attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below.

Dated: November 2, 2004.

Steven Hartmann,

Acting Field Manager.

[FR Doc. 04–24891 Filed 11–8–04; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF JUSTICE

Antitrust Division

Competitive Impact Statement, Proposed Final Judgment and Complaint; United States v. Connors Bros. Income Fund and Bumble Bee Seafoods, LLC

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Connors Bros. Income Fund and Bumble Bee Seafoods, LLC,* Civil Case No: 1:04 CV 01494. The proposed Final Judgment is subject to approval by the Court after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), including expiration of the statutory 60-day public comment period.

On August 31, 2004, the United States filed a Compliant alleging that the acquisition by Connors Bros. Income Fund (''Connors'') of Bumble Bee Seafoods LLC (''Bumble Bee'') would, as originally proposed, violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition for the sale of sardine snacks in the Untied States. Connors' sardine snack brands account for approximately 63 percent of the sales in the market, while Bumble Bee's sardine snack brand accounts for about 13 percent. The remaining share is comprised of small independent fringe players or regional sellers of sardine snacks unlikely to be able to expand to the level required to compensate for the loss of a competitor of Bumble Bee's significance.

To preserve competition, the proposed Final Judgment, filed the same time as the Complaint, requires Connors to divest its Port Clyde, Commander, Possum, Bulldog, Admiral, and Neptune brands (but not Neptune brand clam products) and related assets to an acquirer, including, at the acquirer's option, no more than one of the following Connors' processing assets: The Bath, Maine plant or the Grand Manan, New Brunswick plant, to an acquirer acceptable to the United States in its sole discretion. A Competitive Impact Statement, filed by the United States, describes the Complaint, the proposed Final Judgment, and the remedies available to private litigants. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Room 215 North, 325 Seventh Street, NW., 20530 (telephone: 202/514–2692) and at the Office of the Clerk of the Untied States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Roger Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice, 325 7th Street, NW., Suite 500, Washington, DC 20530 (telephone 202/307–6351).

J. Robert Kramer, II,

Director of Operations, Antitrust Division.

United States of America, U.S. Department of Justice, Antitrust Division, 325 7th Avenue, NW., Suite 500, Washington, DC 20530, Plaintiff, v. Connors Bros. Income Fund, 669 Main Street, Blacks Harbour, New Brunswick, Canada, E5h 1K1, and Bumble Bee Seafoods, LLC, 9655 Granite Ridge Drive, San Diego, CA 92123-2674, Defendants; Judge: John D. Baker.

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' and ''Tunney Act''), 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 on August 31, 2004.

I. Nature and Purpose of the Proceeding

Defendant Connors Bros. Income Fund (''Connors''), an income trust fund organized under Canadian law, entered into a Transaction Agreement, dated February 10, 2004, in which it proposed to acquire Bumble Bee Seafoods, LLC (''Bumble Bee'') from Centre Capital Investors III, L.P. (The ''Transaction''). Connors partially financed its acquisition through a subscription agreement, and those funds were held in escrow pending final consummation of the Transaction. Under Canadian law, the escrow agreement expired on April 30, 2004; the funds had to be returned to subscribers if Connors had not consummated the Transaction by that date.

On April 30, 2004, the United States and Defendants reached an agreement by which: the United States agreed not to file suit at that time to enjoin the Transaction; the Defendants signed a Hold Separate Stipulation and Order and a proposed Final Judgment, which included remedies that would restore the competition that the United States' preliminary analysis indicated would be lost through the combination of the Connors and Bumble Bee sardine businesses; and the United States agreed to defer filing the executed Hold Separate and proposed Final Judgment until it completed a thorough investigation into the likely competitive effects of the Transaction. At the completion of this investigation, the United States confirmed that it was likely that the transaction as originally proposed would harm competition for the sale of sardine snacks in the United States, but decided to narrow the scope of the original Final Judgment to eliminate certain remedies that it had subsequently determined were not needed to restore competition in the relevant antitrust market.

Accordingly, on August 31, 2004, the United States filed a Complaint alleging the likely effect of the Transaction, as originally proposed, would be to lessen competition substantially for the sale of sardine snacks throughout the United States in violation of Section 7 of the Clayton Act. This loss of competition would result in U.S. consumers paying higher prices for sardine snacks. At the same time, the United States also filed the Hold Separate Stipulation and Order and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition.

The proposed Final Judgment, which is explained more fully below, requires Connors to divest its Port Clyde brand, several smaller brands (Commander, Possum, Bulldog, Admiral and Neptune), and related assets that an acquirer of those brands might need in order to become a viable and active competitor in the sale of sardine snacks throughout the United States. Under the terms of the Hold Separate Stipulation and Order, Connors must maintain the commercial value of the Port Clyde brand until it is divested to an acquirer acceptable to the United States.

The United States 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. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Connors marketed the first, second and fourth largest selling brands of sardine snacks in the United States (Brunswick, Beach Cliff, and Port Clyde, respectively) before this Transaction. In 2003, Connors brands accounted for approximately 63% of the sardine snack sales in the United States; and it earned revenues of about $43 million from the sale of these products.

Bumble Bee, a Delaware limited liability corporation with its headquarters in San Diego, California, marketed the third largest selling brand of sardine snacks in the United States before the Transaction. In 2003, its Bumble Bee brand accounted for approximately 13% of U.S. sardine snack sales; and it earned about $9 million from the sale of these products.

The Transaction, as initially proposed by Defendants, would lessen competition substantially as a result of Connors' acquisition of Bumble Bee's sardine snack business. This acquisition is the subject of the Complaint and proposed Final Judgment filed by the United States on August 31, 2004.

B. The Competitive Effects of the Transaction on Consumers of Sardine Snacks

The Complaint alleges that the relevant product market is sardine snacks, which is an ''overlap'' product, because Connors and Bumble Bee sell competing sardine snack products in the United States. Several characteristics distinguish sardine snacks (also called ''mainstream'' sardines in the industry) from other sardine products. Typically, sardine snacks are made from herring and other varieties of small fish, which are caught off the coasts of the United States (primarily Maine), Canada, Poland, Morocco, South America and Thailand, processed in those countries, and sold in the United States. Sardine snacks, as the name implies, are sold primarily as snacks; and they are packed in snack-size cans (primarily 3.75 ounce ''dingley'' cans or 4.4 ounce ''club'' cans). In the United States, the average retail price of sardine snacks is about $.21 per ounce.

Evidence gathered in the course of the United States' investigation indicated that a sardine product called ''premium'' sardines in the industry is not in the same product market as sardine snacks. Premium sardines typically consist of the brisling species of fish, which are caught off the coasts of Norway and Scotland, processed in those countries, and imported into the United States (and other countries). In the United States, the average retail price of premium sardines is about $.52 per ounce.

The evidence also showed that a sardine product called ''ethnic'' sardines in the industry is not in the same product market as sardine snacks. Typically, these sardines are marketed to specific ethnic groups, consumed as main courses rather than as snacks, and packed in meal-size cans (primarily 15 ounce ''oval'' cans). They typically consist of larger herring and other species that are perceived to be of a lower quality than the herring used for sardine snacks, and sell for an average of about $.08 per ounce (or about 40% of the price of sardine snacks). In addition, grocery stores often display these sardines exclusively in the ethnic section of their stores, rather than the canned seafood section (*e.g.,* Perla Pacifica might be displayed next to other Hispanic food products, several aisles away from Connors and Bumble Bee sardine snacks).

Connors and Bumble Bee sell sardine snacks throughout the United States. A small, but significant, increase in the price of sardine snacks would not cause a sufficient number of purchasers to switch to sardine snack brands not presently marketed in the United States to make the increase unprofitable. The United States, therefore, concluded that the appropriate geographic market for the purpose of analyzing the competitive effects of the Transaction is no larger than the United States, and that the United States is the relevant geographic market within the meaning of Section 7 of the Clayton Act.

Even before Connors acquired Bumble Bee, the U.S. sardine snack market was highly concentrated. Connors brands accounted for approximately 63% of the sales in this market, while Bumble Bee's sardine brand held about a 13% share. The remaining share is accounted for by brands with small individual market shares that can be described as ''fringe'' players. Using a measure of concentration called the Herfindahl-Hirschman Index (''HHI''), which is defined and explained in Exhibit A to the Complaint, the pre-transaction HHI was about 4200—well in excess of the 1800 point level for characterizing markets as highly concentrated.

The Transaction resulted in Connors' main rival exiting the sardine snack market and a substantial increase in concentration in an already concentrated market. Post-transaction, the combined Connors/Bumble Bee firm would account for over 75% of the market; and none of its remaining competitors would have as much as a 5% share of the remaining sales. The Transaction would increase the HHI by about 1600 points—well in excess of levels that raise significant antitrust concerns.

In fact, as the Complaint alleges, it is likely that the elimination of Bumble Bee as an independent competitor would give the combined Connors/Bumble Bee firm unilateral power to profitably raise prices, whether or not the remaining fringe players responded by raising their prices. For example, the combined firm could raise the price of the Bumble Bee brand of sardine snacks with little concern that it would lose sufficient sales to make the Bumble Bee price increase unprofitable.

The evidence gathered during the investigation also indicated that entry into the sale of sardine snacks in the United States would not be timely, likely, or sufficient to deter any exercise of market power by the combined Connors/Bumble Bee entity. Brand recognition is an important factor in the marketing and sale of sardine snacks in the United States, and consumers of sardine snacks generally restrict their purchases to brands they know and trust. New entry would require years of effort and the investment of substantial sunk costs, including promotion expenditures and slotting allowances (in many grocery chains), to create brand awareness among consumers. Likewise, the investigation showed that these same barriers would make it difficult for existing fringe players or regional sellers of sardine snacks to expand to the level required to make up for the loss of a competitor of Bumble Bee's significance.

III. Explanation of the Proposed Final Judgment

The devestiture required by the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in sardine snack products by establishing a new, independent, and economically viable competitor with several recognized brand names in the sardine snack market. The purchaser will acquire several sardine snack brands. Moreover, the acquirer may sell other canned seafood products under its brand names (as do Connors, Bumble Bee and other sellers of sardine snacks)—as Connors will transfer all of its rights to produce, distribute and sell seafood products under the divested brands (with the limited exception of

clam products, which Connors may continue to sell under the Neptune brand.) For example, the acquirer will obtain the right to sell kippered herring snacks, which a firm with a sardine snack processing plant can easily produce at its plant, in addition to sardine stacks. The divestiture also includes a packing plant, inventories, and the other tangible and intengible assets that an acquirer might need to produce, distribute and sell sardine snacks under the divested brand names in the United States.

Port Clyde is the fourth largest brand of sardine snacks, and Commander is in the top ten. The remaining brands to be divested (Possum, Bulldog, Admiral and Neptune) have relatively small national market shares, but each is a significant seller in one or more regions. In the aggregate, the divested Connors brands accounted for approximately 14% of U.S. sardine snack sales in the United States in 2003, as compared to about a 13% market share for the Bumble Bee brand.

The proposed divesture, therefore, will re-establish the competitive constraint that the Transaction would have removed from the U.S. sardine snack market. Within one hundred and twenty calendar days after the filing of the Complaint, or five days after notice of the entry of the Final Judgment by the Court, whichever is later, Connors must transfer the divested brands, and related assets, in a way that satisfies the United States, in its sole discretion, that the operations can and will be operated by the purchaser as a viable, ongoing and competitive business. In exercising its discretion, the United States will ensure that the assets are transferred to an acquirer who has the incentive and opportunity to compete as effectively in the sardine snack business as did Bumble Bee.

Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers. In the event that Defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture, and the defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective; the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture.

At the end of three months after the trustee's appointment, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

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 suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' 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 it any subsequent private lawsuit that may be brought against the Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the 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 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy, & Agriculture Section, Antitrust Division, United States Department of Justice, 325 7th Street, NW.; Suite 500, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and 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

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against the Defendants. The United States could have entered into litigation and sought an injunction against the combination of Connors and Bumble Bee's sardine snack business. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the provision of sardine snacks in the United States.

The United States also considered requiring the Defendants to grant a long-term, but finite, license allowing an acquirer to use the Bumble Bee brand name for sardine snacks while it transitioned the product to its own brand name, but rejected this in favor of a clean structural remedy.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court shall consider:

> (A) 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, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) The impact of entry of such judgment upon competition in the relevant market or markets, 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)(1)(A) & (B). As the United States Court of Appeals for the District of Columbia Circuit has held, the APPA 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 Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

''Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). Thus, 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.'' 119 Cong. Rec. 24, 598 (1973) (statement of Senator Tunney).[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. (CCH) ¶ 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 evaluation 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. 1981)); *see also Microsoft,* 56 F.3d at 1460–62. Courts have held that:

> [t]he 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 would best serve society, but whether the settlements is ''*within the reaches of the public interest*.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added)(citations omitted).[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.'' *United States* v. *AT&T*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted)(quoting *Gillette*, 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985)(approving the consent decree even though the court would have imposed a greater remedy).

Moreover, the Court's role under the APPA 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. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by brining 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 did not pursue. *Id.* at 1459–60.

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 19, 2004.

Respectfully submitted,
Robert L. McGeorge, DC Bar #91900.
U.S. Department of Justice, Antitrust Division, Transportation, Energy & Agriculture Section, 325 7th Street, NW; Suite 500, Washington, DC 20530.

Certificate of Service

I hereby certify that on October 19, 2004, I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants by electronic mail and first class mail, postage prepaid:

Counsel for Defendants Connors Bros. Income Fund and Bumble Bee Seafoods, LLC:

David Beddows, Esq.,
Richard G. Parker, Esq.
O'Melveny & Myers LLP, 1625 Eye Street, NW., Washington, DC 2006.

Michelle Livingston, Member of the DC Bar, #461268.
U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW., Suite 500, Washington, DC 20530; (202) 353–7328, (202) 307–2784 (Fax).

Final Judgment

Whereas, plaintiff, United States of America, and defendants, Connors Bros. Income Fund and Bumble Bee Seafoods, LLC, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, defendants agree that venue and jurisdiction are proper in this Court;

And Whereas, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is the prompt and certain divestiture of the Divestiture Assets by defendants to assure that competition is not substantially lessened;

And Whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *Ordered, Adjudged and Decreed:*

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[1] *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (recognizing it was not the court's duty to settle; rather, the court must only answer ''whether the settlement achieved [was] within the reaches of the public interest''). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed by the Department of Justice 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. No. 93–1463, 93rd Cong., 2d Sess. 8–9 (1974), *reprinted* in 1974 U.S.C.C.A.N. 6535, 6538.

[2] *Cf. BNS,* 858 F.2d at 463 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *Gillette*, 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft*, 56 F.3d at 1461 (discussing 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' '').

I. Jurisdiction

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

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' menas the entity to whom defendants or the trustee divest the Divestiture Assets.

B. ''Bumble Bee'' means defendant Bumble Bee Seafoods, LLC, a Delaware limited liability corporation with its headquarters in San Diego, California, its successors and assigns, and its subsidiaries, divisions groups, partnerships and joint ventures, and their directors, officers, mangers, agents, and employees.

C. ''Connors'' means defendant Connors Bros. Income Fund, a Canadian income trust with its headquarters in Blacks Harbour, New Brunswick, Canada, its successors and assigns, and its subsidiaries, divisions, groups, partnerships and joint ventures, and their directors, officers, mangers, agents, and employees.

D. ''Label'' means all legal rights owned or possessed by the defendants pertaining to a brand's trademarks, trade names, service names, service marks, copyrights, designs, and trade dress associated with the goods and services sold under a brand name.

E. ''Divestiture Assets'' include:

1. The Port Clyde, Commander, Bulldog, Neptune, Admiral, and Possum Labels, except the Neptune Label for clam products;

2. All existing inventories of sardines, kippered herring snacks, and other canned seafood products sold under the Port Clyde, Commander, Bulldog, Neptune, Admiral, and Possum Labels;

3. All existing inventories of cans and wrappings for sardines, kippered herring snacks, and other canned seafood products that are marked with Port Clyde, Commander, Bulldog, Neptune, Admiral, and Possum Labels;

4. At the Acquirer's option, no more than one of the following Connors processing assets:

a. The Bath plant located at 101 Bowery Street, Bath, Maine 04530; including all rights, titles and interests in any tangible assets (*e.g.* land, buildings, docking and unloading facilities, warehouses, other real property and improvements, fixtures, machinery, equipment, tooling, fixed assets, personal property, and office furniture), relating to Connors canned seafood business, including all fee and leasehold and renewal rights in such assets or any options to purchase any adjoining property; or

b. The Grand Manan plant located in New Brunswick, Canada at Seal Cove, Grand Manan, New Brunswick EOG 3BO; including all rights, titles and interests in any tangible assets (*e.g.*, land, buildings, docking and unloading facilities, warehouses, other real property and improvements, fixtures, machinery, equipment, tooling, fixed assets, personal property, and office furniture), relating to Connors canned seafood business, including all fee and leasehold and renewal rights in such assets or any options to purchase any adjoining property;

5. All additional tangible and intangible assets that are used in manufacturing, distributing, marketing and selling sardines, kippered herring snacks, and other canned seafood products sold under the Port Clyde, Commander, Bulldog, Neptune, Admiral, and Possum Labels, including research and development activities and equipment; all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings; marketing studies, promotion plans, advertising materials; packaging, marketing and distribution know-how and documentation, such as route maps; inventory, delivery and storage vehicles, storage and warehouse facilities and agreements; customer lists, contracts accounts, credit records, and agreements; supplier lists and agreements; repair and performance records, and all other records; and

6. All additional intangible assets that are used in manufacturing, distributing, marketing, and selling sardines, kippered herring snacks, and other canned seafood products sold under the Port Clyde, Commander, Bulldog, Neptune, Admiral, and Possum labels, including those used in developing, producing, and servicing such products, including, but not limited to all patents, licenses, and sublicenses, intellectual property, copyrights; grand technical information and production know-how, including but not limited to, recipes and formulas and any improvements to, or line extensions thereof; and computer software and related documentation; know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices; safety procedures for the handling of materials and substances; all research data concerning historic and current research and development; quality assurance and control procedures; design tools and simulation capability; all manuals and technical information defendants provide to their own employees, customers, suppliers, agents or licensees; and all research data concerning historic and current research and development efforts, including, but not limited to designs of experiments, and the results of successful and unsuccessful designs and experiments.

III. Applicability

A. This Final Judgment applies to defendants Connors and Bumble Bee, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Jugment by personal service or otherwise.

B. If the defendants sell or otherwise dispose of all of their assets, or lesser business units that include the Divestiture Assets, they shall require that the purchaser agrees to be bound by the provisions of this Final Judgment, provided, however, that defendands need not obtain such an agreement from the Acquirer.

IV. Divestitures

A. Defendants are ordered and directed, within one hundred and twenty (120) 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 Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period, which collectively shall not exceed sixty (60) days in total, and shall notify the Court in such circumstances. Defendants shall use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents

subject to the attorney-client or work-product privileges. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the prospective Acquirers and the United States information relating to the personnel involved in the operation and management of the Divestiture Assets to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any defendant's employee whose primary responsibility is the operation and management of the Divestiture Assets.

D. Defendants shall permit prospective Acquirers to have reasonable access to personnel and to make inspections of the physical facilities of the Divestiture Assets, access to any and all environmental, zoning, and other permit documents and information relating to the Divestiture Assets, and access to any and all financial, operational, strategic or other documents and information relating to the Divestiture Assets customarily provided as part of a due diligence process.

E. Defendants shall warrant to all prospective Acquirers that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. Defendants will not introduce or sell any canned seafood products under the Labels contained in the Divestiture Assets; however, defendants may continue to introduce and sell clam products under the Neptune Label.

H. Defendants shall warrant to the Acquirer of the Divestiture Assets that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, shall be sold to a single Acquirer, and shall be accomplished in such a way as to satisfy the Untied States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business of the sale of canned sardines.

J. The divestitures, whether pursuant to Section IV or Section VI of this Final Judgment,

1. Shall be made to an Acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of packing and producing (unless otherwise acquired), marketing, distributing, and selling canned sardine products; and

2. Shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants give defendants 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. If defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the plaintiff approves, 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 defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. 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 business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. 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 Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished such divestiture within three (3) 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 divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. 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 plaintiff who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within (15) calendar days of the receipt of the request, unless the parties otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or Section V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. 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 divestiture has been completed under Section IV or Section V, defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, 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 Divestiture Assets, shall describe in detail each contact with any such person during that period, and shall describe in detail which of the Divestiture Assets each such person made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the antitrust Division, and on reasonable notice to defendants, be permitted:

1. Access during defendants' office hours to inspect and copy, or at the United States' option, to require defendants to provide copies of, all books, ledgers, accounts, records, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

2. To interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the antitrust Division, defendants shall submit written reports or interrogatory responses, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States 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 defendants to the United States, 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 Procedures, and 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 the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets from the Acquirer, or their successors, during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

_____

United States District Judge

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against defendants Connors Bros. Income Fund (''Connors'') and Bumble Bee Seafoods, LLC (''Bumble Bee''), and complains and alleges as follows:

1. The United States brings this suit to prevent Connors from retaining a newly acquired near monopoly in sardine snack foods. On April 30, 2004, Connors consummated its acquisition of Bumble Bee. At the time of the transaction, Connors and Bumble Bee were the only two significant sellers of sardine snacks in the United States.

2. Unless remedied, the acquisition will eliminate substantial head-to-head rivalry between Connors and Bumble Bee. Consequently, the elimination of Bumble Bee as an independent significant competitor will substantially lessen competition for the sale of sardine snacks and result in higher prices to United States consumers. The acquisition, therefore, violates Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

I. Jurisdiction and Venue

3. This Complaint is filed and this action is instituted under Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, in order to prevent and restrain defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

4. Connors and Bumble Bee sell sardine snacks in the flow of U.S. interstate commerce. Defendant's activities in producing and marketing that product also substantially affect interstate commerce. The Court has subject matter jurisdiction over this action, 28 U.S.C. 1331, 1337(a) and 1345.

5. The defendants have consented to personal jurisdiction and venue in this judicial district.

II. The Defendants

6. Connors Bros. Income Fund is a Canadian income trust with its headquarters in Blacks Harbour, New Brunswick, Canada.

7. Even before its acquisition of Bumble Bee, Connors was the largest canned sardine company in the United States. It also sold other canned seafood products such as kippered herring snacks, fish steaks, shrimp, anchovies and oysters, as well as fish meal and fish oil. Connors operates four canning and processing facilities, two in Maine and two in New Brunswick, Canada. It sells three of the top four sardine snack brands in the United States—Beach Cliff, Brunswick, and Port Clyde; and its total sales of sardine snacks exceed $43 million in 2003.

8. Bumble Bee Seafoods, LLC, is a Delaware limited liability corporation with its headquarters in San Diego, California. Bumble Bee became a wholly owned corporate subsidiary of Connors after Connors acquired it on April 30, 2004. Prior to its acquisition by Connors, Bumble Bee was a leading seller of canned seafood products. The Bumble Bee brand of sardine snacks was the third largest selling brand in the United States. In addition, Bumble Bee is one of the three largest sellers of tuna in the United States, and is a leading seller of other canned seafood products, such as premium sardines, salmon, mackerel and scallops. Bumble Bee reported U.S. sardine snack sales of approximately $9 million in 2003.

III. Background

9. Canned sardines are a processed fish product ready for immediate consumption by consumers. Sardine companies sell an array of canned sardine products, varying the fish, packaging, prices, and marketing.

10. Sardine snacks, sometimes referred to as ''mainstream'' sardines in the industry, are the principal sardine product in the United States, with revenue and unit volumes far in excess of any other sardine product. They typically consist of herring and other small varieties of fish that are caught off the coasts of the United States (primarily Maine), Canada, Poland, Morocco, Thailand and South America, and processed in those countries. They are consumed primarily as snacks and packed in snack-size 3.75 ounce and 4.4 ounce cans.

11. Other sardine products include premium and ethic sardines. Premium sardines typically consist of brislings that are caught off the costs of Norway and Scotland, and processed in those countries. They sell for about two and a half times as much as sardine snacks. Ethnic sardines typically consist of pilchards and lower quality herring. They are generally consumed as main courses, packed in 15 ounce cans, sell for less than half the price of sardine snacks, are marketed primarily to members of specific ethnic groups, and are often displayed exclusively in ethnic sections of grocery stores.

12. Brand recognition is an important factor in the marketing and sales of sardine snacks in the United States. Brands are generally used to distinguish different sardine products (*i.e.,* sardine snacks, premium sardines and ethnic sardines), and to distinguish the different sellers who compete to sell each of those products. Consumers of sardine snacks generally will restrict their purchases to brands that they know and trust.

IV. Trade and Commerce

A. Relevant Product and Geographic Market

13. A small but significant increase in the price of sardine snacks would not cause enough consumers to switch to other products (including premium and ethnic sardines) to make such a price increase unprofitable. Accordingly, the sale of sardine snacks is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

14. Both Connors and Bumble Bee sell sardine snacks throughout the United States. A small but significant price increase in sardine snacks would not

cause a sufficient number of purchasers to switch to sardine snack brands not presently marketed in the United States to make the increase unprofitable. The relevant geographic market, therefore, within the meaning of Section 7 of the Clayton Act is no larger than the United States.

B. Anticompetitive Effects

15. The sardine snack market is highly concentrated, and the defendants are, by far, the largest sellers of those products in the United States. Connors and Bumble Bee both sell well established sardine brands. Brand recognition is important to consumers of sardines, and the transaction has combined the two owners of the four most successful sardine snack brands in the United States (Connors' Brunswick, Beach Cliff and Port Clyde brands, and Bumble Bee). Connors accounts for an approximately 63 percent market share and Bumble Bee's share is approximately 13 percent. Together, the two firms account for more than 75 percent of United States sales of sardine snacks, and the remaining sales are widely dispersed among numerous firms with small individual market shares.

16. The acquisition of Bumble Bee by Connors would substantially increase concentration and lessen competition in the United States sardine snack market. Using a measure of concentration called the Herfindahl-Hirschman Index (''HHI''), defined and explained in Exhibit A, combining Connors and Bumble Bee would substantially increase the already high concentration in the market. The combination would increase the HHI from about 4200 to more than 5800, well in excess of levels that raise significant antitrust concerns.

17. The acquisition of Bumble Bee by Connors gives Connors the power profitably to increase prices unilaterally for one or more of its brands of sardine snacks, to the detriment of consumers.

C. Entry and Expansion

18. It is difficult to enter into the sale of sardine snacks in the United States, or to significantly expand sales of smaller brands. New entry or expansion requires years of effort and the investment of substantial sunk costs, including promotional expenditures and slotting allowances (for sales through grocery stores) to create brand awareness among consumers. Therefore, new entry or expansion would not be timely, likely or sufficient to thwart the anticompetitive effects of the acquisition.

V. Violation Alleged

19. The effect of Connors' acquisition of Bumble Bee may be to substantially lessen competitive and tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act.

20 The combination will likely have the following effects, among others:

a. Competition generally in the sale of sardine snacks in the United States would be substantially lessened;

b. Actual and potential competition between Connors and Bumble Bee in the sale of sardine snacks in the United States would be eliminated; and

c. Prices for sardine snacks sold in the United States likely would increase.

21. Unless restrained, the acquisition will violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

VI. Requested Relief

Plaintiff requests:

1. That Connors' acquisition of Bumble Bee be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18;

2. That Connors be ordered to divest Bumble Bee, and defendants and all persons acting on their behalf be permanently enjoined and restrained from carrying out any agreement, understanding, or plan, the effect of which would be to combine the businesses or assets of the defendants;

3. That plaintiff be awarded its costs of this action; and

4. That plaintiff receive such other and further relief as the case requires and the Court deems proper.

Dated: August 31, 2004.

Respectfully submitted,

R. Hewitt Pate, D.C. Bar #473598;

Assistant Attorney General.

J. Bruce McDonald

Deputy Assistant Attorney General.

J. Robert Kramer, II, Pa. Bar #23963,

Director of Operations and Civil Enforcement.

Roger W. Fones, DC Bar #303255,

Chief, Transportation, Energy and Agriculture Section.

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Trial Attorneys, United States Department of Justice, Antitrust Division, Transportation, Energy and Agriculture Section, 325 7th Street, NW.; Suite 500, Washington, DC 20530. Telephone: (202) 307–6351. Facsimile (202) 307–2784.

Exhibit A—Definition of ''HHI''

The term ''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI 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 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size and distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. 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 are considered to be moderately concentrated, and markets in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise significant antitrust concerns under the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines.

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BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Program Year (PY) 2005 Workforce Information Core Products and Services Grants Planning Guidance

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections