

Complaint

126 F.T.C.

IN THE MATTER OF

FEDERAL-MOGUL CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3836. Complaint, Dec. 4, 1998--Decision, Dec. 4, 1998

This consent order requires, among other things, Federal-Mogul Corporation to divest T&N's thin-wall bearings business, Glacier Vandervell Bearings Group, to a Commission-approved buyer. The consent order allows Federal-Mogul to retain a royalty-free license to use the shared patents that were in use for former T&N products other than thin-wall bearings.

Participants

For the Commission: *Philip Eisenstat, Wallace Easterling, Joseph Krauss, William Baer, Oliver Grawe, and Jonathan Baker.*

For the respondents: *Mark Leddy, Cleary, Gottlieb, Steen & Hamilton, Washington, D.C. and Deborah Feinstein, Arnold & Porter, Washington, D.C.*

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that respondent Federal-Mogul Corporation ("Federal-Mogul"), a corporation subject to the jurisdiction of the Commission, has made a cash tender offer to acquire all of the common stock of T&N plc ("T&N"), an entity subject to the jurisdiction of the Commission, in violation of the provisions of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act ("FTC Act"), as amended, 15 U.S.C. 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. THE RESPONDENTS

1. Respondent Federal-Mogul Corporation ("Federal-Mogul") is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 26555 Northwestern Highway, Southfield, Michigan. In 1996, Federal-Mogul had worldwide net sales of approximately \$2 billion.

2. Respondent T&N plc ("T&N") is a corporation organized under the laws of the United Kingdom, with its principal offices located at Manchester International Office Center, Styal Road, Manchester M22 5TN, England. In 1995, T&N had worldwide revenue of approximately \$3.2 billion, including sales in the United States totaling approximately \$877 million.

II. JURISDICTION

3. At all times relevant here, respondents have been, and are now, corporations as "corporation" is defined in Section 4 of the FTC Act, 15 U.S.C. 44; and at all times relevant herein, the respondents have been, and are now, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. 12, and in Section 4 of the FTC Act, 15 U.S.C. 44.

III. THE PROPOSED ACQUISITION

4. On or about October 16, 1997, Federal-Mogul notified T&N of Federal-Mogul's intention to commence a cash tender offer to acquire 100 percent of the voting securities of T&N plc (the "Acquisition"), for approximately \$2.4 billion.

IV. THE RELEVANT MARKETS

A. *Relevant Product Markets*

5. The development, manufacture and sale of fluid film or "plain" thinwall bearings ("thinwall bearings") is one relevant line of commerce within which to analyze the competitive effects of the proposed acquisition. Thinwall bearings have a wall thickness of approximately three-eighths of an inch or less, and include half bearings, bushings and thrust washers. Thinwall bearings are a type of bearing used in automobile, truck and heavy equipment engines and other vehicle applications and in certain industrial applications. The surface of thinwall bearings is coated with a film of oil and the thinwall bearings are used to separate two materials to prevent friction and the resulting heat from damaging or destroying parts. There are no economic substitutes for thinwall bearings. Both Federal-Mogul and T&N develop, manufacture and sell thinwall bearings.

6. The development, manufacture and sale of thinwall bearings for use in automobile and light truck engines ("light duty engine

bearings") and which are sold to original equipment manufacturers ("OEMs") for use in the manufacture of engines is another relevant line of commerce within which to analyze the competitive effects of the proposed acquisition. Not all thinwall bearings can be used as light duty engine bearings. Each automobile and light truck engine must have light duty engine bearings that are specifically designed and engineered for that engine. There are no economic substitutes for light duty bearings sold to OEMs. Both Federal-Mogul and T&N develop, manufacture and sell light duty engine bearings.

7. The development, manufacture and sale of thinwall bearings for use in heavy truck engines and heavy equipment engines ("heavy duty engine bearings") and which are sold to OEMs for use in the manufacture of engines is another relevant line of commerce within which to analyze the competitive effects of the proposed acquisition. Not all thinwall bearings can be used as heavy duty engine bearings. Each heavy truck and heavy equipment engine must have heavy duty engine bearings that are specifically designed and engineered for that engine. There are no economic substitutes for heavy duty bearings sold to OEMs. Both Federal-Mogul and T&N develop, manufacture and sell heavy duty engine bearings.

8. The manufacture and sale of light duty engine bearings and heavy duty engine bearings which are sold to the automotive and truck aftermarket ("aftermarket bearings") is another relevant line of commerce within which to analyze the competitive effects of the proposed acquisition. The automotive and truck aftermarket is the industry that services or repairs automobiles and trucks after the vehicles are no longer covered by the OEM warranty. Each engine that is serviced in the aftermarket and that requires new bearings must have bearings that are specifically designed to fit in that engine. There are no economic substitutes for light duty and heavy duty bearings sold to the aftermarket. Both Federal-Mogul and T&N manufacture and sell aftermarket bearings.

B. Relevant Geographic Market

9. The relevant geographic area in which to analyze the effects of the Acquisition in the relevant lines of commerce is the world.

10. With few exceptions, each automobile and truck engine has a unique set of bearings that are designed only to be used in that engine and cannot be used in any other engine.

11. Different consumer preferences for engines, based on such things as different fuel costs, different fuel preferences, different pollution regulations, and different road conditions, all lead engine builders to build different engines in different parts of the world. The engines built to reflect differences in consumer demand have different requirements in terms of the properties they must have. These differences in the properties of engines mean that the engine bearings used in these engines must also have different properties. Customers who purchase bearings, including engine manufacturers, as well as aftermarket service businesses, can and do purchase thinwall bearings from producers located throughout the world so long as the producers can develop and manufacture thinwall bearings that will meet the particular requirements of engines in a given customer's part of the world.

12. Engine manufacturers in the United States have particular performance and engineering requirements for their engine bearings that differ from the requirements facing engine manufacturers in other parts of the world. Engine manufacturers in the United States can and do purchase thinwall bearings from bearing producers located throughout the world that can develop and manufacture bearings that meet the needs of engine manufacturers in the United States.

V. MARKET STRUCTURE

13. While customers for thinwall bearings can turn anywhere in the world, the thinwall bearings that they buy must be engineered to the particular applications of the customers. The best measure of a thinwall bearings producer's ability to meet the applications requirements of customers in the United States and compete for sales to customers in the United States, is the bearings producer's current sales to customers in the United States. As measured by current sales to customers in the United States, the relevant markets are highly concentrated, whether measured by the Herfindahl-Hirschman Index (or "HHI") or by two-firm or four-firm concentration ratios. The proposed merger, if consummated, would significantly increase the HHIs in already highly concentrated markets.

14. In the sale of thinwall bearings to customers in the United States, respondent Federal-Mogul is the largest competitor with about a 49 percent market share, and T&N is the second largest with about a 34 percent market share. Together, Federal-Mogul and T&N would

control approximately 83 percent of all United States thinwall bearing sales. The proposed merger would increase the HHI by over 3300 points and produce an industry concentration of over 7000 points.

15. In the sale of light duty engine bearings to OEMs located in the United States, respondent Federal-Mogul is the largest competitor with about a 53 percent market share, and T&N is the second largest with about a 28 percent market share. Together, Federal-Mogul and T&N would control approximately 81 percent of all United States sales of light duty engine bearing sales to OEMs. The proposed merger would increase the HHI by over 3000 points and produce an industry concentration of over 7000 points.

16. In the sale of heavy duty engine bearings to OEMs located in the United States, respondent Federal-Mogul is the largest competitor with about a 62 percent market share, and T&N is the second largest with about a 22 percent market. Together, Federal-Mogul and T&N would control approximately 84 percent of all United States sales of heavy duty engine bearings to OEMs. The proposed merger would increase the HHI by over 2800 points and produce an industry concentration of over 7200 points.

17. In the sale of aftermarket bearings to aftermarket customers in the United States, respondent Federal-Mogul is the largest competitor with about a 58 percent market share, and T&N is the second largest with about a 21 percent market share. Together, Federal-Mogul and T&N would control approximately 79 percent of all United States sales of aftermarket bearings. The proposed merger would increase the HHI by over 2500 points and produce an industry concentration of over 6500 points.

VI. ENTRY CONDITIONS

18. Entry into the thinwall bearings market requires more than two years. Entry into the OEM market would not assure entry into the aftermarket, and entry into the aftermarket would not assure entry into the OEM market. The markets have different entry impediments as to product design, qualification and testing, production and brand name recognition. Entry into the thinwall bearing market is difficult and would not be timely to prevent anticompetitive effects in the relevant markets.

19. Entry into the development, manufacture, and sale to OEMs in the United States of light duty engine bearings requires substantially more than two years. Entry into competition for sales of

light duty engine bearings requires the development of materials from which to make the bearing, the development of exacting manufacturing processes and capabilities, the design of bearings for a particular engine, and the completion of extensive customer qualification and testing. Because the materials used to make the bearings are different, as are the manufacturing processes and the technical requirements of the bearings, the ability to compete in the sale of heavy duty engine bearings does not give a producer the ability to compete in the sale of light duty engine bearings. Entry into the sale of light duty engine bearings to OEMs would not be timely to prevent anticompetitive effects in the market for light duty engine bearings sold to OEM customers in the United States.

20. Entry into the development, manufacture, and sale to OEMs in the United States of heavy duty engine bearings requires substantially more than two years. Entry into competition for sales of heavy duty engine bearings requires the development of materials from which to make the bearing, the development of exacting manufacturing processes and capabilities, the design of bearings for a particular engine, and the completion of extensive customer qualification and testing. Because the materials used to make the bearings are different, as are the manufacturing processes and the technical requirements of the bearings, the ability to compete in the sale of light duty engine bearings does not give a producer the ability to compete in the sale of heavy duty engine bearings. Entry into the sale of heavy duty engine bearings to OEMs would not be timely to prevent anticompetitive effects in the market for heavy duty engine bearings sold to OEM customers in the United States.

21. Entry into the market for aftermarket bearings for customers in the United States, requires more than two years, and in order to match the broad product line of Federal-Mogul or T&N, a new entrant would be at a significant cost disadvantage to the incumbent firms. Successful competition in the sale of aftermarket bearings requires an extensive line of bearings that will fit not only engines in current production, but most of the engines that have been production over the past 30 to 40 years. Each aftermarket bearing requires tooling unique to it. The existing producers of aftermarket bearings for customers in the United States, including Federal-Mogul and T&N, have such extensive product offerings, exceeding 6,000 or 7,000 part numbers. To offer this extensive a line of bearings requires the design

of bearings and acquisition of the tooling required for each bearing. A new entrant that attempted to match the product offering of Federal-Mogul or T&N would have to acquire tooling for bearings for engines that are no longer in production and for which demand is declining. Federal-Mogul and T&N acquired the tooling for their broad line of aftermarket bearings when engines were first in production, allowing Federal-Mogul and T&N to amortize the cost of the tooling over a longer period of the engine's life and over a larger number of bearings. A new entrant that attempts to match Federal-Mogul's or T&N's product line will be able to amortize the tooling for many bearings only over a portion of the engine's life, and will necessarily have higher costs than Federal-Mogul or T&N.

22. Brand name recognition is also important for competing for sale of aftermarket bearings. A brand name can convey to customers in the aftermarket that the bearings are of high quality and will work in the application that they are designed for. The development of brand recognition also is time consuming. Entry into the manufacture and sale of light duty and heavy duty thinwall bearings to the aftermarket would not be timely to prevent anticompetitive effects in the market for sales of aftermarket bearings to customers in the United States.

VII. ACTUAL COMPETITION

23. Federal-Mogul and T&N are actual competitors in the relevant lines of commerce in the relevant area.

VIII. EFFECTS OF THE PROPOSED MERGER ON COMPETITION

24. The effect of the Acquisition, if consummated, may be substantially to lessen competition and to tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, in the following ways, among others:

A. By eliminating actual, direct, and substantial competition between Federal-Mogul and T&N in the relevant markets;

B. By increasing the likelihood that Federal-Mogul will unilaterally exercise market power in the relevant markets;

C. By increasing the likelihood of or facilitating collusion or coordinated interaction among Federal-Mogul and the remaining competitors in the market for heavy duty engine bearings;

D. By increasing the likelihood that customers of thinwall bearings would be forced to pay higher prices; and

E. By reducing innovation, quality, service, and product availability in the relevant markets.

IX. VIOLATIONS CHARGED

25. The proposed acquisition by Federal-Mogul of the voting stock of T&N violates Section 5 of the FTC Act, as amended, 15 U.S.C. 45, and would, if consummated, violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45.

DECISION AND ORDER

The Federal Trade Commission ("the Commission"), having initiated an investigation of the proposed acquisition by Federal-Mogul Corporation of T&N plc, hereinafter sometimes referred to as the "respondents," and having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission, having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, and having modified the consent order in some

respects, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Federal-Mogul Corporation ("Federal-Mogul") is a corporation organized, existing and doing business under and by virtue of the laws of Michigan, with its office and principal place of business located at 26555 Northwestern Highway, Southfield, Michigan.

2. Respondent T&N plc ("T&N") is a public limited company organized, existing and doing business under and by virtue of the laws of the United Kingdom, with its office and principal place of business located at Manchester International Office Centre, Styal Road, Manchester M22 5TN, England.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That, as used in this order, the following definitions shall apply:

A. "*Federal-Mogul*" means Federal-Mogul Corporation, its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Federal-Mogul, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

B. "*T&N*" means T&N plc, its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by T&N, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

C. "*Respondents*" means Federal-Mogul and T&N, individually and collectively.

D. "*Commission*" means the Federal Trade Commission.

E. "*Divestiture Date*" means the date on which The Assets To Be Divested are divested by Federal-Mogul.

F. "*Thinwall Bearings*" means lubricated friction bearings, commonly known as thinwall bearings, with a thickness of three-eighths inch or less, including, but not limited to, half-shell engine bearings, full round bushings, flange bearings, and half and full round thrust washers for use in engine and non-engine applications in passenger cars and trucks and in industrial applications.

G. "*Polymer Bearings*" means metal-backed polymer dry bearings for use in industrial applications and non-engine automotive components and manufactured at T&N's manufacturing facilities located at Kilmarnock, Scotland; Annecy, France; and Heilbronn, Germany.

H. "*Non-Automotive Heavywall Bearings*" means the products listed in Appendix VI.

I.. "*The Assets To Be Divested*" means

1. Glacier Vandervell, Inc., Glacier Vandervell Europe, and T&N Bearings Group Research and Development; all of the subsidiaries, divisions, groups and affiliates they control; all of their businesses and assets, tangible and intangible, including but not limited to facilities, technology, patent rights, and goodwill;

2. All businesses and assets of T&N in the following locations: Caldwell, Ohio; Atlantic, Iowa; Bellefontaine, Ohio; Plymouth, Michigan; Middlesex, England; Cawston, England; Kilmarnock, Scotland; Whitehill, Scotland; Annecy, France; Paris, France; Dieuze, France; Trento, Italy; and Heilbronn, Germany;

3. The McConnellsville Strip Facility;

4. All rights, titles, and interests in the trademarks listed at Appendix V and the patents listed at Appendix VII and Appendix VIII;

5. A perpetual, royalty-free license to use the P/2531.GB2 machine tool patent for any and all applications;

6. All other businesses and assets, tangible and intangible, relating to the research, development, manufacture, or sale of Thinwall Bearings and Polymer Bearings by T&N, regardless of where the business or assets are located in the world and regardless of whether used exclusively for such purposes, including, without limitation, the following:

a. All machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

- b. All copies of customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, management information systems, software, inventions, trade secrets, intellectual property, patents, trademarks, technology, know-how, specifications, designs, drawings, processes and quality control data;
- c. All rights, titles, and interests in and to research and development, whether performed by T&N or by a third party;
- d. Inventory and storage capacity;
- e. All rights, titles and interests in and to owned or leased real property, together with appurtenances, licenses and permits;
- f. All rights, titles and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;
- g. All rights under warranties and guarantees, express or implied;
- h. All books, record, and files;
- i. All items of prepaid expense;
- j. Goodwill; and
- k. All stock and other rights, titles, and interests held in joint ventures or other entities.

Provided that the definition of "The Assets To Be Divested" shall not include:

- (i) T&N's ownership interest in Glacier Vandervell Pty. in South Africa;
- (ii) Any assets related exclusively to the sale of automotive replacement parts to customers outside North and South America;
- (iii) Any assets (other than the real estate and buildings) at Cawston, England, and Plymouth, Michigan, that are not related to Thinwall Bearings;
- (iv) All rights, titles, and interests in those patents listed at Appendix X that do not relate to the research, development, manufacture, or sale of Thinwall Bearings and Polymer Bearings by T&N, regardless of whether used exclusively for

- such purposes; and a perpetual, non-exclusive, royalty-free license to Federal-Mogul for all other patents listed at Appendix X, where such license is limited to the field of use designated in Appendix XI;
- (v) A perpetual, non-exclusive, royalty-free license to Federal-Mogul for all patents listed at Appendix VIII, where such license is limited to the field of use designated in Appendix XI;
 - (vi) A contract with the purchaser of The Assets To Be Divested to supply Federal-Mogul with reasonable amounts of AS104 bearing strip material under reasonable commercial terms only for the production by Federal-Mogul of Non-Automotive Heavywall Bearings;
 - (vii) All rights, titles, and interests in the trademarks listed at Appendix IX;
 - (viii) A non-exclusive, royalty-free license to Federal-Mogul for the use of the trademarks "Clevite," "Clevite 77," "Michigan," "Michigan 77," "Deltawall," "CL 112," "CL 77," and "Clevite 66" on inventory other than engine bearings in accordance with the schedule designated in Appendix IV;
 - (ix) A non-exclusive, royalty-free license to Federal-Mogul for the use of the trademarks "Glacier," "Vandervell," and all subsidiary, ancillary, and related marks listed at Appendix V, only in the promotion and sale of Non-Automotive Heavywall Bearings, where such license expires no later than one (1) year after the Divestiture Date; and
 - (x) For a period of five (5) years after the Divestiture Date, the use of the trademarks "Glacier," "Glacier Sentry," "Glacier Spinner," "Glacier (T.V.)," "Glacier DQ," "Glacier DU," and "Glacier DX" in the promotion or sale of Non-Automotive Heavywall Bearings. (Notwithstanding this proviso, the respondents shall not retain any rights to use the trademarks "Glacier," "Glacier Sentry," "Glacier Spinner," "Glacier (T.V.)," "Glacier DQ," "Glacier DU," and "Glacier DX" after the Divestiture Date, except as specifically provided in proviso (ix) above and in paragraph II.B. below; and the definition of "The Assets To Be Divested" shall include the unrestricted right to use the "Glacier" trademark as a company name and to use the trademarks "Glacier," "Glacier Sentry,"

"Glacier Spinner," "Glacier (T.V.)," "Glacier DQ," "Glacier DU," and "Glacier DX" in the promotion and sale of "Deva," "Deva BM," "Devaglide," or "Devatex" Non-Automotive Heavywall Bearings purchased from Federal-Mogul.)

J. "*Key Employees*" means the individuals employed by T&N listed in Appendix II.

K. "*Thinwall Research Personnel*" means the individuals employed by T&N listed in Appendix III.

L. "*McConnellsville Strip Facility*" means the facility for the manufacture of cast copper-lead strip operated by T&N in McConnellsville, Ohio.

M. "*Daido*" means Daido Metal Co. Ltd. of Nagoya, Japan, and all its subsidiaries, divisions, groups and affiliates.

II.

It is further ordered, That:

A. Respondents shall divest absolutely and in good faith, no later than December 21, 1998, The Assets To Be Divested, as a fully viable and competitive ongoing business, and shall also divest such additional assets and businesses and effect such arrangements as are necessary to assure the viability, marketability, and competitiveness of The Assets To Be Divested.

Provided that, if the Commission-approved acquirer or acquirers of The Assets To Be Divested all express through affidavit a preference not to acquire any portion of (1) the McConnellsville Strip Facility, (2) the real estate and buildings of the facility operated by T&N Technology in Cawston, England, (3) the real estate and buildings of the facility located at Northwood Hills, Middlesex, England, (4) the real estate and buildings of the facility located at Paris, France, or (5) the real estate and buildings of the facility located at Plymouth, Michigan, then, subject to the approval of the Commission, respondents shall not be required to divest that portion of such assets.

Further provided that, if the Commission-approved acquirer or acquirers of The Assets To Be Divested all express through affidavit a preference not to acquire any portion of the packaging facilities and warehouses of A.E. Clevite, then, subject to the approval of the

Commission, respondents shall not be required to divest that portion of such assets.

B. Respondents shall, in no event later than 90 days after the Divestiture Date, eliminate "Glacier," "Vandervell," "Clevite," and all other trademarks included with The Assets To Be Divested from the names of all companies or business units they will own after the divestiture, including Glacier Vandervell Pty.

Provided that (i) Federal-Mogul may use the name "Glacier Sollinger Huette" in Germany for government certification purposes for one (1) year after the Divestiture Date; and (ii) Federal-Mogul may use the designation "formerly known as Glacier" or "formerly known as Vandervell" in the sale of Non-Automotive Heavywall Bearings where such descriptor is not used as a trademark or logo and is used only in direct response to customer inquiries.

C. Within ten (10) days after signing the agreement containing consent order, respondents shall transfer to The Assets To Be Divested the employment of all Key Employees (who are not already employees of The Assets To Be Divested) and all Thinwall Research Personnel, to the extent permissible by law.

D. Respondents shall divest The Assets To Be Divested only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of The Assets To Be Divested is to ensure the continuation of The Assets To Be Divested as an ongoing, viable, and competitive business engaged in the research, development, manufacture, and sale of Thinwall Bearings and to remedy the lessening of competition resulting from the acquisition by Federal-Mogul of T&N as alleged in the Commission's complaint.

E. If any person who is not party to this order withholds its consent to the transfer or assignment of any agreement, contract, or license to which T&N is a party and that is related in any way to The Assets To Be Divested, then respondents shall use their best efforts to obtain the necessary consents. If such person continues to withhold its consent, then respondents shall to the extent possible enter into such agreements, contracts, licenses as are necessary to realize the same effect as such transfer or assignment. (Respondents shall submit a copy of each such agreement, contract, or license with their compliance reports to the Commission pursuant to paragraphs IV and