by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted a proposed consent order from Fair Allocation System, Incorporated (''FAS''). FAS is an organization of twenty-five automobile dealerships from five Northwest states that was formed to address dealer concerns over the marketing practices of automobile manufacturers. In particular, FAS members were concerned about an automobile dealership—Dave Smith Motors of Kellogg, Idaho—which was attracting customers from around the Northwest and taking substantial sales from FAS members by selling cars for low prices and marketing them on the Internet.

According to the complaint, because of these concerns, the members of FAS collectively attempted to force Chrysler to change its vehicle allocation system. Chrysler allocates vehicles based on the dealer's total sales; FAS members wanted Chrysler to allocate vehicles based on the expected number of sales from a dealer's local area, which would have substantially reduced the number of cars available to a dealership like Dave Smith Motors that drew customers from a wider geographic area. According to the complaint, the members of FAS threatened to refuse to sell certain Chrysler vehicles and to limit the warranty service they would provide to particular customers unless Chrysler changed its allocation system so as to disadvantage dealers that sold large quantities of vehicles outside of their local geographic areas.

The compliant charges that FAS's agreements or attempts to agree with its dealer members to coerce Chrysler violate Section 5 of the FTC Act, as amended, 15 U.S.C. 45. According to the complaint, FAS members constitute a substantial percentage of the Chrysler, Plymouth, Dodge, Jeep and Eagle dealerships in eastern Washington, Idaho, and western Montana, and FAS's threats would have harmed competition and consumers in those areas. In particular, FAS's efforts would have deprived consumers of local access to certain Chrysler models and to warranty service, and would have reduced competition among automobile dealerships, including rivalry based on price or via the Internet.

The goal of the boycott was to limit the sales of a car dealer that sells cars at low prices and via a new and innovative channel—the Internet. FAS's threatened action against Chrysler is a *per se* illegal group boycott. In *United States* v. *General Motors,* 384 U.S. 127 (1966), the Supreme Court held *per se* illegal a comparable dealer cartel in Los Angeles that sought to prevent other area dealers from selling automobiles through discount brokers. Since General Motors, the Supreme Court has twice cited its *per se* condemnation of dealer cartels with approval. *See Continental T.V., Inc.* v. *GTE Sylvania Inc.,* 433 U.S. 36, 58 n. 28(1977); *Business Electronics* v. *Sharp Electronics,* 485 U.S. 717, 734 n. 5 (1988). Such dealer cartels are ''characteristically likely to result in predominantly anticompetitive effects,'' *Northwest Wholesale Stationers* v. *Pacific Stationery & Printing Co.,* 472 U.S. 284, 295 (1985), because they aim to limit competition while producing no plausible efficiencies.

Even where an agreement otherwise appears to fall in a category traditionally analyzed under a *per se* rule, a more extensive, rule-of-reason analysis may be necessary if there are plausible efficiency justifications for the conduct. *Broadcast Music, Inc.* v. *Columbia Broadcasting System, Inc.,* 441 U.S. 1 (1979). Here, however, there appear to be no plausible efficiencies that would justify the dealers' conduct. Even if there were reason to believe that Dave Smith Motors, or similarly operated dealerships, were free-riding [1] on the efforts of more traditional dealers, no boycott would be needed to deal with the problem. Manufacturers have strong incentives to prevent free-riding by a few of their dealers at the expense of the rest, and can be expected to be responsive to complaints from their dealers acting individually if the free-riding concerns are genuine. In the absence of an efficiency justification that plausibly explains why concerted action is necessary, extensive searches for and investigations of justifications for such conduct would be unwarranted, and would only add a layer of complication and delay.

In this case, the absence of a justification is especially clear. Chrysler has previously rejected demands that it change its allocation system and publicly lauded Dave Smith Mothers. *See* ''Chrysler Corp. Will Let Dealers Shoot It Out in Cyberspace,'' Automotive News, p. 1, January 27, 1997. Indeed, Chrysler's Vice President of Sales and Marketing has flatly stated that Chrysler believes the best way to increase its sales penetration is to provide dealers as much product as they can sell, no matter where the customer comes from. *See* ''Chrysler VP Has Calming Effect,'' Automotive News, p. 28, February 10, 1997. Even if Chrysler had acceded to the boycotters' demands, however, that would not have justified a horizontal boycott by the dealers.

The proposed consent order would prohibit FAS from participating in, facilitating, or threatening any boycott of or concerted refusal to deal with any automobile manufacturer or consumer. There is nothing in the proposed order, however, that would prohibit FAS from informing automobile manufacturers about the views and opinions of FAS members.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement containing the proposed consent order to modify in any way its terms.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

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[1] ''Free-rider'' concerns may arise where two distributors sell the same product, but provide different levels of service in connection with the sale of that product. For example, one distributor may have a full-service showroom and the other may sell out of a warehouse that offers no service. Consumers may visit the showroom, learn all they need to know about the product, and then purchase the produce from a ''no-service'' discounter. The problem is that over time the full-service distributor may lose its incentive or financial ability to provide the services, to the detriment of both the manufacturer and the consumers who value those services. Free-rider concerns generally do not exist if the full-service distributor is compensated for its services.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Benjamin S. Pender, Medical University of South Carolina: Based upon a report from the Medical University of South Carolina (MUSC), information obtained by the Office of Research Integrity (ORI) during its oversight review, and Mr. Pender's own admission, ORI found that Mr. Pender, former graduate student, Medical Science Training Program, MUSC, engaged in scientific misconduct in biomedical research supported by a grant from the National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH). Mr. Pender cooperated with MUSC's investigation.

Specifically, Mr. Pender presented to the MUSC Shock Research Group (1) a blank autoradiographic film, which he represented to be a Northern blot, as evidence that he had conducted an experiment that he had not done, and (2) a photographic slide representing a Western blot analysis that he had falsified by using a computer to duplicate two sets of bands to misrepresent oligonucleotide treatments at different times and by misrepresenting the identities of two bands in one of the sets. Also, Mr. Pender falsified data from experiments with thromboxane B_2 and tumor necrosis factor alpha that were published and distributed in an abstract entitled ''Antisense Oligonucleotide to G Protein Inhibits Endotoxin Stimulated Thromboxane (Tx) B2 production'' (*Supplement* to *Shock* 7:20, 1997). This data also was reported as Figure 4 of a submitted but unpublished and withdrawn manuscript and in the Progress Report for an NIH grant.

Mr. Pender has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning July 31, 1998:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 (Debarment Regulations); and

(2) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

No scientific publications were required to be corrected as part of this Agreement. The abstract was withdrawn before presentation.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 98–21589 Filed 8–11–98; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–25]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice. Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Projects

1. A National Registry for Surveillance of Non-Occupational Exposures to Human Immunodeficiency Virus and Post-Exposure Antiretroviral Therapy—New—The National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Surveillance, and Epidemiology proposes to develop and implement a surveillance registry in the United States which will provide data for analysis and technical reports on the frequency and types of nonoccupational exposures to HIV, offers and acceptance rates of antiretroviral therapy to attempt interruption of transmission and clinical course and outcomes of persons with documented HIV exposure.

Studies of antiretroviral agents for preventing HIV infection in health care workers and from pregnant women to their infants have shown antiretroviral therapy to be efficacious. As a result of these findings, the Public Health Service has recommended the use of antiretroviral drugs to reduce HIV transmission among those exposed in the work place and from HIV-infected women to their infants. These findings may not be directly relevant to nonoccupational settings. Hence, further studies are needed before concluding that use of antiretroviral agents following nonoccupational exposures is clearly effective in preventing HIV infection. The surveillance system will provide data to address those issues.

The surveillance system will be a voluntary and anonymous system in which all health care providers will be encouraged to report by phone, fax, mail, or website 24 hours a day about all persons to whom they have offered antiretroviral therapy after a nonoccupational exposure to HIV. Data will be collected using an assigned unique registry number. During the initial contact, patient consent will be ascertained, data will be collected on the characteristics of the exposure event, knowledge of HIV status of the source patient, and treatment decision of the provider for patients whose HIV exposure has been documented. Follow-up information will be requested at 4–6 weeks, 6 months, and 12 months post prescription of post exposure therapy. Estimated cost to respondents and government is $200,000.00 a year.