

106TH CONGRESS  
1ST SESSION

# S. 1137

To amend the Clayton Act to enhance the authority of the Attorney General of the United States to prevent certain mergers and acquisitions that would unreasonably limit competition.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 1999

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Clayton Act to enhance the authority of the Attorney General of the United States to prevent certain mergers and acquisitions that would unreasonably limit competition.

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 “Integrated Oil Com-  
5       pany Antitrust Act”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to enhance the authority  
8       of the Attorney General of the United States to promote

1 competition in the oil industry by ensuring access to crude  
 2 oil and petroleum product for refiners that are not part  
 3 of an integrated oil company and for independent market-  
 4 ers.

5 **SEC. 3. RESTRAINT OF TRADE.**

6 The Clayton Act (15 U.S.C. 12 et seq.) is amended  
 7 by adding at the end the following new section:

8 **“SEC. 28. RESTRAINT OF TRADE REGARDING INTEGRATED**  
 9 **OIL COMPANIES.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) INTEGRATED OIL COMPANY.—The term  
 12 ‘integrated oil company’ has the meaning given that  
 13 term in section 291(b)(4) of the Internal Revenue  
 14 Code of 1986.

15 “(2) OIL INDUSTRY.—The term ‘oil industry’—

16 “(A) means the oil industry of the United  
 17 States; and

18 “(B) includes integrated oil companies, re-  
 19 finers that are not part of an integrated oil  
 20 company, and independent marketers.

21 “(b) RESTRAINT OF TRADE REGARDING INTE-  
 22 GRATED OIL COMPANIES.—Notwithstanding any other  
 23 provision of law, an integrated oil company, including any  
 24 affiliate of such a company, shall not merge with or ac-

1   quire a controlling interest in another integrated oil com-  
 2   pany, unless—

3               “(1) the Attorney General of the United States  
 4       finds that the proposed merger or acquisition will  
 5       promote competition in the oil industry; and

6               “(2)(A) the integrated oil company acquiring or  
 7       merging with another integrated oil company agrees  
 8       to make available for sale to refiners that are not  
 9       part of an integrated oil company and to inde-  
 10      pendent marketers sufficient quantities of crude oil  
 11      and petroleum product to ensure adequate competi-  
 12      tion between—

13              “(i) integrated oil companies; and

14              “(ii)(I) refiners that are not a part of an  
 15      integrated oil company; and

16              “(II) independent marketers; and

17              “(B) the Federal Trade Commission approves  
 18      that agreement.

19              “(c) REPORT OF THE ATTORNEY GENERAL OF THE  
 20      UNITED STATES.—Not later than 10 days after the Attor-  
 21      ney General of the United States makes a finding de-  
 22      scribed in subsection (b)(1), the Attorney General shall  
 23      submit to the Committee on the Judiciary of the Senate  
 24      and the Committee on the Judiciary of the House of Rep-  
 25      resentatives a report on the finding, including an analysis

1 of the effect of the merger or acquisition on competition  
2 in the oil industry.

3 “(d) APPLICATION PROCESS.—

4 “(1) IN GENERAL.—Each integrated oil com-  
5 pany or affiliate of an integrated oil company pro-  
6 posing to merge with or acquire a controlling inter-  
7 est in another integrated oil company shall file an  
8 application with both the Attorney General of the  
9 United States and the Federal Trade Commission,  
10 on the same day.

11 “(2) DECISIONS.—The Attorney General and  
12 the Federal Trade Commission shall issue a decision  
13 regarding the application within the time period ap-  
14 plicable for review of mergers under section 7A of  
15 this Act.

16 “(e) JURISDICTION OF THE UNITED STATES  
17 COURTS.—

18 “(1) IN GENERAL.—The district courts of the  
19 United States are vested with jurisdiction to prevent  
20 and restrain any mergers or acquisitions described  
21 in subsection (d) that are inconsistent with the re-  
22 quirements under subsection (b).

23 “(2) ACTIONS.—The Attorney General of the  
24 United States may institute proceedings in any dis-  
25 trict court of the United States in the district in

1       which the defendant resides or is found, or has an  
 2       agent, and that court shall order such injunctive,  
 3       and other relief, as may be appropriate if—

4               “(A) the Attorney General makes a finding  
 5       that a proposed merger or acquisition described  
 6       in subsection (d) does not meet the applicable  
 7       condition under subsection (b)(1); or

8               “(B) the Federal Trade Commission makes  
 9       a finding that 1 or more of the parties to the  
 10      merger or acquisition referred to in subsection  
 11      (b)(2) do not meet the requirements specified in  
 12      that subsection.”.

13   **SEC. 4. APPLICABILITY.**

14      This Act and the amendments made by this Act shall  
 15   apply to a merger or acquisition of a controlling interest  
 16   of an integrated oil company (as that term is defined in  
 17   section 28(a) of the Clayton Act, as added by section 3  
 18   of this Act), occurring on or after the date of enactment  
 19   of this Act.

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