As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, 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 Microsoft,* 56 F.3d at 1458–62. 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; *United States* v *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001). 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 will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' SBC *Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have great flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[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. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *affdsub 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). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

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 bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Id.* at 1459–60. As this Court recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction ''[n]othing 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). The language wrote into the statute what the Congress that enacted the Tunney Act in 1974 intended, as Senator Tunney then explained: ''[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). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns*, 489 F. Supp. 2d at 11.[4]

VIII. Determinative Documents

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

Dated: June 10, 2008.

Respectfully submitted,

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BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Mobile Alliance

Notice is hereby given that, on April 25, 2008, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Open Mobile Alliance (''OMA'') filed written

[3] *Cf BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (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' '').

[4] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) 11 61,508, at 71,980 (W.D. Mo. 1977) (''Absent 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.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adaptive Mobile Security Ltd., Dublin, IRELAND; Adobe Systems Incorporated, San Francisco, CA; AltGen Co., Ltd., Mapo-Gu, Seoul, REPUBLIC OF KOREA; Amobee, Herzlia, ISRAEL; Axel Technologies, Turku, FINLAND; Best of the Web, Uniondale, NY; Cable Television Laboratories, Inc., Louisville, CO; Cambridge Silicon Radio plc, Cambridge, UNITED KINGDOM; castLabs GmbH, Berlin, GERMANY; Cell Guide, Rehorot, ISRAEL; Cisco Systems, Milpitas, CA; Cloudmark, Inc., San Francisco, CA; Communigate Systems, Mill Valley, CA; Connectivity Communications Limited, London, UNITED KINGDOM; decontis GmbH, Loebau, GERMANY; Digicert SSL Certificate Authority, Lindon, UT; DKI Technology Inc., Young deungpo-gu, Seoul, REPUBLIC OF KOREA; Dynamic Motion Technologies, Ipoh, Perak, MALAYSIA; Eluon Corporation, Seocho-Gu, Seoul, REPUBLIC OF KOREA; EnSoft Co., Ltd., Guro-gu, Seoul, REPUBLIC OF KOREA; Entosys Co., Ltd., Mapo-Gu, Seoul, REPUBLIC OF KOREA; Gemalto N.V., Amsterdam, THE NETHERLANDS; GoldSpot Media Inc., Sunnyvale, CA; Hand Cell Phone, Chattanooga, TN; Handmark, Inc.; Kansas City, MO; Hellosoft, Inc., Andhoa Pradesh, INDIA; INKA Entworks, Inc., Kangnam-Gu, Seoul, REPUBLIC OF KOREA; Intertrust Technologies Corporation, Sunnyvale, CA; INTICUBE Corp., Jung-gu, Seoul, REPUBLIC OF KOREA; Intrinsyc Software International, Inc., Bellevue, WA; I–ON Communications Co., Ltd., Gangnam-gu, Seoul, REPUBLIC OF KOREA; Kimia Solutions S.L., Madrid, SPAIN; Motive Inc., Austin, TX; Mtag, Paris, FRANCE; Nable Communications, Inc., Kangnam-Gu, Seoul, REPUBLIC OF KOREA; NeoMedia Technologies, Inc., Atlanta, GA; Nokia Siemens Networks, Munich, GERMANY; NOW Wireless Ltd., Croydon, UNITED KINGDOM; NTT Advanced Technology Corporation, Tokyo, JAPAN; NTT Multimedia Communications Laboratories, Inc., San Mateo, CA; Palm, Inc., Sunnyvale, CA; Payzy Corp., Koongtoey, Bangkok, THAILAND; Point-I Co., Ltd., Gangnam-Gu, Seoul, REPUBLIC OF KOREA; Porss Technology Co., Ltd., Xicheng District, Beijing, PEOPLE'S REPUBLIC OF CHINA; RealNetworks, Inc., Seattle, WA; RRD Reti Radiotelevisive Digitali, S.p.A, Milan, ITALY; RSystems Inc., El Dorado Hills, CA; Rx Networks, Vancouver, BC, CANADA; Scanbuy, Inc., New York, NY; Silicon & Software Systems Limited, Leopardstown, Dublin, IRELAND; Sintesio Foundation, Bled, SLOVENIA; Softbank Mobile Corp., Minato-ku, Tokyo, JAPAN; Solaiemes, Madrid, SPAIN; Sunplus mMobile, Hsinchu Science Park, TAIWAN; Syniverse Technologies, Inc., Tampa, FL; Telcordia, Piscataway, NJ; Telcoware Co., Ltd., Seocho-Gu, Seoul, REPUBLIC OF KOREA; Telogic Sdn. Bhd., Petaling Jaya, Selangor, MALAYSIA; Thin Multimedia, Inc., Seocho-Ku, Seoul, REPUBLIC OF KOREA; THOMSON, Cesson-Sevigne, FRANCE; TruePosition, Inc., Berwyn, PA; Ulticom Incorporated, Mt. Laurel, NJ; V4X SAS, Bordeaux Pessac, FRANCE; Vidiator, Bellevue, WA; Vishwak Solutions Pvt. Ltd., Chennai, INDIA; Webmessenger Inc., Tujunga, CA; weComm Limited, London, UNITED KINGDOM; Welgate Corp., Seocho Dong, Seoul, REPUBLIC OF KOREA; WRG, Inc., Seongnam-Si, Gyeonggi-Do, REPUBLIC OF KOREA; and Yahoo, Inc., Sunnyvale, CA, have been added as parties to this venture.

Also, Ad Vitam, Olivet, FRANCE; Adamind, Ra'anana, ISRAEL; Advanced Strategies Corp., Garden City, NY; ATIO Corporation, Coombe Place, Rivonia, REPUBLIC OF SOUTH AFRICA; BenQ Mobile, Munich, GERMANY; Bitfone Corporation, Laguna Niguel, CA; Bytemobile, Inc., Mountain View, CA; CA Inc., Islandia, NY; Ceno Technologies, Ltd., Shanghai, PEOPLE'S REPUBLIC OF CHINA; Consistec Engineering & Consulting, Saarbrucken, GERMANY; Contec Innovations Inc., Port Coquitlam, BC, CANADA; Dai Nippon Printing Co. Ltd., Toshima-ku, Tokyo, JAPAN; DxO Labs, Boulogne, FRANCE; Edge Technologies, Inc., Fairfax, VA; Elcoteq SE, Salo, FINLAND; Emirates Telecommunications Corporation, Abu Dhabi, UNITED ARAB EMIRATES; Estacado Systems, LLC, Dallas, TX; Faith, Inc., Kyoto, JAPAN; Fastmobile Inc., Rolling Meadows, IL; Finnet-liitto ry, Helsinki, FINLAND; Firsthop, Helsinki, FINLAND; Fraunhofer Institut, Ilmenau, GERMANY; Freescale Semiconductor Inc., Austin, TX; gate5 AG, Berlin, GERMANY; Global Locate, San Jose, CA; GloNav, Inc., Newport Beach, CA; Huone Inc., Daegu, REPUBLIC OF KOREA; IC3S Information, Computer Solartechnik AG, Quickborn, GERMANY; I'M Technologies Ltd., The Signature, SINGAPORE; Incony AG, Paderborn, GERMANY; INNVO Systems, SINGAPORE; Insignia Solutions, Fremont, CA; Institute for Information Industry, Taipei, TAIWAN; Integration Services & Technologies Pty Ltd., Downer, ACT, AUSTRALIA; Inventec Appliances (Jiangning) Corporation, Nanjing, PEOPLE'S REPUBLIC OF CHINA; Leadtone Wireless Ltd., Chaoyang District, Beijing, PEOPLE'S REPUBLIC OF CHINA; Linkuall-Alcomia, Bordeaux, FRANCE; McAfee, Inc., Santa Clara, CA; Microelectronica Espanola, Madrid, SPAIN; Micromethod Technologies, Inc., San Jose, CA; Miyowa, Marseille, FRANCE; Mobile Cohesion, Belfast, UNITED KINGDOM; Mobilitec, Inc., San Mateo, CA; MStar Semiconductor, Inc., Hsinchu Hsien, TAIWAN; NDS Israel, Jerusalem, ISRAEL; Netxcalibur SRL, Florence, ITALY; Norbelle, LLC, Rancho Palos Verdes, CA; NTT Advanced Technology Corp. (OLD), Musashino-shi, Tokyo, JAPAN; NTT Software Corporation, Mitaka-shi, Tokyo, JAPAN; 02, Slough, UNITED KINGDOM; ObexCode AS, Oslo, NORWAY; OSS Nokalva Inc., Somerset, NJ; Prodyne Technologies Inc., St. Catharines, Ontario, CANADA; Quanta Computer Inc., Tao Yuan Shien, TAIWAN; Renesas Technology Corp., Chiyoda-ku, Tokyo, JAPAN; Sasken Communication Technologies Limited, Bangalore, INDIA; Savaje Technologies, Chelmsford, MA; Smart Internet Technology, Eveleigh, NSW, AUSTRALIA; Smartfone Limited, Hong Kong, HONG KONG–CHINA; Sonus Networks, Inc., Chelmsford, MA; Square Enix, Inc., El Segundo, CA; TechnoCom Corporation, Carlsbad, CA; Teleca Sweden AB, Lund, SWEDEN; Telefonica Moviles, Madrid, SPAIN; TeleworX Group, Inc., McLean, VA; Telus Mobility, Scarborough, Ontario, CANADA; Texas Instruments, Incorporated, Dallas, TX; UK Department of Trade and Industry, London, UNITED KINGDOM; Verisign, Inc., Mountain View, CA; VIDA Software, S.L., Barcelona, SPAIN; Visa International Services Association, Foster City, CA; Vodafone IT Hizmetleri A.S., Istanbul, TURKEY; WiderThan, Seoul, REPUBLIC OF KOREA; and Wireless Technologies Oy, Espoo, FINLAND, have withdrawn as parties to this venture.

In addition, the following members have changed their names: LogicaCMG to Acision; Appium AB to AePona Ltd.; Alcatel to Alcatel-Lucent; Flextronics Software Systems to Aricent; Cingular Wireless to AT&T; IntroMobile Co., Ltd. to Insprit; Nortel Networks to Nortel; Telenor Mobil to Telenor ASA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OMA intends to file additional written notifications disclosing all changes in membership.

On March 18, 1998, OMA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 1998 (63 FR 72333).

The last notification was filed with the Department on January 18, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 26, 2007 (72 FR 8401).

J. Robert Kramer, II,

Director of Operations, Antitrust Division.

[FR Doc. E8–14596 Filed 6–26–08; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International SAE Consortium Ltd. (Formerly Known as SAE Consortium Ltd.)

Notice is hereby given that, on May 21, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International SAE Consortium Ltd. (''ISAEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Daiichi Sankyo, Inc., Edison, NJ; Takeda Global Research and Development Center, Inc., Deerfield, IL; and The Wellcome Trust, London, UNITED KINGDOM have been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ISAEC intends to file additional written notification disclosing all changes in membership.

On September 27, 2007, ISAEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 7, 2007 (72 FR 62867).

The last notification was filed with the Department of Justice on January 25, 2008. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 4, 2008 (73 FR 11680).

J. Robert Kramer, II,

Director of Operations, Antitrust Division.

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Testing of Methods for Measuring Hydrocarbon Dew Points in Natural Gas Streams

Notice is hereby given that, on May 13, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 et seq. (''the Act''), SwRI: Testing of Methods for Measuring Hydrocarbon Dew Points in Natural Gas Streams has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its nature and objective. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the period of performance has been extended to July 31, 2008.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SwRI intends to file additional written notifications disclosing all changes in membership.

On March 20, 2007, SwRI: Testing of Methods for Measuring Hydrocarbon Dew Points in Natural Gas Streams filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 16, 2007 (72 FR 19023).

The last notification was filed with the Department on October 30, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 20, 2007 (72 FR 72389).

J. Robert Kramer, II,

Director of Operations, Antitrust Division.

[FR Doc. E8–14598 Filed 6–26–08; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a registration under 21 U.S.C. 952(a)(2) authorizing the importation of such substances, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on May 13, 2008, Aptuit (Allendale) Inc., 75 Commerce Drive, Allendale, New Jersey 07401, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for clinical trials and research.

Any manufacturer who presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2008.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements