

1 tering into or carrying out such agreement;

2 and

3 (ii) the Commission may not, on the
4 basis of such agreement, commence or
5 maintain any administrative proceeding or
6 civil action to enforce this section.

7 (B) EXCEPTION.—A determination issued
8 by the Commission under paragraph (1) that a
9 proposed agreement does not violate this sec-
10 tion—

11 (i) shall not apply to the extent that—

12 (I) any material term or condi-
13 tion of the agreement entered into is
14 in addition to or has been modified
15 from the proposed agreement sub-
16 mitted in connection with the request
17 for such determination; or

18 (II) any material term or condi-
19 tion of the proposed agreement sub-
20 mitted in connection with the request
21 for such determination is not con-
22 tained in the agreement entered into;
23 and

24 (ii) if the agreement entered into con-
25 tains the same terms and conditions as the

1 agreement submitted in connection with
2 the request for such determination, shall
3 cease to apply if any material term or con-
4 dition is added, removed, or modified after
5 such agreement is entered into.

6 (C) FAILURE TO SEEK OPINION.—The fail-
7 ure of a party to seek a determination under
8 paragraph (1) may not be introduced into evi-
9 dence to prove that such party is in violation of
10 this section or section 5 of the Federal Trade
11 Commission Act (15 U.S.C. 45) with respect to
12 such agreement.

13 (3) REGULATIONS.—

14 (A) IN GENERAL.—Not later than 180
15 days after the date of the enactment of this
16 Act, the Commission shall issue regulations
17 under section 553 of title 5, United States
18 Code, to carry out this subsection. Such regula-
19 tions shall provide for—

20 (i) the procedure to be followed by a
21 party requesting a determination under
22 paragraph (1);

23 (ii) the procedure to be followed by
24 the Commission in responding to a request
25 for such a determination;

1 (iii) the interval in which the Commis-
2 sion shall respond to such a request; and

3 (iv) the reasonable fee to be charged
4 to the party requesting such a determina-
5 tion.

6 (B) SPECIFIC CONTENTS.—Under the reg-
7 ulations promulgated pursuant to subparagraph
8 (A)—

9 (i) the Commission shall be required
10 to issue a determination under paragraph
11 (1) to a party requesting such a deter-
12 mination by not later than 30 days after
13 the request is received; and

14 (ii) the fee charged to the party re-
15 questing a determination under paragraph
16 (1) shall be equal to the costs incurred by
17 the Commission in responding to the re-
18 quest.

19 (4) DISCLOSURE EXEMPTION.—Any informa-
20 tion or documentary material filed with the Commis-
21 sion in connection with a request for a determination
22 under paragraph (1) shall be exempt from disclosure
23 under section 552 of title 5, United States Code,
24 and no such information or documentary material
25 may be made public, except as may be relevant to

1 any administrative or judicial action or proceeding.
2 Nothing in this paragraph is intended to prevent
3 disclosure to either body of the Congress or to any
4 duly authorized committee or subcommittee of the
5 Congress.

Page 17, beginning on line 23, strike “after June
17, 2013,” and all that follows through “entered into” on
page 18, line 1.

