

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

In the Matter of)	
)	
CHEVRON CORPORATION,)	
a corporation,)	Docket No. C-
)	
and)	
)	
UNOCAL CORPORATION,)	
a corporation.)	
)	

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“FTC” or “Commission”), having reason to believe that Respondent Chevron Corporation (“Chevron”) and Respondent Unocal Corporation (“Unocal”) have entered into an agreement and plan of merger whereby Chevron proposes to acquire all of the outstanding common stock of Unocal, that such agreement and plan of merger violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. RESPONDENTS

Chevron Corporation

1. Respondent Chevron, formerly ChevronTexaco Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 6001 Bollinger Canyon Road, San Ramon, California 94583.

2. Respondent Chevron is, and at all times relevant herein has been, a diversified energy firm engaged, either directly or through affiliates, in the exploration for, and production of, petroleum products; the pipeline transportation of crude oil and natural gas; the refining of crude oil into refined products, including gasoline and other light petroleum products; the transportation, terminaling, and marketing of gasoline, diesel fuel, and aviation fuel; and other related energy businesses.
3. Respondent Chevron is, and at all times relevant herein has been, engaged in commerce as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

Unocal Corporation

4. Respondent Unocal is a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 2141 Rosecrans Avenue, Suite 4000, El Segundo, California 90245.
5. Respondent Unocal is, and at all times relevant herein has been, an energy firm engaged, either directly or through affiliates, in the exploration for, and production of, petroleum products; the pipeline transportation of crude oil, natural gas and other petroleum products; and other related energy businesses.
6. Respondent Unocal is, and at all times relevant herein has been, engaged in commerce as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as “commerce” is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED MERGER

7. Pursuant to an agreement and plan of merger dated April 4, 2005, Chevron intends to acquire all of the outstanding common stock of Unocal in exchange for cash and common stock of Chevron. At the time of the agreement, the value of the transaction was approximately \$18 billion.

III. TRADE AND COMMERCE

8. Gasoline is a motor fuel that is used in automobiles and other vehicles. It is refined from crude oil at refineries in the United States and throughout the world. Gasoline is produced in various grades and formulations, including conventional unleaded gasoline, low emissions reformulated gasoline (“RFG”), California Air Resources Board (“CARB”) compliant reformulated gasoline, and others. There is no substitute for gasoline as a fuel for automobiles and other vehicles that are designed to use gasoline.

9. CARB compliant reformulated gasoline (“CARB RFG”) is a motor fuel that meets the specifications of the California Air Resources Board. CARB RFG is cleaner burning and causes less air pollution than conventional unleaded gasoline. The sale of any gasoline other than CARB RFG is prohibited in California. There is no substitute for CARB RFG as a fuel for automobiles and other vehicles that use gasoline purchased in California.
10. CARB RFG is produced primarily in California and at a few other locations on the West Coast. Chevron is a leading refiner and marketer of CARB RFG. Unocal is not engaged in the refining or marketing of CARB RFG.
11. Through its wholly-owned subsidiary, Union Oil Company of California, Unocal owns a portfolio of five U.S. patents relating to reformulated gasoline. Unocal’s RFG patents cover the production and supply of CARB RFG, particularly in the warmer weather months. Refiners must use the technology covered by the Unocal RFG patents for producing a substantial portion of CARB RFG during warmer weather months – *i.e.*, CARB “summertime” gasoline.
12. Unocal licenses its RFG patents to others in exchange for payments ranging from 1.2 to 3.4 cents per gallon. In addition, Unocal has won a patent infringement suit against major refiners of CARB RFG and obtained a court judgment awarding Unocal royalties of 5.75 cents per infringing gallon produced in California.

Relevant Product Market

13. Relevant lines of commerce in which to analyze the effects of the proposed merger are the marketing and refining of CARB RFG.

Relevant Geographic Market

14. Relevant sections of the country in which to analyze the proposed merger are the State of California and smaller areas contained therein.

Market Structure

15. The relevant markets for the refining and marketing of CARB RFG are either highly concentrated or moderately concentrated.

Entry Conditions

16. Entry into the relevant lines of commerce in the relevant sections of the country is difficult and would not be timely, likely or sufficient to prevent anticompetitive effects resulting from the proposed merger.

IV. VIOLATION CHARGED

17. Because of factors such as Unocal's perception of possible actions by the California Air Resources Board or other governmental authorities, Unocal is likely to be constrained in charging the full monopoly level price to licensees of the Unocal patents. Unocal has no operations at downstream levels of the industry through which it could attempt to recoup any additional profits. Because of its significant operations at the refining and marketing levels, Chevron will have a greater ability than Unocal to obtain additional profits by coordinating with its competitors at the downstream refining and marketing levels.
18. As part of Unocal's license agreements, Unocal regularly collects detailed reports from licensees about their production of CARB RFG and other refinery operations. Such information is not otherwise available to members of the industry, and could be used to facilitate coordination among refiners and marketers of CARB RFG.
19. The effect of the proposed merger, if consummated, may be substantially to lessen competition in the marketing and refining of CARB RFG in the relevant sections of the country, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the following ways, among others:
- a. By increasing the likelihood of, or facilitating, collusion or coordinated interaction between Chevron and its competitors in the refining of CARB RFG in the relevant sections of the country,
 - b. By increasing the likelihood of, or facilitating, collusion or coordinated interaction between Chevron and its competitors in the marketing of CARB RFG in the relevant sections of the country,
- each of which increases the likelihood of anticompetitive price increases for CARB RFG in the relevant sections of the country.
20. The proposed merger between Chevron and Unocal violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and would, if consummated, violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this

_____ day of _____, 2005, issues its complaint against said Respondents.

By the Commission.

SEAL:

Donald S. Clark
Secretary