

and its dealers' conduct can become clearly legal. Playmobil has agreed not even to accept such communications from its dealers for five years.

Section IV E of the Final Judgment prohibits Playmobil from establishing a cooperative advertising program that conditions rebates in any way upon a dealer's adherence to certain advertising price levels. Playmobil did not have a cooperative advertising program, but its illegal price agreements with dealers were often triggered by advertising. In order to avoid any discussions at all with dealers on the sensitive issue of retail pricing, Playmobil has also agreed not to undertake a cooperative advertising program during the first five years of the decree. This will provide a period of time during which market conditions can become more competitive, and Playmobil and its dealers can become more accustomed to remaining within legal parameters.

Section V of the proposed Final Judgment is designed to ensure that Playmobil's dealers are aware of the limitations the Final Judgment imposes on Playmobil. Section V requires Playmobil to send notices and copies of the Judgment to each dealer who purchased Playmobil products from the defendant in 1993 or 1994. In addition, Playmobil must send notices and copies of the Judgment to every other dealer to which it sells Playmobil products within ten years of the date of the Judgment's entry.

Sections VI and VII require Playmobil to set up an antitrust compliance program and designate an antitrust compliance officer. Under the program, Playmobil is required to furnish a copy of the Judgment and a less formal written explanation of it to each of its officers and directors and each of its non-clerical employees, representatives, or agents responsible for the sale or advertising of Playmobil products in the United States.

In addition, the proposed Final Judgment provides methods for determining and securing Playmobil's compliance with its terms. Section VIII provides that, upon request of the Department of Justice, Playmobil shall submit written reports, under oath, with respect to any of the matters contained in the Judgment. Additionally, the Department of Justice is permitted to inspect and copy all books and records, and to interview officers, directors, employees and agents, of Playmobil.

Section IX makes the Judgment effective for ten years from the date of its entry.

Section XI of the proposed Final Judgment states that entry of the Judgment is in the public interest. The

APPA conditions entry of the proposed Final Judgment upon a determination by the Court that the proposed Final Judgment is in the public interest.

The Government believes that the proposed Final Judgment is fully adequate to prevent the continuation or recurrence of the violation of section 1 of the Sherman Act alleged in the Complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

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 attorney 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 in any subsequent private lawsuit that may be brought against the defendant.

V

Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant 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 provides a period of at least 60 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 wants to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. 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: Rebecca P. Dick, Chief, Civil Task Force I, U.S. Department of Justice, Antitrust Division, 1401 H Street NW., Room 3700, Washington, DC 20530.

Under Section X of the proposed Judgment, the Court will retain

jurisdiction over this matter for the purpose of enabling either of the parties to apply to the Court for such further orders or directions as may be necessary or appropriate for the construction, implementation, modification, or enforcement of the Judgment, or for the punishment of any violations of the Judgment.

VI

Alternatives to the Proposed Final Judgment

The only alternative to the proposed Final Judgment considered by the Government was a full trial on the merits and on relief. Such litigation would involve substantial cost to the United States and is not warranted, because the proposed Final Judgment provides appropriate relief against the violations alleged in the Complaint.

VII

Determinative Materials and Documents

No particular materials or documents were determinative in formulating the proposed Final Judgment. Consequently, the Government has not attached any such materials or documents to the proposed Final Judgment.

Dated:

Respectfully submitted,
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DEPARTMENT OF LABOR

Mine Safety and Health Administration; Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Serendipity Mining, Inc.

[Docket No. M-95-01-C]

Serendipity Mining, Inc., P.O. Box 1588, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its No. 4 Mine (I.D. No. 15-17568) located in Whitley County, Kentucky. The petitioner proposes to monitor continuously with a hand-held methane and oxygen detector instead of using a methane monitoring system on permissible three-wheel tractors with