

**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 April 5, 1999.

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

**FOR FURTHER INFORMATION CONTACT:** Matthew D. Gold or Linda K. Badger, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356-5275 or 356-5276.

**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 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 January 26, 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, H-130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

#### **Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Apple Computer, Inc. (hereinafter "Apple" or "respondent"). Apple is a major manufacturer and marketer of

personal computer hardware and software products.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and any comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter has focused on Apple's advertisements for its "Apple Assurance" program. Under Apple Assurance, which Apple offered on most of its hardware products from September 1992 to April 1996, consumers who purchased Apple products in the United States were entitled to free access to technical support personnel for as long as they owned their Apple product. In October 1997, however, Apple began charging Apple Assurance consumers \$35 for such access. Accordingly, the proposed complaint alleges that the company falsely claimed that Apple Assurance customers would have access to Apple technical support personnel, at no charge, for as long as that customer owns the product.

The proposed order contains cease and desist provisions as well as complete redress for consumers harmed by Apple's conduct. Part I of the proposed order would prevent Apple from misrepresenting the terms of any technical support service offered in conjunction with any product.

Part II would require that the company reinstate its promise to Apple Assurance customers, and provide live, free technical support for as long as they own their computers. Specifically, this provision requires that the company provide access to complimentary technical support personnel, toll-free, to each "eligible person" who provides the valid serial number of a "covered product" for as long as such person owns the covered product. The order defines "eligible person" as any original owners, or member of the owner's immediate family, who purchased a "covered product." A "covered product" is an Apple product sold in the United States between September 1992 and April 1996. Appendix A to the order includes a list of all models sold during this period of time. Under the terms of Part II of the order, Apple would be permitted to suggest that an eligible person seek answers to questions via less expensive means (such as through pre-recorded phone

trees, the Internet, or product manuals), as long as the person always has the option of speaking to live technical support personnel.

Part III of the proposed order would require Apple to reimburse each eligible person who has wrongly paid any fee for technical support as a result of Apple's actions. Pursuant to the order, Apple must send a "Notice of Refund" to each such person within 20 days of service of the order. The Notice of Refund must include either a refund check or a notification of a credit to the customer's credit card account for the full amount paid for technical support services. Further, the Notice informs these customers of their continuing right to free, live, technical support for as long as these customers, or members of their immediate families, own their Apple products.

The proposed order also requires the respondent to maintain materials relied upon to substantiate claims covered by the order, to provide a copy of the consent agreement to all employees or representatives with duties affecting compliance with the terms of the order; to notify the Commission of any changes in corporate structure that might affect compliance with the order; and to file one or more reports detailing compliance with the order.

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.

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Office of the Secretary**

#### **Findings of Scientific Misconduct**

**AGENCY:** Office of the Secretary, HHS.  
**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

*Ms. Janell Bodily, B.S., M.S.W., University of Utah:* Based on the report of an investigation conducted by the University of Utah and information obtained by ORI during its oversight review, ORI finds that Ms. Bodily, former interviewer, Health Education

Department, College of Health, University of Utah, engaged in scientific misconduct in research supported by a National Institute of Mental Health (NIMH), National Institutes of Health (NIH) grant.

Specifically, Ms. Bodily intentionally falsified patient signatures and responses to questions for at least 75 patient interviews for an NIMH-funded research project, "Evaluation of the Utah Prepaid Mental Health Plan," which involved indigent patients. The study required annual interviews of the participating subjects. The falsified information was damaging to the research project because researchers had to expend substantial time and additional money to re-interview patients. Because the data for the previous year could not be recollected, the response rate for that year was substantially below the response rate for other years of the study and may have reduced the overall statistical reliability of the multi-year study.

None of the questioned data has been included in publications.

ORI has implemented the following administrative actions for the three (3) year period beginning January 25, 1999:

(1) Ms. Bodily is prohibited from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement

in nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 C.F.R. Part 76 (Debarment Regulations); and

(2) Ms. Bodily is prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

**FOR FURTHER INFORMATION CONTACT:** Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443-5330.

**Chris B. Pascal,**

*Acting Director, Office of Research Integrity.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Proposed Information Collection Activity; Comment Request

##### Proposed Project

*Title:* Federal Case Registry Family Violence State Practices Survey.

*OMB No.:* New.

*Description:* Public Law 104-193, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," requires the Office of Child Support Enforcement (OCSE) to develop a Federal Case Registry to improve the ability of State child support agencies to locate noncustodial parents and collect child support across State lines. This Federal Case Registry includes an indicator for Family Violence, meant to ensure a higher level of confidentiality on cases with the indicator. This indicator is provided by the State submitting the case information. OCSE would like to conduct a brief telephone survey to determine the methods used by States to place the indicator, so that the information may be shared with the other States.

*Respondents:* State, Local or Tribal Government.

#### ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
States .....	54	1	2	108

Estimated Total Annual Burden Hours: 108.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 29, 1999.

**Bob Sargis,**

*Acting Reports Clearance Officer.*

[FR Doc. 99-2516 Filed 2-2-99; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 99F-0126]

#### Ciba Specialty Chemicals Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *N,N'*-[1,2-ethanediylbis [[[4,6-bis [butyl (1,2,2,6,6-pentamethyl-4-piperidiny)] amino]-1,3,5-triazin-2-yl]imino]-3,1-propanediyl]] bis[*N,N'*-dibutyl-*N,N'*-bis (1,2,2,6,6-pentamethyl-4-