to seek consumer redress if the Commission determines that redress to consumers provided through related legal actions by state attorneys general and private parties is not adequate.

Part I of the proposed order prohibits Federated from misrepresenting to consumers who have filed petitions for bankruptcy protection under the United States Bankruptcy Code that (A) reaffirmation agreements will be filed in bankruptcy court; or (B) any reaffirmation agreement is legally binding on the consumer. Part I.C of the proposed order prohibits Federated from collecting any debt (including any interest, fee, charge, or expense incidental to the principal obligation) that has been legally discharged in bankruptcy proceedings and that Federated is not permitted by law to collect. Part II of the proposed order prohibits Federated from making any misrepresentation in the collection of any debt subject to a pending bankruptcy proceeding.

Part III of the proposed order contains record keeping requirements for materials that demonstrate the compliance of Federated with the proposed order. Part IV requires distribution of a copy of the consent decree to certain current and future personnel who have responsibilities related to collecting debts subject to bankruptcy proceedings.

Part V provides for notification to the Commission of any change in the respondent affecting compliance obligations arising under the order. Part VI requires the filing of compliance report(s). Finally, Part VII provides for the termination of the order after twenty years under certain circumstances.

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

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–14247 Filed 6–4–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File NO. 9910024]

Kroger Co. et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles 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 complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 6, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Jill Frumin, FTC/S–2105, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2758.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has 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 agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 27th, 1999), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or be calling (202) 326–3627.

Public comments is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. 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 Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)6)(ii).

Analysis of the Proposed Consent Order and the Draft Complaint To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted for public comment from The Kroger Co. (''Kroger'') and Fred Meyer Stores, Inc. (''Fred Meyer'') (collectively ''the Proposed Respondents'') an Agreement Containing Consent Order (''the proposed consent order''). The Proposed Respondents have also reviewed a draft complaint contemplated by the Commission. The proposed consent order is designed to remedy likely anticompetitive effects arising from the merger of Jobsite Holdings, Inc. (''Jobsite''), a wholly-owned subsidiary of Kroger, with and into Fred Meyer (the ''Merger''), through which Fred Meyer will become a wholly-owned subsidiary of Kroger.

II. Description of the Parties and the Proposed Acquisition

Kroger, an Ohio corporation headquartered in Cincinnati, Ohio, operates over 1,400 supermarkets in 23 states. Kroger's supermarkets operate under the ''Kroger,'' ''Fry's,'' ''Dillons,'' ''King Soopers,'' ''City Markets,'' and ''Gerbes'' trade names. In the states where Kroger competes with Fred Meyer, Kroger operates supermarkets in Arizona under the ''Fry's'' trade name and in Utah and Wyoming under the ''City Market'' and ''King Sooper'' trade names. Kroger has plans to open a supermarket in Cheyenne, Wyoming, under the ''King Sooper'' trade name. Kroger had $26.57 billion in United States revenues for the fiscal year that ended on December 27, 1997. Following the merger, Kroger will remain the largest supermarket firm in the United States.

Fred Meyer, a Delaware corporation headquartered in Portland, Oregon, operates approximately 800 supermarkets in 12 western states. Fred Meyer's supermarkets operate under the ''Smith Food & Drug Center'' trade name in Arizona, Utah, and Wyoming, as well as the ''Fred Meyer'' trade name in Arizona and Utah, and the ''Price Rite'' trade name in Arizona. Fred Meyer had $14.88 billion in total sales for the fiscal year that ended on January 31, 1999.

Pursuant to the Merger proposed by Kroger and Fred Meyer, Jobsite will merge with and into Fred Meyer and Fred Meyer will become a wholly-owned subsidiary of Kroger. As a result of the Merger, Fred Meyer's outstanding shares of common stock will be extinguished and the holder of each such share will be entitled to receive

one newly-issued share of common stock of Kroger in exchange for each extinguished share of Fred Meyer common stock. The total equity value of the proposed merger is approximately $15 billion.

III. The Draft Complaint

The draft complaint alleges that the relevant line of commerce (*i.e.*, the product market) is the retail sale of food and grocery items in supermarkets. Supermarkets provide a distinct set of products and services for consumers who desire to one-stop shop for food and grocery products. Supermarkets carry a full line and wide selection of both food and nonfood products (typically more than 10,000 different stock-keeping units (''SKUs'')), as well as a deep inventory of those SKUs. In order to accommodate the large number of food and nonfood products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square feet of selling space.

Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets primarily base their food and grocery prices on the prices of food and grocery products sold at other nearby supermarkets. Supermarkets do not regularly price-check food and grocery products sold at other types of stores, and do not significantly change their food and grocery prices in response to prices at other types of stores. Most consumers shopping for food and grocery products at supermarkets are not likely to shop elsewhere in response to a small price increase by supermarkets.

Retail stores other than supermarkets that sell food and grocery products, such as neighborhood ''mom & pop'' grocery stores, convenience stores, specialty food stores (*e.g.*, seafood markets, bakeries, etc.), club stores, military commissaries, and mass merchants, do not effectively constrain prices at supermarkets. These other stores operate significantly different retail formats. None of these stores offers a supermarket's distinct set of products and services that enable consumers to one-stop shop for food and grocery products.

According to the draft complaint, the relevant sections of the country (i.e., the geographic markets) in which to analyze the acquisition are the areas in and near the following cities and towns: (a) Prescott, Arizona; (b) Sierra Vista, Arizona; (c) Yuma, Arizona; (d) Cheyenne, Wyoming; (e) Green River, Wyoming; (f) Rock Springs, Wyoming; and (g) Price, Utah.

Kroger and Fred Meyer are actual and direct competitors in and near Prescott, Sierra Vista, Yuma, Green River, Rock Springs, and Price. Kroger is an actual potential competitor against Fred Meyer in and near the Cheyenne relevant market. But for the acquisition, Kroger and Fred Meyer would become direct competitors in the Cheyenne relevant market. The acquisition will eliminate that competition.

According to the draft complaint, the Prescott, Sierra Vista, Yuma, Arizona; Green River, Rock Springs, Wyoming; and Price, Utah, relevant markets are highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly referred to as ''HHI'') [1] or by two-firm and four-firm concentration ratios. The acquisition would substantially increase concentration in each market. Kroger and Fred Meyer would have a combined market share of near or greater than 35% in each geographic market. The post-acquisition HHIs in the geographic markets range from 2,793 to 10,000.

The draft complaint further alleges that the Cheyenne, Wyoming, relevant market is also highly concentrated. The market will remain highly concentrated as a result of this acquisition, and will be significantly more concentrated than it would have been but for the acquisition.

According to the draft complaint, entry is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects in the relevant geographic markets.

According to the draft complaint, the Agreement and Plan of Merger between Kroger and Fred Meyer, pursuant to which Jobsite will merge with and into Fred Meyer and Fred Meyer will become a wholly-owned subsidiary of Kroger, may substantially lessen competition in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by eliminating direct competition between supermarkets owned or controlled by Kroger and supermarkets owned or controlled by Fred Meyer; by eliminating actual potential competition between supermarkets owned or controlled by Kroger and supermarkets owned or controlled by Fred Meyer; by increasing the likelihood that Kroger will unilaterally exercise market power; and by increasing the likelihood of, or facilitating, collusion or coordinated interaction among the remaining supermarket firms. Each of these effects increases the likelihood that the prices of food, groceries, or services will increase, and the quality and selection of food, groceries, or services will decrease, in the relevant sections of the country.

IV. Terms of the Proposed Consent Order

The proposed consent order will remedy the Commission's competitive concerns about the proposed acquisition. Under the terms of the proposed consent order, the Proposed Respondents must divest eight specific supermarkets in the relevant markets. Five of the supermarkets that the Proposed Respondents must divest are currently owned and operated by Kroger (of which two operate under the ''Fry's'' banner and three operate under the ''City Market'' banner), and three of the supermarkets are currently owned and operated by Fred Meyer (all of which operate under the ''Smith's'' banner). The Proposed Respondents must divest: (1) Two Fred Meyer ''Smith's'' in Cheyenne, Wyoming, to Nash-Finch Company (''Nash-Finch''), one of the largest food wholesalers in the United States and an operator of many company-owned supermarkets; (2) one Kroger ''City Market'' in Price, Utah, to Albertson's, Inc., one of the largest retail food and drug chains operating in the United States; and (3) two Kroger ''Fry's,'' two Kroger ''City Markets,'' and one Fred Meyer ''Smith's'' in various locations to Fleming Companies, Inc. (''Fleming''), the second-largest supermarket wholesaler in the United States and an operator of many company-owned supermarket. These divestitures include every Kroger supermarket or every Fred Meyer supermarket in each relevant market. Each upfront buyer owns no supermarkets in the same market where it is acquiring one or more divested supermarkets from the Proposed Respondents. The specific supermarkets that the Proposed Respondents must divest to Nash-Finch, Albertson's, and Fleming are listed below.

The two supermarkets that the Proposed Respondents must divest to Nash-Finch in accordance with the agreement between Kroger and Nash-Finch dated March 31, 1999, are:

1. Smith's store no. 175 operating under the ''Smith's Food & Drug Centers'' trade name, located at 1600 E. Pershing Blvd., Cheyenne, Wyoming 82001 (Laramie County); and

2. Smith's store no. 176 operating under the ''Smith's Food & Drug Centers'' trade name, located at 3745

[1] The HHI is a measurement of market concentration calculated by summing the squares of the individual market shares of all the participants.

East Lincoln Way, Cheyenne, Wyoming 82001 (Laramie County).

The one supermarket that the Proposed Respondents must divest to Albertson's in accordance with the agreement between Kroger and Albertson's dated March 31, 1999, is:

1. Kroger store no. 27 operating under the ''City Market'' trade name, located at 760 Price River Dr., Price, Utah 84501 (Carbon County).

The five supermarkets that the Proposed Respondents must divest to Fleming in accordance with the agreements between Kroger and Fleming dated March 31, 1999, and April 7, 1999, are:

1. Kroger store no. 24 operating under the ''City Market'' trade name, located at 401 N. Center, Rock Springs, Wyoming 82901 (Sweetwater County);

2. Kroger store no. 23 operating under the ''City Market'' trade name, located at 400 Uinta Drive, Green River, Wyoming 82935 (Sweetwater County);

3. Kroger store no. 9 operating under the ''Fry's'' trade name, located at 1519 W. Gurley Street, Prescott, Arizona 86305 (Yavapai County);

4. Smith's store no. 305 operating under the ''Smith's Food & Drug Centers'' trade name, located at #85 South Hwy. 92, Sierra Vista, Arizona 85635 (Cochise County); and

5. Kroger store no. 47 operating under the ''Fry's'' trade name, located at 2600 W. 16th Street, Yuma, Arizona 85364 (Yuma County).

From the time Jobsite merges with and into Fred Meyer until the divestitures have been completed, the Proposed Respondents are required to maintain the viability, competitiveness, and marketability of the assets to be divested, must not cause their wasting or deterioration, and cannot sell, transfer, or otherwise impair their marketability or viability.

The proposed consent order specifically requires that the divestitures occur no later than twenty days after Jobsite merges with and into Fred Meyer and Fred Meyer becomes a wholly-owned subsidiary of Kroger or four months after the Proposed Respondents signed the proposed consent order (April 29, 1999), whichever is earlier. The proposed consent agreement also requires Kroger to include rescission provisions in its upfront buyer agreements that allow it to rescind the transaction(s) if the Commission, after the comment period, decides to reject any of the upfront buyers. If Kroger divests the supermarkets to be divested prior to the date the proposed consent order becomes final, and if, at the time the Commission decides to make the proposed consent order final, the Commission notifies Kroger that any of the upfront buyers is not an acceptable acquirer or that any of the upfront buyer agreements is not an acceptable manner of divestiture, then Kroger must immediately rescind the transaction in question and divest those assets within three months after the proposed consent order becomes final. At that time, Kroger must divest those assets only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. In the event that any Commission-approved buyer is unable to take or keep possession of any of the supermarkets identified for divestiture, a trustee that the Commission may appoint has the power to divest any of the supermarkets or properties in the markets alleged in Paragraph 13 of the complaint that the Proposed Respondents own to remedy the anticompetitive effects alleged in the complaint.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. When divestiture is an appropriate remedy for a supermarket merger, the Commission requires the merging parties to find a buyer for the divested stores. A proposed buyer must not itself present competitive problems. For example, the Commission is less likely to approve a buyer that already has a large retail presence in the relevant geographic area than a buyer without such a presence. The Commission is satisfied that the purchasers presented by the parties are well qualified to run the divested stores and that divestiture to these purchasers poses no separate competitive issues.

For a period of ten years from the date the proposed consent order becomes final, Kroger is required to provide notice to the Commission prior to acquiring supermarket assets located in, or any interest (such as stock) in any entity that owns or operates a supermarket located in, Cochise, Yavapai, or Yuma counties, Arizona; Laramie or Sweetwater counties, Wyoming; or Carbon County, Utah. Kroger may not complete such an acquisition until it has provided information requested by the Commission. This provision does not restrict Kroger from constructing new supermarket facilities on its own; or does it restrict Kroger from leasing facilities not operated as supermarkets within the previous six months.

For a period of ten years, the proposed consent order also prohibits Kroger from entering into or enforcing any agreement that restricts the ability of any person that acquires any supermarket, any leasehold interest in any supermarket, or any interest in any retail location used as a supermarket on or after January 1, 1998, to operate a supermarket at that site if such supermarket was formerly owned or operated by Kroger in Cochise, Yavapai, or Yuma counties, Arizona; Laramie or Sweetwater counties, Wyoming; or Carbon County, Utah. In addition, Kroger may not remove fixtures or equipment from a store or property owned or leased in Cochise, Yavapai, or Yuma counties, Arizona; Laramie or Sweetwater counties, Wyoming; or Carbon County, Utah, that is no longer in operation as a supermarket, except (1) prior to a sale, sublease, assignment, or change in occupancy or (2) to relocate such fixtures or equipment in the ordinary course of business to any other supermarket owned or operated by Kroger.

The Proposed Respondents are required to provide to the Commission a report of compliance with the proposed consent order within thirty days following the date on which they signed the proposed consent and every thirty days thereafter until the divestitures are completed. Kroger is required to provide to the Commission a report of compliance annually for a period of ten years. The obligations of Jobsite under the proposed consent order will terminate upon consummation of the proposed acquisition.

V. Opportunity for Public Comment

The proposed consent order has been placed on the public record for 60 days for receipt 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 agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed consent order, including the proposed sale of supermarkets to Nash-Finch, Alberton's, and Fleming, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order nor is it

intended to modify the terms of the proposed consent order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–14246 Filed 6–4–99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99089]

Notice of Availability of Funds; Technology Translation and Transfer of Effective HIV Behavioral Interventions; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for the technology translation and transfer of effective HIV prevention behavioral interventions. This program addresses the ''Healthy People 2000'' priority area for Human Immunodeficiency Virus (HIV) Infection.

HIV/AIDS researchers have developed and tested prevention interventions that aim to reduce sex-related and drug-related risk behaviors. A number of these interventions have credible evidence of effectiveness, defined as reporting positive and significant results on an HIV-relevant behavioral or health outcome. The purposes of this project are to:

(1) Translate effective HIV prevention interventions whose original research was conducted with methodological rigor, preferably at multiple sites with multiple populations at risk;

(2) Develop packages of materials in collaboration with health departments, community-based organizations, and/or other prevention providers and consumers, that prevention providers can use to replicate the interventions in non-research field situations; and

(3) Study the process of technology transfer, using the prevention packages in at least one field setting supported by training, quality assurance, and technical assistance.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations.

Note: Pub. L. 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $350,000 is available in FY 1999 to fund approximately two awards. The average award will be $175,000 and the range will be $150,000 to $200,000. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may vary and are subject to change based on availability of funds. An application requesting greater than $200,000 (including indirect costs) will not be considered for review and will be returned to the applicant.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. Continued funding for year two will be dependent on the completion of required activities for year one.

Use of Funds

Collection of new or supplemental intervention research data, data entry and analysis, purchase of furniture or computers, and rental of facilities will not be funded under this program.

D. Program Requirements

In conducting activities to achieve the purpose of this announcement, the recipient will be responsible for the activities under 1, Recipient Activities, and CDC will be responsible for the activities listed under 2, CDC Activities.

1. Recipient Activities

The program requirements for the first year of activity are:

a. Develop the (1) intervention portion of the prevention package and (2) preliminary versions of the training materials and technical assistance protocols to guide the field site implementation and produce a limited number of prevention packages.

b. Identify at least one organization or field setting for the case study.

c. Develop a process evaluation plan.

Recipient activities for the second year of activity include: Initiate and complete the field site case study, initiate and complete the process evaluation, and revise training materials based upon the case study results. The program requirements for the second year include publishing and distributing results.

2. CDC Activities

a. Host a meeting with the successful applicants within 60 days of the notice of grant award to discuss implementation of the project.

b. Provide technical assistance in the general operation of this HIV prevention project.

c. Consult on the choice of user for a case study with the prevention package.

d. Monitor and evaluate scientific and operational accomplishments of this project through frequent telephone contact and review of technical reports and interim data analyses.

e. Conduct site visits to assess program progress and mutually solve problems, as needed.

E. Application Content

Develop applications in accordance with PHS Form 5161–1 (OMB Number 0937–0189) and the instructions and format provided below.

Submit the original and two copies of PHS Form 5161–1 (OMB Number 0937–0189) and the original and two copies of the application. The application may not exceed 20 double-spaced pages, excluding abstract, table of contents, and appendices. Submit the original and each copy of the application *Unstapled Unbound*. Print all material double-spaced, in a 12-point or larger font size on 8 ½″ by 11″ paper, with at least 1″ margins, and printed on one side only. Provide a one-page abstract of the proposal and a complete table of contents to the application and its appendices. Beginning with the first page of text, number all pages clearly and sequentially. Number each page of the appendices also, e.g., for Appendix # 1, the pages should be numbered: A1–1, A1–2, A1–3. Replace double-sided article reprints with a one-sided copy.

Include a general introduction, followed by one narrative subsection for each of the numbered content elements per application, in the order in which the elements appear below. Label each narrative subsection with the element title and include all the information needed to evaluate that element of the application (except for curriculum vitae, references, and letters of support, which are appropriate for the appendices). The application content elements are: