Medicare RBRVS involves consideration of recommendations from the AMA/ Specialty Society RVS Update Committee ("RUC"),15 which is composed of representatives of major medical societies, including AAOS. The Abt Restudy could be useful to the RUC and ultimately to the Health Care Financing Administration ("HCFA"), which administers the Medicare program, in the review and refinement of Medicare RBRVS. 16 The inability of AAOS under the Order to disseminate the Abt Restudy to members of the RUC appears likely to hinder participation in the process sponsored by HCFA for identifying information relevant to revising Medicare RBRVS and could increase the costs to HCFA in obtaining such information. Such inhibitions resulting from the Order would be inconsistent with federal policy as expressed in the Omnibus Budget Reconciliation Act of 1989 and the implementing regulations. The Order should be modified to permit AAOS to disseminate the Abt Study to other medical professional societies.

Finally, AAOS would like to provide copies of the Abt Restudy to its members, at least for the "limited purpose of furthering the Academy's efforts to persuade government bodies to modify their own physician payment practices." For example, according to AAOS, "in virtually all states, the Academy has no members who have ever seen the [Abt] Restudy, and therefore no one to meet with interested state officials responsible for compensation issues in Medicaid, workers' compensation or other medical programs." <sup>17</sup>

The prohibition on distribution by AAOS of relative value scales to its members is at the core of the Order, because of the alleged effect of maintaining the prices charged by its members. <sup>18</sup> Given the federal policy to rely on RBRVS for Medicare reimbursement and the increasing interest on the part of state governments and third party payers in relative value guides as a basis for physician reimbursement, however, the prohibition in the Order on dissemination by AAOS may inhibit the

contributions of its members to the development of RBRVS and increase the costs of disseminating the information. <sup>19</sup> Allowing AAOS to distribute the Abt Restudy to its members would allow them to participate in an informed manner in lobbying activities before state government agencies. Accordingly, AAOS should be permitted to distribute the Abt Restudy to its members.

The danger that AAOS members will use the Abt Restudy or other relative value guides as a basis for an unlawful agreement to fix the prices for their services has not been eliminated. Although the federal policy to use **RBRVS** for Medicare reimbursement counsels in favor of setting aside the restriction of the Order on distribution of relative values to AAOS members. AAOS and its members remain subject to the laws against price fixing. Setting aside the restrictions of the Order should not be construed as approval for use by AAOS or its members of a relative value guide as a basis for an unlawful agreement on price.

In some circumstances, preparation and circulation by a medical society of a relative value scale may have anticompetitive consequences. For example, in American Society of Internal Medicine, 105 F.T.C. 505 (1985) (advisory opinion), the Commission declined to approve a proposal to circulate a relative guide because of the "substantial danger that ASIM's proposed conduct would involve an agreement in restraint of trade amoung ASIM and physicians to concertedly adhere to the RVG." 20 The Joint Health Care Policy Statements also caution that "information exchanges among competing providers may facilitate collusion or otherwise reduce competition on prices." 21

## VI. Conclusion

Accordingly, it is ordered that this matter be, and it hereby is, reopened, and that the modified Order in Docket C–2856 be, and it hereby is, set aside, as of the effective date of this order.

By the Commission, Commissioner Starek concurring in the result only.

## Donald S. Clark,

Secretary.

[FR Doc. 95–14186 Filed 6–8–95; 8:45 am] BILLING CODE 6750–01–M

[Dkt. No. 3152]

## General Motors Corporation, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission. **ACTION:** Set aside order.

summary: This order reopens a 1942 modified consent order—which prohibited the respondent from coercing or intimidating its automobile retail dealers into purchasing accessories supplied by General Motors or from its designated source—and sets aside the modified consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

**DATES:** Modified consent order issued June 25, 1942. Set aside order issued April 18, 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S-2115, Washington, DC 20580. (202) 326-2526.

**SUPPLEMENTARY INFORMATION:** In the Matter of General Motors Corporation, et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 3, 38 Stat. 731; 15 U.S.C. 14)

## Order Reopening Proceeding and Setting Aside Order

Commissioners: Robert Pitofsky, Chairman, Mary L. Azcuenaga, Janet D. Steiger, Roscoe B. Starek, III, and Christine A. Varney.

On February 6, 1995, General Motors Corporation ("GM") as respondent and successor to General Motors Sales Corporation, 1 filed its Petition to Reopen and Vacate Modified Order ("Petition") in this matter. GM requests that the Commission set aside the 1942 modified consent order in this matter pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. § 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Statement of Policy With Respect to **Duration of Competition Orders and** Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 FR 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition, GM affirmatively states that it has not engaged in any conduct violating the

<sup>&</sup>lt;sup>15</sup> Petition at 13, *citing* 59 Fed. Reg. 32,754 & 32,760 (1994).

<sup>&</sup>lt;sup>16</sup> See Petition at 18–19.

<sup>&</sup>lt;sup>17</sup> Petition at 26.

<sup>&</sup>lt;sup>18</sup> See also Advisory Opinion in American Society of Internal Medicine, 105 F.T.C. 505, 510 (1985) ("[A]]though the Commission cannot \* \* \* predict that widespread concerted conformance to the RVG would necessarily result from its dissemination \* \* \* the available information on this specific RVG proposal indicates that this type of agreement in restraint of trade is a substantial danger.").

<sup>&</sup>lt;sup>19</sup> As a practical matter, material submitted to the Health Care Financing Administration on the public record presumably is available to members of AAOS on request.

<sup>20</sup> Id. at 511.

<sup>&</sup>lt;sup>21</sup> Health Care Policy Statements at 20,784.

<sup>&</sup>lt;sup>1</sup> Since the Commission issued the order in this matter General Motors Sales Corporation, a named respondent in the order, was dissolved and its assets now reside within respondent General Motors Corporation.