DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on June 26, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, LinkedHope Intelligent Technology Co., Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; and VX Instruments GmbH, Altdorf, GERMANY, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on April 7, 2015. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 30, 2015 (80 FR 24278).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–17987 Filed 7–21–15; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Entercom Communications Corp. and Lincoln Financial Media Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Entercom Communications Corp. and Lincoln Financial Media Company,* Civil Action No. Case 1:15–cv–01119–RC. On July 14, 2015, the United States filed a Complaint alleging that Entercom Communications Corp.'s acquisition of Lincoln Financial Media Company would likely substantially lessen competition in the sale of advertising on English-language broadcast radio stations in the Denver, Colorado metro area, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed on the same day as the Complaint, resolves the case by requiring Entercom to divest certain broadcast radio stations in Denver, Colorado. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and the industry.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to David Kully, Chief, Litigation III Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 4000, Washington, DC 20530 (telephone: 202–305–9969).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, Litigation III Section, 450 Fifth Street NW., 4th Floor, Washington, DC 20530, Plaintiff, v. *Entercom Communications Corp., 401 E. City Avenue, Suite 809, Bala Cynwyd, Pennsylvania 19004,* and *Lincoln Financial Media Company, 3340 Peachtree Rd. NE., Suite 1430, Atlanta, Georgia 30326,* Defendants

CASE NO.: 1:15–cv–01119–RC
JUDGE: Rudolph Contreras
FILED: 07/14/15

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to enjoin the proposed acquisition of Lincoln Financial Media Company (''Lincoln'') by Entercom Communications Corp. (''Entercom''), and to obtain other equitable relief. The acquisition likely would substantially lessen competition for the sale of radio advertising to advertisers targeting English-language listeners in the Denver, Colorado Metro Survey Area (''Denver MSA''), in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The United States alleges as follows:

I. NATURE OF THE ACTION

1. By agreement, as amended and restated, dated December 7, 2014, between Lincoln National Life Insurance Company and Entercom, Entercom agreed to acquire Lincoln in a cash-and-stock deal for $105 million. Lincoln National Life Insurance Company is a subsidiary of Lincoln National Corporation.

2. Entercom and Lincoln own and operate broadcast radio stations in various locations throughout the United States, including a number of stations in Denver, Colorado. Entercom's and Lincoln's broadcast radio stations compete head-to-head for the business of local and national companies that seek to advertise on English-language broadcast radio stations in Denver, Colorado.

3. As alleged in greater detail below, the proposed acquisition would eliminate this substantial head-to-head competition in the Denver MSA and result in advertisers paying higher prices for radio advertising time in that market. Therefore, the proposed acquisition violates Section 7 of the Clayton Act, 15 U.S.C. 18, and should be enjoined.

II. JURISDICTION, VENUE, AND COMMERCE

4. The United States brings this action pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain Entercom and Lincoln from violating Section 7 of the Clayton Act, 15 U.S.C. 18. The Court has subject-matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

5. Entercom and Lincoln are engaged in interstate commerce and in activities substantially affecting interstate commerce. They own and operate broadcast radio stations in various locations throughout the United States and sell radio advertising for those stations. Their radio advertising sales have had a substantial effect upon interstate commerce.

6. Entercom transacts business and is found in the District of Columbia and has also consented to venue in this District. Lincoln has consented to venue in this District. Venue is therefore proper in this District for both Entercom and Lincoln under Section 12 of the Clayton Act, 15 U.S.C. 22. Entercom and Lincoln have also consented to personal jurisdiction in this District.

III. THE DEFENDANTS

7. Entercom, organized under the laws of Pennsylvania, with headquarters in Bala Cynwyd, Pennsylvania, is one of the largest radio broadcast companies in the United States. It has a nationwide portfolio of over 100 stations in 23 metropolitan areas. In 2014, Entercom reported net revenues of approximately $380 million.

8. Lincoln is an indirect, wholly owned subsidiary of Lincoln National Corporation. Lincoln is organized under the laws of North Carolina, with headquarters in Atlanta, Georgia. Lincoln owns and operates 15 broadcast radio stations in four metropolitan areas. In 2014, Lincoln had net revenues of approximately $69 million.

IV. RELEVANT MARKET

9. The relevant market for Section 7 of the Clayton Act is the sale of radio advertising time to advertisers targeting English-language listeners in the Denver MSA.

10. Entercom and Lincoln sell radio advertising time to local and national advertisers that target English-language listeners in the Denver MSA. An MSA is a geographical unit for which Nielsen Audio, a company that surveys radio listeners, furnishes radio stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating radio audiences. MSAs are widely accepted by radio stations, advertisers, and advertising agencies as the standard geographic area to use in evaluating radio audience size and demographic composition. A radio station's advertising rates typically are based on the station's ability, relative to competing radio stations, to attract listening audiences that have certain demographic characteristics that advertisers want to reach.

11. Entercom and Lincoln radio stations in the Denver MSA generate almost all of their revenues by selling advertising time to local and national advertisers who want to reach listeners in the Denver MSA. Advertising placed on radio stations in an MSA is aimed at reaching listening audiences in that MSA, and radio stations outside that MSA do not provide effective access to these audiences.

12. Many local and national advertisers purchase radio advertising time because they find such advertising valuable, either by itself or as a complement to advertising on other media platforms. Reasons for this include the fact that radio advertising may be more cost-efficient and effective than other media at reaching the advertiser's target audience (individuals most likely to purchase the advertiser's products or services). In addition, radio stations offer certain services or promotional opportunities to advertisers that advertisers cannot obtain as effectively using other media.

13. Many local and national advertisers also consider English-language radio to be particularly effective or necessary to reach their desired customers. These advertisers consider English-language radio, either alone or as a complement to other media, to be the most effective way to reach their target audience, and do not consider other media, including non-English-language radio, such as Spanish-language radio, for example, to be a reasonable substitute.

14. If there were a small but significant and non-transitory increase in the price (''SSNIP'') of radio advertising time on English-language stations in the Denver MSA, advertisers would not reduce their purchases sufficiently to render the price increase unprofitable. Advertisers would not switch enough purchases of advertising time to radio stations outside the MSA, to other media, or to non-English-language stations to render the price increase unprofitable.

15. In addition, radio stations negotiate prices individually with advertisers; consequently, radio stations can charge different advertisers different prices. Radio stations generally can identify advertisers with strong preferences to advertise on radio in their MSAs. Because of this ability to price discriminate among customers, radio stations may charge higher prices to advertisers that view radio in their MSA as particularly effective for their needs, while maintaining lower prices for more price-sensitive advertisers. As a result, Entercom and Lincoln could profitably raise prices to those advertisers that view English-language radio targeting listeners in the Denver MSA as a necessary advertising medium.

V. LIKELY ANTICOMPETITIVE EFFECTS

16. Radio station ownership in the Denver MSA is highly concentrated. Entercom's and Lincoln's combined advertising revenue shares exceed 37 percent for English-language broadcast radio stations in the Denver MSA.

17. As articulated in the Horizontal Merger Guidelines issued by the Department of Justice and the Federal Trade Commission, the Herfindahl-Hirschman Index (''HHI'') is a measure of market concentration.[1] Market concentration is often one useful indicator of the likely competitive effects of a merger. The more concentrated a market, and the more a transaction would increase concentration in a market, the more likely it is that a transaction would result in a meaningful reduction in competition harming consumers. Mergers resulting in highly concentrated markets (with an HHI in excess of 2,500) that involve an increase in the HHI of more than 200 points are presumed to be likely to enhance market power under the merger guidelines.

18. Concentration in the Denver MSA would increase significantly as a result of the proposed acquisition. The post-acquisition HHI in the Denver MSA would be over 3,500 for English-language broadcast radio stations. That HHI is well above the 2,500 threshold at which the Department normally considers a market to be highly concentrated. Entercom's proposed acquisition of Lincoln would result in a substantial increase in the HHI set forth above in excess of the 200 points presumed to be anticompetitive under the merger guidelines.

19. Advertisers that use radio to reach their target audiences select radio stations on which to advertise based upon a number of factors including, among others, the size and demographic composition of a station's audience, and the geographic reach of a station's

[1] See U.S. Dep't of Justice, Horizontal Merger Guidelines § 5.3 (2010), available at *http://www.justice.gov/atr/public/guidelines/hmg-2010.html.* The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$). It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches a maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

broadcast signal. Many advertisers seek to reach a large percentage of their target audiences by selecting those stations whose listening audience is highly correlated to their target audience. If a number of stations broadcasting in the same MSA efficiently reach a target audience, advertisers benefit from the competition among those stations to offer better prices and services.

20. Entercom and Lincoln, each of which operates highly rated radio stations in the Denver MSA, are important competitors for English-language listeners in the Denver MSA. Moreover, Entercom and Lincoln each have multiple stations in the Denver MSA that seek to appeal to and attract the same listening audiences. For many local and national advertisers buying radio advertising time in the Denver MSA, the Entercom and Lincoln stations are close substitutes for each other based upon their specific audience characteristics.

21. During individual price negotiations between advertisers and radio stations, advertisers often provide the stations with information about their advertising needs, including their target audience and the desired frequency and timing of ads. Radio stations have the ability to charge advertisers differing rates based in part on the number and attractiveness of competitive radio stations that can meet a particular advertiser's specific target needs. During negotiations, advertisers that desire to reach a certain target audience and certain reach and frequency goals in the Denver MSA can gain more competitive rates by ''playing off'' Entercom stations, individually and collectively, against Lincoln stations, individually and collectively. The proposed acquisition would end that competition.

22. Post-acquisition, if Entercom raised prices or lowered services to those advertisers that buy advertising time on the Entercom and Lincoln stations in the Denver MSA, non-Entercom stations in that MSA, risking a significant loss of their existing audiences, would be unlikely to change their formats to attempt to attract the Entercom stations' audiences. Even if one or more non-Entercom stations changed their format, they would be unlikely to attract in a timely manner enough listeners to make a price increase or service reduction unprofitable for Entercom.

23. The entry of new radio stations into the Denver MSA would not be timely, likely, or sufficient to deter the exercise of market power.

24. The effect of the proposed acquisition of Lincoln by Entercom would be to lessen competition substantially in interstate trade and commerce in violation of Section 7 of the Clayton Act.

VII. VIOLATION ALLEGED

25. The United States hereby repeats and realleges the allegations of paragraphs 1 through 23 as if fully set forth herein.

26. Entercom's proposed acquisition of Lincoln would likely substantially lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and would likely have the following effects, among others:

a) competition in the sale of advertising time on English-language radio stations in the Denver MSA would be substantially lessened;

b) actual and potential competition in the Denver MSA between Entercom and Lincoln in the sale of radio advertising time would be eliminated; and

c) prices for advertising time on English-language radio stations in the Denver MSA would likely increase, and the quality of services would likely decline.

VI. REQUEST FOR RELIEF

The United States requests:

a) That the Court adjudge the proposed acquisition to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

b) That the Court permanently enjoin and restrain the Defendants from carrying out the proposed acquisition or from entering into or carrying out any other agreement, understanding, or plan by which Lincoln would be acquired by, acquire, or merge with Entercom;

c) That the Court award the United States the costs of this action; and

d) That the Court award such other relief to the United States as the Court may deem just and proper.

Dated: July 14, 2015

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *ENTERCOM COMMUNICATIONS CORP. and LINCOLN FINANCIAL MEDIA COMPANY,* Defendants.
CASE NO.: 1:15-cv-01119-RC
JUDGE: Rudolph Contreras
FILED: 07/14/15

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)-(h), plaintiff United States of America (''United States'') files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendant Entercom Communications Corp. (''Entercom'') and Lincoln National Life Insurance Company, a subsidiary of Lincoln National Corporation, entered into a Purchase Agreement, as amended and restated, dated December 7, 2014, pursuant to which Entercom would acquire Defendant Lincoln Financial Media Company (''Lincoln'') for $105 million. Entercom's and Lincoln's broadcast radio stations compete head-to-head for the business of local and national companies that seek to advertise on English-language broadcast radio stations in the Denver, Colorado Metro Survey Area (''MSA'').

The United States filed a civil antitrust Complaint on July 14, 2015 seeking to enjoin the proposed acquisition. The Complaint alleges that the acquisition's likely effect would be to increase English-language broadcast radio advertising prices in the Denver MSA in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the proposed acquisition. The proposed Final Judgment, which is explained more fully below, requires Defendants to divest the following broadcast radio stations (the ''Divestiture Stations'') to an Acquirer approved by the United States in a manner that preserves competition in the Denver MSA: KOSI FM, KKFN FM, and KYGO FM. These three broadcast radio stations are

located in Denver, Colorado. The Hold Separate requires Defendants to take certain steps to ensure that the Divestiture Stations are operated as competitively independent, economically viable and ongoing business concerns, uninfluenced by Entercom so that competition is maintained until the required divestitures occur.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Proposed Acquisition

Entercom is incorporated in Pennsylvania, with its headquarters in Bala Cynwyd, Pennsylvania. Entercom owns and operates a nationwide portfolio of over 100 broadcast radio stations in 23 metropolitan areas, including the Denver MSA.

Lincoln is an indirect, wholly owned subsidiary of Lincoln National Corporation. Lincoln is organized under the laws of North Carolina, with headquarters in Atlanta, Georgia. Lincoln owns and operates 15 broadcast radio stations in four metropolitan areas, including the Denver MSA.

Pursuant to an agreement, as amended and restated, dated December 7, 2014, between Lincoln National Life Insurance Company and Entercom, Entercom agreed to acquire Lincoln in a cash-and-stock deal for $105 million. Lincoln National Life Insurance Company is a subsidiary of Lincoln National Corporation.

Entercom and Lincoln compete head-to-head against one another for the business of local and national advertisers that seek to purchase radio advertising time that targets English-language listeners located in the Denver MSA. The proposed acquisition would eliminate that competition.

B. Anticompetitive Consequences of the Transaction

1. Broadcast Radio Advertising

The Complaint alleges that the sale of broadcast radio advertising time to advertisers targeting English-language listeners located in the Denver MSA constitutes a relevant product market for analyzing this acquisition under Section 7 of the Clayton Act. Entercom and Lincoln sell radio advertising time to local and national advertisers that seek to target English-language listeners in the Denver MSA. An MSA is a geographical unit for which Nielson Audio, a company that surveys radio listeners, furnishes radio stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating radio audiences. MSAs are widely accepted by radio stations, advertisers, and advertising agencies as the standard geographic area to use in evaluating radio audience size and demographic composition. A radio station's advertising rates typically are based on the station's ability, relative to competing radio stations, to attract listening audiences that have certain demographic characteristics that advertisers want to reach.

Entercom and Lincoln broadcast radio stations in the Denver MSA generate almost all of their revenues by selling advertising time to local and national advertisers who want to reach listeners present in that MSA. Advertising placed on radio stations in an MSA is aimed at reaching listening audiences in that MSA, and radio stations outside that MSA do not provide effective access to these audiences.

Many local and national advertisers purchase radio advertising time because they find such advertising valuable, either by itself or as a complement to advertising on other media platforms. For such advertisers, radio time (a) may be less expensive and more cost-efficient than other media in reaching the advertiser's target audience (individuals most likely to purchase the advertiser's products or services); or (b) may offer promotional opportunities to advertisers that they cannot replicate as effectively using other media. For these and other reasons, many local and national advertisers who purchase radio advertising time view radio as a necessary advertising medium for them or as a necessary advertising complement to other media.

Many local and national advertisers also consider English-language radio to be particularly effective or necessary to reach their desired customers. These advertisers consider English-language radio, either alone or as a complement to other media, to be the most effective way to reach their target audience, and do not consider other media, including non-English-language radio, such as Spanish-language radio, for example, to be a reasonable substitute.

If there were a small but significant and non-transitory increase in the price (''SSNIP'') on radio advertising time on English-language stations in the Denver MSA, advertisers would not reduce their purchases sufficiently to render the price increase unprofitable. Advertisers would not switch enough purchases of advertising time to radio stations outside the MSA, to other media, or to non-English-language stations to render the price increase unprofitable.

In addition, radio stations negotiate prices individually with advertisers; consequently, radio stations can charge different advertisers different prices. Radio stations generally can identify advertisers with strong preferences to advertise on radio in their MSAs. Because of this ability to price discriminate among customers, radio stations may charge higher prices to advertisers that view radio in their MSA as particularly effective for their needs, while maintaining lower prices for more price-sensitive advertisers. As a result, Entercom and Lincoln could profitably raise prices to those advertisers that view English-language radio that targets listeners in the Denver MSA as a necessary advertising medium.

2. Harm to Competition in the Denver MSA

The Complaint alleges that the proposed acquisition likely would lessen competition substantially in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and likely would have the following effects, among others:

a) competition in the sale of broadcast radio advertising on English-language radio stations in the Denver MSA would be lessened substantially;

b) competition between Entercom broadcast radio stations and Lincoln broadcast radio stations in the sale of broadcast radio advertising in the Denver MSA would be eliminated; and

c) the prices for advertising time on English-language broadcast radio stations in the Denver MSA likely would increase.

The acquisition, by eliminating Lincoln as a separate competitor and combining its operations with Entercom's, would allow Entercom to increase its share of the broadcast radio advertising revenues in the Denver MSA. In the Denver MSA, combining the Entercom and Lincoln broadcast radio stations would give Entercom approximately 37 percent of advertising sales on English-language broadcast radio stations.

Entercom's acquisition of Lincoln also would further concentrate an already highly concentrated broadcast radio market in the Denver MSA. Using the Herfindahl-Hirschman Index (''HHI''), a

standard measure of market concentration (defined and explained in Appendix A), the post-acquisition HHI in the Denver MSA would be over 3,500 for English-language broadcast radio stations. Entercom's proposed acquisition of Lincoln would result in a substantial increase in the HHI set forth above in excess of the 200 points presumed likely to enhance market power under the Horizontal Merger Guidelines issued by the Department of Justice and Federal Trade Commission.

Furthermore, the transaction combines stations and station groups that are close substitutes and vigorous head-to-head competitors for advertisers seeking to reach specific English-language audiences in the Denver MSA. Advertisers select radio stations to reach a large percentage of their target audience based upon a number of factors, including, *inter alia*, the size of the station's audience, the demographic characteristics of its audience, and the geographic reach of a station's broadcast signal. Many advertisers seek to reach a large percentage of their target listeners by selecting those stations whose audience best correlates to their target listeners. Entercom and Lincoln, each of which operates highly rated radio stations in the Denver MSA, are important competitors for English-language listeners in the Denver MSA. Moreover, Entercom and Lincoln have multiple stations in the Denver MSA that seek to appeal to and attract the same listening audiences. For many local and national advertisers buying time in the Denver MSA, the Entercom and Lincoln stations are close substitutes for each other based on their specific audience characteristics.

During individual price negotiations between advertisers and radio stations, advertisers often provide the stations with information about their advertising needs, including their target audience and the desired frequency and timing of their advertisements. Radio stations have the ability to charge advertisers differing rates based in part on the number and attractiveness of competitive radio stations that can meet a particular advertiser's audience, reach, and frequency needs. During negotiations, advertisers that desire to reach a certain target audience and certain reach and frequency goals in the Denver MSA can gain more competitive rates by ''playing off'' Entercom stations, individually and collectively, against Lincoln stations, individually and collectively. The proposed acquisition would end that competition.

Post-acquisition, if Entercom raised prices or lowered services to those advertisers that buy advertising time on the Entercom and Lincoln stations in the Denver MSA, non-Entercom stations in that MSA, risking a significant loss of their existing audiences, would be unlikely to change their formats to attempt to attract the Entercom stations' audiences. Even if one or more non-Entercom stations changed their format, they would be unlikely to attract in a timely manner enough listeners to make a price increase or service reduction unprofitable for Entercom. Finally, the entry of new radio stations into the Denver MSA would not be timely, likely, or sufficient to deter the exercise of market power.

For all these reasons, the Complaint alleges that Entercom's proposed acquisition of Lincoln would lessen competition substantially in the sale of radio advertising time to advertisers targeting English-language listeners in the Denver MSA, eliminate head-to-head competition between Entercom and Lincoln stations in the Denver MSA, and result in increased prices and reduced quality of service for radio advertisers in that MSA, all in violation of Section 7 of the Clayton Act.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the Denver MSA by maintaining the Divestiture Stations as independent, economically viable competitors. The proposed Final Judgment requires Entercom to divest the following broadcast radio stations located in the Denver MSA to Bonneville International Corporation: KOSI FM, KKFN FM, and KYGO FM. The United States has approved this divestiture buyer. The Antitrust Division required Entercom to identify the Acquirer of the Divestiture Stations in order to provide greater certainty and efficiency in the divestiture process.

The ''Divestiture Assets'' are defined in Paragraph II.H of the proposed Final Judgment to cover all assets, tangible or intangible, principally devoted to and necessary for the operation of the Divestiture Stations as viable, ongoing commercial broadcast radio stations. With respect to each Divestiture Station, the divestiture will include assets sufficient to satisfy the United States, in its sole discretion, that such assets can and will be used to operate each station as a viable, ongoing, commercial radio business.

To ensure that the Divestiture Stations are operated independently from Entercom after the divestiture, Sections IV and XI of the proposed Final Judgment prohibit Defendants from entering into any agreements during the term of the Final Judgment that create a long-term relationship with or any entanglements that affect competition between either Defendant and the Acquirer of the Divestiture Stations concerning the Divestiture Assets after the divestiture is completed. Examples of prohibited agreements include agreements to reacquire any part of the Divestiture Assets, agreements to acquire any option to reacquire any part of the Divestiture Assets or to assign the Divestiture Assets to any other person, agreements to enter into any time brokerage agreement, local marketing agreement, joint sales agreement, other cooperative selling arrangement, or shared services agreement, or agreements to conduct other business negotiations jointly with the Acquirer(s) with respect to the Divestiture Assets, or providing financing or guarantees of financing with respect to the Divestiture Assets, during the term of this Final Judgment. The shared services prohibition does not preclude Defendants from continuing or entering into any non-sales-related shared services agreement that is approved in advance by the United States in its sole discretion. The time brokerage agreement prohibition does not preclude Defendants from entering into an agreement pursuant to which Bonneville can begin operating KOSI FM, KKFN FM, and KYGO FM immediately after the Court's approval of the Hold Separate Stipulation and Order in this matter, so long as the agreement with Bonneville expires upon the consummation of a final agreement to divest the Divestiture Assets to Bonneville.

Defendants are required to take all steps reasonably necessary to accomplish the divestiture quickly and to cooperate with prospective purchasers. Because transferring the broadcast license for each of the Divestiture Stations requires FCC approval, Defendants are specifically required to use their best efforts to obtain all necessary FCC approvals as expeditiously as possible. The divestiture of each of the Divestiture Stations must occur within 90 calendar days after the filing of the Hold Separate Stipulation and Order in this matter, subject to extension during the pendency of any necessary FCC order pertaining to the divestiture. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances.

In the event that Defendants do not accomplish the divestitures the periods

prescribed in the proposed Final Judgment, the proposed Final Judgment provides that the Court, upon application of the United States, will appoint a trustee selected by the United States to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that Entercom will pay all costs and expenses of the trustee. The trustee's commission will be structured to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States describing his or her efforts to accomplish the divestiture of any remaining stations. If the divestiture has not been accomplished after 6 months, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. §''15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the United States Department of Justice, Antitrust Division's Internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

David C. Kully
Chief, Litigation III Section
Antitrust Division
United States Department of Justice
450 5th Street, N.W. Suite 4000
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and Defendants may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Entercom's acquisition of Lincoln. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the sale of English-language broadcast radio advertising in the Denver MSA. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v, U.S. Airways Group, Inc.*, No. 13–cv–1236 (CKK), 2014–1 Trade Cas. (CCH) ¶ 78, 748, 2014 U.S. Dist. LEXIS 57801, at *7 (D.D.C. Apr. 25, 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[2]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers,

[2] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004) *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns*, 489 F. Supp. 2d at 17; *see also U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *16 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *8 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft*, 56 F.3d at 1461)); *United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns*, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft*, 56 F.3d at 1459; *see also U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *9 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications*, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 2014 U.S. Dist. LEXIS 57801, at * 9 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[4] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 2014 U.S. Dist. LEXIS 57801, at * 9.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

[3] *Cf. BNS*, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft*, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'').

[4] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

Dated: July 14, 2015

Respectfully submitted,

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APPENDIX A

The term ''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1,500 and 2,500 points are considered to be moderately concentrated, and markets in which the HHI is in excess of 2,500 points are considered to be highly concentrated. *See* U.S. Department of Justice & FTC, *Horizontal Merger Guidelines* § 5.3 (2010). Transactions that increase the HHI by more than 200 points in highly concentrated markets presumptively raise antitrust concerns under the *Horizontal Merger Guidelines* issued by the Department of Justice and the Federal Trade Commission. *See id.*

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *ENTERCOM COMMUNICATIONS CORP. and LINCOLN FINANCIAL MEDIA COMPANY*, Defendants.
CASE NO.: 1:15–cv–01119–RC
JUDGE: Rudolph Contreras
FILED: 07/14/15

PROPOSED FINAL JUDGMENT

WHEREAS, plaintiff, the United States of America filed its Complaint on July 14, 2015, and plaintiff and Entercom Communications Corp. (''Entercom'') and Lincoln Financial Media Company (''Lincoln''), by their respective attorneys, have 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 issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights and assets by the defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestitures required below can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ORDERED, ADJUDGED, and DECREED:

I. JURISDICTION

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. DEFINITIONS

As used in this Final Judgment:

A. ''Entercom'' means defendant Entercom Communications Corp., a Pennsylvania corporation headquartered in Bala Cynwyd, Pennsylvania, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''Lincoln'' means defendant Lincoln Financial Media Company, a North Carolina corporation headquartered in Atlanta, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Acquirer'' means Bonneville International Corporation, or another entity to which the defendants divest any Divestiture Assets.

D. ''MSA'' means Metropolitan Survey Area as defined by A.C. Nielsen Company and used by the *Investing in Radio BIA Market Report 2014* (1st edition). MSAs are ranked according to the number of households therein and are used by broadcasters, advertisers, and advertising agencies to aid in evaluating radio audience size and composition.

E. ''KOSI FM'' means the broadcast radio station located in the Denver, Colorado MSA owned by defendant Entercom.

F. ''KKFN FM'' means the broadcast radio station located in the Denver, Colorado MSA owned by defendant Lincoln.

G. ''KYGO FM'' means the broadcast radio station located in the Denver, Colorado MSA owned by defendant Lincoln.

H. ''Divestiture Assets'' means all of the assets, tangible or intangible, principally devoted to and necessary for the operations of KOSI FM, KKFN FM and KYGO FM as viable, ongoing commercial broadcast radio stations, except as otherwise agreed to in writing by the United States Department of Justice, including, but not limited to, all real property (owned or leased) principally devoted to and necessary for the operation of the stations, all broadcast equipment, office equipment, office furniture, fixtures, materials, supplies, and other tangible property principally devoted to and necessary for the operation of the stations; all licenses, permits, authorizations, and applications therefore issued by the Federal Communications Commission (''FCC'') and other government agencies related to the stations; all contracts (including programming contracts and rights), agreements, network agreements, leases, and commitments and understandings of Defendants principally devoted to and necessary for the operation of the stations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials, and promotional materials relating to the stations; all customer lists, contracts, accounts, and credit records; all logs and other records maintained by Defendants in connection with the stations; and rights (pursuant to a lease or other agreement acceptable to the United States in its sole discretion) to transmission facilities necessary for the operations of KOSI FM, KKFN FM and KYGO FM.

III. APPLICABILITY

A. This Final Judgment applies to Entercom and Lincoln as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the defendants' Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer(s) of assets divested pursuant to the Final Judgment.

IV. DIVESTITURES

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Hold Separate Stipulation and Order in this matter, to divest the Divestiture Assets to an Acquirer or Acquirers acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by defendants or the trustee appointed pursuant to Section V of this Final Judgment, if applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirer(s) of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of the Divestiture Assets for which no FCC order has issued no later than ten (10) business days after the order of the FCC consenting to the assignment of the Divestiture Assets to Bonneville has become final. Entercom shall use its best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously as possible, including using its best efforts to obtain all necessary FCC approvals as expeditiously as possible. This Final Judgment does not limit the FCC's exercise of its regulatory powers and process with respect to the Divestiture Assets. Authorization by the FCC to conduct the divestiture of a Divestiture Asset in a particular manner will not modify any of the requirements of this Final Judgment.

B. In the event that defendants are attempting to divest assets related to KOSI FM, KKFN FM or KYGO FM to an Acquirer other than Bonneville:

(1) Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets;

(2) Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment;

(3) Defendants shall offer to furnish to all bona fide prospective acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine; and

(4) Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer(s) and the United States information relating to the personnel involved in and necessary to the operation or management of the Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants shall not interfere with any negotiations by the Acquirer(s) to employ or contract with any employee of any defendant who is involved in and necessary to the operation or management of the Divestiture Assets.

D. Defendants shall permit the Acquirer(s) of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of KOSI FM, KKFN FM and KYGO FM; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Entercom shall warrant to the Acquirer(s) that each Divestiture Asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. Entercom shall warrant to the Acquirer(s) that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each Divestiture Asset, and that, following the sale of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

H. The foregoing Sections IV.C through IV.G shall not apply in the event that the acquirer of the Divestiture Assets is Bonneville pursuant to the Asset Exchange Agreement dated as of July 10, 2015, by and among Entercom Radio, LLC, Entercom License, LLC, Entercom Denver, LLC, Entercom California, LLC, and Bonneville International Coprporation, and, as of the Closing, Lincoln Financial Media Company.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Divestiture Assets and be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing commercial radio broadcasting business, and the divestiture of such assets will achieve the purposes of this Final Judgment and remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

(1) shall be made to an Acquirer or Acquirers that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the commercial radio broadcasting business; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants gives defendants the ability unreasonably to raise any Acquirer's costs, to lower any Acquirer's efficiency, or otherwise to interfere in the ability of any Acquirer to compete effectively.

V. APPOINTMENT OF TRUSTEE

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable

to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict-of-interest certifications. The trustee shall account for all monies derived from its sale of the Divestiture Assets and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and defendants are unable to reach agreement on the trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such report contains information that the Divestiture Trustee deems confidential, such report shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer(s), any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture(s), the proposed Acquirer(s), and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer(s), any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Section IV or Section V

shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. HOLD SEPARATE

Until the divestiture required by this Final Judgment has been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V of this Final Judgment, defendants shall deliver to the United States an affidavit as to the fact and manner of their compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets, including efforts to secure FCC or other regulatory approvals, and to provide required information to prospective acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, each defendant shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Each such affidavit shall also include a description of the efforts defendants have taken to complete the sale of the Divestiture Assets, including efforts to secure FCC or other regulatory approvals. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as the Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copies or electronic copies of, all books, ledgers, accounts, records, data and documents in the possession, custody or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an 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 (including grand jury proceedings), 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 defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. NO REACQUISITION OR OTHER PROHIBITED ACTIVITIES

After the Divestiture Assets have been divested to an Acquirer or Acquirers acceptable to the United States in its sole discretion, Defendants may not (1) reacquire any part of the Divestiture Assets, (2) acquire any option to reacquire any part of the Divestiture Assets or to assign the Divestiture Assets to any other person, (3) enter into any time brokerage agreement, local marketing agreement, joint sales agreement, other cooperative selling arrangement, or shared services agreement, or conduct other business negotiations jointly with the Acquirer(s) with respect to the Divestiture Assets, or (4) provide financing or guarantees of financing with respect to the Divestiture Assets, during the term of this Final Judgment.

The shared services prohibition does not preclude defendants from continuing or entering into any non-sales-related shared services agreement that is approved in advance by the United States in its sole discretion.

If defendants reach an agreement to divest the Divestiture Assets to the Acquirer, defendants may also enter into an agreement, approved in advance by the United States in its sole discretion, under which a defendant cedes to the Acquirer the sole right and ability to operate one or more of KOSI FM, KKFN FM and KYGO FM after the Court's approval of the Hold Separate Stipulation and Order in this matter, provided that any such time brokerage agreement (as well as any time brokerage agreement between a defendant and the Acquirer relating to any other broadcast radio stations in the Denver MSA) must expire upon the

termination of a final agreement to divest the Divestiture Assets to the Acquirer or upon the consummation of a final agreement to divest the Divestiture Assets to the Acquirer.

XII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon, and the United States' responses to comments. Based on the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: ____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

United States District Judge

[FR Doc. 2015–17992 Filed 7–21–15; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Wireless Industrial Technology Konsortium, Inc.

Notice is hereby given that, on June 24, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Wireless Industrial Technology Konsortium, Inc. (''WITEK'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Siemens AG, Karlsruhe, GERMANY, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and WITEK intends to file additional written notifications disclosing all changes in membership.

On August 8, 2008, WITEK filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 18, 2008 (73 FR 54170).

The last notification was filed with the Department on April 2, 2015. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 7, 2015 (80 FR 26298).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–17989 Filed 7–21–15; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on June 26, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, RADX Technologies, San Diego, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on August 8, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 12, 2014 (79 FR 54745).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–17988 Filed 7–21–15; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP) Docket No. 1691]

Meeting of the Office of Justice Programs' Science Advisory Board

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting; renewal of charter.

SUMMARY: This notice announces a forthcoming meeting of OJP's Science Advisory Board (''the Board''). General Function of the Board: The Board is chartered to provide OJP, a component of the Department of Justice, with valuable advice in the areas of science and statistics for the purpose of enhancing the overall impact and performance of its programs and activities in criminal and juvenile justice.

DATES: The meeting will take place on Thursday, August 6, 2015, from approximately 9 a.m. to 3 p.m., with a break for lunch at approximately 12:00 p.m. The meeting will resume on Friday, August 7, 2015, from 8:30 a.m. to 4:00 p.m., ET, with a break for lunch at approximately 12:30 p.m.

ADDRESSES: The meeting will take place in the Main Conference Room and the Executive Conference Room on the third floor of the Office of Justice Programs, 810 7th Street, Northwest, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Katherine Darke, Designated Federal Officer (DFO), Office of the Assistant Attorney General, Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531; Phone: (202) 616–7373 [Note: This is not a toll-free