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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 UNITED STATES OF AMERICA) No. CR 06-0159 MMC
)
13 v.) MOTION TO ESTABLISH
SOLVAY S.A.,) PROCEDURE FOR
14) CRIME VICTIM NOTIFICATION
) PURSUANT TO 18 U.S.C. § 3771
15 Defendant.)

16 UNITED STATES OF AMERICA) No. CR 06-0160 MMC
)
17 v.)
18 AKZO NOBEL CHEMICALS INTERNATIONAL)
19 B.V.,)
20)
21 Defendant.)

22 1. Pursuant to 18 U.S.C. § 3771(d)(2), the United States Department of Justice,
23 Antitrust Division makes a motion requesting that this Court adopt a “reasonable procedure” for
24 providing notice to “crime victims” as provided for under the Crime Victims’ Rights Act, 18
25 U.S.C. § 3771 (the “Act”).

26 2. The Act, as amended in 2004, requires that the Department of Justice use its “best
27 efforts” to see that “crime victims” are notified of and accorded rights as described in 18 U.S.C.
28 § 3771(a). 18 U.S.C. § 3771(c)(1). The Act defines “crime victim” as a “person directly and

1 proximately harmed as a result of the commission of a Federal offense or an offense in the
2 District of Columbia.” 18 U.S.C. § 3771(e).

3 3. The rights of a crime victim under the Act include the “right to reasonable,
4 accurate, and timely notice of any public court proceeding, or any parole proceeding, involving
5 the crime or of any release or escape of the accused.” 18 U.S.C. § 3771(a)(2).

6 4. Where, however, the court finds that the number of crime victims makes it
7 “impracticable” to accord all of the crime victims the rights in § 3771(a), the court “shall fashion
8 a reasonable procedure” to give effect to the Act that does not “unduly complicate or prolong the
9 proceedings.” 18 U.S.C. § 3771(d)(2).

10 5. In the antitrust cases before this Court entitled United States v. Solvay S.A. and
11 United States v. Akzo Nobel Chemicals International B.V., the government submits that the
12 number of “crime victims” directly and proximately harmed by the hydrogen peroxide
13 conspiracy would make it impracticable for the government to provide to each victim individual
14 notices about every public court proceeding or any parole proceeding involving the crime, or of
15 any release or escape of the accused. Furthermore, victims harmed by the hydrogen peroxide
16 conspiracy are already on notice because several civil antitrust class action cases were filed on
17 behalf of the alleged victims. In re Hydrogen Peroxide Antitrust Litigation, Civil Action No. 05-
18 666, MDL No. 1682, is pending in the United States District Court, Eastern District of
19 Pennsylvania.

20 6. Accordingly, the government asks that the Court adopt a “reasonable procedure”
21 for providing notices to crime victims in the two criminal cases before the Court. 18 U.S.C. §
22 3771(d)(2). Specifically, the government proposes that for any proceeding requiring victim
23 notice under 18 U.S.C. § 3771(a)(2), the government will provide reasonable notice of the
24 proceeding on the internet, at the publicly accessible web site for the Antitrust Division,
25 <http://www.usdoj.gov/atr>. The government has already issued a widely distributed press release
26 which indicates that significant pleadings will be available on the Antitrust Division’s web site
27 and directs people to that web site. The government will also directly notify lead counsel for the
28 direct purchaser plaintiffs in the class action entitled In re Hydrogen Peroxide Antitrust

1 Litigation. Providing notice on the internet and direct notice to lead counsel for the direct
2 purchaser plaintiffs in the class action would accomplish the purpose of the Act with respect to
3 reasonable notice without unduly complicating or prolonging the proceedings. 18 U.S.C. §
4 3771(d)(2).

5 7. With respect to the sodium perborates conspiracy, charged in Count Two of
6 United States v. Solvay S.A., there is a single victim, Procter & Gamble. The government will,
7 in compliance with 18 U.S.C. § 3771, notify the “crime victim,” Procter & Gamble, directly by
8 letter.

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10 Dated: March 22, 2006

Respectfully submitted,

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12 _____ /s/
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