IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO._____
	)	
v.	)	
	)	
PLAYMOBIL USA, INC.,	)	
	)	
Defendant.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on _____, and plaintiff and defendant, Playmobil USA, Inc., having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And whereas defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I.

JURISDICTION

This Court has jurisdiction of the subject matter of this action and of the party consenting hereto. The complaint states a claim upon which relief may be granted against defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II.

DEFINITIONS

As used in this Final Judgment:

A. "Cooperative advertising policy" means any policy or program under which defendant provides a dealer with any rebate, allowance, or reimbursement that relates to that dealer's advertising of Playmobil products.

B. "Dealer" means any person not wholly owned by defendant who has at any time purchased or acquired Playmobil products for resale, excluding any person who did not purchase or acquire Playmobil products directly from Playmobil or its agents.

C. "Discount" means to offer, sell or advertise any Playmobil product for resale at a price below defendant's suggested resale price.

D. "Person" means any individual, corporation, partnership, company, sole proprietorship, firm or other legal entity.

E. "Playmobil product" means any product sold or distributed by defendant for resale in the United States.

F. "Promotional event" means a sale or offering of limited duration during which a dealer discounts a Playmobil product.

G. "Resale price" means any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit relating to Playmobil products sold by dealers.

H. "Suggested resale price" means any resale price level, including those related to everyday pricing or promotional pricing, that is suggested, endorsed, communicated, distributed or determined by defendant.

I. "Terminate" means to refuse to continue selling, either permanently or temporarily, any or all Playmobil products to a dealer.

III.

APPLICABILITY

A. This Final Judgment applies to defendant and to each of its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendant shall require, as a condition of the sale of all or substantially all of its assets or stock, that the

acquiring party agree to be bound by the provisions of this Final Judgment.

IV.

PROHIBITED CONDUCT

A. Defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any right under any contract, agreement, understanding, plan or program with any dealer to fix, stabilize, or maintain the resale prices at which defendant's products may be sold or offered for sale in the United States by any dealer.

B. Defendant is further enjoined and restrained from (1) discussing, explaining, or encouraging adherence to defendant's suggested resale prices with any dealer, (2) threatening or warning any dealer that it may be terminated or otherwise subjected to any action by the defendant for discounting, and (3) communicating to any dealer information relating to any actual or contemplated termination of any other dealer for any reason related to discounting.

C. Defendant is further enjoined and restrained for a period of five (5) years from the date of entry of the final judgment from directly or indirectly announcing to the public or to any present or potential dealer of its products that defendant has or is adopting, promulgating, suggesting, announcing or establishing any resale pricing policy for Playmobil products that: (1) provides that defendant will sell only to a dealer

that prices at or above suggested resale prices; (2) provides that defendant may or will terminate, or take any other action related to, a dealer for discounting; or (3) relates to the duration or frequency of any dealer's promotional events.

D. Defendant is further enjoined and restrained for a period of five (5) years from the date of entry of the final judgment from (1) representing that it will act on any complaint or communication from a dealer that relates to any other dealer's discounting, (2) discussing any such complaint or communication with the complaining dealer, except that defendant may state that it does not accept dealer complaints or communications that relate to the pricing practices of other dealers, and (3) terminating any dealer or taking any other action for reasons relating to that dealer's discounting.

E. Defendant is further enjoined and restrained for a period of five (5) years from the date of entry of the final judgment from adopting, promulgating, suggesting, announcing or establishing any cooperative advertising policy that denies or reduces advertising rebates, allowances or reimbursements to a dealer for any reason related to that dealer's advertised prices.

F. Nothing in this Section IV shall prohibit defendant from (1) establishing suggested resale prices and communicating these prices to dealers, provided that such communications also state that these prices are only suggested prices and that dealers are free to adopt any resale price that they choose, or (2) terminating any dealer for reasons unrelated to that dealer's discounting.

V.

NOTIFICATION PROVISIONS

Defendant is ordered and directed:

A. To send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, within sixty (60) days of the entry of this Final Judgment, to each dealer who purchased Playmobil products in 1993 or 1994.

B. To send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, to each dealer who purchases products from defendant within ten (10) years of entry of this Final Judgment and who was not previously given such notice. Such notice shall be sent within thirty (30) days after the first shipment of Playmobil products to such dealer.

VI.

COMPLIANCE PROGRAM

Defendant is ordered to establish and maintain an antitrust compliance program which shall include designating, within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for implementing the antitrust compliance program and achieving full compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, be responsible for the following:

A. Furnishing a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each of defendant's

officers and directors and each of its employees, salespersons, sales representatives, or agents whose duties include supervisory or direct responsibility for the sale or advertising of Playmobil products in the United States, except for employees whose functions are purely clerical or manual;

B. Distributing in a timely manner a copy of this Final Judgment to any owner, officer, employee or agent who succeeds to a position described in Section VI(A);

C. Providing each person designated in Sections VI(A) or (B) with a written explanation in plain language of this Final Judgment, with examples of conduct prohibited by the Final Judgment and with instructions that each person designated in Section VI(A) and (B) shall report any known violations of the Final Judgment to the Antitrust Compliance Officer;

D. Arranging for an annual oral briefing to each person designated in Sections VI (A) or (B) on the meaning and requirements of this Final Judgment and the antitrust laws, accompanied by a written explanation of the type described in Section VI.(C);

E. Obtaining (1) from each person designated in Sections VI(A) or (B) certification that he or she has read, understands and agrees to abide by the terms of this Final Judgment and is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer; and (2) from each officer, director and employee certification that he or she understands that failure to comply with this Final Judgment may result in conviction for criminal contempt of court.

F. Maintaining (1) a record of all certifications received pursuant to Section VI(E); (2) a file of all documents related to any alleged violation of this Final Judgment; (3) a record of all communications related to any such violation, which shall identify the date and place of the communication, the persons involved, the subject matter of the communication, and the results of any related investigation; and (4) a list of all persons terminated as dealers, or threatened with termination, after the effective date of this Final Judgment and all documents related to any such termination or threatened termination.

VII.

CERTIFICATION

A. Within 75 days of the entry of this Final Judgment, defendant shall certify to plaintiff whether the defendant has designated an Antitrust Compliance Officer and has distributed the Final Judgment in accordance with Section VI(A) above.

B. For ten years after the entry of this Final Judgment, on or before its anniversary date, the defendant shall file with the plaintiff an annual statement as to the fact and manner of its compliance with the provisions of Sections V and VI.

C. If defendant's Antitrust Compliance Officer learns of any violations of any of the terms and conditions contained in this Final Judgment, defendant shall immediately notify the plaintiff and forthwith take appropriate action to terminate or modify the activity so as to comply with this Final Judgment.

VIII.

PLAINTIFF ACCESS

A. For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of plaintiff shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, be permitted, subject to any legally recognized privilege:

1. Access during the defendant's office hours to inspect and copy all records and documents in the possession or under the control of defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. To interview the defendant's officers, employees and agents, who may have counsel present, regarding any such matters. The interviews shall be subject to the defendant's reasonable convenience.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to defendant at its principal office, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested, subject to any legally recognized privilege.

C. No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other

than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding), so that defendant shall have an opportunity to apply to this Court for protection pursuant to Rule 26(c)(7) of the Federal Rules of Civil Procedure.

IX.

DURATION OF FINAL JUDGMENT

Except as otherwise provided hereinabove, this Final Judgment shall remain in effect until ten (10) years from the date of entry.

X.

CONSTRUCTION, ENFORCEMENT, MODIFICATION AND COMPLIANCE

Jurisdiction is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

XI.

PUBLIC INTEREST

Entry of this Final Judgment is in the public interest.

Dated: _____

_____
UNITED STATES DISTRICT JUDGE

APPENDIX A

Dear Playmobil Dealer:

Since 1991, Playmobil USA has maintained a Retailer Discount Policy that provided for the termination of any Playmobil dealer that failed to adhere to certain Playmobil suggested price ranges. In January 1995,the Antitrust Division of the United States Department of Justice filed a civil suit that alleged that Playmobil enforced this policy in a manner that violated the antitrust laws by reaching agreements with some of its retailers about what their retail prices would be. Playmobil has agreed, without admitting any violation of the law and without being subject to any monetary penalties, to the entry of a civil Consent Order prohibiting certain pricing practices in the United States.

I have enclosed a copy of the Order for your information. Under its terms, you as a Playmobil dealer are absolutely free to sell Playmobil products at whatever resale price you choose. Furthermore, Playmobil may not attempt to influence your discounting of Playmobil products, influence the duration or frequency of your promotional events, or condition advertising allowances on your adhering to Playmobil's suggested resale prices.

If you learn that Playmobil or its agents have violated the terms of the Order at any time after the effective date of the Order, you should provide this information to Playmobil in writing.

Should you have any questions concerning this letter, please feel free to contact me.

Sincerely,

_____

John Thorpe,
President
Playmobil USA, Inc.
11 E. Nicholas Court
Dayton, NJ 08810