

price and characteristics desired by growers—for example, traits that lower production costs, offer higher yield per acre or provide resistance to diseases and pests prevalent in the growers' geographic region.

#### IV. The Relevant Markets

17. A small but significant increase in the price of sugar beet seeds would not cause growers of sugar beets in the United States to shift to other crops and use sufficiently fewer sugar beet seeds so as to make such a price increase unprofitable. Accordingly, sugar beet seeds suitable for growing in the United States is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act. The United States is a relevant geographic market within the meaning of Section 7 of the Clayton Act.

#### V. Anticompetitive Effects

18. The market for sugar beet seeds suitable for growing in the United States is highly concentrated. Only three major companies—Syngenta, Advanta, and one other—breed sugar beet seeds for cultivation in the United States.

19. Syngenta-developed sugar beet seeds account for nearly 20% of all the sugar beet seeds sold in the United States.

20. Advanta-developed sugar beet seeds account for more than 16% of the sugar beet seeds sold in the United States.

21. Purchasers of sugar beet seeds have benefited from competition between Syngenta and Advanta through lower prices and improved products.

22. The sugar beet seed market in the United States will become substantially more concentrated if Syngenta acquires Advanta. The number of significant sugar beet seed developers will be reduced from three to two. Using a measure of market concentration called the Herfindahl-Hirschman Index ("HHI") (defined and explained in appendix A), the proposed transaction will increase the HHI in sugar beet seeds by more than 600 points to a post-acquisition level of over 5000.

23. The proposed transaction will substantially lessen competition for the research and development of sugar beet seeds suitable for cultivation in the United States. With only two major companies competing to develop new and better seeds, less innovation is likely.

24. The proposed transaction would make it more likely that the two remaining major seed companies will engage in anticompetitive coordination to increase prices or reduce production.

#### VI. Entry

25. Successful entry would not be timely, likely, or sufficient to thwart these anticompetitive effects.

26. Developing a new sugar beet seed variety takes five to ten years. Completing the trial tests required by sugar beet processing companies can take two to three additional years.

#### VII. Violation Alleged

27. The effect of Syngenta's proposed acquisition of Advanta may be to lessen competition substantially and tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act.

28. Unless restrained, the transaction likely will have the following effects, among others:

- a. Competition generally in sugar beet seeds suitable for growing in the United States will be substantially lessened;
- b. Actual competition between Syngenta and Advanta will be eliminated;
- c. Innovation in development of sugar beet seeds will be reduced; and
- d. Prices for sugar beet seeds will increase.

29. Unless prevented, the acquisition of Advanta by Syngenta would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

#### VIII. Requested Relief

Wherefore, Plaintiff requests:

1. That the proposed acquisition by Syngenta of Advanta be adjudged and decreed to be unlawful and to violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18;
2. That defendants and all persons acting on their behalf be permanently enjoined from and restrained from carrying out the agreement dated May 11, 2004, or from entering into or carrying out any contract, agreement, understanding, or plan, the effect of which would be to combine the businesses or assets of Syngenta and Advanta;
3. That plaintiff be awarded its costs of this action; and
4. That plaintiff have such other relief as the Court may deem just and proper.

Dated: August 25, 2004.

Respectfully submitted,  
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#### Appendix A—Definition of HHI

The term "HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ( $30^2 + 30^2 + 20^2 + 20^2 = 2,600$ ). The HHI takes into account the relative size and distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 are considered to be moderately concentrated, and markets in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise significant antitrust concerns under the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines.

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the

Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Civil Rights Center within the Office of the Assistant Secretary for Administration and Management is soliciting comments concerning the proposed extension of the collection of the Compliance Information Report—29 CFR part 31 (Title VI of the Civil Rights Act), Nondiscrimination—Disability—29 CFR part 32 (section 504 of the Rehabilitation Act), and Nondiscrimination—Workforce Investment Act—29 CFR part 37 (section 188 of the Workforce Investment Act). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice. In addition, a copy of the ICR in alternate formats of large print and electronic file on computer disk are available upon request.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before November 26, 2004.

**ADDRESSES:** Comments should be sent to Annabelle T. Lockhart, Director of the Civil Rights Center. Electronic mail is the preferred method of submittal of comments. Comments by electronic mail must be clearly identified as pertaining to the ICR and sent to [civilrightscenter@dol.gov](mailto:civilrightscenter@dol.gov). Brief comments (maximum of five pages), clearly identified as pertaining to the ICR, may be submitted by facsimile machine (Fax) to (202) 693-6505. Where necessary, hard copies of comments, clearly identified as pertaining to the ICR, may also be delivered to the Civil Rights Center Director at the U.S. Department of Labor, 200 Constitution Ave., NW., Room N-4123, Washington, DC 20210. Because of problems with U.S. Postal Service mail delivery, the Civil Rights Center suggests that those submitting comments by means of the U.S. Postal Service should place those comments in the mail well before the deadline by which comments must be received.

Receipt of submissions, whether by U.S. Postal Service, e-mail, fax transmittal, or other means will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning the Civil Rights Center at the telephone numbers listed below.

Comments received will be available for public inspection during normal business hours at the above address. Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. Copies of the ICR will be made available, upon request, in large print or electronic file on computer disk. Provision of the rule in other formats will be considered upon request. To schedule an appointment to review the comments and/or obtain the ICR in an alternate format contact the Civil Rights Center at (202) 693-6500 (Voice) or (202) 693-6515/16 (TTY). Please note that these are not toll free telephone numbers.

**FOR FURTHER INFORMATION CONTACT:** Gregory T. Shaw, Civil Rights Center, (202) 693-6501 (Voice) or (202) 693-6515/16 (TTY). Please note that these are not toll free telephone numbers.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Compliance Information Report and its information collection is designed to ensure that programs or activities funded in whole or in part by the Department of Labor operate in a nondiscriminatory manner. The Report requires such programs and activities to collect, maintain and report upon request from the Department, race, ethnicity, sex, age and disability data for program applicants, eligible applicants, participants, trainees, applicants for employment and employees.

**II. Desired Focus of Comments**

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**III. Current Actions**

The Department of Labor seeks an extension of the current OMB approval of the paperwork requirements in the Compliance Information Report. Extension is necessary to ensure nondiscrimination in programs or activities funded in whole or in part by the Department of Labor.

*Type of Review:* Extension.  
*Agency:* Civil Rights Center, Office of the Assistant Secretary for Administration and Management.

*Title:* Compliance Information Report—29 CFR part 31 (Title VI), Nondiscrimination-Disability—29 CFR part 32 (section 504), Nondiscrimination-Job Training Partnership Act—29 CFR part 34 (section 167).

*OMB Number:* 1225-0077.

*Affected Public:* State, local or Tribal governments.

*Total Burden Cost (capital/startup):* \$0.00.

*Total Burden Cost (operating/maintenance):* \$83,409.86.

Comments submitted in response to this comment request will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed in Washington, DC, this 21st day of September, 2004.

**Annabelle T. Lockhart,**

*Director, Civil Rights Center.*

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**BILLING CODE 4510-23-P**

**NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES**

**Study of IMLS Funded Digital Collections and Content—Collection Registry Entry/Edit Form, Submission for OMB Review, Comment Request**

**AGENCY:** Institute of Museum and Library Services.

**ACTION:** Notice of requests for new information collection approval.

**SUMMARY:** The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this proposed form, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director of Research and Technology,