concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued April 28, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–12011 Filed 5–5–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE (DOJ)

President's Advisory Board on Race; Meeting

ACTION: President's Advisory Board on Race; notice of meeting.

SUMMARY: The President's Advisory Board on Race will meet from approximately 9:00 am to Noon on May 19, 1998 in Washington, D.C. at a site to be determined to discuss issues relating to race and crime and the administration of justice. The meeting will include a panel discussion with national experts.

The public is welcome to attend the Advisory Board meeting on a first-come, first-seated basis. Members of the public may also submit to the contact person, any time before or after the meeting, written statements to the Board. Written comments may be submitted by mail, telegram, facsimile, or electronic mail, and should contain the writer's name, address and commercial, government, or organizational affiliation, if any. The address of the President's Initiative on Race is 750 17th Street, N.W., Washington, D.C. 20503. The electronic mail address is http://www.whitehouse.gov/Initiatives/One America.

FOR FURTHER INFORMATION: Contact our main office number, (202) 395–1010, for the exact time and location of the meetings. Other comments or questions regarding this meeting may be directed to Randy D. Ayers, (202) 395–1010, or via facsimile, (202) 395–1020.

Dated: May 1, 1998.

Randy Ayers,

Executive Officer.

[FR Doc. 98–12040 Filed 5–5–98; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 98–CIV–2716]

Proposed Final Judgment and Competitive Impact Statement United States of America, State of New York, and State of Illinois v. Sony Corporation of America, LTM Holdings, Inc. d/b/a Loews Theatres, Cineplex Odeon Corporation, and J.E. Seagram Corp.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York, Case No. 98–CIV–2716. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

The United States, the State of New York, and the State of Illinois filed a civil antitrust Complaint on April 16, 1998, alleging that the proposed merger of LTM Holdings, Inc. (''Loews'') and Cineplex Odeon Corporation (''Cineplex'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that the proposed merger would have combined the first and second largest theatre chains in Manhattan and Chicago. In Manhattan and Chicago, the combined chains would have had market shares, by revenue, of 67 percent and 77 percent, respectively. The complaint states that the merger would have reduced competition in both markets, leading to higher ticket prices and reduced theatre quality for first-run movies. It also would have allowed the newly merged firm to reduce competition by lowering film rentals paid to distributors for first-run movies.

The prayer for relief seeks: (a) Adjudication that the proposed merger would violate Section 7 of the Clayton Act; (b) permanent injunctive relief preventing the consummation of the proposed merger; (c) an award to each plaintiff of the costs of the action; and (d) such other relief as is proper.

A Stipulation and Order and a proposed Final Judgment were filed with the court at the same time the Complaint was filed. The proposed Final Judgment requires Loews and Cineplex to divest 14 theatres in Manhattan and 11 theatres in the Chicago area to a buyer or buyers, acceptable to the United States (after consultation with the State of New York or the State of Illinois as the case may be), that will continue to operate them as movie theatres. Unless the United States grants a time extension, the divestitures must be completed within one-hundred and eighty (180) calendar days after the filing of the Complaint in this matter or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later.

If the divestitures are not completed within the divestiture period, the Court, upon application of the United States, is to appoint a trustee selected by the United States to sell the assets. The proposed Final Judgment also requires that, until the divestitures mandated by the Final Judgment have been accomplished, Loews and Cineplex must maintain and operate the 25 theatres to be divested as active competitors, maintain the management, staffing, sales, and marketing of the theatres, and maintain the theatres in operable condition at current capacity configurations. Further, the proposed Final Judgment requires defendants to give the United States prior notice regarding future motion picture theatre acquisitions in Manhattan or Cook County, Illinois.

The plaintiffs and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, 1401 H Street, NW., Suite 4000, Washington, DC 20530 (telephone: 202–307–0001).

Copies of the Complaint, Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, NW., Washington, DC 20530 (telephone: 202–514–2481) and at the office of the Clerk of the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger Enforcement Antitrust Division.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Southern District of New York;

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court;

3. The defendants (as defined in paragraph II (B)–(F) of the proposed Final Judgment attached hereto) shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, and shall, from the date of the filing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court;

4. Defendants shall not consummate their transaction before the Court has signed this Stipulation and Order;

5. In the event plaintiff United States withdraws its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding;

6. Loews and Cineplex represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that Loews and Cineplex will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein;

7. All parties agree that this agreement can be signed in multiple counterparts.

Dated: April 16, 1998.

For Plaintiff United States:

Allen P. Grunes (AG 4775),
U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, NW, Suite 4000, Washington DC 20530, (202) 307–0001.

For Plaintiff State of New York:

Dennis C. Vacco, Attorney General.
By: Stephen D. Houck (SH 0959),
Assistant Attorney General in Charge, Antitrust Bureau, Office of the Attorney General, State of New York, 120 Broadway, New York, NY 10271, (212) 416–8280.

For Plaintiff State of Illinois:

James E. Ryan, Attorney General.
By: Christine H. Rosso (CR 3708),
Chief, Antitrust Bureau, Office of the Attorney General, State of Illinois, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601, (312) 814–5610.

For Defendants Sony Corporation of America and LTM Holdings, Inc.:

Ira S. Sacks (IS 2861),
Fried, Frank, Harris, Shriver & Jacobson, One New York Plaza, New York, NY 10004, (212) 859–8000.

For Defendant Cineplex Odeon Corporation:

Alan J. Weinschel (AW 5659),
Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310–8000.

For Defendant J. E. Seagram Corp.:

Kenneth R. Logan (KL 7745),
Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, NY 10017, (212) 455–2000.

So ordered:
United States District Judge

Final Judgment

Whereas, plaintiffs, the United States of America, the State of New York, and the State of Illinois filed their Complaint in this action on April 16, 1998, and plaintiffs and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, plaintiffs intend Loews and Cineplex, as hereinafter defined, to be required to preserve competition by promptly divesting the 14 theatres in Manhattan and 11 theatres in Chicago identified below;

And whereas, plaintiffs required Loews and Cineplex to make the divestitures for the purpose of establishing one or more viable competitors in both Manhattan and Chicago in the exhibition of first-run motion pictures;

And whereas, Loews and Cineplex have represented to the plaintiffs that the divestitures ordered herein can and will be made and that Loews and Cineplex will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestitures contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, And Decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim by the plaintiffs upon which relief may be granted against the defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. *DoJ* means the Antitrust Division of the United States Department of Justice.

B. *Loews* means defendant LTM Holdings, Inc. d/b/a/ Loews Theatres, a Delaware corporation with its headquarters in New York, New York, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

C. *Cineplex* means Cineplex Odeon Corporation, an Ontario corporation with its headquarters in Toronto, Canada, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

D. *Sony* means defendant Sony Corporation of America, a New York corporation with its headquarters in New York, New York, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

E. *Seagram* means defendant J.E. Seagram Corp., a Delaware corporation with its headquarters in New York, New York, and its successors, assigns, subsidiaries (including but not limited to Universal Studios, Inc.), divisions, groups, affiliates, partnerships and joint

ventures, and directors, officers, managers, agents, and employees.

F. *Defendants* means Loews, Cineplex, Sony and Seagram.

G. The *Manhattan theatre assets* means the motion picture theatre businesses operated by Loews and Cineplex under the following names at the following addresses in Manhattan, New York:

i. Chelsea, 260 West 23rd Street.
ii. Chelsea West, 333 West 23rd Street.
iii. 62nd & First, 400 East 62nd Street.
iv. Ziegfeld, 141 West 54th Street.
v. Park & 86th Street, 125 East 86th Street.
vi. Waverly Twin, 323 Sixth Avenue.
vii. Olympia, 2770 Broadway.
viii. Art Greenwich, 97 Greenwich Avenue.
ix. Metro Twin, 2626 Broadway.
x. Beekman, 1254 Second Avenue.
xi. Regency, 1987 Broadway.
xii. 62nd Street & Broadway, 1871 Broadway.
xiii. 59th Street East, 239 East 59th Street.
xiv. 34th Street Showplace, 238 East 34th Street.

The term *Manhattan theatre assets* includes all tangible and intangible assets used in the operation of these theatres including: All real property (owned or leased); all personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, and other tangible property or improvements used in the operation of the theatres; all licenses, permits and authorizations issued by any governmental organization relating to the operation of the theatres; and all contracts, agreements, leases, licenses, commitments and understandings pertaining to the theatres including supply agreements and licenses to exhibit motion pictures.

H. The *Chicago theatre assets* means the motion picture theatre businesses operated by Loews and Cineplex under the following names at the following addresses in Cook County, Illinois:

i. 600 North Michigan, 600 N. Michigan Ave., Chicago.
ii. 900 North Michigan, 900 N. Michigan Ave., Chicago.
iii. Biograph, 2433 N. Lincoln Ave., Chicago.
iv. Bricktown, 6420 W. Fullerton, Chicago.
v. Watertower 1–4, 845 N. Michigan Ave., Chicago.
vi. Watertower 5–7, 175 East Chestnut, Chicago.
vii. Burnham Plaza, 826 S. Wabash, Chicago.
viii. Broadway, 3175 N. Broadway, Chicago.
ix. Hyde Park Quad, 5238 S. Harper, Chicago.
x. River Run Eightplex, 16621 Torrence Ave., Lansing.
xi. Old Orchard Quad, 9400 Skokie Blvd., Skokie.

The term *Chicago theatre assets* includes all tangible and intangible assets used in the operation of these theatres including: All real property (owned or leased); all personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies, and other tangible property or improvements used in the operation of the theatres; all licenses, permits and authorizations issued by any governmental organization relating to the operation of the theatres; and all contracts, agreements, leases, licenses, commitments and understandings pertaining to the theatres including supply agreements and licenses to exhibit motion pictures.

I. *Acquirer* means the entity or entities to whom Loews and Cineplex divest the Manhattan theatre assets or the Chicago theatre assets under this Final Judgment.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Each defendant shall require, as a condition of the sale or other disposition of all or substantially all of the assets used in its business of operating motion picture theatres in either Manhattan or Cook County, Illinois, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment; provided, however, that Loews and Cineplex need not obtain such an agreement from an Acquirer in connection with the divestiture of the Manhattan theatre assets or the Chicago theatre assets.

IV. Divestiture

A. Loews and Cineplex are hereby ordered and directed in accordance with the terms of this Final Judgment, within one-hundred and eighty (180) calendar days after the filing of the Complaint in this matter or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Manhattan theatre assets to an Acquirer or Acquirers acceptable to DoJ in its sole discretion after consultation with the State of New York and divest the Chicago theatre assets to an Acquirer or Acquirers acceptable to DoJ in its sole discretion after consultation with the State of Illinois.

B. Loews and Cineplex shall use their best efforts to accomplish the divestitures as expeditiously and timely as possible. DoJ, in its sole discretion, may extend the time period for any divestiture for two (2) additional thirty (30) day periods of time, not to exceed sixty (60) calendar days in total.

C. In accomplishing the divestitures ordered by this Final Judgment, Loews and Cineplex promptly shall make known, by usual and customary means, the availability of the Manhattan theatre assets and the Chicago theatre assets described in this Final Judgment. Loews and Cineplex shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Loews and Cineplex shall also offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information regarding the Manhattan theatre assets and the Chicago theatre assets customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Loews and Cineplex shall make available such information to DoJ at the same time that such information is made available to any other person.

D. Loews and Cineplex shall permit prospective Acquirers of the Manhattan theatre assets and the Chicago theatre assets to have reasonable access to personnel and to make such inspection of the physical facilities of the Manhattan theatre assets and the Chicago theatre assets and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. The defendants shall not take any action that will impede in any way the operation of the Manhattan theatre assets or the Chicago theatre assets.

F. Unless DoJ otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Manhattan theatre assets and Chicago theatre assets and be accomplished by selling or otherwise conveying the Manhattan theatre assets and Chicago theatre assets to an Acquirer or Acquirers in such a way as to satisfy DoJ in its sole discretion (after consultation with the State of New York or the State of Illinois as the case may be), that the Manhattan theatre assets and the Chicago theatre assets can and will be used by the Acquirer(s) as part of a viable, ongoing business of exhibition of first-run films. Divestiture of the

Manhattan theatre assets and the Chicago theatre assets may be made to one or more Acquirers provided that in each instance it is demonstrated to the sole satisfaction of DoJ (after consultation with the State of New York or the State of Illinois as the case may be) that the Manhattan theatre assets and the Chicago theatre assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment: (1) Shall be made to an Acquirer or Acquirers who it is demonstrated to DoJ's sole satisfaction (after consultation with the State of New York or the State of Illinois as the case may be) has or have the intent and capability (including the necessary managerial, operational, and financial capability) of competing effectively in the business of exhibition of first-run films; (2) shall be accomplished so as to satisfy DoJ, in its sole discretion (after consultation with the State of New York or the State of Illinois as the case may be), that none of the terms of any agreement between an Acquirer and Loews or Cineplex give Loews or Cineplex the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Trustee

A. In the event that Loews and Cineplex have not divested the Manhattan theatre assets and the Chicago theatre assets within the time specified in Section IV(A) of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by DoJ to effect the divestiture of the Manhattan theatre assets and the Chicago theatre assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Manhattan theatre assets and the Chicago theatre assets. The trustee shall have the power and authority to accomplish the divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and X of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V (C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Loews and Cineplex any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the Manhattan theatre assets divestitures at the earliest possible time to an Acquirer or Acquirers acceptable to DoJ in its sole discretion (after consultation with the State of New York), and the Chicago theatre assets divestitures at the earliest possible time to an Aquirer or Acquirers acceptable to DoJ in its sole discretion (after consultation with the State of Illinois), and shall have such other powers as this Court shall deem appropriate. Loews and Cineplex shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Loews and Cineplex must be conveyed in writing to plaintiffs and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of Loews and Cineplex, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Loews and Cineplex and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Loews and Cineplex shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary consents and regulatory approvals. The trustee, and any consultants, accountants, attorneys and other persons retained by the trustee, shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and Loews and Cineplex shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Loews and Cineplex shall permit prospective Acquirers of the assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered pursuant to this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the business to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafer such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by DoJ.

VI. Notice

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), defendants, without providing advance notification to DoJ, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any then-existing motion picture theatre in either

Manhattan in the State of New York or in Cook County in the State of Illinois. Such notification shall be provided to the DoJ in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5–9 of the instructions must be provided only with respect to defendants' motion picture theatre operations in Manhattan in the State of New York or in Cook County in the State of Illinois. Notification shall be provided at least thirty (30) days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of DoJ make a written request for additional information, defendants shall not consummate the proposed transaction or agreement until twenty (20) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

VII. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or V of this Final Judgment, Loews and Cineplex or the trustee, whichever is then responsible for effecting the divestitures, shall notify DoJ, and, as the case may be, in the State of New York or the State of Illinois of the proposed divestitures. If the trustee is responsible, it shall similarly notify Loews and Cineplex. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that are the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by DoJ of notice, DoJ may request from Loews or Cineplex, the proposed Acquirer, or any other third party additional information concerning the proposed divestitures and the proposed Acquirer. Loews and Cineplex and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after DoJ has been provided the additional information requested from Loews and Cineplex, the proposed Acquirer, and any third party, whichever is later, DoJ shall provide written notice to Loews and Cineplex and the trustee, if there is one, stating whether or not it objects to the proposed divestitures. If DoJ provides written notice to Loews and Cineplex and the trustee that DoJ does not object, then the divestitures may be consummated, subject only to Loews and Cineplex's limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that DoJ does not object to the proposed Acquirer or upon objection by DoJ, a divestiture proposed under Section IV or Section V may not be consummated. Upon objection by Loews and Cineplex under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed whether pursuant to Section IV or Section V of this Final Judgment, Loews and Cineplex shall deliver to DoJ an affidavit as to the fact and manner of compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period coverage by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Loews and Cineplex have taken to solicit a buyer for the relevant assets and to provide required information to prospective Acquirers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Loews and Cineplex shall deliver to DOJ an affidavit which describes in detail all actions they have taken and all steps they have implemented on an on-going basis to preserve the Manhattan theatre assets and the Chicago theatre assets pursuant to Section IX of this Final Judgment. The affidavit also shall describe, but not be limited to, the efforts of Loews and Cineplex to maintain and operate the Manhattan theatre assets and the Chicago theatre assets as active competitors, maintain the management, staffing, sales, and marketing of the Manhattan theatre assets and the Chicago theatre assets, and maintain the Manhattan and the Chicago theatre assets in operable condition at current capacity configurations. Loews and Cineplex shall deliver to DoJ an affidavit describing any changes to the efforts and actions outlined in their earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Loews and Cineplex shall preserve all records of all efforts made to preserve the business to be divested and effect the divestitures.

IX. Preservation of Assets

Until the divestitures required by the Final Judgment have been accomplished, Loews and Cineplex shall take all steps necessary to maintain and operate the Manhattan theatre assets and the Chicago theatre assets as active competitors, maintain the management, staffing, sales, and marketing of the Manhattan theatre assets and the Chicago theatre assets, and maintain the Manhattan theatre assets and the Chicago theatre assets in operable condition at current capacity configurations. Defendants shall take no action that would jeopardize the divestitures described in this Final Judgment.

X. Financing

The defendants are ordered and directed not to finance all or any part of any purchase by an Acquirer or Acquirers made pursuant to Sections IV or V of this Final Judgment.

XI. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the plaintiffs, upon the written request of the Assistant Attorney General in charge of the Antitrust Division, the New York Attorney General or the Illinois Attorney General, and on

reasonable notice to the defendants made to their principal offices, shall be permitted:

1. Access during office hours of the defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of the defendants and without restraint or interference from any of them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, the New York Attorney General, or the Illinois Attorney General made to the defendants' principal offices, the defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment.

C. No information or documents obtained by the means provided in Sections VIII or XI of this Final Judgment shall be divulged by a representative of the plaintiffs to any person other than a duly authorized representative of the Executive Branch of the United States, or of each state government, except in the course of legal proceedings to which at least one of the plaintiffs is a party (including grand jury proceedings,), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by the defendants to the plaintiffs, the defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by the plaintiffs to the defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendants are not a party.

XII. Retention of Jurisdiction

Jurisidiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____

_____

United States District Judge

Competitive Impact Statement

Plaintiff, the United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Plaintiffs the United States, the State of New York, and the State of Illinois filed a civil antitrust Complaint on April 16, 1998, alleging that a proposed merger of LTM Holdings, Inc. (''Loews'') and Cineplex Odeon Corp. (''Cineplex'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Loews and Cineplex both operate motion picture theatres throughout the United States, and that they each operate first-run motion picture theatres in Manhattan and Chicago. The merger would combine the two leading theatre circuits in both Manhattan and Chicago and give the newly merged firm a dominant position in both localities: in Manhattan, the newly merged firm would have a 67% market share (by revenue) and in Chicago, the newly merged firm would have a 77% market share (by revenue). As a result, the combination would substantially lessen competition and tend to create a monopoly in the markets for theatrical exhibition of first-run films in both Manhattan and Chicago.

The prayer for relief seeks: (1) an adjudication that the proposed merger described in the Complaint would violate Section 7 of the Clayton Act; (b) permanent injunctive relief preventing the consummation of the transaction; (c) an award to each plaintiff of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits Loews to complete its merger with Cineplex, yet preserved competition in the markets in which the transactions would raise significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed at the same time the Complaint was filed.

The proposed Final Judgment orders Loews and Cineplex to divest 14 theatres in Manhattan and 11 theatres in the Chicago area to an acquirer acceptable to the United States. Unless the United States grants a time extension, the divestitures must be completed within one-hundred and eighty (180) calendar days after the filing of the Complaint in this matter or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later.

If the divestitures are not completed within the divestiture period, the Court, upon application of the United States, is to appoint a trustee selected by the United States to sell the assets. The proposed Final Judgment also requires that, until the divestitures mandated by the Final Judgment have been accomplished, the defendants must maintain and operate the 25 theatres to be divested as active competitors, maintain the management, staffing, sales, and marketing of the theatres, and maintain the theatres in operable condition at current capacity configurations. Further, the proposed Final Judgment requires defendants to give the United States prior notice regarding future motion picture theatre acquisitions in Manhattan or Cook County, Illinois.

The plaintiffs and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. The Alleged Violations

A. The Defendants

Sony Corporation of America is a New York corporation with its headquarters in New York, New York.

LTM Holdings, Inc. is a Delaware corporation which does business under the name Loews Theatres and has its principal executive offices in New York, New York. Loews is an indirect wholly

owned subsidiary of Sony Pictures Entertainment Inc., itself an indirect wholly owned subsidiary of Sony Corporation of America, which in turn is an indirect wholly owned subsidiary of Sony Corporation, a Japanese company. Loews currently operates 139 theatres with 1,035 screens in 16 states. Its annual revenues for the fiscal year ending February 28, 1997 were approximately $375 million.

Cinceplex is a Canadian corporation headquartered in Toronto, Ontario. It currently operates a total of 312 theatres with 1,723 screens in the United States, Canada and Hungary. Its United States operations consist of 911 screens at 175 locations in 13 states and the District of Columbia. Cineplex had annual revenues of approximately $500 million in 1996.

J.E. Seagram Corp. is a Delaware corporation headquartered in New York, New York. Its subsidiary, Universal Studios, Inc., is the largest shareholder of Cineplex.

B. Description of the Events Giving Rise to the Alleged Violations

On September 30, 1997, Sony Pictures Entertainment Inc., LTM Holdings, Inc. and Cineplex entered into a merger agreement. Pursuant to the agreement, Cineplex will become a wholly owned subsidiary of LTM Holdings, Inc., and Sony Pictures Entertainment will transfer all of its U.S. theatre assets not owned by LTM Holdings, Inc. to LTM Holdings, Inc. or its subsidiaries. LTM Holdings, Inc. will then be renamed Loews Cineplex Entertainment Corporation (''LCE''). Following the merger, Sony Pictures Entertainment Inc. will own approximately 51% of LCE and Universal Studios, Inc. will own approximately 26% of LCE.

Loews and Cineplex compete in the theatrical exhibition of first-run films in Manhattan and Chicago: They compete to obtain films from film distributors and to attract movie-goers to their theatres. The proposed merger, and the threatened loss of competition that would be caused thereby, precipitated the government's suit.

C. Anticompetitive Consequences of the Proposed Transaction

The Complaint alleges that the theatrical exhibition of first-run films in Manhattan and Chicago each constitutes a line of commerce and section of the country, or relevant market, for antitrust purposes. First-run films differ significantly from other forms of entertainment. The experience of viewing a film in a theatre is an inherently different experience from a live show, a sporting event, or viewing a videotape in the home. Ticket prices for first-run films are also generally very different than for other forms of entertainment. A small but significant increase in the price of tickets for first-run films would not cause a sufficient shift to other forms of entertainment to make the increase unprofitable.

From a movie-goer's standpoint, theatres outside Manhattan and Chicago are not acceptable substitutes for theatres within those areas. A small but significant increase in the price of tickets for first-run films would not cause a sufficient shift to theatres outside Manhattan or Chicago to make the increase unprofitable.

From a distributor's standpoint, there is no alternative to screening its first-run films in first-run theatres. Given the high population densities and number of significant critics in both Manhattan and Chicago, ''passing'' (i.e., not playing a film in) Manhattan and Chicago is not a viable option. From the distributor standpoint as well, a small but significant decrease in prices (i.e., a decrease in film rental fees) would not cause a sufficient shift by distributors to other locations to make the decrease unprofitable to exhibitors.

The Complaint alleges that the merger of Loews and Cineplex would lessen competition substantially and tend to create a monopoly in the markets for exhibition of first-run films in Manhattan and Chicago. The proposed transaction would create further market concentration in already highly concentrated markets, and the merged firm would control a majority of box office revenues in those markets. In Manhattan, the market share possessed by the largest theatre circuit would rise from 46% percent to 67% percent of box office revenues after the proposed transaction. According to the Herfindahl-Hirschman Index (''HHI''), a widely-used measure of market concentration defined and explained in Appendix A, the merged firm's post-transaction HHI in Manhattan would be 4815, representing an increase of 1911 points. In Chicago, the market share possessed by the largest theatre circuit would rise from 47% percent to 77% percent of box office revenues after the proposed transaction. The post-transaction HHI would equal 6438, representing an increase of 2874 points. These substantial increases in concentration would likely lead the merged firm to raise ticket prices.

Distributors and exhibitors often break the Manhattan and Chicago markets into ''zones'' that reflect various neighborhoods—such as, in Manhattan, the Upper East Side, the East Side, the West Side, Broadway-Times Square, Chelsea, and Greenwich Village, and in Chicago, Downtown, Near North, North, Far North, West, South, and Far South. Movies typically will open and play at only one theatre within a zone. The merger would convert a number of film zones in which Loews and Cineplex compete with each other into zones in which there would be no competition. For instance, in the downtown Chicago zone, the combined entity would control all seven theatres. The same is true in the north zone (Old Orchard/Orchard Gardens), the west zone (Bricktown Square/Norridge) and the far south zone (River Run/River Oaks).

By reducing non-price competition, the merger would also likely lead to lower quality theatres by reducing the incentive to maintain, upgrade and renovate theatres in Manhattan and Chicago, thus reducing the quality of the viewing experience for movie-goer. It also may allow the merged entity to reduce the number of shows as there no longer would be competitive pressure to continue early and late shows.

Finally, the merger would also likely lead to distributors receiving less in revenue for the exhibition of their pictures, either in the form of reduced (or eliminated) guarantees, higher overhead allowances for the exhibitors, or a less favorable percentage of the box office receipts. The reduced revenue remitted to the distributors could lead to fewer films being produced, or less money being expended on high quality films, to the ultimate detriment of movie-goers.

New entry into the Manhattan and Chicago markets for exhibition of first-run films would be highly unlikely to eliminate the anticompetitive effects of this transaction. Manhattan and Chicago are two of the most difficult markets in the country to enter: Available theatre sites are scarce, real estate and construction costs are among the highest in the nation, and acquiring the necessary permits and approvals can be difficult and time-consuming. Identifying a site, planning the development, and constructing a theatre in Manhattan or Chicago takes several years.

For all of these reasons, plaintiff has concluded that the proposed transaction would lessen competition substantially in the exhibition of first-run films in Manhattan and Chicago, eliminate actual and potential competition between Loews and Cineplex, and likely result in increased ticket prices and lower quality theatres in both Manhattan and Chicago. The merger would also likely reduce the rental fees paid to distributors for films. The

proposed merger therefore violates Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve existing competition in the theatrical exhibition of first-run films in both Manhattan and Chicago. It requires the divestiture of 14 theatres in Manhattan: 13 Cineplex theatres (Chelsea, Chelsea West, 1st and 62nd, Ziegfeld, Park & 86th Street, Waverly Twin, Olympia, Art Greenwich, Metro Twin, Beekman, Regency, 62nd & Broadway, and 59th Street East) and one Loews theatre (34th Street Showplace); and 11 theatres in the Chicago area: 8 Cineplex Odeon theatres (600 North Michigan, 900 North Michigan, Biograph, Bricktown, Watertower 1–4, Watertower 5–7, Burnham Plaza, and Broadway) and 3 Loews theatres (Hyde Park Quad, River Run Eightplex, and Old Orchard Quad). The divested theatres constitute slightly more in box office revenue in Manhattan and in Chicago than the leading firm is acquiring in each market and, as a result, will reduce the leading firm's share back to (or actually slightly less than) pre-merger levels in both markets. The divestitures will preserve choices for distributors and movie-goers and make it less likely that ticket prices will increase, rental fees paid to distributors will decrease, and theatre quality will decline in Manhattan and Chicago as a result of the transaction.

Two of the divestitures in the Chicago area are outside of the city limits: Old Orchard Quad and the River Run Eightplex. In a case like this, where theatres are geographically differentiated and consumers' willingness to travel is varied, some movie-goers near the border have options outside the city limits. Accordingly, we have negotiated relief that includes two theatres outside of Chicago. Both of these theatres are in close proximity to the city, are near major highways, and are in zones that would be rendered non-competitive by the merger.

Unless the United States grants an extension of time, the divestitures must be completed within one-hundred and eighty (180) calendar days after the filing of the Complaint in this matter or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later. Until the divestitures take place, Loews and Cineplex must maintain and operate the 25 theatres to be divested as active competitors, maintain the management, staffing, sales, and marketing of the theatres, and maintain the theatres in operable condition at current capacity configurations.

The divestitures must be to a purchaser or purchasers acceptable to the United States in its sole discretion, after consultation with the State of New York or the State of Illinois as appropriate. Unless the United States otherwise consents in writing, the divestitures shall include all the assets of the theatres being divested, and shall be accomplished in such a way as to satisfy the United States that such assets can and will be used as viable, ongoing first-run theatres.

If defendants fail to divest these theatres within the time periods specified in the Final Judgment, the Court, upon application of the United States, is to appoint a trustee nominated by the United States to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that Loews and Cineplex will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of the theatres remaining to be divested, and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished. After appointment, the trustee will file monthly reports with the parties and the Court, setting for the trustee's efforts to accomplish the divestitures ordered under the proposed Final Judgment. If the trustee has not accomplished the divestitures within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished and (3) the trustee's recommendations. At the same time the trustee will furnish such report to the plaintiff and defendants, who will each have the right to be heard and to make additional recommendations.

The proposed Final Judgment also prohibits the defendants from acquiring any other threatres in Manhattan or Cook County, Illinois without providing at least thirty (30) days' notice to the U.S. Department of Justice. Such acquisitions could raise competitive concerns but might be too small to be reported otherwise under the Hart-Scott-Rodino (''HSR'') premerger notification statute.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suite in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The parties have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that plaintiff United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the plaintiff written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The plaintiff will evaluate and respond to the comments. All comments will be given due consideration by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the plaintiff will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, NW; Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

Plaintiff United States considered, as an alternative to the proposed Final

Judgment, a full trial on the merits of its Complaint against defendants. Plaintiff is satisfied, however, that the divestiture of the Manhattan theatre assets and the Chicago theatre assets and other relief contained in the proposed Final Judgment will preserve viable competition in the first-run exhibition of motion pictures in Manhattan and Chicago. Thus, the proposed Final Judgment would achieve the relief the government might 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 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 determine whether entry of the proposed 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 or relief sought, anticipated effects of alternative remedies actually considered and any other considerations bearing upon the adequacy of such judgment;

(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 trial.

15 U.S.C. 16(e).

As the United States Court of Appeals for the D.C. Circuit 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 government'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,* 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.''[1] 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. *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 an unrestricted valuation 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.), *cert. denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. 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.[2]

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.' ''[3]

This is strong and effective relief that should fully address the competitive harm posed by the proposed transaction.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the plaintiff in formulating the proposed Final Judgment.

Dated: April 16, 1998.

Respectfully submitted,

Allen P. Grunes (AG 4775),

U.S. Department of Justice, Antitrust Division, 1401 H. Street, NW.; Suite 4000, Washington, D.C. 20530, (202) 307–0001, Attorney for Plaintiff the United States.

Exhibit A Definition of HHI and Calculations for Market

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2600 $30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Merger Guidelines. See Merger Guidelines § 1.51.

Certificate of Service

I, Allen P. Grunes, hereby certify that on April 16, 1998, I caused the foregoing document to be served on defendants by having a copy mailed, first-class, postage prepaid, to:

Ira S. Sacks,

Fried, Frank, Harris, Shriver & Jacobson, One New York Plaza, New York, NY 10004, (212) 859–8000.

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[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), *reprinted in* U.S.C.C.A.N. 6535, 6538.

[2] *Bechtel.*, 648 F.2d at 666 (citations omitted) (emphasis added); *See BNS*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also Microsoft*, 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '') (citations omitted).

[3] *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd. sub nom. Maryland v. United States*, 460 U.S. 1001 (1983), *quoting Gillette Co.*, 406 F. Supp. at 716 (citations omitted); *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Attorney for defendants Sony Corporation of America and LTM Holdings, Inc.

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Allen P. Grunes.

[FR Doc. 98–11958 Filed 5–5–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1918–98]

English Language, American History and Civics, Standardized Naturalization Test

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice announces the termination of the Immigration and Naturalization Service (Service) Standardized Citizenship Testing Program, currently conducted by five non-government companies on behalf of the Service. The program, established under a 1991 Notice of Program in the **Federal Register**, will end at midnight on August 30, 1998. After the August 30 termination date, the Service will commence citizenship testing at the newly opened Application Support Centers as part of the ongoing effort to re-engineer and streamline the entire naturalization process.

DATES: The Citizenship Testing Program will terminate effective at midnight, Eastern Daylight Time, August 30, 1998.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Immigration and Naturalization Service, Office of Naturalization Operations, 801 I Street, NW., Suite 900, Washington, DC 20536. Telephone: (202) 305–0539.

SUPPLEMENTARY INFORMATION:

What Is the Standard Citizenship Testing Program?

The Service established a standardized citizenship testing program pursuant to a Notice of Program published in the **Federal Register** on June 28, 1991, at 56 FR 29714–15. The program's model was similar to the testing program used with Legalization applicants as provided in section 254A(b)(1)(D) of the Immigration and Nationality Act (the Act). The citizenship testing program was designed to facilitate the naturalization of persons who otherwise might be hesitant to apply for naturalization.

Section 312 of the Act requires most applicants for naturalization to demonstrate a basic understanding of the English language and an understanding of United States history and government. Traditionally, applicants are tested on English and United States history and government as part of the mandatory naturalization interview. The 1991 Notice established criteria that non-government organizations were required to meet in order to be authorized to conduct citizenship testing on behalf of the Service. These criteria included requirements for the administration of a multiple choice test on United States history, government, and written English. Naturalization applicants who take and pass one of these tests normally are not questioned on these topics during the mandatory naturalization interview before an officer of the Service.

Since publication of the 1991 Notice, the Service approved six national organizations to administer citizenship tests. Five national organizations currently are administering citizenship tests through networks of local testing centers across the United States. The Service has no contractual or financial ties with any of the companies authorized to conduct citizenship testing.

Why Has the Service Decided To Terminate the Current Testing Program?

The Service has been engaged in a complete re-engineering of the naturalization process. Part of this process involves developing new methods for applicants to demonstrate compliance with various naturalization requirements under the Act. For example, last year the Service embarked upon a new method for applicant fingerprinting. Fingerprints for all Service applications or petitions are now taken at Application Support Centers (ASCs). The Service now plans to commence citizenship testing at the ASCs so that applicants may fulfill these particular requirements at one time, with one visit. The Service anticipates publishing a proposed rule in the **Federal Register** later this year, outlining our regulatory proposal for citizenship testing at the ASCs. The authority for this decision to end the current testing program is found in section 332(a) of the Act which authorizes the Service to determine an applicant's admissibility to citizenship.

How Long Will Testing Certificates Issued by the Current Testing Organizations Be Valid?

The Service will allow the current testing organizations to continue administering tests through midnight, Eastern Daylight Time, August 30, 1998. Test certificates issued noting a testing date on or before August 30, 1998, will be honored in accordance with Service regulations found at 8 CFR 312.3(a)(1). For example, an applicant who is tested on August 30, 1998, passes, and is issued a certificate, has until August 30, 1999, to file an N–400, Application for Naturalization, in order for the certificate to be honored. If the applicant has already filed an N–400 and is awaiting an interview, the certificate will be valid until a final determination on the application has been made, regardless of how long the time period is between the date of the test and the date of the final determination on the application. Service officers interviewing naturalization applicants will retest persons presenting certificates only if the officer has reason to believe that the certificate was either fraudulently issued or otherwise inappropriately granted. While not a requirement, the Service urges all applicants desiring to be tested by the current testing organizations to submit a copy of the passing certification as an attachment to the N–400 at the time of filing, and to bring the original certificate to the naturalization interview.

Dated: April 15, 1998.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 98–12004 Filed 5–5–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office for Victims of Crime; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Reinstatement, with change, of a previously approved collection for which approval has expired; Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

This proposed information collection is published to obtain comments from