

117TH CONGRESS
1ST SESSION

S. 3267

To reform the antitrust laws to better protect competition in the American economy, to amend the Clayton Act to modify the standard for an unlawful acquisition.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Ms. KLOBUCHAR (for herself, Mr. BLUMENTHAL, Ms. HIRONO, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform the antitrust laws to better protect competition in the American economy, to amend the Clayton Act to modify the standard for an unlawful acquisition.

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 “Consolidation Preven-
5 tion and Competition Promotion Act of 2021”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) competitive markets, in which multiple
9 firms compete to buy and sell products and services,

1 are critical to ensuring economic opportunity for all
2 people in the United States and providing resilience
3 to the economy during unpredictable times;

4 (2) when companies compete, businesses offer
5 the highest quality and choice of goods and services
6 for the lowest possible prices to consumers and other
7 businesses;

8 (3) competition fosters small business growth,
9 reduces economic inequality, and spurs innovation
10 and job creation;

11 (4) in the United States economy today, the
12 presence and exercise of market power is substantial
13 and growing;

14 (5) the presence and exercise of market power
15 makes it more difficult for people in the United
16 States to start their own businesses, depresses
17 wages, and increases economic inequality, with par-
18 ticularly damaging effects on historically disadvan-
19 tagged communities;

20 (6) market power and undue market concentra-
21 tion contribute to the consolidation of political
22 power, undermining the health of democracy in the
23 United States;

24 (7) the anticompetitive effects of monopoly
25 power or buyer market power include higher prices,

1 lower quality, lessened choice, reduced innovation,
2 foreclosure of competitors, and increased entry bar-
3 riers;

4 (8) monopsony power or seller market power al-
5 lows a firm to force suppliers of goods or services to
6 accept below market prices or to force workers to ac-
7 cept below market wages, resulting in lower quality
8 products and services, reduced opportunities for sup-
9 pliers and workers, reduced availability of products
10 and services for consumers, reduced innovation, fore-
11 closure of competitors, and increased entry barriers;

12 (9) horizontal consolidation, vertical consolida-
13 tion, and conglomerate mergers all have potential to
14 increase market power and cause anticompetitive
15 harm;

16 (10) extensive consolidation is reducing com-
17 petition and threatens to place the American dream
18 further out of reach for many consumers in the
19 United States;

20 (11) since 2008, firms in the United States
21 have engaged in over \$10,000,000,000,000 in merg-
22 ers and acquisitions;

23 (12) the acquisition of nascent or potential ri-
24 vals by dominant firms can present significant long-
25 term threats to competition and innovation;

1 (13) the acquisition, by one of its competitors,
2 of a maverick firm that plays a disruptive role in the
3 market—by using an innovative business model or
4 technology, offering lower prices or new, different
5 products or services products, or by other means
6 that benefit consumers—can present a threat to
7 competition;

8 (14) section 7 of the Clayton Act (15 U.S.C.
9 18), is the primary line of defense against anti-
10 competitive mergers; and

11 (15) in recent years, some court decisions and
12 enforcement policies have limited the vitality of the
13 Clayton Act to prevent harmful consolidation by—

14 (A) discounting previously accepted pre-
15 sumptions that certain acquisitions are anti-
16 competitive;

17 (B) focusing inordinately on the effect of
18 an acquisition on price in the short term, to the
19 exclusion of other potential anticompetitive ef-
20 fects;

21 (C) underestimating the dangers that hori-
22 zontal, vertical, and conglomerate mergers will
23 lower quality, reduce choice, impede innovation,
24 exclude competitors, increase entry barriers, or

1 create buyer power, including monopsony
2 power; and

3 (D) requiring the government to prove
4 harmful effects of a proposed merger to a near
5 certainty.

6 (b) PURPOSES.—The purposes of this Act are to—

7 (1) enhance competition throughout the Amer-
8 ican economy by strengthening antitrust enforce-
9 ment by the Department of Justice, the Federal
10 Trade Commission, the State enforcement agencies,
11 and private parties;

12 (2) revise the legal standard under section 7 of
13 the Clayton Act to better enable enforcers to arrest
14 the likely anticompetitive effects of harmful mergers
15 in their incipiency, as Congress intended, by clari-
16 fying that the potential effects that may justify pro-
17 hibiting a merger under the Clayton Act include
18 lower quality, reduced choice, reduced innovation,
19 the exclusion of competitors, or increased entry bar-
20 riers, in addition to increased price to buyers or re-
21 duced price to sellers;

22 (3) amend the Clayton Act to clarify that an
23 acquisition that tends to create a monopsony violates
24 the Clayton Act; and

1 (4) establish simple, cost-effective decision rules
2 that require the parties to certain acquisitions that
3 either significantly increase concentration or are ex-
4 tremely large bear the burden of establishing that
5 the acquisition will not materially harm competition.

6 **SEC. 3. DEFINITION.**

7 In this Act the term “antitrust laws”—

8 (1) has the meaning given the term in the first
9 section of the Clayton Act (15 U.S.C. 12); and

10 (2) includes—

11 (A) section 5 of the Federal Trade Com-
12 mission Act (15 U.S.C. 45) to the extent that
13 such section applies to unfair methods of com-
14 petition; and

15 (B) this Act and the amendments made by
16 this Act.

17 **SEC. 4. UNLAWFUL ACQUISITIONS.**

18 (a) MARKET POWER.—Section 1(a) of the Clayton
19 Act (15 U.S.C. 12(a)) is amended by adding at the end
20 the following:

21 “the term ‘market power’ in this Act means the
22 ability of a person, or a group of persons acting in
23 concert, to profitably impose terms or conditions on
24 counterparties, including terms regarding price,
25 quantity, product or service quality, or other terms

1 affecting the value of consideration exchanged in the
 2 transaction, that are more favorable to the person or
 3 group of persons imposing them than what the per-
 4 son or group of persons could obtain in a competi-
 5 tive market.”.

6 (b) UNLAWFUL ACQUISITIONS.—Section 7 of the
 7 Clayton Act (15 U.S.C. 18) is amended—

8 (1) in the first and second undesignated para-
 9 graphs, by striking “substantially to lessen” each
 10 place that term appears and inserting “to create an
 11 appreciable risk of materially lessening”;

12 (2) by inserting “or a monopsony” after “mo-
 13 nopoly” each place that term appears; and

14 (3) by adding at the end the following:

15 “In a case brought by the United States, the Federal
 16 Trade Commission, or a State attorney general, a court
 17 shall determine that the effect of an acquisition described
 18 in this section may be to create an appreciable risk of ma-
 19 terially lessening competition or to tend to create a monop-
 20 oly or a monopsony, in or affecting commerce, if—

21 “(1) the acquisition would lead to a significant
 22 increase in market concentration in any relevant
 23 market;

24 “(2)(A) the acquiring person has a market
 25 share of greater than 50 percent or otherwise has

1 significant market power, as a seller or a buyer, in
2 any relevant market, and as a result of the acquisi-
3 tion, the acquiring person would obtain control over
4 entities or assets that compete or have a reasonable
5 probability of competing with the acquiring person
6 in the same relevant market; or

7 “(B) as a result of the acquisition, the acquir-
8 ing person would obtain control over entities or as-
9 sets that have a market share of greater than 50
10 percent or otherwise have significant market power,
11 as a seller or a buyer, in any relevant market, and
12 the acquiring person competes or has a reasonable
13 probability of competing with the entities or assets
14 over which it would obtain control, as result of the
15 acquisition, in the same relevant market;

16 “(3) the acquisition would lead to the combina-
17 tion of entities or assets that compete or have a rea-
18 sonable probability of competing in a relevant mar-
19 ket, and either the acquiring person or the entities
20 or assets over which it would obtain control pre-
21 vents, limits, or disrupts coordinated interaction
22 among competitors in a relevant market or has a
23 reasonable probability of doing so;

24 “(4) the acquisition—

1 “(A) would likely enable the acquiring per-
2 son to unilaterally and profitably exercise mar-
3 ket power or materially increase its ability to do
4 so; or

5 “(B) would materially increase the prob-
6 ability of coordinated interaction among com-
7 petitors in any relevant market; or

8 “(5)(A) the acquisition is not a transaction that
9 is described in section 7A(c); and

10 “(B)(i) as a result of such acquisition, the ac-
11 quiring person would hold an aggregate total
12 amount of the voting securities and assets of the ac-
13 quired person in excess of \$5,000,000,000 (as ad-
14 justed and published for each fiscal year beginning
15 after September 30, 2022, in the same manner as
16 provided in section 8(a)(5) to reflect the percentage
17 change in the gross national product for such fiscal
18 year compared to the gross national product for the
19 year ending September 30, 2021); or

20 “(ii)(I) the person acquiring or the person being
21 acquired has assets, net annual sales, or a market
22 capitalization greater than \$100,000,000,000 (as so
23 adjusted and published); and

24 “(II) as a result of such acquisition, the acquir-
25 ing person would hold an aggregate total amount of

1 the voting securities and assets of the acquired per-
 2 son in excess of \$50,000,000 (as so adjusted and
 3 published),
 4 unless the acquiring or acquired person establish, by
 5 a preponderance of the evidence, that the effect of
 6 the acquisition will not be to create an appreciable
 7 risk of materially lessening competition or tend to
 8 create a monopoly or a monopsony. In this para-
 9 graph, the term ‘materially’ means more than a de
 10 minimis amount.”.

11 **SEC. 5. POST-SETTLEMENT DATA.**

12 Section 7A of the Clayton Act (15 U.S.C. 18a) is
 13 amended by adding at the end the following:

14 “(l)(1) Each person who enters into an agreement
 15 with the Federal Trade Commission or the United States
 16 to resolve a proceeding brought under the antitrust laws
 17 or under the Federal Trade Commission Act (15 U.S.C.
 18 41 et seq.) regarding an acquisition with respect to which
 19 notification is required under this section shall, on an an-
 20 nual basis during the 5-year period beginning on the date
 21 on which the agreement is entered into, submit to the Fed-
 22 eral Trade Commission or the Assistant Attorney General,
 23 as applicable, information sufficient for the Federal Trade
 24 Commission or the United States, as applicable, to assess
 25 the competitive impact of the acquisition, including—

1 “(A) the pricing, availability, and quality of any
2 product or service, or inputs thereto, in any market,
3 that was covered by the agreement;

4 “(B) the source, and the resulting magnitude
5 and extent, of any cost-saving efficiencies or any
6 benefits to consumers or trading partners that were
7 claimed as a benefit of the acquisition and the extent
8 to which any cost savings were passed on to con-
9 sumers or trading partners; and

10 “(C) the effectiveness of any divestitures or any
11 conditions placed on the acquisition in fully restoring
12 competition.

13 “(2) The requirement to provide the information de-
14 scribed in paragraph (1) shall be included in an agreement
15 described in that paragraph.

16 “(3) The Federal Trade Commission, with the con-
17 currence of the Assistant Attorney General, by rule in ac-
18 cordance with section 553 of title 5, United States Code,
19 and consistent with the purposes of this section—

20 “(A) shall require that the information de-
21 scribed in paragraph (1) be in such form and con-
22 tain such documentary material and information rel-
23 evant to an acquisition as is necessary and appro-
24 priate to enable the Federal Trade Commission and
25 the Assistant Attorney General to assess the com-

1 petitive impact of the acquisition under paragraph
2 (1); and

3 “(B) may—

4 “(i) define the terms used in this sub-
5 section;

6 “(ii) exempt, from the requirements of this
7 section, information not relevant in assessing
8 the competitive impact of the acquisition under
9 paragraph (1); and

10 “(iii) prescribe such other rules as may be
11 necessary and appropriate to carry out the pur-
12 poses of this section.”.

13 **SEC. 6. FEDERAL TRADE COMMISSION STUDY.**

14 Not later than 2 years after the date of enactment
15 of this Act, the Federal Trade Commission, in consulta-
16 tion with the Securities and Exchange Commission, shall
17 conduct and publish a study, using any compulsory proc-
18 ess necessary, relying on public data and information if
19 available and sufficient, and incorporating public comment
20 on—

21 (1) the extent to which an institutional investor
22 or related institutional investors have ownership or
23 control interests in competitors in moderately con-
24 centrated or concentrated markets;

1 (2) the economic impacts of such overlapping
2 ownership or control; and

3 (3) the mechanisms by which an institutional
4 investor could affect competition among the compa-
5 nies in which it invests and whether such mecha-
6 nisms are prevalent.

7 **SEC. 7. GAO STUDIES.**

8 (a) IN GENERAL.—Not later than 18 months after
9 the date of enactment of this Act, the Comptroller General
10 of the United States shall—

11 (1) conduct a study to assess the success of
12 merger remedies required by the Department of Jus-
13 tice or the Federal Trade Commission in consent de-
14 crees entered into since 6 years prior to the date of
15 enactment of this Act, including the impact on main-
16 taining competition, a comparison of structural and
17 conduct remedies, and the viability of divested as-
18 sets; and

19 (2) conduct a study on the impact of mergers
20 and acquisitions on wages, employment, innovation,
21 and new business formation.

22 (b) UPDATE.—The Comptroller General of the
23 United States shall—

24 (1) update the study under paragraph (1) 3
25 years and 6 years after the date of enactment of this

1 Act based on the information provided under section
2 7A(1) of the Clayton Act, as added by section 5 of
3 this Act; and

4 (2) identify specific remedies or alleged merger
5 benefits that require additional information or re-
6 search.

7 **SEC. 8. OFFICE OF COMPETITION ADVOCATE.**

8 (a) DEFINITIONS.—In this section—

9 (1) the term “agency” has the meaning given
10 the term in section 551 of title 5, United States
11 Code;

12 (2) the term “covered company” means any
13 company that has, at any time, been required to
14 make a filing under section 7A of the Clayton Act
15 (15 U.S.C. 18a);

16 (3) the term “Office” means the Office of the
17 Competition Advocate established under subsection
18 (b);

19 (4) the term “Chairman” means the Chairman
20 of the Commission; and

21 (5) the term “Commission” means the Federal
22 Trade Commission.

23 (b) ESTABLISHMENT.—There is established within
24 the Federal Trade Commission the Office of the Competi-
25 tion Advocate.

1 (c) COMPETITION ADVOCATE.—

2 (1) IN GENERAL.—The head of the Office shall
3 be the Competition Advocate, who shall—

4 (A) report directly to the Chairman; and

5 (B) be appointed by the Chairman, with
6 the concurrence of a majority of the Commis-
7 sion, including at least 1 Commissioner who is
8 not a member of the same political party of the
9 majority members of the Commission, from
10 among individuals having experience in advo-
11 cating for the promotion of competition.

12 (2) COMPENSATION.—The annual rate of pay
13 for the Competition Advocate shall be equal to the
14 highest rate of annual pay for other senior execu-
15 tives who report to the Chairman of the Commis-
16 sion.

17 (3) LIMITATION ON SERVICE.—An individual
18 who serves as the Competition Advocate may not be
19 employed by the Commission—

20 (A) during the 2-year period ending on the
21 date of appointment as Competition Advocate;
22 or

23 (B) during the 5-year period beginning on
24 the date on which the person ceases to serve as
25 the Competition Advocate.

1 (d) STAFF OF OFFICE.—The Competition Advocate,
2 after consultation with the Chairman of the Commission,
3 shall retain or employ independent counsel, research staff,
4 and service staff, as the Competition Advocate determines
5 is necessary to carry out the functions, powers, and duties
6 of the Office.

7 (e) DUTIES AND POWERS.—The Competition Advo-
8 cate shall—

9 (1) recommend processes or procedures that
10 will allow the Federal Trade Commission and the
11 Antitrust Division of the Department of Justice to
12 improve the ability of each agency to solicit reports
13 from consumers, small businesses, and employees
14 about possible anticompetitive practices or adverse
15 effects of concentration;

16 (2) publicly provide recommendations to other
17 Federal agencies about administrative actions that
18 may have anticompetitive effects and the potential
19 harm to competition if those actions are carried out;

20 (3) provide recommendations to other Federal
21 agencies about administrative actions that may have
22 procompetitive effects and the potential benefit to
23 competition if those actions are carried out;

24 (4) publish periodic reports on—

1 (A) market competition and its impact on
2 the United States, local geographic areas, and
3 different demographic and socioeconomic
4 groups; and

5 (B) the success of remedies required by the
6 Department of Justice or the Federal Trade
7 Commission in consent decrees;

8 (5) collect data regarding concentration levels
9 across industries and the impact and degree of anti-
10 trust enforcement; and

11 (6) standardize the types and formats of data
12 reported and collected.

13 (f) SUBPOENA AUTHORITY.—

14 (1) IN GENERAL.—The Competition Advocate
15 may either require the submission of or accept vol-
16 untary submissions of periodic and other reports
17 from any covered company for the purpose of assess-
18 ing competition and its impact on the United States,
19 local geographic areas, and different demographic
20 and socioeconomic groups.

21 (2) WRITTEN FINDING.—Before issuing a sub-
22 poena to collect the information described in para-
23 graph (1), the Competition Advocate shall make a
24 written finding that—

1 (A) the data is required to carry out the
 2 functions of the Competition Advocate; and

3 (B) the information is not available from a
 4 public source or another agency.

5 (3) MITIGATION OF REPORT BURDEN.—Before
 6 requiring the submission of a report from any com-
 7 pany required to make a filing under section 7A of
 8 the Clayton Act (15 U.S.C. 18a), the Competition
 9 Advocate shall—

10 (A) coordinate with other agencies or au-
 11 thority; and

12 (B) whenever possible, rely on information
 13 available from such agencies or authority.

14 (g) DATA CENTER.—

15 (1) ESTABLISHMENT.—There is established
 16 within the Office the Data Center.

17 (2) DUTIES.—The Data Center shall—

18 (A) collect, validate, and maintain data ob-
 19 tained from agencies, as defined in section 551
 20 of title 5, United States Code, commercial data
 21 providers, publicly available data sources, and
 22 any covered company; and

23 (B) prepare and publish, in a manner that
 24 is easily accessible to the public—

25 (i) a concentration database;

- 1 (ii) a merger enforcement database;
2 (iii) any other database that the Com-
3 petition Advocate determines is necessary
4 to carry out the duties of the Office; and
5 (iv) the format and standards for Of-
6 fice data, including standards for reporting
7 financial transaction and position data to
8 the Office.

9 (3) REGULATIONS.—The Competition Advocate
10 shall promulgate regulations relating to the collec-
11 tion and standardizing of data under paragraph (2).

12 (4) CONFIDENTIALITY.—

13 (A) IN GENERAL.—The Data Center may
14 not disclose any confidential data collected
15 under paragraph (2).

16 (B) REQUIREMENTS.—Data obtained from
17 an agency shall be subject to the same confiden-
18 tiality requirements and protection as the agen-
19 cy providing the data.

20 (C) INFORMATION SECURITY.—The Com-
21 petition Advocate shall ensure that data col-
22 lected and maintained by the Data Center are
23 kept secure and protected against unauthorized
24 disclosure.

25 (h) DIVISION OF MARKET ANALYSIS.—

1 (1) ESTABLISHMENT.—There is established
2 within the Office the Division of Market Analysis.

3 (2) LEADERSHIP.—The head of the Division of
4 Market Analysis shall be the Director of Market
5 Analysis, who shall—

6 (A) report directly to the Competition Ad-
7 vocate; and

8 (B) be appointed by the Competition Advo-
9 cate, with the concurrence of a majority of the
10 Commission, including at least one Commis-
11 sioner who is not a member of the same polit-
12 ical party of the majority members of the Com-
13 mission.

14 (3) DIVISION STAFF.—The Division of Market
15 Analysis shall retain or employ independent legal,
16 economic, research, and service staff sufficient to
17 carry out the functions, powers, and duties of the
18 Division.

19 (4) DUTIES AND POWERS.—The Division of
20 Market Analysis—

21 (A) shall, at the direction of the Competi-
22 tion Advocate or the Commission, conduct in-
23 vestigations of markets or industry sectors to
24 analyze the competitive conditions and dynam-
25 ics affecting such markets or industry sectors,

1 including the effects that market concentration,
2 mergers and acquisitions, certain types of
3 agreements, and other forms of business con-
4 duct have on competition, consumers, workers
5 and innovation, and shall publish reports on the
6 results of such investigations;

7 (B) shall, at the direction of the Competi-
8 tion Advocate or the Commission, conduct in-
9 vestigations concerning the competitive effects
10 of acquisitions that have been consummated no
11 less than 2 years prior to the start of the inves-
12 tigation, which shall include recommendations
13 concerning appropriate enforcement action to
14 remedy any anticompetitive effects discovered
15 and may include assessments of—

16 (i) the conditions of the relevant mar-
17 kets affected by the acquisition, over the
18 period since the acquisition was con-
19 summated, including, but not limited to,
20 the potential impact that the acquisition
21 has had on—

22 (I) the prices of goods or serv-
23 ices, including wages in any affected
24 labor markets;

1 (II) the output and quality of
2 goods and services;

3 (III) the entry or exit of competi-
4 tors;

5 (IV) innovation;

6 (V) consumer choice and product
7 variety;

8 (VI) the opportunity of suppliers
9 and works to sell their product or
10 services;

11 (VII) coordinated interaction be-
12 tween competitors; and

13 (VIII) subsequent mergers and
14 acquisitions activity;

15 (ii) whether the acquiring person or
16 its successors in interest—

17 (I) complied with all obligations
18 under any agreement with the Federal
19 Trade Commission, the United States,
20 or State law enforcement authorities
21 to resolve a proceeding brought under
22 the antitrust laws; and

23 (II) achieved measurable, trans-
24 action-specific efficiencies, which did
25 not arise from anticompetitive reduc-

1 tions of output, as a result of the ac-
2 quisition; and

3 (iii) whether any agreements with the
4 Federal Trade Commission or the United
5 States to resolve a proceeding brought
6 under the antitrust laws regarding the ac-
7 quisition was effective in mitigating the
8 anticompetitive effects from the acquisi-
9 tion;

10 (C) shall rely on public data and informa-
11 tion, public comment, information from other
12 Federal agencies, information from the Data
13 Center, information obtained pursuant to the
14 Competition Advocate's subpoena authority
15 under subsection (f) of this section and may use
16 compulsory process under section 6(b) of the
17 Federal Trade Commission Act (15 U.S.C.
18 46(b)) as necessary to carry out the functions
19 set forth in subsections (h)(3)(A) and (h)(3)(B)
20 of this section; and

21 (D) shall report any evidence it obtains
22 that any person, partnership, or corporation has
23 engaged in transactions or conduct that may
24 constitute of a violation of the antitrust law to
25 the Commission, which may institute further in-

1 vestigation, initiate enforcement proceedings, or
2 refer such evidence to the Attorney General.

3 **SEC. 9. MARKET DEFINITION.**

4 (a) **IN GENERAL.**—Establishing liability under the
5 antitrust laws does not require the definition of a relevant
6 market, except when the definition of a relevant market
7 is required, to establish a presumption or to resolve a
8 claim, under a statutory provision that explicitly ref-
9 erences the terms “relevant market”, “market concentra-
10 tion”, or “market share”. Statutory references to the term
11 “line of commerce” shall not constitute an exception to
12 the foregoing rule that establishing liability under the
13 antitrust laws does not require the definition of a relevant
14 market.

15 (b) **DIRECT EVIDENCE.**—If direct evidence in the
16 record is sufficient to prove actual or likely harm to com-
17 petition, an appreciable risk to competition sufficient to
18 satisfy the applicable statutory standard, or that the effect
19 of an acquisition subject to section 7 of the Clayton Act
20 (15 U.S.C. 18) may be to create an appreciable risk of
21 materially lessening competition or to tend to create a mo-
22 nopoly or a monopsony, neither a court nor the Federal
23 Trade Commission shall require definition of a relevant
24 market in order to evaluate the evidence, to find liability,

1 or to find that a claim has been stated under the antitrust
2 laws.

3 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion may be construed to prevent a court or the Federal
5 Trade Commission from considering evidence relating to
6 the definition of proposed relevant markets to evaluate the
7 merits of a claim under the antitrust laws.

8 **SEC. 10. ADDITIONAL REMEDIES; RULES OF CONSTRUC-**
9 **TION.**

10 (a) ADDITIONAL REMEDIES.—The rights and rem-
11 edies provided under this Act are in addition to, not in
12 lieu of, any other rights and remedies provided by Federal
13 law, including under section 4, 4A, 15, or 16 of the Clay-
14 ton Act (15 U.S.C. 15, 15a, 25, 26) or section 13(b) of
15 the Federal Trade Commission Act (15 U.S.C. 53(b)).

16 (b) RULES OF CONSTRUCTION.—Nothing in this Act
17 may be construed to—

18 (1) impair or limit the applicability of any of
19 the antitrust laws; and

20 (2) prohibit any other remedy provided by Fed-
21 eral law.

○