

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)), *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). 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; *see also InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“the ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). 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. *Microsoft*, 56 F.3d 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 that “[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 Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney

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 11.³

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: June 10, 2010.

Respectfully submitted,

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³ 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) ¶ 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.”).

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,127]

Hewlett-Packard Company, Inkjet Consumer Solutions, HP Consumer Hardware Inkjet Lab, Including Leased Workers From Hightower Technology Capital, Inc., Syncro Design, VMC, PDG Oncore, K Force, Supply Source, Sigma Design, Novo Engineering, Act, Stilwell Baker, and Beyondsoft, Vancouver, WA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 23, 2008, applicable to all workers of Hewlett-Packard Company, Inkjet Consumer Solutions, HP Consumer Hardware Inkjet Lab, Vancouver, Washington. The notice was published in the **Federal Register** on November 10, 2008 (73 FR 66676). The notice was amended on January 9, 2009 to include on-site leased workers from Hightower Technology Capital, Inc. The notice was published in the **Federal Register** on January 26, 2009 (74 FR 4460).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers developed research design, engineering specifications, and drawings used in the manufacturing of HP Deskjet and Photosmart printers.

New information shows that workers leased from Syncro Design, VMC, PDG Oncore, K Force, Supply Source, Sigma Design, Novo Engineering, ACT, Stilwell Baker and BeyondSoft were employed on-site at the Vancouver, Washington location of Hewlett Packard Company, Inkjet Consumer Solutions, HP Consumer Hardware Inkjet Lab. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Syncro Design, VMC, PDG Oncore, K Force, Supply Source, Sigma Design, Novo Engineering, ACT, Stilwell Baker and BeyondSoft working on-site at the

Vancouver, Washington location of the subject firm.

The intent of the Department's certification is to include all workers employed at Hewlett Packard Company, Inkjet Consumer Solutions, HP Consumer Hardware Inkjet Lab, Vancouver, Washington who were adversely affected by a shift in production to Shanghai, China.

The amended notice applicable to TA-W-64,127 is hereby issued as follows:

All workers of Hewlett-Packard Company, Inkjet Consumer Solutions, HP Consumer Hardware Inkjet Lab, Vancouver, Washington, including on-site leased workers of Hightower Technology Capital, Inc., Syncro Design, VMC, PDG Oncore, K Force, Supply Source, Sigma Design, Novo Engineering, ACT, Stilwell Baker and BeyondSoft, who became totally or partially separated from employment on or after September 26, 2007 through October 23, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 3rd day of June 2010.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-73,230; TA-W-73,230A]

Plastic Omnium Automotive Exteriors, LLC, Anderson, SC; Plastic Omnium Automotive Exteriors, LLC, Troy, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 18, 2010, applicable to workers of Plastic Omnium Automotive Exteriors, LLC, Anderson, South Carolina. The notice was published in the **Federal Register** April 23, 2010 (75 FR 21356). The workers are engaged in the production of automotive parts.

New information shows that worker separations have occurred involving workers in support of the Anderson, South Carolina location of Plastic Omnium Automotive Exteriors, LLC, working out of Troy, Michigan. The

workers provided office, engineering and sales services supporting the Anderson, South Carolina production facility of the subject firm.

Based on these findings, the Department is amending this certification to include workers in support of the Anderson, South Carolina facility working out of Troy, Michigan.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected as suppliers of component parts to be incorporated into automotive vehicles to a firm that employed a worker group who is covered by an active Trade Adjustment Assistance Certification.

The amended notice applicable to TA-W-73,230 is hereby issued as follows:

"All workers of Plastic Omnium Automotive Exteriors, LLC, Anderson, South Carolina (TA-W-73,230), and Troy, Michigan (TA-W-73,230A), who became totally or partially separated from employment on or after January 6, 2009 through March 18, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed in Washington, DC this 4th day of June, 2010.

Del Min Amy Chen

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-70,437]

Circuit Science, Inc., Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through Circuit Test; Plymouth, MN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 30, 2009, applicable to workers of Circuit Science, Inc., Plymouth, Minnesota. The notice was published in the **Federal Register** on January 25, 2010 (75 FR 3929).

At the request of the state, the Department reviewed the certification

for workers of the subject firm. The workers produced rigid printed circuit boards.

New information shows that Circuit Science, Inc. purchased Circuit Test and that some workers separated from employment at the subject firm had their wages reported under a separated unemployment insurance (UI) tax account under the name Circuit Test.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of rigid printed circuit boards.

The amended notice applicable to TA-W-70,437 is hereby issued as follows:

All workers of Circuit Science, Inc., including workers whose unemployment insurance (UI) wages are reported through Circuit, Plymouth, Minnesota, who became totally or partially separated from who became totally or partially separated from employment on or after May 20, 2008 through November 30, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 27th day of May 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-70,784]

Chrysler Group LLC, Formerly Known as Chrysler LLC, Kenosha Engine Plant, Including On-Site Leased Workers From Caravan Knight Facilities Management, LLC, Kenosha, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 2, 2009, applicable to workers of Chrysler Group LLC, formally known as Chrysler, LLC, Kenosha Engine Plant, Kenosha, Wisconsin. The notice was published in