



***Federal Trade Commission
Public Workshop: Competition Policy in the
World of B2B Electronic Marketplaces***

Comments regarding B2B Electronic Marketplaces

Submission of



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Introduction: About energyLeader.com and the Regional Horizontal Procurement Hub

energyLeader.com thanks the Federal Trade Commission for this opportunity to be heard on a subject of vital interest to the business community, and one with a potentially immense impact on the American economy: the explosive growth in business-to-business (B2B) electronic marketplaces.

energyLeader.com was founded in January 2000 by CEO Steven A. Mitnick to be the energy industry's new economy partner. The company's flagship product is a new business model for B2B electronic marketplaces, one designed to provide utilities with a unique opportunity to participate in the internet economy. This model, the "Regional Horizontal Procurement Hub" (or "RHPH") leverages the utilities' standing in their regional economies to allow them to save substantially on their ucosts (and, indeed, to earn entirely new revenue streams). At an RHPH, all businesses, institutions, non-profit organizations and even governments in a region can satisfy most, if not all, of their procurement needs by buying through a single marketplace. Typically, an RHPH is sponsored by a utility whose affiliate serves as the majority owner/manager of the RHPH; the utility itself may be a major buyer on the RHPH as well. The model does not presuppose any particular restrictions on the types of goods or services passing through the marketplace: although the Hub is sponsored by a utility, it is not a market for buying or selling energy or direct inputs into the generation, distribution or transmission of energy. The first RHPH is currently being created in the greater Washington, DC / Baltimore metropolitan area in partnership with the Potomac Electric Power Company (Pepco) and will "go live" in early December, 2000. Additional marketplaces similarly underway in other regions in partnership with other utilities. In the course of this submission we will describe the RHPH concept in greater detail, and will compare and contrast it with the other leading business models for B2B marketplaces.

I. What Are the Existing and Likely Models for B2B Marketplaces? How Do They Work? What Can They Do?

Q1. What are the business reasons driving the creation of B2B electronic marketplaces? What new efficiencies can such marketplaces create?

A1. Among the forces driving firms to join B2B marketplaces are:

- the buyers' desire to lower unit costs by aggregating their buying power with others sharing the marketplace;
- the desire of both buyers and sellers to reduce the overhead costs associated with purchasing or with fulfilling orders (this can be a particularly compelling reason for a buyer not yet using any type of electronic procurement system, as is often the case with the utilities with whom energyLeader.com partners);
- the convenience and added reliability arising from a uniform approach to making or fulfilling orders;
- the opportunity to link procurement to a buyer's or seller's other business systems and processes (e.g., through "backward integration" of the purchasing

function into the buyer's Enterprise Resource Planning (ERP) or legacy systems)

- lower sales and marketing costs for sellers;
- more rapid and potentially automatic payment for sellers; and
- access to a wider range of transaction partners than the buyers or sellers previously had.

In the unique case of the RHPHs created by energyLeader.com (such as the Hub currently being created in the greater Washington, DC and Baltimore metropolitan areas in partnership with Pepco), the list of drivers also includes:

- the opportunity to support minority, small and other protected-class businesses;
- the opportunity to contribute to the economic vitality and competitiveness of the region in which the marketplace is located; and
- support for good causes in the region (by redirecting a share of the marketplace's profits to local causes).

Q2. What industries have established B2B electronic marketplaces? How are they faring? What characteristics affect the suitability of any given industry for establishing a B2B electronic marketplace? Are B2B electronic marketplaces being established outside the United States?

A2. B2B marketplaces are emerging in nearly every industry; new ones are announced daily. Among the most prominent are those in the automotive, chemicals, electronics and plastics industries. Only a few marketplaces—among them those created by energyLeader.com—are not industry-oriented, but rather open to buyers and sellers from a wide range of unrelated industries. One factor affecting the usefulness of an industry-oriented marketplace to a given industry is the extent to which that industry buys goods and services that can more readily be delivered on a local or regional level. In industries such as education (e.g., universities), health care (hospitals), and banking, it is common for a large proportion of an entity's purchasing to be done locally or regionally, making a nationwide vertical marketplace less suitable for many purchases (particularly services) than an RHPH.

Q3. How are prices determined in B2B electronic marketplaces? Through auctions? Other methods? Do methods of determining price vary when products are customized? How are quantities and other competitive terms determined?

A3. There are no particular technological limitations on pricing in a B2B marketplace; these marketplaces support the entire range of pricing mechanisms that exist in the world of paper transactions, including standard "list" or catalog prices set by the seller, prices negotiated by buyer and seller, and auctions (both forward and reverse). With respect to quantities and other terms, most commonly the buyer specifies the desired quantity and other terms, and the seller attempts to meet those terms, but other arrangements are possible.

Q4. Who owns such marketplaces -- designers, operators, buyers, sellers, and/or others? What are possible ownership structures? What mechanisms are envisioned for their financing? How is membership determined and by whom?

A4. A wide range of ownership structures is possible, and indeed is currently reflected in the B2B landscape. energyLeader.com creates marketplaces in which it, as the designer, owns a minority interest while one sponsor (typically an energy utility) owns the majority interest; other participants, such as major buyers, may also potentially own minority interests. energyLeader.com makes an initial assessment of the geographic market to be served by the marketplace and identifies the entities most likely to express interest in using (and potentially owning) the marketplace, but otherwise imposes no limits or restrictions on who might potentially be an owner or user.

Q5. How are B2B electronic marketplace rules established? Who establishes the rules? What types of rules are generally necessary? What factors affect which rules are necessary?

A5. To a large extent, users of the marketplaces establish their own rules; the marketplace software may facilitate enforcement of those rules (e.g., either a buyer or a seller may initiate an online auction, and may set the rules for the auction, such a minimum bid and bid increment). As a general proposition, marketplace software is crafted to permit buyers and sellers to enforce their own pre-existing business rules, and as the software evolves, its flexibility with respect to modeling business rules grows.

Q6. How and by whom are B2B electronic marketplaces governed and operated? What are alternative models?

A6. Many models for B2B marketplaces coexist and compete. They each serve different needs and play different roles in the economy. Because we feel that this is a particularly important topic, and because energyLeader.com is a leading player in implementing one of the less familiar models, we will discuss them here at some length.

Origins of B2B Business Models

The business-to-business electronic procurement (e-procurement) marketplace grows out of conventions established in the business-to-consumer (B2C) world—especially the “single seller” models. In B2C, most commerce for goods and services is organized around either a single seller (e.g., Land’s End) or a broad retailer (e.g., Amazon). The single seller model adapted easily to the B2B world, examples being single sellers like Dell and broad retailers like Grainger.

Companies such as Ariba and Commerce One developed the notion of a single-buyer system. They offered a simple, specialized interface to enable buying from single sellers and broad retailers.

The Rise of Multi-Buyer Marketplaces

Next came multi-buyer “marketplaces,” where a group of companies use a common interface for buying. In the B2C arena, grouping of buyers is almost unheard of. Consumers have resisted aggregation, although Priceline and others continue to search for a sustainable model based on consumer aggregation.

In the B2B world, however, the opposite is true. Businesses seek the lower unit prices that can be negotiated when their “buy” is aggregated, leading many marketplaces to make a leading priority of buyer aggregation.

Multi-buyer marketplaces now appear in four forms – independent vertical, buyer vertical, universal horizontal, and regional horizontal.

The Four Major Business Models for B2B Marketplaces

The first B2B multi-buyer marketplace form was the ***independent vertical***, an e-procurement interface for a relatively narrow range of industry specific goods (for a vertical slice of the economy). Still the most common form of B2B marketplace, these exchanges were developed independently of specific buyers or sellers. Examples include Chemdex, PlasticsNet, and SciQuest.

These independent verticals face considerable liquidity challenges. Until enough purchases are made through the marketplace, its bargaining power to get lower unit prices is limited. Yet it must demonstrate this power to attract the necessary critical mass of buyers and sellers.

The second B2B marketplace form, and the most frequently seen model at this time, is the ***buyer vertical***. Like the independent vertical, the buyer vertical focuses on a relatively narrow range of industry-specific goods (again for a vertical slice of the economy). Buyers, such as the automotive manufacturers and petroleum majors, typically develop these marketplaces.

While the independent vertical must cope with the liquidity problem, the buyer vertical must cope with two insidious issues. First, buyer verticals require competitors in the same industry to coordinate and act at Internet speed – a formidable task when competing entities are involved. Second, as evidenced by this workshop, buyer verticals may raise concerns about the potential for collusion or anticompetitive conduct between the buyers.¹

¹ U.S. Federal Trade Commission and U.S. Department of Justice, “Antitrust Guidelines for Collaborations Among Competitors,” April 2000, Section 3.31(a), Relevant Agreements that Limit Independent Decision Making or Combine Control or Financial Interests, “Buying Collaborations.” See

The third and fourth B2B marketplace forms are horizontal, encompassing all vertical slices of the economy. The **universal horizontal** intends to serve any business, whatever its industry, location, or size. AOL and PurchasePro, in a joint venture, are developing a universal horizontal, as are others. Onvia is another variation, offering to serve any small business.

The **regional horizontal**, introduced by energyLeader.com, serves a community's businesses and non-profit institutions of all kinds and sizes, capitalizing on local cohesiveness. As previously noted, energyLeader.com is working in partnership with utilities in several regions of the country to develop Regional Horizontal Procurement Hubs, or RHPHs, in each utility partner's home market. The objective is to build upon the utility's inherently regional focus and standing in its community to create a marketplace that serves the unique needs of a wide range of regionally or locally focused entities, whether for-profit or non-profit entities (such as universities and hospitals), regardless of industry.

In our opinion, some important characteristics of the different business models can be summarized as follows:

Leading Net Marketplace Models				
	Independent Vertical	Buyer Vertical	Universal Horizontal	Regional Horizontal
Speed to market, decisive governance	<i>Excellent</i>	<i>Problematic</i>	<i>Fair</i>	<i>Good</i>
Speed to critical mass, and cash-positive	<i>Problematic</i>	<i>Good</i>	<i>Problematic</i>	<i>Good</i>
Growth potential	<i>Fair</i>	<i>Fair</i>	<i>Problematic</i>	<i>Excellent</i>
Anti-competitive issues	<i>None</i>	<i>Problematic</i>	<i>None</i>	<i>None</i>

Whatever its form, a multi-buyer marketplace must aggregate a critical mass of buyers to attain the necessary bargaining power to drive down unit prices. The buyer vertical and regional horizontal forms have a decisive head start, since they launch with the commitment of "Charter Buyers" – buyer verticals have

also *Business Week*, "Commentary: E-Exchanges May Keep Trustbusters Busy," by Dan Carney, May 1, 2000. See also *New York Law Journal*, "Regulators Target B-to-B Sites," by Andrea Foster, May 8, 2000, www.nylj.com.

committed buyer-owners, while regional horizontals start with small group of local businesses and non-profits.

In every case, though, marketplaces are racing to aggregate buyers and their buy. Businesses and non-profits alike are well aware there is competition for their buy – and they are faced with some intriguing options.

Consider the case of a major hospital, for example, which can use one or more independent verticals (Medibuy, Neoforma, Chemdex, SciQuest), join a buyer vertical, and/or join a regional horizontal. Each of these alternatives offers specific advantages.

Verticals, for instance, excel in driving down unit prices of specialized goods that buyers in a narrow industry procure in large quantities no matter where they are located. Regional horizontals excel in driving down unit prices of general goods, and particularly services, that buyers within a region procure in large quantities.

Verticals market themselves to buyers by leveraging *intra-industry* associations and relationships. Regional horizontals market themselves to buyers by leveraging *regional* associations and relationships (which utilities are extraordinarily well positioned to do).

Given those opportunities, a hospital might go vertical or regional horizontal – or even both ways. Both aggressive verticals and regional horizontals will compete to get that hospital committed first, and for most of its total buy, both aware that the initial e-procurement decision can be long-lasting.

No one form of marketplace will predominate, with many winning formulas capturing market share across regions and industries. Various markets based on a range of models will compete, coexist and interconnect seamlessly. Buyers, in particular, will demand no less.

Q7. How are the owners and operators of B2B electronic marketplaces compensated, and for what services are they compensated? Who determines the compensation?

A7. There is a wide variety of potential revenue streams for the marketplace's owners. Revenues could come from transaction-related charges (a per-transaction flat fee, or a charge proportional to the transaction's size), charges for value-added services (such as calculating sales tax, providing credit protection, or shipping), advertising, and referral fees for transactions begun at one marketplace but completed at another. The designers and/or owners of the marketplace typically determine the compensation, but market forces ultimately determine what type of charges can be assessed, against whom, and at what level.

Q8. What are likely scenarios for how B2B electronic marketplaces will compete with each other? Does it depend on the industry involved? Do buyers or sellers participate in more than one B2B electronic marketplace in a particular industry? Are there situations in which network effects may dictate that a single B2B electronic marketplace dominate a particular industry? Why are some B2B electronic marketplaces consolidating now?

A8. As we observed in A6., many buyers and sellers will have the choice of multiple marketplaces. For example, a hospital joining an RHPH designed by energyLeader.com may buy “big ticket” items such as medical imaging equipment from an industry vertical marketplace while buying a multitude of other goods and services regionally through an RHPH. In this industry, both models can coexist, although there will inevitably be competition between them, both to sign up the participants, and over which transactions will be carried out at which marketplace. We are aware of no technological impediments to prevent a buyer or seller from participating in multiple marketplaces, even if the various marketplaces are based on different technology platforms. Consolidation may reflect a variety of forces, such as economies of scale and scope in the management of marketplaces, and the opportunity to increase buying power through aggregation.

Q9. In a B2B electronic marketplace, what can participants discover about each other's actions? Who can see transaction or bid prices or quantities? Who receives information about available capacity?

A9. As a general proposition, in the marketplaces which energyLeader.com designs, participants do not see the details of each others' transactions. Buyers can view prices of goods or services, but only the prices which the seller wants that buyer to see, not the prices that may have been charged to other buyers. In the case of auctions, the party designing the auction can establish auction rules either hiding or disclosing the bidders' identities and/or bids.

Q10. Is there advertising in B2B electronic marketplaces? If so, what type of information is conveyed? Who determines what advertising may be placed?

A10. Advertising is possible on B2B marketplaces, as it is at other Web sites. The marketplace owner typically decides whether to display advertisements, the price to be charged, and restrictions, if any, on advertising content. Online advertising can be an excellent source of information for marketplace users and revenue for the marketplace owners.

Q11. Does the design or operation of B2B marketplaces raise issues relating to intellectual property rights?

A11. Possibly, but not any particularly novel issues. For example, the sites created by energyLeader.com reflect the contributions of many parties:

energyLeader.com (with its utility partner) designs the site and defines its major functional requirements; a software vendor such as Ariba or Commerce One provides the underlying marketplace software that processes transactions; another party may create customized extensions to the marketplace software to provide functionalities not available “out of the box;” and the utility contributes to all of these activities while owning the largest share of the marketplace. The rights of these and potentially other entities to property created in the course of building the marketplace need to be negotiated, as they do in any business venture.

II. Buyer Perspectives

Q1. What business reasons prompt buyers to be interested in purchasing through B2B electronic marketplaces? For example, what savings do buyers anticipate from the use of such marketplaces? How were purchases made before the availability of such marketplaces? Are buyers based outside the United States participating in such marketplaces?

A1. Buyers hope to:

- lower unit costs for goods and services procured through the marketplace, by combining their purchasing power with that of other buyers;
- reduce their supply chain costs by automating previously manual processes;
- reduce transaction costs and opportunities for error by integrating their purchasing activities into their ERP or legacy systems;
- have easier and more comprehensive access to pricing information from different vendors, to more readily obtain the lowest price where that is the major criterion for vendor selection;
- obtain better control over their purchasing processes (e.g., by greatly reducing the risk of unauthorized or “maverick” purchases and by obtaining detailed reports of transactions); and
- reduce errors associated with manual data entry and a multiplicity of forms and processes, thereby improving both efficiency and user satisfaction with the procurement process.

The actual monetary savings possible from the use of B2B marketplaces will vary from user to user, and the averages appear to vary by industry, but estimates typically range from 5% to 25%.

Q2. What are the sources of the expected savings? Are savings expected to come from reductions in transaction costs? From volume-related scale economies? From inventory reductions? From the ability to do business more readily with distant sellers? From the ability to compare prices more easily? From other sources?

A2. As the answer to the previous question indicated, savings are likely to come from a combination of each of the factors identified in this question.

Q3. What factors affect the desirability of purchasing through a B2B electronic marketplace and the extent of likely electronic marketplace usage? Does it matter whether the product at issue is homogeneous or differentiated?

A3. The major factors would appear to be:

- perceived savings opportunities;
- ease of use;
- perceived improvements to the management and control of the procurement process;
- perceived improvements to the integration of procurement into other business processes and systems; and
- ability of the electronic marketplace to address less tangible corporate goals (e.g., in the case of the utilities working with energyLeader.com, supporting the regional economy, and advancing the interests of minority and protected-class vendors).

Q4. Does it make a difference to buyers who owns or operates the B2B electronic marketplace? If so, why? How do buyers decide in which marketplaces to participate? What factors affect participation decisions?

A4. The ownership structure of the markets created by energyLeader.com will have no affect on the features, functions or prices available to the users. One can imagine a situation where one entity owns and controls a marketplace used by its competitors, but even in that scenario it is not automatically true that the owner will give itself an unfair advantage over its competitors. The B2B world is an increasingly competitive one in which credibility is important, and in which news of unfair practices will travel quickly, with devastating consequences to the practitioner.

Q5. Are there any factors other than price and other competitive terms that will affect buying decisions in B2B electronic marketplaces? For example, how important is a seller's reputation in such a setting?

A5. Factors other than price will play as large a role in the B2B world as they do outside it, if not larger. For instance, the markets created by energyLeader.com will allow buyers to identify and give preference to small, minority, women and Vietnam-era veteran owned businesses; embedding this capability into the software allows a buyer to fulfill his or her company's policy with respect to these vendors, and to make a non-price-driven decision, much more effectively than a non-electronic system. The seller's reputation will continue to matter in the B2B world, as it does in the B2C world, and creative solutions for monitoring vendor performance and establishing/updating seller reputation will continue to emerge.

Q6. What role do computer programs play in comparing prices or other competitive terms or in authorizing purchases in B2B electronic marketplaces?

A6. For standardized goods which lend themselves to price comparisons, the marketplace software typically presents the prices of multiple vendors in a single screen, permitting simple sorting based on price or other visual comparison of prices. The software can also facilitate searching for other criteria and sorting the results based on something other than prices, e.g., minority vendor status. The software can also facilitate purchase authorizations, by allowing various types of authorization rules (e.g., a requirement that all purchases over a specified dollar amount be routed to a particular person for approval) to be modeled and enforced.

Q7. What information, if any, can buyers receive about each other's purchases? Does complexity of the product affect the answer?

A7. In the marketplaces designed by energyLeader.com, buyers typically cannot learn about each others' purchases. We strongly protect the privacy of transaction information, and allow neither other buyers nor the marketplace's own personnel to review that information, except under limited and controlled circumstances. (Data may, however, be aggregated by marketplace personnel in a manner that does not reveal any one buyer's activities, e.g. for purposes of negotiating volume discounts.)

Q8. What rules do buyers typically want to govern B2B electronic marketplace solicitations? Are there circumstances when buyers wish to limit the number or identity of bidders or otherwise structure auction procedures?

A8. Buyers may have preferred vendors for certain goods and services and may want the marketplace to restrict them to those vendors to streamline the purchasing process. In an auction context, the buyer may likewise want to restrict the participants (as it could when soliciting bids in the non-electronic world). Auction software typically provides a high degree of control over the auction procedure.

Q9. Do B2B electronic marketplaces require participants to purchase minimum quantities or minimum percentages of their needs through the exchange? Are there circumstances when it is likely to make business sense for a buyer to participate solely in one B2B electronic marketplace? What factors are relevant to whether a buyer participates in multiple B2B electronic marketplaces selling similar products?

A9. Whether a minimum purchase level is required is up to the marketplace owner. energyLeader.com has no plans to impose minimum purchase levels on participants, but it may offer incentives to encourage entities to bring a large

volume of transactions to the market. (Individual sellers may impose minimum quantity requirements on items that they sell, but this is a different issue.) And no matter how much of its procurement a buyer brings to the market, there are likely to be instances in which it makes purchases through other channels. We do not anticipate any buyers purchasing 100% of their needs from a single marketplace.

Q10. What consequences can be expected to follow from a decision to join, or not to join, a B2B electronic marketplace? Do B2B electronic marketplaces have implications for wholesalers or other middlemen? For long-term contracting?

A10. B2B marketplaces have the potential to drive inefficiencies out of the supply chain (just as single-buyer electronic procurement systems do). This can have implications different intermediaries. For example, it can lead to more efficient inventory management. It will have less effect on other intermediaries, e.g., shippers, because electronically-purchased goods must still be shipped.

III. *Seller Perspectives*

Q1. What business reasons prompt sellers to be interested in selling through B2B electronic marketplaces? For example, what savings do sellers expect to gain through such marketplaces? How were sales made before the availability of such marketplaces? Are sellers based outside the United States participating in such marketplaces?

A1. For sellers, the major advantages of using a B2B marketplace are:

- lower transaction costs and higher speed and efficiency in taking and processing orders;
- lower marketing and sales costs;
- access to more buyers than previously;
- rapid and potentially automatic payment;
- enhanced information about their customers' buying behavior; and
- lower costs for supply chain services.

Q2. What are the sources of the expected savings? Are savings expected to come from reductions in transactions costs? From volume-related scale economies? From inventory reductions? From the ability to do business more readily with distant buyers? From other sources?

A2. Savings may come from any or all of the sources identified in the question.

Q3. What factors affect the desirability of transacting business through B2B electronic marketplaces and the extent of likely electronic marketplace usage? Does it matter whether the product at issue is homogeneous or differentiated?

A3. The attractiveness of the marketplace to the seller is often a function of the extent to which the marketplace is used by the seller's major buyers. Many

marketplaces are formed by buyers; as such, the buyers are known even before the sellers are enlisted to join. Sellers who wish to continue their relationships with these buyers will want to participate in the marketplace. The best designed marketplaces will offer sellers a compelling value proposition, so that sellers will participate because they choose to join, not because they feel compelled to join. In the case of energyLeader.com's markets, both homogenous products like office supplies and differentiated offerings such as services (e.g., janitorial or landscaping) will be sold online, and sellers of both should find the opportunity attractive.

Q4. Does it make a difference to sellers who owns or operates the B2B electronic marketplace? If so, why? How do sellers decide in which marketplaces to participate? What factors affect participation decisions?

A4. As is true for buyers, it should not matter to sellers who owns or operates the B2B marketplace. A successful marketplace will be designed and operated in a nondiscriminatory manner. Sellers will go where there buyers are, which may well mean participating in multiple markets. Today, many sellers have to contend with a multiplicity of paper-based (or in any event non-standard) processes and systems to accommodate their buyers; if anything, even with multiple marketplaces, sellers will see more uniformity than they have in the past.

Q5. Are there any increased costs to sellers of doing business in B2B electronic marketplaces? Are any distribution costs increased? What effects will B2B electronic marketplaces likely have on sellers' profit margins?

A5. While the answer may depend on exactly how the seller did business before the B2B marketplace, we believe that for most sellers, net costs of doing business will decline. Sellers doing business at a B2B marketplace face five major categories of costs: systems integration, catalog conversion, sign-up and subscription, transaction, and value-added services. We will address these cost categories in turn.

First, strictly speaking, taking orders online requires nothing more than a PC, web browser and email program (and in fact, some marketplaces can be configured to transmit purchase orders to a given seller via fax; however, a seller would ordinarily want to have email and internet access to participate in more interactive transactions, such as auctions). To make the most of the savings opportunities, however, the seller may need to invest in systems integration services to tie the marketplace software to its inventory and other systems, or may need to pay to have transaction data translated to EDI.

Second, a seller may also be asked to bear some or all of the costs associated with creating an electronic version of its catalog, and for maintaining that catalog as items are added, deleted or repriced; in some

instances, a buyer may agree to bear these costs as a form of inducement to its preferred vendors.

Third, many marketplaces ask participants (potentially both buyers and sellers) to pay a one-time signup fee to defray the expense associated with setting up user accounts (login IDs, passwords, access privileges, etc.) as well as periodic subscription fees.

Fourth, sellers are typically assessed transaction fees by the marketmaker, which may be flat per-transaction fees, a percentage of the transaction size, or some hybrid (such as a step-function charge).

Fifth, sellers can be charged for specific value-added services from which they benefit, such as calculating taxes, processing payments, automating the product return process, or automatically arranging for shipping.

Due to the wide variety of potential costs, it is difficult to generalize; however, we believe that the efficiencies of an electronic marketplace for sellers are such that collectively, the benefits of doing business over a B2B marketplace will significantly outweigh the costs.

Q6. Do sellers see competitors' prices posted on B2B electronic marketplaces? If so, how do sellers respond? What role do computer programs play?

A6. The answer may vary depending on the software powering the market. In some cases, sellers will not have access to pricing information of other sellers of the same types of goods or services. This would prevent a single entity which uses the marketplace as both a buyer and a seller from obtaining sensitive competitive information by wearing its "buyer" hat and performing a price check on the same goods it sells. In other cases, the seller may have access to a competitor's default prices (just as it might obtain a competitor's printed catalog), although even in this case it would not have access to the competitor's negotiated prices.

Q7. What other information, if any, do B2B electronic marketplaces make available to sellers about competing sellers? For example, can sellers receive information about competitors' available capacity?

A7. energyLeader.com believes that as a rule, sellers do not have access to other information about competing sellers.

Q8. What rules do sellers typically want to govern B2B electronic marketplace solicitations? Are there circumstances when sellers may wish to limit the number or identity of possible purchasers or otherwise structure auction procedures?

A8. Sellers do sometimes have an interest in establishing and enforcing rules, such as limiting the number or identity of possible purchasers or otherwise

structuring auction procedures. Some marketplace software can be configured to accommodate these types of rules.

Q9. Must a minimum level or percentage of sales be made through a B2B electronic marketplace in which a seller participates? Do B2B electronic marketplaces impose any other requirements affecting participants' outside sales?

A9. The marketplaces created by energyLeader.com impose no requirements whatsoever on sellers with respect to how much they should sell through the exchange, and imposes no penalties on the seller for doing outside sales. energyLeader.com relies on the inherent attractiveness of doing business through the marketplace to act as an inducement to the seller.

Q10. What consequences can be expected to follow from a decision to join, or not to join, a B2B electronic marketplace? Do B2B electronic marketplaces have implications for wholesalers or other middlemen? For long-term contracting?

A10. As noted in our response to Q10 for buyers, B2B marketplaces have the potential to drive inefficiencies out of the supply chain. This can have implications for different intermediaries. For example, it can lead to more efficient inventory management.

IV. Public Policy Perspectives

Q1. What competition issues may be raised by B2B electronic marketplaces? What are likely procompetitive benefits, and what are possible anticompetitive concerns?

A1. B2B marketplaces have tremendous pro-competitive potential. We will discuss just a few of the ways that marketplaces promote greater competition.

First, B2B marketplaces increase price transparency. Marketplaces give buyers access to data from numerous sellers in a format that permits easy comparison, not only of pricing but of other terms and conditions relevant to the purchasing decision. This data transparency sharply reduces informational inefficiencies in the purchasing process, and promotes more vigorous competition.

Second, marketplaces facilitate various types of auctions, making them far easier to arrange than was possible in the "real world." Not only is the auction structure inherently competitive, but online auctions, because of the ease and low cost of creating and participating in them regardless of physical location, have the potential to create vigorous markets for the purchase or sale of goods or services which would otherwise have no competitive market. Consider the explosive growth of consumer-oriented auction sites such as eBay, which provide vigorous competition between

purchasers for goods, such as obscure “collectibles,” which previously were regarded as having no clear resale market.

Third, online marketplaces can make markets bigger: they can give buyers access to a wider range of suppliers than they would otherwise be aware of, while making heretofore locally-focused suppliers reachable by buyers to whom they would otherwise never market their goods or services.

Q2. Under what circumstances are B2B electronic marketplaces likely to increase or diminish competition? What has the experience been so far?

A2. Marketplaces will tend to increase competition—and be most successful commercially—when they impose as few restrictions on participants as practicable.

Q3. How do B2B electronic marketplaces affect entry at the buyer or seller level? How does entry occur in the market for B2B electronic marketplaces?

A3. In the case of the RPH markets designed by energyLeader.com, the prospective buyers most likely to find the Hub appealing are approached by company and its utility partner while the project is still in its preparatory stage, before the Hub is operational, and provided with an opportunity to join the Hub as “Charter Buyers.” They, and other buyers, identify their major trading partners, who are then encouraged to join the Hub as sellers.

Q4. What issues are relevant to structuring and implementing B2B electronic marketplaces so as to both realize efficiencies and avoid competition problems? For example, what mechanisms might be included to prevent inappropriate sharing of competitive, confidential information? Are any of these mechanisms likely to be impractical or undesirable from a business perspective?

A4. energyLeader.com’s own policy on the use of confidential information is to treat all customer data as confidential, not to be shared (whether for a price or otherwise) with third parties. energyLeader.com would, however, expect the marketplace operator to have the right to use customer information as it deems necessary to carry out its service obligations, subject to a written, audited and strictly enforced privacy policy. In addition, it would be appropriate for the marketplace operator to aggregate or otherwise abstract customer information for any reasonable purpose, provided that it does so in a manner that does not disclose customer-specific information to itself or to others. Commonly accepted techniques such as user logon IDs, passwords, privilege settings and data encryption will be employed to ensure that users (buyers and sellers) are who they claim to be, that they see only the data to which they are entitled, and that confidential data is protected against interception or corruption during transmission.

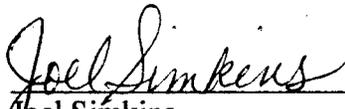
Q5. Does the development of competition within and among B2B electronic marketplaces depend in part on any intellectual property rights relating to the design or operation of such marketplaces?

A5. Effective competition within and among B2B marketplaces may depend on intellectual property rights; marketplace owners and operators will seek to differentiate themselves by developing unique or improved features and capabilities, and they may desire to retain their rights to the developments and enhancements they create or commission. The opportunity to develop such improvements and to reap the benefits thereof (by selling or licensing the developments to a third party, or by operating a marketplace that includes the developments) is certainly one factor propelling the growth of B2B marketplace technology. energyLeader.com and its business partners expect to assert and enforce their rights with respect to the intellectual property they develop to differentiate their marketplaces.

Q6. What implications, if any, do B2B electronic marketplaces have for market structure and market concentration?

A6. We believe that B2B marketplaces (particularly the RHPHs with which we are most familiar) may tend to accelerate and accentuate trends already present in the market, but that for the foreseeable future they will not create any unique market structures or unique risks of excessive market concentration. B2B marketplaces are, at heart, more evolutionary than revolutionary, but they represent evolution at a decidedly rapid pace.

Respectfully Submitted,



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