



Fellow Members,

Recently, the Department of Justice issued a press release notifying the public that it is has agreed to terminate an agreement it has had with several Swiss watch manufacturers and organizations since 1960. At that time these organizations were found to be in violation of the antitrust laws as they stood in the 1950s. Rather than going to court, all parties agreed to sign and abide by a Consent Decree which outlined specific limitations on how the Swiss organizations could conduct business in the United States. Theoretically, this Decree still stands today.

Some time ago, the DOJ became aware of Rolex's current policies regarding its authorized dealers, and it was found that they were in conflict with the Decree. After months of negotiation with Rolex, it was decided that the Decree is no longer valid. Since 1960 there have been various court decisions which shape the antitrust law, and changes in US economic policy. In addition the Swiss watch manufacturers no longer control the American market as they did in 1960. These developments rendered the Decree obsolete. Rolex recognized these changes, concluded that the Consent Decree was no longer valid, and began changing its parts policy to a more restrictive form. The result is that their current policy is in violation of the 1960 Decree, but not in violation of the laws of today. To reimburse the DOJ for the cost of the investigation, and also because Rolex disregarded the decree rather than asking a Judge to terminate it, Rolex agreed to pay a settlement of \$750,000.

The termination process requires a 60 day comment period for the general public or any organization to speak out for or against the action. Our options are to argue in favor of keeping the Consent Decree, or in favor of canceling it. One may also argue in favor of keeping only certain provisions of the Decree. The comment period begins after the DOJ posts the announcement in the Federal Register, and Rolex has provided public notification in at least two national publications. In this case the announcements will be published in *Modern Jeweler* magazine and *Professional Jeweler* magazine.

As a horological organization, AWCI feels that it must take a position regarding the Decree. The leadership of AWCI is required to take the best

strategic action on behalf of all of its members. The long term ramifications of our actions must also be carefully considered. While investigating this, the Board of Directors consulted with T. Scott Gilligan, AWCI attorney and also examined what could be gained or lost depending on the position we take.

A memorandum written by Mr. Gilligan has been made available for members to review. We asked him for an explanation of the practical meaning of the provision pertaining to the sale of spare parts. This is the provision that is most relevant to many of our members, and it is important to understand exactly what effect it will have on the sale of parts. He concluded that the terms of the Decree are strictly limited to a brand's policy toward its authorized dealers. It does not apply to any other independent tradesperson and in no way compels a manufacturer to sell parts to all who ask for them. If we were successful in retaining this portion of the Decree, it would enable a brand's authorized dealers to sell parts to anyone. The actual volume of parts sales would be entirely dependent on the dealer's willingness to become a material house for a given brand. Generally, this is not their primary objective so the parts availability to independent watchmakers would likely remain as it is.

Mr. Gilligan went on to explain that the chances for success in persuading the DOJ to retain all, or any portion of the Decree are very small. This conclusion is drawn from the changes in antitrust law, and the changes in the actual market share the Swiss manufacturers control since that is important to how the law is applied. These factors give the DOJ solid legal grounds for termination of the Decree, and overall governmental policy has shifted toward reduced regulation of commerce in general. So there is little reason to expect the DOJ to retain the Consent Decree.

We must consider other factors as well. More recently, Rolex as well as other Swiss manufacturers has made an enormous commitment to support American watchmaking. They now provide funding for several of our schools. This not only brings new people into the trade, they are also trained in the most modern practices, and they carry this knowledge to the rest of us. Some manufacturers have also been providing open training for specific calibers. They would not go to all this effort if they did not intend to make full use of the watchmakers who take advantage of such training. Supplying spare parts and technical material to them would be a logical extension of this.

For several years the leadership of AWCI was very resistant to any cooperation with the manufacturers. In this way, AWCI failed in its duty to its members. As a trade association, AWCI might have been a valuable link between its members and the companies who make the watches. Instead, the cold relationship developed into a serious division between watchmaker and manufacturer. The result was a damaging reduction in the flow of parts and technical information, as well as a feeling of mutual distrust. After decades, this

is the situation we find ourselves in today. It should be noted that throughout this period this Consent Decree was in effect. Either due to ineffective design of the Decree, or through lack of enforcement; the end result is that it did nothing to prevent our current situation.

Watchmaking in the United States is at a crossroads. Public discussion reveals a fundamental problem. Terms and phrases used signify that there is a barrier between watchmaker and watch manufacturer. The word "industry" is often used to identify only the manufacturers as if the American watchmaker does not consider him or herself to be part of the overall marketplace. This division is very real, and it hinders the growth and prosperity of both groups. This must not be allowed to continue. AWCI has come to recognize this fact. In recent years, AWCI has developed new lines of communication with several manufacturers. The creation of the Industry Advisory Board has done a great deal to build this new relationship. This communication has brought forth practical programs which will allow all parties to rebuild the trust that is imperative in any positive relationship.

The Board of Directors has decided not to support the continuation of the Consent Decree. We see almost no chance of success, and no practical benefit to our members should we happen to succeed. At the same time, win or lose, taking an official position in support of the Decree could seriously damage the delicate relationship we have with the manufacturers. In the long run AWCI, its members, and the manufacturers around the world will be far better off with a relationship based on cooperation. This is preferable to a forced and cold relationship based on the threat of legal action. This position is in line with the Institute's continuing efforts to remake itself for the benefit of all members, watchmaker and clockmaker alike.

AWCI recognizes that its members have a Constitutional right to contact the Department of Justice on their own. You are encouraged to read through the Decree, and the other materials that have been made available on our website, and on the AWI Matters message board. If you would like to make your views known, a hand written letter to both the DOJ and to your Congressman would be the most effective method to use. Letters should be sent to:

John Read, Chief, Litigation III, Antitrust Division  
US Department of Justice  
325 7<sup>th</sup> Street NW. Room 300  
Washington, DC 20530

Thank you.

AWCI Board of Directors