

FEDERAL TRADE COMMISSION

[File No. 951-0083]

**Sensormatic Electronics Corporation; and Checkpoint Systems, Inc.—
Analysis to Aid Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: The consent agreements in these matters settle 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 complaints that accompany the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before March 27, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

William Baer or Michael Antalics, FTC/H-374, Washington, D.C. 20580. (202) 326-2932 or 326-2821.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement packages can be obtained from the FTC Home Page (for January 21, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted agreements to proposed consent orders from Sensormatic Electronics Corporation ("Sensormatic") and Checkpoint Systems, Inc. ("Checkpoint"). Sensormatic's principal place of business is located at 951 Yamato Road, Boca Raton, Florida. Checkpoint's principal place of business is located at 101 Wolf Drive, Thorofare, New Jersey.

The proposed consent orders have been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreements and the comments received, and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Sensormatic and Checkpoint are the two largest manufacturers and sellers of electronic article surveillance ("EAS") systems in the United States and the world. Their combined worldwide sales exceed 70 percent of total EAS industry sales.

EAS systems are used primarily by retailers to deter and detect shoplifting and employee theft. Bits of reactive metal or electronic transmitters called "tags" are attached to products sold in retail stores. When a product is purchased, the tag is removed or deactivated by the cashier. If a tag passes through an EAS system's sensors at a store exit without being deactivated, it sets off an alarm. EAS systems are also commonly found in libraries and video stores.

The complaint alleges that Sensormatic and Checkpoint entered a written agreement on June 27, 1993 to refrain from "negative advertising or other negative selling, promotional activities or other communications with respect to the other party or the other party's products and services," including "statements that the other party's products or services cause or may cause harm to customers, consumers or merchandise." The complaint further alleges that the respondents have construed the June 27, 1993 agreement to restrict comparative advertising relating to the performance and effectiveness of the proposed respondents' EAS systems.

The complaint alleges that the June 27, 1993 agreement deprives retailers, other customers who purchase EAS systems, and consumers of comparative information about the characteristics of EAS systems that they would find

helpful. In particular, the complaint alleges that retailers and other EAS customers have an interest in obtaining comparative information relevant to their purchasing decisions. The complaint further alleges that certain information about EAS systems, such as the potential harm to retail products and information about possible interactions between certain medical devices and EAS equipment, is relevant to consumers. Finally, the complaint alleges that the June 27, 1993 agreement is an agreement among competitors to refrain from making truthful, non-deceptive claims, including comparisons, criticisms, or disparaging statements in advertising, and that this agreement constitutes an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

On many occasions, the Commission has prohibited groups of horizontal competitors from agreeing to refrain from making truthful, non-deceptive claims, including comparisons, criticisms, or disparaging statements in advertising. The Commission has recognized that one of the benefits of competition is that competitors may be driven to provide consumers with information that makes for better educated, effective consumers.¹ The alleged conduct engaged in by Sensormatic and Checkpoint and the terms of the proposed orders are similar to the conduct alleged and the relief obtained in *Personal Protective Armor Association, Inc.*, 117 F.T.C. 104 (1994).

Sensormatic and Checkpoint have signed consent agreements containing the proposed consent orders. The proposed consent orders require Sensormatic and Checkpoint to declare null and void the negative advertising provision of the June 27, 1993 agreement. The proposed consent orders also prohibit Sensormatic and Checkpoint from entering into any agreement that prohibits, restricts, impedes, interferes with, restrains, places limitations on, or advises against engaging in truthful, non-deceptive advertising, comparative advertising, promotional and sales activities for twenty years after the date the order becomes final. In addition, the proposed consent orders require that Sensormatic and Checkpoint provide copies of the orders to their respective executives, and that Sensormatic and Checkpoint file annual compliance reports with the Federal Trade Commission.

¹ See generally Commission Policy Statement in Regard to Comparative Advertising, 16 CFR 14.15 (1997) (comparative advertising assists consumers in making rational purchase decisions, encourages product improvement or innovation, and can lead to lower market prices).

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreement and proposed orders or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98-1802 Filed 1-23-98; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[Dkt. C-3743]

Tenet Healthcare Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order, among other things, requires Tenet Healthcare Corporation ("Tenet"), a California acute care hospital chain, to divest OrNda's French Hospital Medical Center and related assets and facilities by August 1, 1997. The consent order also requires Tenet to maintain the marketability and viability of French Hospital, pending the divestiture of French, and to notify the Commission before combining its acute care hospitals in San Luis Obispo County with any other acute care hospital in the area and before acquiring any Monarch stock.

DATES: Complaint and Order issued May 20, 1997.¹

FOR FURTHER INFORMATION CONTACT: Robert Leibenluft, FTC/S-3115, Washington, DC 20580. (202) 326-3688.

SUPPLEMENTARY INFORMATION: On Wednesday, February 5, 1997, there was published in the **Federal Register**, 62 FR 5418, a proposed consent agreement with analysis in the Matter of Tenet Healthcare Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent

agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 98-1800 Filed 1-23-98; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0093]

Proposed Collection; Comment Request Entitled Transportation Discrepancy Report, SF 361

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090-0093).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Transportation Discrepancy Report, SF-361.

DATES: Comment Due Date: March 27, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roger Sullins, Federal Supply Service (816) 926-2932.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090-0093 concerning Transportation Discrepancy Report, SF-361. This form is prepared by Government shippers or receivers to document loss, damage, or other discrepancy resulting from the movement of freight by commercial transportation companies.

B. Annual Reporting Burden

Respondents: 160; *annual responses:* 1; *average hours per response:* 1; *burden hours:* 160.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW., Washington, DC 20405, or by telephoning (202) 501-3822, or by faxing your request to (202) 501-3341.

Dated: January 20, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98-1770 Filed 1-23-98; 8:45 am]

BILLING CODE 6820-61-M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0058]

Proposed Collection; Comment Request Entitled Deposit Bond—Annual Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090-0058).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Deposit Bond—Annual Sale of Government Personal Property.

DATES: Comment Due Date: March 27, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Andrea Dingle, Federal Supply Service, (703) 305-6190.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090-0058, concerning Deposit Bond—Annual Sale of Government Personal Property. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an annual type of

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.