

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.¹¹

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.'" *United States v. American Tel. & 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 *Gillett Co.*, 406 F. Supp. at 716); *United States v. Alcon Aluminum, Ltd.* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged 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 "[t]he 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. Consequently, the United States has not attached any such materials to the proposed Final Judgment.

¹¹ *Bechtel*, 648 F.2d at 666 (emphasis added); see *BNS*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (D.C. Cal. 1978); *Gillette*, 406 F. Supp. at 716. See also *Microsoft*, 56 F.3d at 1561 (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'").

Respectfully submitted.
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 Dated: April 16, 1999.

Certificate of Service

I hereby certify that copies of the foregoing Competitive Impact Statement in the matter of *United States versus SBC Communications Inc. and Ameritech Corp.*, Civ. No. 99-0715, were served on April 16, 1999 by hand and/or first-class U.S. mail, postage prepaid, upon each of the parties listed below:

Donald L. Flexner, Esq., Crowell & Moring LLP, 1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595, Counsel for SBC Communications Inc.
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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 21, 1999, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St.

Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphaacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 28, 1999.

Dated: April 16, 1999.
John H. King,
Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.
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