VI. Alternatives to the Proposed Revised Final Judgment

The Department considered, as an alternative to the proposed Revised Final Judgment, a full trial on the merits of the Complaint against the defendants. The Department is satisfied, however, that the divestitures of the assets and other relief contained in the proposed Revised Final Judgment will preserve viable competition in the sale of HMO and HMO–POS products and in the purchase of physicians' services in Houston and Dallas, Texas that otherwise would be affected adversely by the acquisition. Thus, the proposed Revised Final Judgment would achieve the relief the Department would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for Proposed Revised 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 determined whether entry of the proposed Revised 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 of relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment; [and]

(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 trail.

15 U.S.C. § 16(e).

As the United States Court of Appeals for the District of Columbia Circuit has held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the plaintiff'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 Corp.*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995). In conducting this inquiry, ''[t]he 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.'' 7 Rather,

[a]bsent 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. *MidAmerica Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 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) (*citing United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th cir. 1981)); *see also Microsoft,*, 56 F.3d. at 1460–62.

The law 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.8

A proposed final judgment, therefore, need not eliminate every anticompetitive effect of a particular practice, nor guarantee 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.' ''9

The proposed Revised Final Judgment here offers strong and effective relief that fully addresses the competitive harm posed by the proposed transaction.

VIII. Determinative Documents

There are no determinative materials or documents of the type described in Section 2(b) of the APPA, 15 U.S.C. § 16(b), that were considered by the United States in formulating the proposed Revised Final Judgment. Consequently, none are filed herewith.

Dated: August 3, 1999.

Respectfully submitted,

Paul J. O'Donnell
John B. Arnett, Sr.
Steven Brodsky
Deborah A. Brown
Claudia H. Dulmage
Dionne C. Lomax
FredericK S. Young,
Attorneys, U.S. Department of Justice, Antitrust Division, Health Care Task Force, 325 Seventh St., N.W., Suite 400, Washington, D.C. 20530, Tel: (206) 616–5933, Facsimile: (202) 514–1517.

[FR Doc. 99–21368 Filed 8–17–99; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Health Information Initiative Consortium

Notice is hereby given that, on January 26, 1999, pursuant to Section 6(a) of the Naitonal cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''The Act''), Health Information Initiative Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing its intention to disband. Specifically, as of November 30, 1998, said project was completed and the consortium and its steering committee have disbanded. The participation Agreement, which formed the basis for all authority and action by the consortium, is no longer in effect. Accordingly, The Koop Foundation Incorporated (KFI), as convener, has no further legal authority to act with respect to this project and has no ownership in any product of the project. KFI will continue to maintain its books and records relating to its activities and responsibilities as convener. KFI will respond to any questions concerning its responsibilities under the Participating Agreement. KFI is aware of no legal authority which would assign to KFI any present or future rights, duties or responsibilities with respect to any aspect of this project.

On March 30, 1995, Health Information Initiative Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section

6(b) of the Act on June 28, 1995 (60 FR 33432).

Constance K. Robinson,

Director of Operaitons, Antitrust Division.

[FR Doc. 99–21370 Filed 8–17–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sarnoff: HDTV Broadcast Technology Consortium

Notice is hereby given that, on May 21, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Sarnoff: HDTV Broadcast Technology Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Wegener Communications, Duluth, GA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Sarnoff: HDTV Broadcast Technology Consortium intends to file additional written notification disclosing all changes in membership.

On September 11, 1995, Sarnoff: HDTV Broadcast Technology Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 13, 1995 (60 FR 64079).

The last notification was filed with the Department on March 11, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28518). This notice rescinds and replaces the May 26, 1999 **Federal Register** notice.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–21369 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sarnoff: HDTV Broadcast Technology Consortium

Notice is hereby given that, on May 4, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Sarnoff: HDTV Broadcast Technology Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, New Jersey Public Broadcasting Authority, Trenton, NJ has been added as a party to this venture. Also, Philips Laboratories, Briarcliff Manor, NY; and MCI Telecommunications, Richardson, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Sarnoff: HDTV Broadcast Technology Consortium intends to file additional written notification disclosing all changes in membership.

On September 11, 1995, Sarnoff: HDTV Broadcast Technology Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 13, 1995 (60 FR 64079).

The last notification was filed with the Department on March 11, 1999. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28518). This notice rescinds and replaces the May 26, 1999 **Federal Register** notice.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–21371 Filed 8–17–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant To the National Cooperative Research and Production Act Of 1993—Southwest Research Institute (''SWRI'') Joint Industry Program—Development of An Instrument For Corrosion Detection in Insulated Pipes Using A Magnetostrictive Sensor

Notice is hereby given that, on March 23, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SWRI'') Joint Industry Program—Development of an Instrument for Corrosion Detection in Insulated Pipes Using a Magnetostrictive Sensor has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASCG Inspection, Inc., Anchorage, AK has been added as a party to this venture. Also, CTI Alaska, Inc., Anchorage, AK has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute (''SWRI'') Joint Industry Program—Development of an Instrument for Corrosion Detection in Insulated Pipes Using a Magnetostrictive Sensor intends to file additional written notification disclosing all changes in membership.

On October 19, 1995, Southwest Research Institute (''SWRI'') Joint Industry Program—Development of an Instrument for Corrosion Detection in Insulated Pipes Using a Magnetostrictive Sensor filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 23, 1996 (61 FR 7020).

The last notification was filed with the Department on October 8, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the