

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Star Pipe Products, Ltd., Docket No. 9351

The Federal Trade Commission ("Commission" or "FTC") has accepted, subject to final approval, an agreement containing a proposed consent order ("Agreement") from Star Pipe Products, Ltd. ("Star"). The Agreement seeks to resolve in part an administrative complaint issued by the Commission on January 4, 2012. The complaint charges that Star and certain of its competitors violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by engaging in collusive acts and practices in the market for ductile iron pipe fittings ("DIPF").

The Commission anticipates that, with regard to Star, the competitive issues described in the complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Agreement. The Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreement and any comments received, and will decide whether it should withdraw from the Agreement or make final the proposed order contained in the Agreement.

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment concerning the proposed order. It is not intended to constitute an official interpretation of the Agreement and proposed order in anyway to modify its terms.

The proposed order is for settlement purposes only and does not constitute an admission by Star that it violated the law, or that the facts alleged in the complaint, other than jurisdictional facts, are true.

I. The Complaint

The following allegations are taken from the complaint and publicly available information.

A. Background

The largest sellers of DIPF in the United States are Star, McWane, Inc. ("McWane"), and Sigma Corporation ("Sigma"). DIPF are used in municipal water distribution systems to change pipe diameter or pipeline direction. There are no widely available substit

DIPF prices are based off of published list prices and discounts, with customers negotiating additional discounts off of those list prices and discounts on a transaction-by-transaction basis. DIPF suppliers also offer volume rebates.

B. Challenged Conduct

Between January 2008 and January 2009, Star allegedly conspired with McWane and Sigma to increase the prices at which DIPF were sold in the United States in furtherance of the conspiracy, and at the request of McWane, Star changed its business methods to make it easier to coordinate price levels, first by limiting the discretion of regional sales personnel to offer price discounts, and later by exchanging information documenting the volume of its monthly sales, along with sales by McWane and Sigma, through an entity known as the Ductile Iron Fittings

¹ FEDERAL TRADE COMMISSION & UNITED STATES DEPARTMENT OF JUSTICE, ANTITRUST GUIDELINES FOR COLLABORATION AMONG COMPETITORS (“Competitor Collaboration Guidelines”) § 1.2 (2000); *In re North Texas Specialty Physicians*, 140 F.T.C. 715, 729 (2005) (“We do not believe that the *per se* condemnation of naked restraints has been affected by anything said either in *California Dental* or *Polygram*”).

² Because McWane’s communication informed its rivals of the terms of price coordination desired by McWane without containing any information for customers, his communication had no legitimate business justification. See *In re Petroleum Products Antitrust Litig.*, 906 F.2d 432, 448 (9th Cir. 1990) (public communications may form the basis of an agreement on price levels when “the public dissemination of such information served little purpose other than to facilitate interdependent or collusive price coordination”).

³ The Commission articulated a safe harbor for exchanges of price and cost information in Statement 6 of the

exchange exceed specified thresholds. The rationale for this provision is that in a highly concentrated market the risk that the information exchange may facilitate collusion is high. Due to the highly concentrated state of the DPF market as currently structured, an information exchange involving Star and relating to price, output or total unit cost of or for DIPF is unlikely to reoccur in the foreseeable future.

Paragraph III of the proposed order requires Star to cooperate with Commission staff in the still-pending administrative litigation against McWane.

The proposed order has a term of 20 years.