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 comment in order to determine whether those explanations are reasonable under the circumstances.

United States v. Mid-America Dairymen, Inc., 1977–1 Trade Cas. ¶ 61,508 at 71,980 9W.d. Mo. 1977). Accordingly, 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), quoting United States v. Bechtel Corp., 648 F.2d 660,666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981). Precedent requires 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 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.[4]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability:

[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.'' [5]

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and the Act does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against the cases.'' Microsoft, 56 F.3d at 1459. Since ''[t]he 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 might have but did not pursue. Id.

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.

For plaintiff United States of America.

Respectfully submitted,

Kurt Shaffert,

D.C. Bar No. 11791.

John W. Poole,

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William Stallings,

D.C. Bar No. 444924, Attorneys, Civil Task Force, Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Rm. 300, Washington, DC 20530.

Dated: February 23, 2000, Washington, DC.

Certificate of Service

This certifies that on this day I caused a true copy of the foregoing Competitive Impact Statement to be served by first class mail, postage prepaid, upon counsel for defendants, as indicated below:

C. Loring Jetton, Jr., Esquire, Wilmer, Cutler & Pickering, 2445 M Street, Northwest, Washington, DC 20037–1420, Counsel for Defendants Miller Industries, Inc., Miller Industries Towing Equipment, Inc., and Chevron, Inc.

Dated: February 23, 2000.

Kurt Shaffert.

[FR Doc. 00–5536 Filed 3–10–00; 8:45 am]

BILLING CODE 4410–11–M

Impact Statement and Response to Comments files pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and the further proceeding would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S.C.C.A.N. 6535, 6538.

[4] United States v. Bechtel, 648 F.2d at 666 (internal citations omitted) (emphasis added); see United v. BNS, Inc., 858 F. 2d at 463; United States v. National Broadcasting Co., 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); Gillette, 406 F. Supp. at 716. See also United States v. American Cyanamid Co., 719 F. 2d 558, 565 (2d Cir. 1983).

[5] United States v. American Tel. & Tel. Co., 552 F. Supp. 131, 150 (D.D.C. 1982) (citations omitted), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983), quoting Gillette, 406 F. Supp. at 716; United States v. Alcan Aluminium, Ltd., 605 F. Supp. 619, 622 (W.D. Ky. 1985).

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Notice of Rechartering

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of Recharting of MACOSH.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. app. I), and after consultation with the General Services Administration (GSA), I have determined that rechartering the Maritime Advisory Committee for Occupational Safety and Health (MACOSH) is in the public interest in connection with the performance of duties imposed on the Department by the Occupational Safety and Health Act of 1970 (OSH Act), 84 Stat. 1590, 29 U.S.C. 651 *et seq.*). Authority to establish this Committee, which addresses maritime matters, is found in sections 6(b) and 7(b) of the OSH Act; section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and by other general agency authority in Title 5 of the United States Code.

FOR FURTHER INFORMATION CONTACT: Chappell Pierce, Acting Director, Office of Maritime Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3609, 200 Constitution Avenue, N.W., Washington, DC 20210; Telephone: (202) 693–2255.

SUPPLEMENTARY INFORMATION:

I. Background

The Committee will advise OSHA on matters relevant to the safety and health of workers in the maritime industry. This includes advice on maritime issues that will result in more effective enforcement, training, and outreach programs, and streamlined regulatory efforts using consensual rulemaking techniques, where appropriate, as well as standard rulemaking procedures.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and OSHA's regulations covering advisory committees (29 CFR Part 1912). The Committee charter will be filed 15 days from the date of this publication.

II. Nominations

On January 24, 2000, the Agency solicited nominations for membership on MACOSH (65 FR 3740). Interested persons were invited to submit their own names or the name of another person who they believed to be qualified to serve on the advisory committee. OSHA will publish the names of those selected for membership on MACOSH shortly in the **Federal Register**.

III. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210, pursuant to sections 6(b) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR Part 1912.

Signed at Washington, DC this 6th day of March 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–6109 Filed 3–10–00; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–11; Exemption Application No. D–10721, et al.]

Grant of Individual Exemptions; Metropolitan Life

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Metropolitan Life Insurance Company (MetLife), Located in New York, NY

[Prohibited Transaction Exemption 2000–11; Exemption Application No. D–10721]

Exemption

Section I. Exemptions Involving the Demutualization of Metlife and the Excess Holding of Consideration by Plans Sponsored by Metlife and its Affiliates (the MetLife Plans)

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the receipt, by any eligible policyholder (the Eligible Policyholder) of MetLife that is an employee benefit plan (the Plan), subject to applicable provisions of the Act and/or the Code, including any Eligible Policyholder that is a Plan covering employees of MetLife or its affiliates, of an interest (the Interest) in a trust (the Trust), whose corpus consists of common stock (the Common Stock) issued by MetLife, Inc. (the Holding Company), the parent of MetLife; or (2) the receipt of cash or policy credits by such Plans,[1] in exchange for such Eligible Policyholder's membership interest in MetLife, pursuant to a plan of conversion (the Plan of Reorganization) adopted by MetLife and implemented in accordance with section 7312 of the New York Insurance Law.

In addition, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply to the receipt and holding, by a MetLife Plan, of Trust Interests, whose fair market value exceeds 10 percent of the value of the total assets held by such Plan.

The exemptions that are described above are subject to the following conditions:

(a) The Plan of Reorganization is implemented in accordance with procedural and substantive safeguards that are imposed under New York Insurance Law and is subject to review and approval by the New York Superintendent of Insurance (the Superintendent). The Superintendent reviews the terms of the options that are provided to Eligible Policyholders of MetLife as part of such Superintendent's review of the Plan of Reorganization, and the Superintendent only approves the Plan of Reorganization following a determination that the Plan is fair and equitable to all Eligible Policyholders and is not detrimental to the public.

(b) Each Eligible Policyholder has an opportunity to vote at a special meeting to approve the Plan of Reorganization after receiving full written disclosure from MetLife.

(c) One or more independent fiduciaries of a Plan (the Independent Fiduciary) that is an Eligible Policyholder receives Trust Interests, cash or policy credits pursuant to the terms of the Plan of Reorganization and neither MetLife nor any of its affiliates exercises any discretion or provides ''investment advice,'' within the meaning of 29 CFR 2510.3–21(c) with respect to such acquisition.

(d) In the case of a MetLife Plan, the Independent Fiduciary—

(1) Votes at the special meeting of Eligible Policyholders to approve the Plan of Reorganization;

(2) Makes any election, to the extent available under the Plan of Reorganization, to receive Trust Interests or cash on behalf of the MetLife Plan;

(3) Monitors, on behalf of the MetLife Plan, the acquisition and holding of any Trust Interests received;

[1] Unless otherwise noted, the terms ''Plan'' and ''MetLife Plan'' are referred to collectively as the ''Plans.''