

of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.<sup>6</sup>

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.'"<sup>7</sup>

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States alleges in its Complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Since the "court's authority to review the decree depends entirely on the Government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that the Court "is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States might have but did not pursue. *Id.*

### 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.

Dated: July 30, 2002.

Respectfully submitted,

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<sup>6</sup> *United States v. Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); see *United States v. BNS, Inc.*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States v. Gillette Co.*, 406 F. Supp. at 716. See also *United States v. American Cyanamid Co.*, 719 F.2d at 565.

<sup>7</sup> *United States v. American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982) (citations omitted), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) quoting *United States Gillette Co.*, *supra*. 406 F. Supp. at 716; *United States v. Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky 1985).

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**AGENCY:** 60-day emergency notice information collection under review: new collection; financial status report (SF 269A).

The Department of Justice, Office of Justice Programs, Office of the Comptroller, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by August 30, 2002. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulations Affairs, Attention: Department of Justice Desk Officer, (202) 395-6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cynthia J. Schwimer, Comptroller, (202) 307-0623, Office of the Comptroller, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531, or facsimile at (202) 307-1463.

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 agency's 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.

Overview of this information:

1. *Type of information collection:* New collection.

2. *The title of the form/collection:* Financial Status Report (SF 269A).

3. *The agency for number, if any, and the applicable component of the department sponsoring the collection:* Non-applicable.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The form is completed by grant recipients who were awarded grants by the Department of Justice, Office of Justice Programs. It is used as an aid for grant recipients to report the status of their expenditures.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The estimated total number of respondents are 11,292, and the estimated time to complete the form is one and a half hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 67,752 hours annual burden associated with this information collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: August 16, 2002.

**Brenda E. Dyer,**

*Department Deputy Clearance Officer, United States Department of Justice.*

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-Day notice of information collection under review: reinstatement, with change, of a previously approved collection for which approval has expired; Accounting System and Financial Capability Questionnaire.

The Department of Justice (DOJ), Office of Justice Programs has submitted