

after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person should comment within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: J. Robert Kramer, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

## VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against the defendants. The United States is satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in the production and sale of aggregate in Marion County that otherwise would be affected adversely by the acquisition. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the government's Complaint.

## VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final

Judgment "is in the public interest." In making that determination, the court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States v. Microsoft*, 56 F.3d 1448 (DC Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24598 (1973). Rather,

absent a showing of corrupt failure of the government to discharge its duty, the court, in making its public interest finding, should \* \* \* carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

*United States v. Mid-America Dairymen, Inc.*, 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that:

The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not

breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

*United States v. Bechtel*, 648 F.2d 660, 666 (9th Cir. 1981) (emphasis added).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" (citations omitted). *United States v. American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), aff'd sub nom., *Maryland v. United States*, 460 U.S. 1001 (1983).

## VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Executed on: May 23, 1997.

Respectfully submitted.

Frederick H. Parmenter,

Attorney, Department of Justice, Antitrust Division, Suite 3000, 1401 H Street, NW., Washington, DC 20530, (202) 307-0620.

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BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Federal Bureau of Identification

#### Criminal Justice Information Services; Agency Information Collection Activities: Proposed Collection: Comment Request

**ACTION:** Notice of Information Collection Under Review: Law Enforcement Officers Killed and Assaulted (LEOKA).

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until August 8, 1997.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your

comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be direct to SSA Paul J. Gans (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact SSA Paul J. Gans, 304-625-4830, FBI, CJIS, Statistical Unit, PO BOX 4142, Clarksburg WV 26302-9921.

#### *Overview of This Information Collection*

(1) Type of information collection: Extension of Current Collection.

(2) The title of the form/collection: Law Enforcement Officers Killed and Assaulted (LEOKA).

(3) The agency form number, if any, and applicable component of the Department sponsoring the collection. Form: I-705. Federal Bureau of Identification, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: State and Local Law Enforcement Agencies. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is tabulated and published in the comprehensive annual "Law Enforcement Officers Killed and Assaulted".

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,900 agencies; 58,800 responses (includes Zero Reports); and with an average completion time of 5

minutes a month or 1 hour annually per responding agency.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 4,900 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: June 2, 1997.

**Robert B. Briggs,**

*Department Clearance Officer, Department of Justice.*

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## FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 14-97]

### Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

**DATE AND TIME:** Tuesday, June 10, 1997, 2:00 p.m.

**SUBJECT MATTER:** Consideration of Proposed Decisions on claims of Holocaust survivors against Germany.

**STATUS:** Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616-6988.

Dated at Washington, DC June 3, 1997.

**Judith H. Lock,**

*Administrative Officer.*

[FR Doc. 97-15083 Filed 6-5-97; 11:40 am]

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## FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 15-97]

### Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations

(45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

**DATE AND TIME:** Friday, June 13, 1997, 9:00 a.m.

**SUBJECT MATTER:** Consideration of Proposed Decisions on claims of Holocaust survivors against Germany.

**STATUS:** Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616-6988.

Dated at Washington, DC, June 3, 1997.

**Judith H. Lock,**

*Administrative Officer.*

[FR Doc. 97-15084 Filed 6-5-97; 11:40 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### Advisory Committee on Construction Safety and Health; Notice of Meeting

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**SUMMARY:** Notice is hereby given that the Advisory Committee on Construction Safety and Health (ACCSH) will meet on June 25-26, 1997, at the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC. ACCSH was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

**SUPPLEMENTARY INFORMATION:** For Further Information Contact: Theresa Berry, Office of Public Affairs, Room N-3647, Telephone 202-219-8615, at the Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC, 20210. An official record of the meeting will be available for public inspection at the OSHA Docket Office, Room N-2625, Telephone 202-219-7894. All ACCSH meetings and those of its workgroups are open to the public. Individuals with disabilities requiring appropriate accommodations should contact