Microsoft Corp., 56 F.3d 144B, 1458–62 (D.C. Cir. 1995).

''Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to itnervene.'' 15 U.S.C. 16(e)(2). Thus, in conducting this inquiry, ''[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).[1] Rather.

> [a]bsent 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 responss to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.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) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62. Courts have held 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 the 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 effectivness of antitrust enforcement by consent decree.

[1] *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)(recognizing it was not the court's duty to settle; rather, the court must only answer ''whether the settlement achieved [was] within the reaches of the public interest''). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed by the Department of Justice 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 that further proceedings would aid the court in resolving those issues. See H.R. Rep. No. 93–1463, 93rd Cong., 2d Sess. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538–39.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2]

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 interests.' '' *United States* v. *AT&T Corp.* 552 F. Supp 131, (D.D.C. 1982) (citation omitted) (quoting Gillette, 406 F. Supp. at 716), *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 through the court would have imposed a greater remedy).

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. 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. *Id.* at 1459–60.

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: October 20, 2005.

Respectfully submitted,

Jennifer L. Cihon (OH Bar #0068404)
Angela L. Hughes (DC Bar #303420)
John M. Snyder (DC Bar #456921)
Bethany K. Hipp (GA Bar #141678).

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *Gillette,* 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

Certificate of Service

I hereby certify that on October 20, 2005, I caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants in this matter in the manner set forth below:

By electronic mail and hand delivery:

Counsel for Defendant Cal Dive International, Inc., Daniel L. Wellington (D.C. Bar #273839), Neely B. Agin (D.C. Bar #456005), Fulbright & Jaworski LLP, 801 Pennsylvania Avenue, NW., Washington, DC 20004–2623, Tel: (202) 662–4574, Fax: (202) 662–4643.

Counsel for Defendants Stolt Offshore S.A., Stolt Offshore, Inc. and S&H Diving LLC, Paul C. Cuomo (D.C. Bar #457793), Sean F. Boland (D.C. Bar #249318), Howrey LLP, 1299 Pennsylvania Avenue, NW., Washington, DC 20004–2402, Tel: (202) 783–0800, Fax: (202) 383–6610.

Jennifer L. Cihon (OH Bar #0068404,

Department of Justice, Antitrust Division, 325 Seventh Street, NW., Suite 500, Washington, DC 20530, (202) 307–3278, (202) 616–2441 (Fax).

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BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

October 25, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13,44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision of a currently approved collection.

Title: Reporting and Performance Standards System for Migrant and Seasonal Farmworker Programs Under Title I, Section 167 of the Workforce Investment Act (WIA).

OMB Number: 1205–0425.

Frequency: Quarterly; Annually.

Affected Public: State, Local or Tribal government; Not-for-profit institutions.

Type of Response: Recordkeeping; Reporting.

Number of Respondents: 53.

Annual Responses: 29,871.

Average Response time: 60.25 hours—combined annual time for filling out Form 9095 quarterly and Forms 9093 and 9094 annually.

Total Annual Burden Hours: 70,562.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: This collection of information relates to the operation of employment and training programs for Migrant and Seasonal Farmworkers under title I, section 167 of the Workforce Investment Act (WIA). It also contains the basis of the new performance standards system for WIA section 167 grantees, which is used for program oversight, evaluation and performance assessment.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 05–21598 Filed 10–28–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request Disclosures by Insurers to General Account Policyholders

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), the Department of Labor (the Department) conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This program helps to ensure that the data the Department gathers can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

By this notice, the Department is soliciting comments concerning the information collection provisions of the regulation pertaining to section 401(c) of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The statute and the regulatory provisions codified at 29 CFR 2550.401c-1 require insurers that issue certain types of insurance policies to employee benefit plans to make specific one-time and annual disclosures to such plans if assets of the plan are held in the insurer's general account. A copy of the ICR may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before December 30, 2005.

ADDRESSES: Interested parties are invited to submit written comments regarding the information collection request and burden estimates to: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1460 of the Small Business Job Protection Act of 1996 (Pub. L. 104–188) amended ERISA by adding Section 401(c), which clarified the extent to which assets of an insurer's general account constitute assets of an employee benefit plan when that insurer has issued policies for the benefit of the plan and such policies are supported by assets of the general account. Section 401(c) established certain requirements and disclosures for insurance companies that offer and maintain policies for employee benefit plans where the plans' assets are held in the insurer's general account. Section 401(c) also required the Secretary to provide guidance on the statutory requirements; such guidance was issued as a final rulemaking on January 5, 2000 (65 CFR 614). The regulation includes information collection provisions pertaining to one-time and annual disclosure obligations of insurers. The information collection provisions in the final rulemaking were submitted for review by the Office of Management and Budget (OMB) in an information collection request (ICR) in connection with promulgation of the final rulemaking and were approved by OMB under OMB Control No. 1210–0114. The ICR approval is scheduled to expire on January 31, 2006.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

• Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

III. Current Action

The Employee Benefits Security Administration (EBSA) is requesting an extension of the currently approved ICR for the Disclosures by Insurers to General Account Policyholders. EBSA is not proposing or implementing changes to the regulation or to the existing ICR. A summary of the ICR and the current burden estimates follows: