an arrangement must satisfy two other conditions. First, all participants must join in active an ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of interdependence and cooperation among Providers to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. Both definitions reflect the analyses contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care.

Paragraphs III.A and III.B require SHP to distribute the complaint and order to its members, payors with which it previously contracted, and specified others. Paragraph III.C requires SHP to terminate, without penalty, payor contracts that it had entered into during the collusive period, at any such payor's request. This provision is intended to eliminate the effects of Respondents' joint price-setting. Paragraph III also contains a proviso to preserve payor contract provisions defining post-termination obligations relating to continuity of care during a previously begun course of treatment. This proviso was implicit in the ''termination upon request'' provision of the recent Commission Order in Physicians Integrated Services of Denver. To avoid any risk of confusion among affected persons and the public-at-large, the proviso is made explicit here.

The remaining provisions of the proposed order impose complaint and order distribution, reporting, and other compliance-related provisions. For example, Paragraph III.D requires SHP to distribute copies of the Complaint and Order to incoming SHP Providers, payors that contract with SHP or GPG for the provision of Provider services, and incoming SHP and GPG officers, directors, and employees. Further, Paragraph III.F requires SHP to file periodic reports with the Commission detailing how SHP have complied with the Order. Paragraph V. authorizes Commission staff to obtain access to Respondents' records and officers, directors, and employees for the purpose of determining or securing compliance with the Order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–21969 Filed 8–27–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Docket No. 9301]

Libbey Inc. and Newell Rubbermaid, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint issued on May 9, 2002, and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 20, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Richard Liebeskind, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington DC 20580, (202) 326–2441.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 3.25(f) of the Commission's Rules of Practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with an accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 21, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/08/index.htm*.'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment on Agreement Containing Consent Order

I. Introduction

The Federal Trade Commission has accepted for public comment a Decision and Order (''Proposed Order''), pursuant to an Agreement Containing Consent Order (''Consent Agreement''), against Libbey Inc. and Newell Rubbermaid Inc. (collectively ''Respondents''). The Proposed Order is intended to resolve anticompetitive effects in the United States food service glassware market stemming from the proposed acquisition by Libbey of Anchor Hocking Corporation, a wholly-owned subsidiary of Newell. Under the Proposed Order, Libbey cannot acquire any stock of Anchor or the assets of Anchor's food service glassware business without prior notice to the Commission. Additionally, Newell cannot sell or transfer all or a substantial part of the assets of Anchor's food service business without prior notice to the Commission.

II. The Parties, the Transaction and the History of the Litigation

Libbey is the largest maker and seller of food service glassware in the United States, with substantially more than half of the sales, and has plants located in Ohio, Louisiana and California. Libbey produces and sells food service glassware, a line of products that includes many different styles of tumblers and stemware for beverages. Libbey sells food service glassware to customers that use glassware in the course of serving or selling food or beverages to consumers, including distributors who resell glassware to restaurants, hotels and other such establishments. Besides food service glassware, Libbey produces and sells glassware products ranging from serving platters to candle holders for the retail and industrial segments.

Newell is a diversified company based in Illinois. Anchor is an indirect, wholly-owned subsidiary of Newell, with manufacturing facilities in Ohio and Pennsylvania. Anchor is the third largest maker and seller of food service glassware in the United States, and as found by a District Court, is Libbey's most formidable competitor in food service. Besides food service glassware, Anchor produces and sells glassware products ranging from bakeware to candle holders for the retail and industrial segments.

Pursuant to an agreement dated June 17, 2001, Libbey proposed to acquire all of the stock of Anchor for Newell (the ''acquisition''). On December 18, 2001, the Commission authorized the commencement of an action under section 13(b) of the FTC Act to seek a preliminary injunction barring the acquisition during the pendency of administrative proceedings. On January 14, 2002, the FTC commenced such an action against Respondents in the United States District Court for the District of Columbia.

Pursuant to an agreement dated January 21, 2002, after the preliminary injunction action was commenced and in response to the Commission's vote to challenge the acquisition, Libbey and Newell amended their merger agreement (the ''amended merger agreement''). The amended merger agreement provided that Libbey would acquire all of the stock of Anchor, but prior to closing Anchor would transfer to Newell's Rubbermaid Commercial Products (''RCP'') division less than 10 percent of the assets of Anchor, and the consideration to be paid by Libbey for Anchor would be reduced by less than 10 percent. Under the amended merger agreement, the assets to be transferred to RCP were most (not all) of the molds, customer relationships and certain other assets used in Anchor's food service glassware business. Anchor would have kept, and Libbey would still have acquired, key assets used by Anchor in the food service glassware business—most significantly, Anchor's two glassware manufacturing plants. Newell would not retain any capability to manufacture glassware.

In its Amended Complaint, filed February 22, 2002, the FTC alleged that the acquisition pursuant to the amended merger agreement would substantially lessen competition. The proposed merger would eliminate Anchor as a competitor from the food service glassware market and RCP would be unable to replace Anchor as a viable competitor. The Commission later issued a statement on April 2, 2002, in which it reaffirmed its position that the amended merger would result in a lessening of competition in violation of the Clayton and FTC Acts. Statement of the Federal Trade Commission Regarding *FTC* v. *Libbey Inc., et al.,* Apr. 2, 2002.

On April 22, 2002, the District Court granted the FTC's motion for a preliminary injunction pending the completion of administrative adjudication. Memorandum Opinion (''Op.'') (*FTC* v. *Libbey Inc., et al.,* 2002 U.S. Dist. LEXIS 8867 (D.D.C., Apr. 22, 2002)).

In granting the FTC's motion, the Court found that Libbey dominates the food service glassware market with a 65 percent share, while Anchor, with seven percent of the market, has the third largest share. Op. at 3. Although Libbey's market share dwarfs Anchor's, the Court found that ''Anchor is Libbey's most formidable competitor in the food service glassware market,'' because it is ''the largest seller of Libbey look-alikes,'' *id.* at 18, and because its prices ''are frequently 10 to 20 percent lower than Libbey's prices,'' *id.* at 5.

The Court concluded that both the acquisition and the amended merger likely would reduce competition in the food service glassware market; the food service glassware market was highly concentrated, and, ''if what is now Anchor were eliminated from the market, there are no other viable alternatives to Libbey's food service glassware that consumers could [rely] upon to acquire their glassware at the lower prices now offered by Anchor.'' *Id.* at 28. Moreover, the Court held that RCP would not replace Anchor as an effective competitor. Because RCP would not retain important assets, such as Anchor's manufacturing plants, brand name, customer relationships, and key employees, the Court held that the amended merger would have the same anti-competitive effects as if Libbey had acquired all of Anchor. *Id.* at 23.

On May 2, 2002, Respondents moved to vacate the preliminary injunction order on the ground that Newell and a third party supplier had modified the price term under a glassware supply agreement for RCP. On May 17, 2002, the District Court denied Respondents' motion because of the numerous other cost components that would likely make RCP's costs substantially higher than Anchor's costs and, therefore, not a viable competitive alternative to Anchor. *FTC* v. *Libbey Inc.,* Order Denying Defendants' Motion to Vacate, May 17, 2002. Reiterating the reasons in its earlier opinion, the Court stated that ''the FTC's concerns remain[ed] plausible'' and noted that the appropriate venue to fully evaluate the amended merger was at a full administrative hearing before the FTC. *Id.* at 3.

Following the District Court's preliminary injunction order, on May 9, 2002, the Commission issued its complaint against Respondents. Shortly after answering the complaint, on June 10, 2002, Respondents announced that they had withdrawn plans for Libbey to acquire Anchor from Newell. On July 23, 2002, Respondents entered into the Consent Agreement. Pursuant to Rule 3.25 of the Commission's rules of practice, 16 CFR 3.25, a motion was filed to withdraw the matter from adjudication, and on July 25, 2002, the matter was withdrawn from adjudication for the purpose of considering the Consent Agreement.

III. The Complaint

In its administrative complaint, the FTC charged that both the acquisition and the amended merger violated the Clayton and FTC Acts. The complaint alleges that the acquisition and the amended merger would eliminate competition between Libbey and Anchor, increase market concentration, and increase barriers to entry. The complaint also alleges that the amended merger would impair the viability of Newell as a competitor in the sale of food service glassware.

IV. Terms of the Proposed Order

The Proposed Order (''Order'') is effective for 10 years and requires Libbey and Newell to provide the Commission with written notices prior to the acquisition, sale, transfer, or other conveyance of all or part of Anchor or Anchor's Food Service Business. Under the terms of the Order, Libbey is required to provide the Commission with prior written notice of its acquisition of any interest in Anchor's stock or in the assets of Anchor's Food Service Business. Order ¶ II. In addition, Newell must provide the Commission with prior written notice if it sells, transfers, or otherwise conveys any part of Anchor's Food Service Business to any entity not included within Newell. Order ¶ III. If Newell sells, transfers or otherwise conveys Anchor's Food Service Business to Libbey or Vitocrisa, Newell's obligation to notify the Commission extends for 10 years. *Id.* In all other circumstances, Newell is obligated to provide notice for five years. *Id.*

Anchor's Food Service Business is defined as ''all of Anchor's rights, title, and interest in and to all assets and businesses, tangible or intangible, anywhere in the world, used in the research, development, manufacture, distribution, licensing, marketing, or sale of glassware products to Food Service Customers in the United States,'' and expressly includes assets that Newell may have internally transferred to other divisions on or after June 10, 2002. Order ¶ I.G. Anchor's Food Service Business does not include items that are generally available, are not unique to the glassware industry, or are minimally used in the production of food service glassware, such as sand, scrap metal, and office equipment, *Id.*

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received and will decide whether to make the Proposed Order final. By accepting the Consent Agreement subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved.

The Commission invites public comment to aid the Commission in determining whether it should make final the Proposed Order contained in the Consent Agreement. The Commission does not intend this analysis to constitute an official interpretation of the Proposed Order, nor does this analysis modify in any way the terms of the Proposed Order.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–21970 Filed 8–27–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0175]

R.T. Welter and Associates, Inc., *et al.*; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Brennan, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington DC 20580, (202) 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34(f) of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 20, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/08/index.htm*.'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with R.T. Welter and Associates, Inc. (''RTWA''), R. Todd Welter, and the following medical group practices (hereinafter ''Respondent Practice Groups''): Cohen and Womack, M.D., P.C.; Consultants in Obstetrics and Gynecology, P.C.; Mid Town Obstetrics & Gynecology, P.C.; Mike High OB/GYN Associates; P.C.; The OB–GYN Associates Professional Corporation; Rocky Mountain OB–GYN, P.C.; Westwide Women's Care, L.L.P.; and The Women's Health Group, P.C. Mr. Welter, RTWA and the Respondent Practice groups are collectively referred to as ''Respondents.'' The agreement settles charges that Respondents violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by facilitating and implementing agreements among the obstetricians and gynecologists represented by Mr. Welter to fix prices and other terms of dealing with health insurance firms and other third-party payors (hereinafter, ''payors''), and to refuse to deal with payors except on collectively determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondent violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

Mr. Welter is a non-physician consultant who, through his company RTWA, organized approximately 88 physicians specializing in obstetrics and gynecology (''OB/GYNs'') into a concerted group for the purpose of