Certificate of Service

I hereby certify under penalty of perjury that a copy of the COMPETITIVE IMPACT STATEMENT has been served upon Aktiebolaget Volvo; Volvo Trucks North America, Inc.; Renault S.A.; Renault V.I.S.A.; and Mack Trucks, Inc., by placing a copy of the aforementioned document in the U.S. Mail, directed to each of the above-named parties at the addresses given below, this 6th day of February, 2001.

Aktiebolaget Volvo and Volvo, Trucks North America, Inc., c/o Kevin Arquit, Esq., Clifford Chance Rogers & Wells LLP, 200 Park Avenue, New York, NY 10166–0153.

Renault S.A., Renault V.I.S.A. and Mack Trucks, Inc., c/o Richard J. Urowsky, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004–2498.

Federick H. Parmenter,

Virginia Bar No.: 18184, Senior Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, NW., Suite 3000, Washington, DC 20530, (202) 307–0620.

[FR Doc. 01–4517 Filed 2–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 00–CV–954 (RMU)]

Public Comments and Response on Proposed Final Judgment United States v. Alcoa Inc. and Reynolds Metals Company

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States of America hereby publishes below the comments received on the proposed Final Judgment in *United States* v. *Alcoa Inc., et al.*, Civil Action No. 00–CV–954 (RMU), filed in the United States District Court for the District of Columbia, together with the United States' response to the comments.

Copies of the comments and response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, telephone: (202) 514–2481, and at the office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States' Response to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States hereby responds to the two public comments received regarding the proposed Final Judgment in this case.

I. Background

On May 3, 2000, the United States filed a civil antitrust complaint alleging that the proposed acquisition by Alcoa Inc. (''Alcoa'') of Reynolds Metals Company (''Reynolds'') would, if consummated, violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleged that the proposed merger would substantially lessen competition in the refining and sale of both smelter grade alumina (''SGA''), which is used to produce aluminum ingots, and chemical grade alumina (''CGA'' or ''hydrate''), an ingredient used in numerous industrial and consumer products. This competition has benefited consumers through lower prices and higher output. The proposed merger of Alcoa and Reynolds would substantially increase the concentration of the SGA and CGA markets, and the loss of competition would substantially enhance Alcoa's control over the prices of SGA and CGA, while also increasing the likelihood of anticompetitive coordination among the few remaining competitors in the SGA and CGA markets.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment and Hold Separate Stipulation and Order that would permit Alcoa to complete its acquisition of Reynolds, but would require divestitures to preserve competition in the relevant markets.[1] The proposed Final Judgment requires Alcoa and Reynolds to divest all of Reynolds' interest in the Worsley Joint Venture, established by agreement dated February 7, 1980, and subsequently amended (the ''Worsley Interest'') and all assets, interests, and rights owned by Reynolds at Reynolds' alumina refinery located near Corpus Christi, Texas, that are used or held for use for alumina refining (the ''Corpus Christi Assets'') (collectively referred to as the ''Divestiture Assets'') to an acquirer or acquirers acceptable to the Antitrust Division of the Department of Justice (''DOJ'' or ''Department''). The Worsley Interest must be divested within two hundred seventy (270) days after the filing of the Complaint, or five (5) days after notice of entry of the Final Judgment by the Court, whichever is later. The Corpus Christi Assets must be divested within one hundred eighty (180) days after the filing of the Complaint, or five (5) days after notice of entry of the Final Judgment by the Court, whichever is later.

Until the required divestitures are completed, the terms of a Hold Separate Stipulation and Order entered into by the parties apply to ensure that the Divestiture Assets shall be maintained and operated as independent, ongoing, economically viable, and active competitors in the manufacture and sale of SGA and CGA.

On December 14, 2000, the United States notified Alcoa, pursuant to Part VI of the proposed Final Judgment, that it had no objection to Alcoa's proposed sale of the Corpus Christi Assets to BPU Reynolds, Inc., and no objection to Alcoa's proposed sale of the Worsley Interest to Billiton plc.

The United States, Alcoa and Reynolds have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. In compliance with the APPA, the United States filed the Competitive Impact Statement (''CIS'') in this docket on June 6, 2000. The Complaint, proposed Final Judgment and CIS were published in the **Federal Register** on June 21, 2000. The 60-day comment period required by the APPA has now expired with the United States having received two comments: one from the American Antitrust Institute and one from Mr. Charles A. Stille.

II. Response to the Public Comments

A. Legal Standard Governing the Court's Public Interest Determination

The Tunney Act directs the Court to determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e). In making that determination, the ''court's function is not to determine whether the resulting array of rights and liabilities is one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest.'' *United States* v. *Western Elec. Co.,* 993 F.2d 1572, 1576 (D.C. Cir.), cert. denied, 510 U.S. 984 (1993). The Court should evaluate the relief set forth in the proposed Final Judgment and should enter the Judgment if it falls within the government's ''rather broad discretion to settle with the defendant

[1] The Court entered the Hold Separate Stipulation and Order on May 12, 2000.

within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *accord United States* v. *Associated Milk Producers,* 534 F.2d 113, 117–18 (8th Cir.), *cert. denied,* 429 U.S. 940 (1976). The Court should review the proposed Final Judgment ''in light of the violations charged in the complaint and * * * withhold approval only (a) if any of the terms appear ambiguous, (b) if the enforcement mechanism is inadequate, (c) if third parties will be positively injured, or (d) if the decree otherwise makes a 'mockery of judicial power.''' *Massachusetts Sch. of Law at Andover, Inc.* v. *United States,* 118 F.3d 776 783 (D.C. Cir. 1997) (quoting *Microsoft,* 56 F.3d at 1462). The Tunney Act does not empower the Court to reject the remedies in the proposed Final Judgment based on the belief that ''other remedies were preferable,'' *Microsoft,* 56 F.3d at 1460, nor does it give the Court authority to impose different terms on the parties. *See, e.g., United States* v. *American Tel. & Tel. Co.,* 552 F. Supp 131, 153, n.95 (D. D.C. 1982) (''*AT&T*''), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983) (mem.); *accord* H.R. Rep. No. 93–1463, at 8 (1974).

B. Response to American Antitrust Institute

The American Antitrust Institute (''AAI'') is ''pleased'' with the proposed Final Judgment but requests a second round of public comment once specific buyers have been found for the Divestiture Assets. AAI expresses concern that Alcoa will sell the assets to a ''weak or otherwise inappropriate buyer'' and believes that an additional round of comments ''will help us avoid this result.''

The Department objects to AAI's proposed second round of comments for three principal reasons. First, such a procedure would be inconsistent with procedures that courts have routinely applied in reviewing proposed Final Judgments. Second, such a procedure is unnecessary given the incentives and ability that the Department has to assure that divestitures are accomplished in a manner that protects competition. Third, the procedure proposed by AAI would itself create problems that might make divestitures in antitrust cases more difficult to accomplish.

1. The Tunney Act was enacted in 1974. Since that time, the Department has negotiated hundreds of consent decrees in merger cases that call for the divestiture of assets. In each instance, the public has been accorded an opportunity to comment upon the terms of the proposed Final Judgment. Often the court has proceeded to review and then enter the proposed Final Judgment before the purchaser of the to-be-divested assets has been selected, relying upon the Department to monitor the divestiture process. The Department has been unable to identify a single instance in which a court deferred entry of a proposed Final Judgment that was otherwise in the public interest in order to receive a second round of comments regarding the divestiture selection process.

AII has offered no basis for subjecting this case to a different process. Without explanation, AAI contends that the Department is subject to ''institutional pressure'' to accept ''any typically competent buyer'' and argues that this is not a ''sufficiently high standard.'' Yet, the test that the Department will apply to prospective purchasers in this case is no different than it applies in any other case. The Department is no less interested in assuring the preservation of competition in the SGA and CGA markets than is AAI, but AAI has simply provided the Court with no reason to deviate from the procedures that are routinely followed in other cases that are subject to the Tunney Act.

2. The procedures urged upon the Court by AAI are unnecessary because the Department has the incentives and ability to assure that the divestiture process is conducted in a proper manner. After concluding that the proposed transaction between Alcoa and Reynolds would be anticompetitive, the Department agreed to the proposed Final Judgment as a way to preserve the competition that existed prior to Alcoa's acquisition of Reynolds. Accordingly, the proposed Final Judgment is designed to ensure that the buyers of the divested assets will compete effectively against Alcoa and others in the industry, and the Department conducts a thorough investigation, as described below, before approving any particular purchaser.

The proposed Final Judgment contains provisions that (1) give the United States sole approval of the purchaser(s) of all the divested assets, (2) set forth the standards that the United States applies in evaluating proposed purchasers, and (3) require defendants Alcoa and Reynolds to provide information to the United States about the process undertaken by the defendants to select a buyer, as well as requiring information from defendants and the prospective purchaser for evaluation of the purchaser.

With regard to the standards that the proposed buyers must satisfy to be approved by the United States, Section IV.I. of the Proposed Final Judgment states:

> The divestitures, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to a purchaser or purchasers with respect to whom it is demonstrated to the United States' sole satisfaction that (a) the purchaser or purchasers have the intent to compete effectively in the refining and sale of SGA or CGA; and (b) the purchaser or purchasers have the managerial, operational, and financial capability to compete effectively in the refining and sale of SGA or CGA.

The proposed Final Judgment also gives the United States the means to obtain information necessary to assess the process by which the buyer or buyers are selected, the capability of the buyers, and the transaction terms. Section VI.A. states that notice shall be given that:

> [S]ets forth the details of the proposed transaction and lists the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested that is the subject of the binding contract, together with full details of the same.

One the United States receives such notice, Section VI.B. provides that:

> The United States, in its sole discretion, may request from Defendants, the trustee, the proposed purchaser or purchasers, or any other third party additional information concerning the proposed divestitures, the proposed purchaser or purchasers, and any other potential purchaser.

The provision also establishes deadlines by which time the information must be provided.[2]

After obtaining notice that the defendants have entered into a proposed transaction with a prospective purchaser of the divested assets, the Department begins an investigation into the transaction and prospective purchaser to review the selection process and analyze the managerial and financial ability of each purchaser.[3] Typically, Department staff requests from the defendants detailed information about the transaction, any previous or ongoing association with the

[2] Section IV.I. also provides protections against Alcoa's using any agreements with the purchaser or purchasers to prevent them from competing to the fullest extent against Alcoa:

> None of the terms of any agreement between the purchaser or purchasers and Defendants, including any joint venture, governance, operation or shareholder agreements, shall give Defendants the ability to limit the purchaser's capacity or output, to raise a purchaser's costs, to lower a purchaser's efficiency, or otherwise to interfere in the ability of the purchaser or purchasers to compete effectively.

[3] For example, in Fiscal Year 1999 and 2000, the Department resolved 38 merger cases by consent decree, 36 of which involved divestitures.

purchaser, and financial information about the assets. From the purchaser, staff typically will obtain financial statements, the proposal business plan, financing plans, and information about the proposed purchaser's assets. Interviews of relevant personnel, other bidders, competitors, and investment bankers are also often conducted. The Department's team of lawyers, economists, and financial analysts examines this information and makes a recommendation to approve or disapprove the purchaser. This recommendation typically whether the purchaser has the operational, managerial, and financial capacity to compete effectively over the long term, and whether the purchase agreement is free of any terms that might limit the purchaser's ability to compete effectively. This recommendation is reviewed within the Department and approved or disapproved. The parties are informed of the decision and, only if the decision is positive, may they proceed with the sale.

Other provisions permit the United States to review Alcoa's and Reynolds' adherence to the proposed Final Judgment's terms, both before and after the divestitures occur, by imposing obligations on Alcoa and Reynolds to provide information about their compliance with the proposed Final Judgment's divestiture provisions. Section VII.A. requires periodic affidavits ''as to the fact and manner of compliance with Section IV or Section V of this Final Judgment.'' The affidavits must include specific information about the defendants' attempts to solicit a purchaser or purchasers for the divested assets.[4]

In sum, the proposed Final Judgment's provisions empower the United States to review and approve the proposed purchaser or purchasers of the assets to be divested, and with these provisions, the United States is able to ensure that the purchasers of the assets are capable of competing effectively in the relevant markets. The various factors that AAI suggests are relevant to assessing a proposed purchaser, including ''financial strength, operational experience, and management quality of the new owners, as well as their history of competitive (or collusive) behavior,'' are examined by the United States under the provisions of the proposed Final Judgment.

3. The procedures proposed by AAI could actually have a counterproductive effect of making divestitures more difficult to accomplish. In conducting its investigation of proposed divestitures, the Department routinely obtains and relies upon highly sensitive competitive and financial information that a proposed purchaser is willing to provide to the Department on a confidential basis but would not be willing to make available publicly. The procedure envisioned by AAI, requiring the Department to provide a public explanation of why it approved a particular purchaser so that the public could comment, would inevitably require the Department to disclose such information, even though disclosure of such information could itself be competitively undesirable.[5]

Moreover, the procedures proposed by AAI would potentially delay the achievement of effective remedies to anticompetitive mergers. A second round of comments could delay entry of the proposed Final Judgment, which would extend the divestiture deadlines contained therein.

Any needless delay in the consummation of the divestitures would deny the public the benefits of the competition contemplated by the proposed Final Judgment.

A second round of public comment would also risk involving the Court in an inquiry that is not envisioned by the Tunney Act. Courts have repeatedly held that it is not within the ''public interest'' standard of Tunney Act to determine the ''best'' remedy or buyer. *See* Western Electric, 999 F.2d at 1516 (''the court's function is not to determine whether the resulting array of rights and liabilities ''is one that will best serve society,'' but only to confirm that the resulting ''settlement is, within the reaches of the public interest., (citing and quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981).'') There is no suggestion in the AAI request that the public comment process would be confined to consideration of the purchaser approved by the Department; indeed its comments suggest that it would want the Department to provide information from which AAI could evaluate the competitive potential of all potential buyers and urge the Court to second-guess the Department's decision. This is not an inquiry contemplated by the Tunney Act. *See Microsoft,* 56 F.3d at 1461.

For all of the foregoing reasons, the Court should reject AAI's proposal for a second round of public comments.

C. Response to Mr. Stille

Mr. Stille questions whether Alcoa, as the world's largest aluminum company, is a monopoly and whether there is competition in the aluminum industry in the United States, but does not provide a basis to reject the proposed Final Judgment. In its investigation into what Mr. Stille refers to as the overall ''aluminum industry,'' the Department determined that the industry consists of numerous separate product markets with varying geographic dimensions—some are local, some are worldwide. The Department then assessed the competitive implications of the loss of an independent Reynolds in those markets in which the merging firms compete with each other. After a thorough investigation, the Department concluded that competition would likely be substantially lessened in two markets, the worldwide for SGA and the North American market for CGA. Accordingly, the Department brought a case alleging that anticompetitive effects would be likely in those markets, and obtained relief in those markets designed to remedy the competitive harms posed by the proposed acquisition. Mr. Stille's comment does not offer any basis to conclude that the relief obtained is inadequate to redress the harm alleged in the complaint.

Because he argues for a case—one focused on the ''aluminum industry''—different from the one that the Department brought and does not address the relief ordered by the proposed Final Judgment, Mr. Stille's comment raises issues not relevant to this Tunney Act proceeding. The Tunney Act does not contemplate a judicial reevaluation of the government's determination of which violations to allege in the Complaint. ''Constitutional questions * * * would be raised if courts were to subject the government's exercise of its

[4] In addition to these provisions requiring that information be provided to the United States, Section X.A.1. of the proposed Final Judgment obligates Alcoa and Reynolds to permit compliance inspections by representatives of the Department of Justice of their ''books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Defendants * * * relating to any matters contained in this Final Judgment and the Hold Separate Stipulation and Order.'' Pursuant to Section X.A.2., the United States may also interview, informally or on the record, ''officers, employees, and agents * * * regarding any such matters.'' Section X.B. states that: ''Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment and the Hold Separate Stipulation and Order.''

[5] For example, the Department reviews a prospective purchaser's business plan. Disclosure of such information could itself be anticompetitive by revealing to the defendants the purchaser's strategy for competing against them. It is precisely to guard against this risk that Section X.C. of the proposed Final Judgment provides protections against disclosure of the information obtained by the United States in the course of the approval process.

prosecutorial discretion to non-deferential review.'' *Massachusetts Sch. of Law at Andover, Inc.,* 118 F.3d at 783 (citing *Microsoft,* 56 F.3d at 1457–59). The government's decision not to bring a particular case based on the facts and law before it at a particular time, like any other decision not to prosecute, ''involves a complicated balancing of a number of factors which are peculiarly within [the government's] expertise.'' *Heckler* v. *Chaney,* 470 U.S. 821, 831 (1985). Thus, the Court may not look beyond the Complaint ''to evaluate claims that the government did not make and to inquire as to why they were not made.'' *Microsoft,* 56 F.3d at 1459; *see also Milk Producers,* 534 F.3d at 117–18.

The legal precedent discussed above holds that the scope of a Tunney Act proceeding is limited to whether entry of this particular proposed Final Judgment, agreed to by the parties as settlement of this case, is in the public interest. Thus, the entry of a governmental antitrust decree forecloses no private party from seeking and obtaining appropriate antitrust remedies for defendants' activities. Defendants will remain liable for any illegal acts, and any private party may challenge such conduct if and when appropriate.

III. Conclusion

After careful consideration of the comments, the United States concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is in the public interest. The United States will move the Court to enter the proposed Final Judgment after the public comments and this Response have been published in the Federal Register, as 15 U.S.C. 16(d) requires.

For Plaintiff United States of America:
Dated: January 16th, 2001.
Respectfully submitted,

Janet R. Urban,
Maryland Bar #222–32–2468.
Mark S. Hegedus,
D.C. Bar #435525.
Andrew K. Rosa,
Hawaii Bar #6366.
Michelle J. Livingston,
D.C. Bar #461268.

Trial Attorneys,
U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW., Suite 500, Washington, DC 20530, (202) 307–6470, (202) 307–2441 (facsimile).

Certificate of Service

I hereby certify that I have caused a copy of the foregoing United States' Response to Public Comments to be served on counsel for Defendants in this matter in the manner set forth below:

By first class mail, postage prepaid, and by facsimile: Mark Leddy, Cleary, Gottlieb, Steen & Hamilton, 2000 Pennsylvania Avenue, NW., Washington, DC 20006–1801.
Michael H. Byowitz, Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, NY 10019–6150.
January 16, 2001.

Andrew K. Rosa,
Hawaii Bar #6366, Trial Attorney, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, NW., Suite 500, Washington, DC 20530, (202) 307–0886, (202) 616–2441 (fax).

The American Antitrust Institute

June 22, 2000.
Roger Fones, U.S. Department of Justice, 325 Seventh Street, NW, Suite 500, Washington, DC 20530.

Dear Mr. Fones: We are writing to convey the comments of The American Antitrust Institute regarding the proposed Final Judgment in *United States of America* v. *Alcoa Inc. and Reynolds Metals Company* (U.S. District Court, District of Columbia, Civil Action Number 1:00CV00954). Prior to a decision in that case, please publish these comments in the Federal Register, along with the Government's responses to them, pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

We are pleased that the proposed Final Judgment (in conjunction with the European Commission's requirement) would have the defendants sell off all of Reynolds' current alumina-refining capacity as a condition of the lawful merger of these two companies. As one can see from the AAI's monograph analyzing the competitive impact of this merger, previously provided to the Antitrust Division of the U.S. Department of Justice (*http://www.antitrustinstitute.org*, 2/23 link under ''Recent Activities''), we focused on the alumina market in our own analysis, because we feel that this market is where the merger poses the largest competitive threat.

Whether the proposed settlement of this investigation will preserve competition in the alumina market, however, cannot be determined at this time. The United States chose to condition its approval of the merger only on certain ''divestitures'' in the abstract, without having first approved particular buyers for the divested assets, as the antitrust agencies have sometimes done in other mergers. Given that decision, we would ask the Justice Department and the Court to allow a second phase of public comment once specific buyers have been found for the divested assets. At this point, the institutional pressure is great for the Justice Department to accept any typically competent buyer of the assets, and in this industry we feel that that may not be a sufficiently high standard. A second—possibly quite brief—public comment period would help insure that a higher standard is reached.

As Federal Trade Commission Chairman Robert Pitofsky noted in a February 17, 2000, speech about restructuring (including divestitures) in the merger-review process, ''the Commission in recent years has often insisted on knowing who the buyer or buyers [of divested assets] are likely to be, and on seeing the buyers' business plan,'' before entering a consent agreement.[1] Indeed, Chairman Pitofsky noted, ''[a] buyer up-front is now required in about 60% of Commission divestitures.''[2]

In our view, this is a laudable trend. Consider the conclusions of a 1999 study conducted by the FTC's Bureau of Competition in collaboration with the Bureau of Economics, which Chairman Pitofsky discussed in his February speech. The study reviewed 35 orders entered into between 1990 and 1994 that required the divestiture of assets as a result of FTC action, and determined which ones had succeeded in creating viable operations in the relevant market.[3] The result, according to Chairman Pitofsky, was that ''[i]n those instances in which divestiture did not work out, it usually was because the seller engaged in strategic conduct to seek out marginally effective buyers . . . or buyers, because of informational disadvantages and lack of experience in the particular markets involved, were unduly optimistic about their ability to compete effectively with the acquired assets.'' In other words, ineffective divestitures are generally caused by a poor selection of buyers.[4]

This is precisely our concern in the Alcoa/Reynolds case. We believe the new owners of the divested alumina refineries must be able to run them at least as efficiently as Reynolds has done in the past, and must be at least as well-positioned as Reynolds has been to compete with Alcoa for alumina sales, in order to insure against diminished competition. These determinations must be made on a case-by-case basis, considering the financial strength, operational experience, and management quality of the new owners, as well as their history of competitive (or collusive) behavior. Our research suggests that Alcoa is an unusually well-managed company in an industry where poor, high-cost, tradition-bound management is not uncommon. Thus, many of the potential buyers of the divested assets might have high overhead costs or unsophisticated management practices that would prevent them from competing meaningfully against a newly strengthened Alcoa.

Moreover, a buyer's suitability depends on what it is likely to do with its new alumina

[1] See Robert Pitofsky, ''The Nature and Limits of Restructuring in Merger Review'' (Feb. 17, 2000), or at *http://www.ftc.gov/speeches/pitofsky/restruct.htm.*

[2] Ibid., note 13, citing Richard G. Parker, ''Global Merger Enforcement'' (Sept. 28, 1999), available at *http://www.ftc.gov/speeches/other/barcelona.htm.*

[3] Federal Trade Commission Bureau of Competition Staff, ''A Study of the Commission's Divestiture Process'' (1999).

[4] As reported in the press release announcing the 1999 study of the divestiture process, William Baer, then director of the FTC's Bureau of Competition, assessed the study as follows: ''The study confirms the importance of one of the approaches currently being used by the Commission, the so-called 'up-front buyer,' where the buyer of the assets to be divested is identified earlier in the process. The use of the up-front buyer both reduces the likelihood that consumers will be harmed while waiting for the divestiture, and also assures that there will be an acceptable buyer.''

capacity. Will it sell at least as much alumina to third parties as Reynolds did, or will it use more of the alumina in its own aluminum smelter? To the extent that the alumina is used internally, will it simply substitute for third-party alumina that the owner previously purchased on the open market, or will it be used to expand aluminum production? The answers to such questions are buyer-specific, and could dramatically affect the future competitive dynamics of the aluminum industry.

For the above reasons, we once again urge the United States to allow some form of public comment on the proposed Final Judgment after buyers are found for the divested assets, even if the comment period is relatively brief. This is an industry with huge barriers to entry, relatively few large players, highly inelastic demand, and a history of antitrust problems. We cannot afford to tip the scales in an anticompetitive direction by allowing Alcoa to find weak or otherwise inappropriate buyers for the assets it is being asked to divest. A public explanation of the Government's reasons for approving specific buyers and a brief public comment on the buyers will help us avoid this result.

Sincerely,

Albert Foer,

President, American Antitrust Institute.

Matthew Siegel,

Research Fellow, American Antitrust Institute.

cc: The District Court for the District of Columbia, The Hon. Joel Klein, Assistant Attorney General for Antitrust.

700 S. Courthouse Road, Arlington, VA, 22204, June 8, 2000.

Ms. Janet Reno, Attorney General, The Department of Justice, Constitution Avenue at 10th Street, NW, Washington, DC 20530.

Dear Ms. Reno: One wonders why the federal government will permit the Aluminum Company of America (ALCOA) to take over Reynolds Metals Company (REYNOLDS).

On May 15, 1911, the Supreme Court dissolved Standard Oil Company.

The 13-year-old lawsuit against AT&T by the Justice Department was settled on January 8, 1982.

Now, the Justice Department is trying to break-up Microsoft Corporation.

If the above mentioned companies were and are monopolies, why isn't ALCOA included in that category, since it will become the world's largest aluminum producer? Where is the competition in the aluminum industry in the United States.

Sincerely,

Charles A. Stille.

[FR Doc. 01–4516 Filed 2–22–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 16, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: One-Stop Labor Market Information Grant Plan and Progress Reports.

OMB Number: 1205–0417.

Affected Public: State, Local, or Tribal Government and Federal Government.

Frequency: Annually and semi-annually.

Number of Respondents: 54.

Number of Annual Responses: 162.

Estimated Time Per Response: 36 hours to prepare and submit an annual plan and 6 hours to prepare and submit a semi-annual progress report.

Total Burden Hours: 2,592.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: ETA is requesting OMB approval for a grant annual plan narrative and two progress reports as part of the requirements for receiving One-Stop Labor Market Information (OS/LMI) core products and services reimbursement.

Type of Review: Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: One-Stop Occupational Employment Statistics Survey Plan and Progress Reports.

OMB Number: 1205–0418.

Affected Public: State, Local, or Tribal Government and Federal Government.

Frequency: Annually and semi-annually.

Number of Respondents: 54.

Number of Annual Responses: 162.

Estimated Time Per Response: 36 hours to prepare and submit an annual plan and 6 hours to prepare and submit a semi-annual progress report.

Total Burden Hours: 2,592.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: ETA is requesting OMB approval for a grant annual narrative and two progress reports as part of the requirements for receiving One-Stop Occupational Employment Statistics survey grant.

Ira L. Mills,

Departmental Clearance Officer.

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made