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JUSTICE NEWS

Department of Justice

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Department Of Justice Applauds President Trump's Authorization Of The Antitrust Criminal Penalty Enhancement And Reform Permanent Extension Act

On October 1, President Donald J. Trump signed into law a continuing resolution that contains the Antitrust Criminal Penalty Enhancement and Reform Permanent Extension Act (the "Act"). The Act reauthorizes the Antitrust Criminal Penalty Enhancement and Reform Act (ACPERA) and repeals the sunset provision therein.

"We thank President Trump and both the Senate and the House of Representatives for their bipartisan action and recognition of ACPERA's importance in the fight to safeguard our free markets and protect American consumers from collusion," said Assistant Attorney General Makan Delrahim of the Department of Justice's Antitrust Division. "The division wholeheartedly agrees with Congress's findings that '[c]onspiracies among competitors to fix prices, rig bids, and allocate markets are categorically and irredeemably anticompetitive and contravene the competition policy of the United States.'"

Congress enacted ACPERA in 2004 in part to provide greater incentives for corporations to self-report and cooperate pursuant to the Antitrust Division's Corporate Leniency Policy. Since 2004, ACPERA's provisions have substantially strengthened the Antitrust Division's ability to detect and prosecute anticompetitive cartel activity through the Leniency Program.

From Fiscal Year 2010 to 2019, the Antitrust Division's criminal prosecutions have resulted in over $9 billion in criminal fines and penalties, along with jail terms for more than 250 individuals. Since the fall of 2019 alone, the division obtained four criminal fines and penalties at or above the Sherman Act's $100 million statutory maximum, and prosecuted antitrust violations affecting generic drugs, cancer patients, grocery store staples, and financial markets.

ACPERA will continue to mitigate a successful leniency applicant's civil damages exposure from treble damages to actual damages if the company provides civil plaintiffs with timely and satisfactory cooperation. While treble damages liability can be an important deterrent for engaging in anti-competitive behavior, civil exposure also can deter self-reporting of criminal wrongdoing. Therefore, the Department of Justice supported the reauthorization of ACPERA and the repeal of its sunset provision.

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