

(9th Cir. 1988) (quoting *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 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>2</sup>

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest'."<sup>3</sup>

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relation 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. Because "[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.* at 1459–60.

<sup>2</sup> *Bechtel Corp.*, 648 F.2d at 666 (citations omitted and emphasis added); see *BNS, Inc.*, 858 F.2d at 463; *United States v. National Broad Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *s v. Gillette Co.*, 406 F. Supp. at 716; see also *United States v. American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983), cert. denied, 465 U.S. 1101 (1984).

<sup>3</sup> *United States v. American Tel. and Tel. Co.*, 552 F.Supp. 131, 150 (D.D.C. 1982) (citations omitted) quoting *Gillette Co.*, 406 F. Supp. at 716; *United States v. Alcan Aluminum, Ltd.*, 605 F.Supp. 619, 622 (W.D. Ky. 1985).

### VIII. Determinative Documents

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

Dated: October 23, 2000.

Respectfully submitted,

Arthur A. Feiveson,  
*IL Bar #3125793, U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, NW, Suite 3000, Washington, DC 20530, (202) 307-0901.*

[Civil No. 00 2311]

Filed: 9/27/00.

### Certificate of Service

I hereby certify that copies of the Competitive Impact Statement have been served upon Republic Services, Inc. and Allied Waste Industries, Inc. by U.S. mail, postage prepaid, to the attorneys listed below, this 23rd day of October, 2000.

*Counsel for Defendant Allied Waste Industries, Inc.*, Tom D. Smith, Jones, Day, Reavis & Pogue, 51 Louisiana Avenue, NW, Washington, DC 20001-2113.

*Counsel for Defendant Republic Services, Inc.*, Paul B. Hewitt, Akin, Gump, Strauss, Hauer & Feld, 1333 New Hampshire Avenue, NW, Suite 400, Washington, DC 20036.

Arthur A. Feiveson,  
*IL Bar #3125793, U.S. Department of Justice, Antitrust Division, Suite 3000, 1401 H Street, NW, Washington, DC 20530, (202) 307-0901.*

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## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

#### Meeting of the CJIS Advisory Policy Board

**AGENCY:** Federal Bureau of Investigation (FBI), DOJ.

**ACTION:** Meeting notice.

**SUMMARY:** The purpose of this notice is to announce the meeting of the Criminal Justice Information Services (CJIS) Advisory Policy Board. The CJIS Advisory Policy Board is responsible for reviewing policy issues, uniform crime reports, and appropriate technical and operational issues related to the programs administered by the FBI CJIS Division and thereafter, make appropriate recommendations to the FBI Director. The topics to be discussed will include CJIS System Enhancement Strategy Group (SESG) recommendations for prioritization of system enhancements, Data systems for

policing in the 21st century, Secondary Dissemination of National Crime Information Center (NCIC) Wanted Person File Data and Name-based criminal history records. Discussion will also include the status on the CJIS Development and Enhancement Strategy Team (C-Dest), Integrated Automated Fingerprint Identification System (IAFIS) latent fingerprint connectivity, the National Crime Prevention and Privacy Compact, and other issues related to the IAFIS, NCIC, Law Enforcement Online, National Instant Criminal Background Check System (NICS), and Uniform Crime Reporting Programs.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement concerning the FBI's CJIS Division programs or wishing to address this session should notify the Designated Federal Employee, Mr. Roy Weise, Unit Chief, Programs Development Section (304) 625-2730, at least 24 hours prior to the start of the session.

The notification should contain the requestor's name, corporate designation, and consumer affiliation or government designation along with a short statement describing the topic to be addressed and the time needed for the presentation. A requestor will ordinarily be allowed not more than 15 minutes to present a topic.

**DATES AND TIMES:** The Advisory Policy Board will meet in open session from 9 a.m. until 5 p.m. on December 12–13, 2000.

**ADDRESSES:** The meeting will take place at the Tampa Convention Center, 333 South Franklin Street, Tampa, Florida, telephone (813) 274-8422.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be addressed to Ms. Lori A. Kemp, Management Analyst, Advisory Groups Management Unit, Programs Development Section, FBI CJIS Division, Module C3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306-0149, telephone (304) 625-2619, facsimile (304) 625-5090.

Dated: October 27, 2000.

**Thomas E. Bush, III,**

*Section Chief, Programs Development Section, Criminal Justice Information Services Division, Federal Bureau of Investigation.*

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