

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY MR. CLINE OF VIRGINIA

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “One Agency Act”.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) ANTITRUST LAWS.—The term “antitrust
6 laws” means—

7 (A) the Sherman Act (15 U.S.C. 1 et seq.);

8 and

9 (B) the Clayton Act (15 U.S.C. 12 et
10 seq.).

11 (2) EFFECTIVE DATE.—The term “effective
12 date” means the date described in section 5.

13 (3) FTC.—The term “FTC” means the Fed-
14 eral Trade Commission.

15 (4) FTC ANTITRUST ACTION.—The term “FTC
16 antitrust action” means any investigation, litigation,
17 administrative proceeding, or other action at the
18 FTC that—

1 (A) is supervised by an FTC antitrust
2 unit; or

3 (B) relates to the antitrust laws or unfair
4 methods of competition under section 5 of the
5 Federal Trade Commission Act (15 U.S.C. 45),
6 as in effect on the day before the effective date.

7 (5) FTC ANTITRUST ASSETS.—The term “FTC
8 antitrust assets”—

9 (A) means all electronic or tangible records
10 and files relating to matters supervised, as well
11 as any physical assets or equipment owned and
12 used or retained, by an FTC antitrust unit; and

13 (B) does not include any office space or
14 leased facilities or equipment.

15 (6) FTC ANTITRUST EMPLOYEE.—The term
16 “FTC antitrust employee” means an individual who
17 on the day before the effective date is employed by
18 the FTC and assigned to an FTC antitrust unit.

19 (7) FTC ANTITRUST FUNDING.—The term
20 “FTC antitrust funding” means all amounts appro-
21 priated before the effective date by an Act of Con-
22 gress to the FTC that are designated, by Congress
23 or the FTC for an FTC antitrust unit.

24 (8) FTC ANTITRUST UNIT.—The term “FTC
25 antitrust unit” means—

1 (A) the Bureau of Competition of the
2 FTC; and

3 (B) each division of the Bureau of Eco-
4 nomics of the FTC that is designated to work
5 on FTC antitrust actions.

6 (9) TRANSITION PERIOD.—The term “transi-
7 tion period” means the period beginning on the ef-
8 fective date and ending on the later of—

9 (A) the date that is 1 year after the effec-
10 tive date; or

11 (B) the date that is 180 days after the
12 date described in subparagraph (A), which may
13 be extended by the Attorney General once for
14 an additional 180 days, if the Attorney General
15 determines that a period longer than the period
16 described in subparagraph (A) is necessary to
17 avoid harm to the interests of the United States
18 or the effective enforcement of the antitrust
19 laws.

20 **SEC. 3. TRANSFER OF ANTITRUST ENFORCEMENT FUNC-**
21 **TIONS FROM THE FTC TO THE ATTORNEY**
22 **GENERAL.**

23 (a) TRANSFER OF ACTIONS.—

24 (1) IN GENERAL.—There shall be transferred to
25 the Attorney General all FTC antitrust actions,

1 FTC antitrust employees, FTC antitrust assets, and
2 FTC antitrust funding on the earlier of—

3 (A) the date determined by the Attorney
4 General under paragraph (2)(B); or

5 (B) the end of the transition period.

6 (2) REQUIREMENT.—The Attorney General,
7 taking care to minimize disruption to ongoing en-
8 forcement matters and in consultation as necessary
9 with the Office of Personnel Management, the Gen-
10 eral Services Administration, and the Chairman of
11 the FTC, shall—

12 (A) take all necessary actions to complete
13 implementation of this Act before the end of the
14 transition period; and

15 (B) determine the dates certain, which
16 may not be earlier than the effective date or
17 later than the end of the transition period, on
18 which the transfers under paragraph (1) shall
19 occur.

20 (3) PERSONNEL.—

21 (A) ASSIGNMENT.—An FTC antitrust em-
22 ployee transferred to the Attorney General
23 under this Act shall be assigned to the Anti-
24 trust Division of the Department of Justice.

1 (B) OFFICE SPACE.—On the request of the
2 Attorney General, and in consultation as nec-
3 essary with the General Services Administra-
4 tion, the FTC shall allow the Attorney General
5 to use any office space or leased facilities pre-
6 viously used by FTC antitrust employees until
7 such time as the Attorney General may provide
8 office space or facilities. After the transfer of
9 FTC antitrust funding to the Attorney General,
10 the Attorney General shall compensate the FTC
11 for the costs of the use of such office space or
12 leased facilities.

13 (C) RESTRUCTURING.—Notwithstanding
14 any other provision of law, the Attorney Gen-
15 eral is authorized to restructure the Antitrust
16 Division of the Department of Justice before
17 the expiration of the transition period, as the
18 Attorney General determines is appropriate, to
19 carry out the purposes of this Act and accom-
20 plish the efficient enforcement of the antitrust
21 laws.

22 (4) ANTITRUST ACTIONS.—

23 (A) IN GENERAL.—As soon as is reason-
24 ably practicable during the transition period, all
25 open investigations, studies, litigations, matters,

1 or other proceedings being supervised by an
2 FTC antitrust unit and relating to the antitrust
3 laws or unfair methods of competition under
4 section 5 of the Federal Trade Commission Act
5 (15 U.S.C. 45), as in effect on the day before
6 the effective date, shall be transferred to and
7 assumed by the Attorney General.

8 (B) HANDLING OF ADMINISTRATIVE AC-
9 TIONS.—FTC antitrust actions that were initi-
10 ated by the FTC and were unresolved as of the
11 first day of the transition period, shall be—

12 (i) continued as the Attorney General
13 determines is appropriate; and

14 (ii) the FTC shall have the power to
15 deputize former FTC antitrust employees,
16 with the consent of the Attorney General,
17 to continue any FTC antitrust actions as
18 described in clause (i).

19 (C) INTERVENTION.—Any FTC antitrust
20 actions before a court of the United States as
21 of the first day of the transition period, that
22 were initiated by the FTC and were unresolved
23 as of the first day of the transition period, shall
24 be—

1 (i) continued as the Attorney General
2 determines is appropriate; and

3 (ii) the FTC shall have the power to
4 deputize former FTC antitrust employees,
5 with the consent of the Attorney General,
6 to continue any FTC antitrust actions as
7 described clause (i).

8 (D) CONSENT DECREES.—

9 (i) IN GENERAL.—At the end of the
10 transition period, the Attorney General
11 shall have sole authority to receive all re-
12 ports as required under, enforce violations
13 of, approve modifications to, or rescind any
14 consent decree entered into by the FTC
15 before the effective date that concerns con-
16 duct alleged to violate the antitrust laws or
17 unfair methods of competition under sec-
18 tion 5 of the Federal Trade Commission
19 Act (15 U.S.C. 45), as in effect on the day
20 before the effective date.

21 (ii) ADMINISTRATIVE ENFORCE-
22 MENT.—If deemed necessary by the FTC
23 and the Attorney General, the FTC shall
24 have the power to deputize former FTC
25 antitrust employees, with the consent of

1 the Attorney General, to enforce and nego-
2 tiate modifications of FTC consent decrees
3 in effect on the day before the effective
4 date in the FTC's administrative process.

5 (5) AUTHORITY TO CONDUCT INVESTIGATIVE
6 STUDIES.—

7 (A) REPORTS OF PERSONS, PARTNER-
8 SHIPS, AND CORPORATIONS.—

9 (i) IN GENERAL.—The Attorney Gen-
10 eral may require, by general or special or-
11 ders, persons, partnerships, and corpora-
12 tions, engaged in or whose business affects
13 commerce to file with the Attorney General
14 in such form as the Attorney General may
15 prescribe annual or special reports or an-
16 swers in writing to specific questions, fur-
17 nishing to the Attorney General such infor-
18 mation as the Attorney General may re-
19 quire as to the organization, business, con-
20 duct, practices, management, and relation
21 to other corporations, partnerships, and in-
22 dividuals of the respective persons, part-
23 nerships, and corporations filing such re-
24 ports or answers in writing.

1 (ii) OATH.—Reports and answers re-
2 quired under clause (i) shall—

3 (I) be made under oath or other-
4 wise as the Attorney General may pre-
5 scribe;

6 (II) pertain solely to competition
7 or the application of the antitrust
8 laws; and

9 (III) be filed with the Attorney
10 General within such reasonable period
11 as the Attorney General may pre-
12 scribe, unless additional time be
13 granted in any case by the Attorney
14 General.

15 (B) PUBLICATION OF INFORMATION OR
16 REPORTS.—

17 (i) IN GENERAL.—Except as provided
18 in clause (ii), the Attorney General—

19 (I) shall make public from time
20 to time such portions of the informa-
21 tion obtained by the Attorney General
22 under this paragraph as are in the
23 public interest;

24 (II) may make annual and spe-
25 cial reports to Congress that include

1 recommendations for additional legis-
2 lation; and

3 (III) shall provide for the publi-
4 cation of reports and decisions of the
5 Attorney General in such form and
6 manner as may be best adapted for
7 public information and use.

8 (ii) PROHIBITION AGAINST PUBLICA-
9 TION OF PRIVILEGED OR CONFIDENTIAL
10 INFORMATION.—

11 (I) IN GENERAL.—Except as pro-
12 vided in subclause (II), the Attorney
13 General shall not make public any
14 trade secret or any commercial or fi-
15 nancial information that is obtained
16 from any person and that is privileged
17 or confidential.

18 (II) EXCEPTION.—The Attorney
19 General may disclose information de-
20 scribed in subclause (I) to—

21 (aa) officers and employees
22 of appropriate Federal law en-
23 forcement agencies or to any offi-
24 cer or employee of any State law
25 enforcement agency on the prior

1 certification of an officer of any
2 such Federal or State law en-
3 forcement agency that such infor-
4 mation will be maintained in con-
5 fidence and will be used only for
6 official law enforcement purposes;
7 or

8 (bb) any officer or employee
9 of any foreign law enforcement
10 agency under the same cir-
11 cumstances that making material
12 available to foreign law enforce-
13 ment agencies is permitted under
14 section 21(b) of the Federal
15 Trade Commission Act (15
16 U.S.C. 57b-2(b)).

17 (6) BENEFIT OF ANTITRUST DIVISION.—All
18 FTC antitrust assets and FTC antitrust funding
19 transferred under this subsection shall be for the ex-
20 clusive use and benefit of the Antitrust Division of
21 the Department of Justice, except to the extent the
22 FTC deputizes former FTC antitrust employees,
23 with the consent of the Attorney General, to con-
24 tinue any FTC antitrust actions that are ongoing
25 and unresolved before the effective date.

1 (b) TRANSITION PERIOD.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), beginning on the effective date, the FTC
4 may not—

5 (A) hire or assign an employee to an FTC
6 antitrust unit;

7 (B) open a new investigation or matter
8 within an FTC antitrust unit or relating to the
9 antitrust laws or unfair methods of competition
10 under section 5 of the Federal Trade Commis-
11 sion Act;

12 (C) without the approval of the Attorney
13 General, enter into a consent decree, enter into
14 a settlement agreement, or otherwise resolve an
15 FTC antitrust action; or

16 (D) initiate a new FTC antitrust action.

17 (2) ENFORCEMENT ON BEHALF OF THE ATTOR-
18 NEY GENERAL.—Notwithstanding paragraph (1),
19 during the transition period, the Attorney General
20 may deputize an FTC antitrust employee to inves-
21 tigate or prosecute an alleged violation of the anti-
22 trust laws on behalf of the Attorney General before
23 the completion of the transfer of personnel under
24 subsection (a).

25 (3) SAME RIGHTS AND OBLIGATIONS.—

1 (A) IN GENERAL.—Notwithstanding any
2 other provision of law, during the transition pe-
3 riod all Department of Justice employees under
4 the supervision of the Attorney General shall
5 have the same rights and obligations with re-
6 spect to confidential information submitted to
7 the FTC as FTC antitrust employees on the
8 day before the effective date.

9 (B) RULE OF CONSTRUCTION.—Nothing in
10 this paragraph may be construed as implying
11 any change to the rights and obligations de-
12 scribed in subparagraph (A) as a result of this
13 Act.

14 (c) AGREEMENTS.—The Attorney General, in con-
15 sultation with the Chairman of the FTC, shall—

16 (1) review any agreements between the FTC
17 and any other Federal agency or any foreign law en-
18 forcement agency; and

19 (2) before the end of the transition period, seek
20 to amend, transfer, or rescind such agreements as
21 necessary and appropriate to carry out this Act, en-
22 deavoring to complete such amendment, transfer, or
23 rescindment with all due haste.

24 (d) RULES.—The Attorney General shall, pursuant
25 to section 7A of the Clayton Act (15 U.S.C. 18a) and in

1 accordance with section 553 of title 5, United States Code,
2 prescribe or amend any rules as necessary to carry out
3 the Clayton Act.

4 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

5 (a) REQUIREMENTS TO CONSULT WITH OR SEEK
6 THE CONCURRENCE.—For any provision of law requiring
7 an executive branch agency or independent agency to con-
8 sult with or seek the concurrence of the FTC or the Chair-
9 man of the FTC, where such requirement relates to the
10 antitrust laws or unfair methods of competition under sec-
11 tion 5 of the Federal Trade Commission Act (15 U.S.C.
12 45), as in effect on the day before the effective date, that
13 requirement shall be transferred from the FTC or the
14 Chairman of the FTC to the Attorney General.

15 (b) PREMERGER NOTIFICATION FILINGS.—

16 (1) FTC PREMERGER NOTIFICATION FIL-
17 INGS.—For any provision of law requiring notifica-
18 tion to the FTC, where such requirement relates to
19 the antitrust laws or unfair methods of competition
20 under section 5 of the Federal Trade Commission
21 Act (15 U.S.C. 45), as in effect on the day before
22 the effective date, that requirement for notification
23 to the FTC shall be waived.

24 (2) DEPARTMENT OF JUSTICE PREMERGER NO-
25 TIFICATION FILINGS.—Nothing in paragraph (b)

1 may be construed as implying any change to the re-
2 quirement for any required notification to the Attor-
3 ney General.

4 (c) EXISTING LITIGATION OR APPEALS.—Notwith-
5 standing any other provision of law, the Attorney General
6 shall not deny resources to the FTC or otherwise disrupt
7 existing litigation or appeals that are ongoing on the day
8 before the effective date.

9 (d) FUTURE ACTIONS OF ATTORNEY GENERAL.—
10 Notwithstanding any other provision of law, nothing in
11 this Act may be construed to limit the powers of the Attor-
12 ney General to enforce the antitrust laws.

13 (e) FUTURE ACTIONS OF THE FTC.—Notwith-
14 standing any other provision of law, the FTC shall not
15 open new investigations or begin enforcement actions that
16 relates to the antitrust laws or unfair methods of competi-
17 tion under section 5 of the Federal Trade Commission Act
18 (15 U.S.C. 45), except as explicitly allowed in this Act
19 with the approval of the Attorney General and relating
20 to an investigation, litigation, appeal, or consent decree
21 that was ongoing or in place on the day before the effective
22 date.

1 **SEC. 5. EFFECTIVE DATE.**

2 Except as provided otherwise, this Act shall take ef-
3 fect on the start of the first fiscal year that is at least
4 90 days after the date of enactment of this Act.

