary to enable it to carry out its duties under  
9 this Act. On the request of the chairperson of the Commis-  
10 sion, and consistent with any other law, the head of an  
11 executive agency or of a Federal court shall provide such  
12 information to the Commission.

13 (c) FACILITIES AND SUPPORT SERVICES.—The Ad-  
14 ministrator of General Services shall provide to the Com-  
15 mission on a reimbursable basis such facilities and support  
16 services as the Commission may request. On request of  
17 the Commission, the head of an executive agency may  
18 make any of the facilities or services of such agency avail-  
19 able to the Commission, on a reimbursable or non-  
20 reimbursable basis, to assist the Commission in carrying  
21 out its duties under this Act.

22 (d) EXPENDITURES AND CONTRACTS.—The Commis-  
23 sion or, on authorization of the Commission, a member  
24 of the Commission may make expenditures and enter into  
25 contracts for the procurement of such supplies, services,

1 and property as the Commission or such member considers  
2 to be appropriate for the purpose of carrying out the du-  
3 ties of the Commission. Such expenditures and contracts  
4 may be made only to such extent or in such amounts as  
5 are provided in advance in appropriation Acts.

6 (e) **MAILS.**—The Commission may use the United  
7 States mails in the same manner and under the same con-  
8 ditions as other departments and agencies of the United  
9 States.

10 (f) **GIFTS, BEQUESTS, AND DEVISES.**—The Commis-  
11 sion may accept, use, and dispose of gifts, bequests, or  
12 devises of services or property, both real and personal, for  
13 the purpose of aiding or facilitating the work of the Com-  
14 mission. Gifts, bequests, or devises of money and proceeds  
15 from sales of other property received as gifts, bequests,  
16 or devises shall be deposited in the Treasury and shall be  
17 available for disbursement upon order of the Commission.

18 **SEC. 8. REPORT.**

19 Not later than 3 years after the first meeting of the  
20 Commission, the Commission shall submit to the Congress  
21 and the President a report containing a detailed statement  
22 of the findings and conclusions of the Commission, to-  
23 gether with recommendations for legislative or administra-  
24 tive action the Commission considers to be appropriate.

1 **SEC. 9. TERMINATION OF COMMISSION.**

2       The Commission shall cease to exist 30 days after  
3 the date on which the report required by section 8 is sub-  
4 mitted.

5 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

6       There is authorized to be appropriated \$4,000,000 to  
7 carry out this Act.

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