

*United States v. Mid-America 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 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 (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.<sup>3</sup>

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties to not hastily and thoughtlessly stipulate to a decree because, in doing so, they

waive their right to litigate the issues involved in the case the thus save themselves the time, expense, and inevitable risk of litigation. Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

*United States v. Armour & Co.*, 402 U.S. 673, 681 (1971).

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 completion in the future. Court approval of a proposed 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).<sup>4</sup>

### VIII. Determinative Documents

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

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Lead-Acid Battery Consortium ("ALABC")

Notice is hereby given that, on July 13, 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"), Advanced Lead-Acid Battery Consortium ("ALABC") 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, FIAMM SpA, Montecchio, Italy; and Southern Coalition for Advanced Transportation (SCAT), Atlanta, GA have been added as parties to this venture. Also, Omni Oxide, L.L.C., Indianapolis, IN; and Kyungwon Battery Co., Ltd., Kyungki-do, KOREA

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 Advanced Lead-Acid Battery Consortium ("ALABC") intends to file additional written notification disclosing all changes in membership.

On June 15, 1992, Advanced Lead-Acid Battery Consortium ("ALABC") 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 July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on January 15, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 27, 1998 (63 FR 10040).

**Constance K. Robinson,**  
Director of Operations, Antitrust Division.  
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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993 Auto Body Consortium: Near Zero Stamping

Notice is hereby given that, on April 20, 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"), Auto body consortium, Inc. ("the Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change 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, DaimlerChrysler Corporation, Auburn Hills, MI has been added as a party to this venture. Also, Chrysler Corporation, Auburn Hills, MI 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 the Consortium intends to file additional written notification disclosing all changes in membership.

<sup>3</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>4</sup> *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), quoting *United States v. Gillette Co.*, *supra*, 406 F. Supp. at 716; *United States v. Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).