to GRSG in PHMA, the areas of highest importance for the species, the BLM is implement a structure whereby it will seek the input of local and national experts on GRSG—the FWS and the Utah Division of Wildlife Resources—before making decisions regarding whether to grant an exception to an NSO Stipulation to allow surface-disturbing fluid mineral development.

Inconsistency With State Law School Trust Land Obligations

The appeal letter requests that I (BLM Director) reconsider the decision of the Acting Utah State Director related to land tenure adjustments involving lands owned and managed by the School and Institutional Trust Lands Administration. I have reviewed the response, as well as the clarifying language that we have added to the amendment in response to your consistency review letter, which allows for disposal *or exchange* if there is a net conservation gain or no direct or indirect adverse impact to GRSG and its habitat. I believe that the state trust land exchanges and selections can be completed under this management direction and assure you that we will work with the State of Utah to complete such actions as appropriate. Therefore, I respectfully deny your (Governor's) appeal on this issue and uphold the Acting Utah State Director's determination that your recommendation is inconsistent with the goal of the BLM's GRSG conservation strategy range-wide.

Management of Habitat Outside of PHMA

The State of Utah has recommended that the BLM eliminate the management actions in its plans for areas outside of PHMA. After having reviewed the information provided with your recommendation, I (BLM Director) respectfully deny your (Governor's) appeal and uphold the decision of the Acting Utah State Director that your recommendation is inconsistent with the goal of the BLM's GRSG range-wide conservation strategy. GHMA provides important connectivity and restoration areas and its protection is an essential aspect of the BLM's GRSG conservation strategy. Additionally, as stated above, the PLUPA amendment already incorporates additional flexibility for GHMA in the state of Utah because of the limited number of birds in GHMA.

SFA Exemption

In your (Governor's) appeal letter, you request that I (BLM Director) reconsider the request to exempt Utah from SFAs. I have reviewed your prior comments on the development of the SFAs and while I understand these concerns, I uphold the determination of the Acting Utah State Director, that the SFAs are consistent with the BLM's range-wide GRSG conservation strategy. I also want to reiterate that the SFAs are a subset of PHMA, with limited additional management actions to ensure that the ''best of the best'' receives the attention it deserves. In addition to the recommended mineral withdrawal and the fluid mineral NSO stipulation without waivers, exceptions, or modifications, these areas will be prioritized for vegetation management, review of livestock grazing permits and leases, habitat restoration, and fire and fuels actions. Therefore, I respectfully deny your (Governor's) appeal on this issue and uphold the Acting Utah State Director's determination that your recommendation is inconsistent with the goal of the BLM's range-wide GRSG conservation strategy range-wide.

Authority: 43 CFR 1610.3–2(e).

Byron Loosle,

Acting Assistant Director, Renewable Resources & Planning.

[FR Doc. 2015–25973 Filed 10–9–15; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Cox Enterprises, Inc. et al.; 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. *Cox Enterprises, Inc., et al.,* Civil Action No. 1:15-cv-01583 (TFH). On September 29, 2015, the United States filed a Complaint alleging that Cox Automotive's proposed acquisition of Dealertrack Technologies, Inc.'s automobile dealership inventory management solution (IMS) business would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Defendants to divest Dealertrack's IMS business to DealerSocket, Inc. or to another buyer approved by the United States. The proposed Final Judgment also: (1) Requires Defendants to enable the continuing exchange of data and content between the divested IMS business and other data sources, Internet sites, and automotive solutions that they control; and (2) prevents Defendants from unreasonably using their ownership interest in Chrome Data Solutions, LP, a company that compiles and licenses vehicle information data used by IMSs and other solutions and Web sites.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.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 Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to James J. Tierney, Chief, Networks &Technology Enforcement Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 7100, Washington, DC 0530 (telephone: 202–307–6200).

Patricia A. Brink,

Director of Civil Enforcement.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7100, Washington, DC 20530, Plaintiff, v. *COX ENTERPRISES, INC., 6205 Peachtree Dunwoody Road, Atlanta, GA 30328, COX AUTOMOTIVE, INC., 3003 Summit Blvd., Suite 200, Atlanta, GA 30319,* and *DEALERTRACK TECHNOLOGIES, INC., 1111 Marcus Ave, Suite M04, Lake Success, NY 11042,*Defendants.

Case No. 1:15–cv–01583
Judge: Thomas F. Hogan
Description: Antitrust
Filed: September 29, 2015

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 by Defendants Cox Enterprises, Inc. and Cox Automotive, Inc. (collectively, ''Cox'') of Defendant Dealertrack Technologies, Inc. (''Dealertrack''). The United States alleges as follows:

I. NATURE OF THE ACTION

1. Cox intends to acquire all of the outstanding shares of common stock of Dealertrack through a cash tender offer totaling approximately $4 billion. Cox and Dealertrack are both leading providers of automated solutions and marketing services to the automotive industry, and are significant direct competitors in the development, marketing, and sale of inventory management solutions (''IMSs'') to automotive dealerships in the United States.

2. Cox and Dealertrack are the two leading providers of full-featured IMSs that are employed primarily for inventory management in the used vehicle businesses of larger automotive dealerships, particularly those that operate franchises associated with new vehicle original equipment manufacturers (''OEMs''). The IMSs of Cox and Dealertrack participate in a market with only four significant competitors. The two firms compete head-to-head in the development, marketing, and sale of their respective IMSs. Cox's proposed acquisition of Dealertrack would eliminate this competition, resulting in higher prices and lower quality for dealership consumers.

3. Accordingly, the transaction is likely to substantially lessen competition in the provision of full-featured IMSs in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and should be enjoined.

II. JURISDICTION, VENUE, AND INTERSTATE COMMERCE

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

5. Defendants market, sell, operate, and service their products, including their IMSs, throughout the United States and regularly and continuously transact business and transmit data in connection with these activities in the flow of interstate commerce, which has a substantial effect upon interstate commerce.

6. Defendants consent to personal jurisdiction and venue in this district. This Court has personal jurisdiction over each Defendant and venue is proper under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(b) and (c).

III. DEFENDANTS AND THE PROPOSED ACQUISITION

7. Cox Enterprises, Inc., and its subsidiary, Cox Automotive, Inc., are both Delaware corporations headquartered in Atlanta, Georgia. Cox develops and sells a diverse portfolio of automated solutions and services for automotive dealers and consumers, including vAuto, a full-featured IMS. The total annual net revenue of Cox's automotive businesses in 2014 was approximately $4.9 billion. Its U.S. IMS revenue was a relatively small part of its total revenue.

8. Dealertrack Technologies, Inc. is a Delaware corporation headquartered in Lake Success, New York. Dealertrack develops and sells a variety of automated solutions and services for automotive dealers, including Inventory+, a full-featured IMS that combines the functionality from two IMSs that Dealertrack acquired—AAX and eCarList. Dealertrack's total annual net revenue in 2014 was approximately $854 million. Its U.S. IMS revenue was a relatively small part of its total revenue. Dealertrack also owns a 50% interest in Chrome Data Solutions, LP (''Chrome''), a company that compiles and licenses vehicle information data. The remaining 50% interest in Chrome is owned by Autodata Solutions, Inc. and Autodata Solutions Company (collectively, ''Autodata'').

9. On June 12, 2015, Cox Automotive and Dealertrack entered into an Agreement and Plan of Merger whereby Cox agreed to commence a cash tender offer to acquire all of the outstanding shares of Dealertrack for $63.25 per share, for a total of approximately $4 billion.

IV. THE RELEVANT MARKET

A. Industry Background

10. In the United States, new and used vehicles are typically sold to consumers through automotive dealerships. A dealership may be ''franchised,'' meaning it is associated with an OEM, or ''independent'' of any association with an OEM. New vehicles are acquired by franchised dealers directly from OEMs and resold to consumers. Used vehicles are purchased or otherwise acquired (often through trade-ins) by franchised or independent dealers and then sold to consumers or at wholesale (often at auction). A dealer may have more than one physical store (or ''rooftop'') and franchised dealers may be associated with more than one OEM. The type of automated products and services that a dealer uses to manage its business often depends on its size, its level of sophistication, and whether it is franchised or independent.

11. Most franchised and larger independent dealers rely on dealer management systems (''DMSs'') to manage the primary functions of their businesses, including sales, finance, accounting, service, parts, and personnel. The DMS is the central repository for a large amount of data about the dealer's day-to-day business activities. IMSs are a type of ''point'' solution that offer enhanced functionality that is not provided in the DMS. IMSs communicate and share data with the dealer's DMS and other point solutions.

12. Full-featured IMSs traditionally have been used to assist dealers in managing their used vehicle inventories, although the leading IMSs increasingly offer extended functionality to manage new vehicle inventories. A full-featured IMS uses algorithms and sophisticated analytics to help dealers: (1) optimize their inventories; (2) appraise the value of vehicles they want to acquire; (3) set prices for vehicles they want to sell; (4) publish listings of vehicles that they have for sale; and (5) run detailed reports and analytics on vehicle and dealership performance relative to other vehicles and dealerships. This combination of automated analytics, reporting, optimization, pricing, and merchandising enables dealers using full-featured IMSs to operate their businesses more efficiently and to increase the rate at which they sell vehicles (''inventory turns'') and their overall profitability.

13. To perform the functionality described above, a full-featured IMS must be able to exchange data and communicate with other automated solutions. The performance and competitive viability of a full-featured IMS depends on the breadth and quality of its data.

14. A full-featured IMS obtains data about the dealer's current inventory and vehicle sales history from its DMS and provides the DMS with new or updated information, such as new or changed vehicle prices. A full-featured IMS collects a large amount of wholesale and retail pricing data, which may include data from auction services, book value guides, vehicle history reports, and online listings. It may also collect indicators of consumer interest in a particular vehicle, such as click data relating to consumers' online browsing activities. Further, a full-featured IMS prepares and distributes vehicle listings to the dealer's Web site and third-party vehicle retail sites.

15. Defendants own or otherwise control access to many of the most

important data sources and destinations for full-featured IMSs. Cox's Manheim Market Report is the most comprehensive and widely used source of data from auction services. With AutoTrader, Cox controls the leading online solution for buying and selling new and used vehicles. With Kelly Blue Book, Cox controls the most widely used consumer-facing book value guide. With Dealer.com, Dealertrack manages the majority of franchised dealer Web sites. With its DMS, Dealertrack manages inventory and transaction data for a significant number of franchised dealers. As described above, Dealertrack also owns 50% of Chrome, which is the primary source of vehicle-specific data relied upon by full-featured IMSs, DMSs, and many other point solutions and Web sites.

16. To operate efficiently, a full-featured IMS must access and be able to transmit and receive data about specific vehicles with other automated solutions. This vehicle-specific data includes, but is much broader than, information about the year, make, model, engine, plant location, and country of origin of a vehicle that is encoded in the 17-digit vehicle identification number (''VIN''). A full-featured IMS also relies on many additional categories of vehicle-specific data, such as editorial content, stock images, stock videos, ordering guide pricing data, OEM features and specifications data, configuration data, factory service schedule data, accessories data, warranty information, OEM new vehicle rebates and incentives data, and OEM build data (the ''as built'' equipment manifest and pricing data). Chrome is the leading provider of this vehicle-specific information, and Chrome offers significantly more vehicle data than any other supplier.

17. Every full-featured IMS relies on Chrome data, as do most other automotive solutions and Web sites with which IMSs exchange vehicle data. Chrome has become a *de facto* standard that these solutions and Web sites employ to enable the efficient exchange of information about specific vehicles. Incorporation of Chrome data into most major automotive solutions has resulted in significant network efficiencies.

B. Relevant Product Market

18. A hypothetical monopolist of full-featured IMSs profitably could increase its prices by at least a small but significant and non-transitory amount. Full-featured IMSs are most frequently used by large franchised and independent dealers. These dealers generally have larger information technology budgets, make more decisions centrally, and have more complex operating requirements than smaller dealers due to larger vehicle inventories, higher inventory turns, and more rooftops. They are therefore more dependent on robust, integrated automated solutions to effectively manage their businesses. Although some other solutions offer dealers certain aspects of inventory management functionality, they are less comprehensive and less robust than full-featured IMSs. These solutions are used primarily by smaller dealers and are not meaningful alternatives to full-featured IMSs. Accordingly, full-featured IMSs constitute a relevant product market and line of commerce for purposes of analyzing the likely competitive effects of the proposed acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

C. Relevant Geographic Market

19. Defendants market and sell IMSs to dealerships located across the United States, and customers do not differentiate between IMSs on the basis of location. A hypothetical monopolist of full-featured IMSs profitably could increase its prices to dealers in the United States by a small but significant and non-transitory amount. Accordingly, the United States is a relevant geographic market for purposes of analyzing the likely competitive effects of the proposed acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

V. ANTICOMPETITIVE EFFECTS OF THE PROPOSED ACQUISITION

20. Cox and Dealertrack are the two leading providers of full-featured IMSs. Cox is the market leader, with a market share of approximately 60%. Dealertrack is the second leading provider with a market share of approximately 26%. Cox's proposed acquisition of Dealertrack would enable the merged firm to control approximately 86% of full-featured IMS sales.

21. Market concentration is often a useful indicator of the level of competitive vigor in a market and the likely competitive effects of a merger. The more concentrated a market, and the more a transaction would increase that concentration, the more likely it is that the transaction would result in reduced competition, harming consumers. Market concentration commonly is measured by the Herfindahl-Hirschman Index (''HHI''), as discussed in Appendix A. Markets in which the HHI exceeds 2,500 points are considered highly concentrated, and transactions that increase the HHI by more than 200 points in highly concentrated markets are presumed likely to enhance market power. Here, the proposed acquisition would substantially increase market concentration in a highly concentrated market, raising the HHI by approximately 3120 points to a post-acquisition HHI of approximately 7526 points.

22. Cox and Dealertrack currently compete head-to-head and their IMSs are close substitutes. Cox's proposed acquisition of Dealertrack would eliminate this competition and further concentrate a market that is already highly concentrated. As a result, Cox would emerge as the clearly dominant provider of full-featured IMSs with the ability to exercise substantial market power, thereby increasing the likelihood that Cox could unilaterally increase prices or reduce its investment or other efforts to improve the quality of its products and services. Moreover, with the acquisition of Dealertrack, Cox would acquire an ownership interest in Chrome that could enable Cox to deny or restrict access to Chrome data and thereby unilaterally undermine the competitive viability of Cox's remaining IMS competitors.

VI. ABSENCE OF COUNTERVAILING FACTORS

23. It is unlikely that any firm would enter the relevant product and geographic markets alleged herein in a timely manner sufficient to defeat the likely anticompetitive effects of the proposed acquisition. Successful entry in the development, marketing, operation, and sale of a full-featured IMS to dealers in the United States is difficult, time-consuming, and costly.

24. Any new entrant would be required to expend significant time and capital to design and develop an automated solution with functionality that is at least comparable to the Defendants' full-featured IMSs, including developing robust algorithms that could accurately source, price, and market a dealer's vehicles. Successful entry would also require a substantial effort in identifying and obtaining access to the data sources necessary to power the IMS algorithms, and significant payments for such data and for access to the interfaces necessary to allow the IMS to work with a dealer's DMS and other automated solutions. In particular, it is unlikely that any such effort would produce an economically viable alternative to Chrome data in the near future.

VII. VIOLATION ALLEGED

25. The United States incorporates the allegations of paragraphs 1 through 24 above.

26. The proposed acquisition of Dealertrack by Cox is likely to substantially lessen competition for full-featured IMSs in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

27. Unless enjoined, the proposed acquisition likely will have the following anticompetitive effects, among others:

(a) actual and potential competition between Cox and Dealertrack in the development, marketing, and sale of IMSs in the United States will be eliminated;

(b) competition in the development, marketing, and sale of IMSs in general will be substantially lessened;

(c) prices of IMSs will increase;

(d) improvements or upgrades to the quality or functionality of IMSs will be less frequent and less substantial; and

(e) the quality of service for IMSs will decline.

VIII. REQUEST FOR RELIEF

28. The United States requests that this Court:

(a) adjudge and decree that Cox's proposed acquisition of Dealertrack would be unlawful and would violate Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) permanently enjoin and restrain Defendants and all persons acting on their behalf from carrying out the Agreement and Plan of Merger dated June 12, 2015, or from entering into or carrying out any other contract, agreement, plan, or understanding to combine Cox with Dealertrack;

(c) award the United States its costs for this action; and

(d) award the United States such other and further relief as this Court deems just and proper.

Dated: September 29, 2015

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

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APPENDIX A

Herfindahl-Hirschman Index

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 relevant 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 & Federal Trade Commission, *Horizontal Merger Guidelines* § 5.3 (2010) (''Guidelines''). Transactions that increase the HHI by more than 200 points in highly concentrated markets presumptively raise antitrust concerns under the Guidelines. *Id.*

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA
Plaintiff, v. *COX ENTERPRISES, INC., COX AUTOMOTIVE, INC.,* and *DEALERTRACK TECHNOLOGIES, INC.*
Defendants.

Case No. 1:15–cv–01583
Judge: Thomas F. Hogan
Description: Antitrust
Filed: September 29, 2015

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)-(h), 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

On June 12, 2015, Defendant Cox Automotive, Inc., a subsidiary of Defendant Cox Enterprises, Inc. (collectively ''Cox''), and Defendant Dealertrack Technologies, Inc. (''Dealertrack'') entered into an Agreement and Plan of Merger whereby Cox agreed to commence a cash tender offer to acquire all of the outstanding shares of Dealertrack for $63.25 per share, for a total of approximately $4 billion. The United States filed a civil antitrust Complaint on September 29, 2015, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for the development, marketing, and sale of full-featured inventory management solutions (''IMSs'') in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. This loss of competition likely would result in higher prices and lower quality for dealership consumers.

At the same time the Complaint was filed, the United States also filed a proposed Final Judgment and Hold Separate Stipulation and Order (''Hold Separate''), which are designed to prevent the alleged anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Defendants are required: (1) to divest to DealerSocket, Inc., or to another Acquirer that is acceptable to the United States, all of Dealertrack's interest in its IMS products and related assets; (2) to provide short-term transition services and support to enable the Acquirer to operate the divested assets without any disruption as of the date of the divestiture; (3) to permit for up to four years the continuing exchange of data and content between the divested assets and other data sources, Internet sites, and automotive solutions that are owned, controlled, provided, or managed by Defendants; and (4) to undertake various obligations to prevent Defendants from exploiting Dealertrack's interest in Chrome Data Solutions, LP. (''Chrome''). The parties have submitted a proposed agreement to sell the divestiture assets to DealerSocket, which is currently under review by the United States.

Under the terms of the Hold Separate, Defendants will take certain steps to ensure that the assets to be divested are operated as a competitively independent, economically viable, and ongoing business concern that will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, and the Hold Separate provides that Defendants will comply with the terms of the proposed Final Judgment pending its entry. 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. Defendants and the Proposed Transaction

Cox Automotive, Inc. and Cox Enterprises, Inc. are privately-held Delaware corporations, with their headquarters in Atlanta, Georgia. The automotive products managed by Cox encompass a broad portfolio of automated solutions and services for automotive dealers and consumers, including vAuto, a full-featured IMS. Cox's total annual automotive revenue in 2014 was about $4.9 billion, of which its U.S. IMS revenue was a small part.

Dealertrack is a Delaware corporation with its headquarters in Lake Success, New York. Dealertrack develops and sells a variety of automated solutions and services for automotive dealers, including Inventory+, a full-featured IMS that combines the functionality from two IMSs that Dealertrack acquired—AAX and eCarList. Dealertrack's total annual revenue in 2014 was about $854 million, of which its U.S. IMS revenue was a small part. Dealertrack also owns a 50% interest in Chrome, a company that compiles and licenses vehicle information data for use in IMSs and other automated solutions and services for the automotive industry. The remaining 50% interest in Chrome is owned by Autodata Solutions, Inc. and Autodata Solutions Company (collectively, ''Autodata'').

Cox's proposed acquisition of Dealertrack would lessen competition substantially in the development, marketing, and sale of full-featured IMSs in the United States. The acquisition is the subject of the Complaint and proposed Final Judgment filed by the United States on September 29, 2015.

B. The Competitive Effects of the Transaction on IMSs in the United States

1. Automotive Dealerships and IMSs

In the United States, new and used vehicles are typically sold to consumers through automotive dealerships. A dealership may be ''franchised,'' meaning it is associated with an original equipment manufacturer (''OEM''), or ''independent'' of any association with an OEM. New vehicles are acquired by franchised dealers directly from OEMs and resold to consumers. Used vehicles are purchased or otherwise acquired (often through trade-ins) by franchised or independent dealers and then sold to consumers or at wholesale (often at auction). A dealer may have more than one physical store (or ''rooftop'') and franchised dealers may be associated with more than one OEM. The type of automated products and services that a dealer uses to manage its business often depends on its size, its level of sophistication, and whether it is franchised or independent.

Most large franchised and independent dealers rely on dealer management systems (''DMSs'') to manage the primary functions of their businesses, including sales, finance, accounting, service, parts, and personnel. The DMS is the central repository for a large amount of data about the dealer's day-to-day business activities. IMSs are a type of ''point'' solution that a dealer may use to obtain enhanced functionality that is not provided in its DMS. IMSs communicate and share data with the dealer's DMS and other point solutions.

Full-featured IMSs have traditionally been used to assist dealers in managing their used vehicle inventory, although the leading IMSs increasingly offer extended functionality to manage new vehicle inventories. A full-featured IMS uses algorithms and sophisticated analytics to help dealers: (1) Optimize their inventories; (2) appraise the value of vehicles they want to acquire; (3) set prices for vehicles they want to sell; (4) publish listings of vehicles that they have for sale; and (5) run detailed reports and analytics on vehicle and dealership performance relative to other vehicles and dealerships. This combination of automated analytics, reporting, optimization, pricing, and merchandising enables dealers using full-featured IMSs to operate their used vehicle businesses more efficiently and to increase the rate at which they sell vehicles (''inventory turns'') and their overall profitability.

2. IMS Data Exchange Requirements and Sources

To perform the functionality described above, a full-featured IMS must be able to exchange data and communicate with other automated solutions. The performance and competitive viability of a full-featured IMS depends on the breadth and quality of its data sets.

To optimize a dealer's inventory, a full-featured IMS obtains data about the dealer's current inventory from its DMS and analyzes it against certain benchmarks. The IMS recommends vehicles that the dealer should add to its inventory and identifies and scores the desirability of vehicles that are available for acquisition, thereby allowing dealers to pick the fastest-selling or most profitable vehicles. It also identifies vehicles in inventory that are not selling well and recommends actions the dealer should take to price or dispose of those vehicles.

To appraise and price a vehicle, a full-featured IMS collects, aggregates, and analyzes a large amount of wholesale and retail pricing data, which may include data from auction services, book value guides, vehicle history reports, and online listings, as well as historical data from the DMS relating to transactions involving other similar vehicles. A full-featured IMS uses this data to provide the dealer with a view of the current competitive landscape for a vehicle, including suggested prices for meeting various objectives the dealer may have for the sale of the vehicle. In addition, a full-featured IMS may provide an indication of consumer interest in a particular vehicle, based on an analysis of when the current inventory of similar vehicles in an area will be exhausted or click data relating to consumers' online browsing activities.

A full-featured IMS also automates the online merchandising of a vehicle by preparing online postings with vehicle descriptions and uploading the vehicle listings, together with photos and marketing descriptions, to the dealer's Web site and third-party vehicle retail sites. These tools save time by providing dealers access to multiple sites through a single platform and allowing them to create effective, professional vehicle listings that are consistent across multiple Web sites.

Defendants own or otherwise control access to many significant data sources and destinations for full-featured IMSs.

Cox's Manheim Market Report is the most comprehensive and widely used source of data from auction services. With AutoTrader, Cox controls the leading online solution for buying and selling new and used vehicles. With Kelly Blue Book, Cox controls the most widely used consumer-facing vehicle book value guide. With Dealer.com, Dealertrack manages the majority of franchised dealer Web sites. With its DMS, Dealertrack manages the inventory and transaction data for a significant number of franchised dealers. As described above, Dealertrack also owns 50% of Chrome, which is the primary source of vehicle-specific data relied upon by full-featured IMSs, DMSs, and many other point solutions and Web sites.

To operate efficiently, a full-featured IMS must access and communicate data about specific vehicles with other automated solutions. This vehicle-specific data includes, but is much broader than, information about the year, make, model, engine, plant location, and country of origin of a vehicle that is encoded in the 17-digit vehicle identification number (''VIN''). A full-featured IMS also relies on many additional categories of vehicle-specific data, such as editorial content, stock images, stock videos, ordering guide pricing data, OEM features and specifications data, configuration data, factory service schedule data, accessories data, warranty information, OEM new vehicle rebates and incentives data, and OEM build data (the ''as built'' equipment manifest and pricing data). Chrome is the leading provider of this vehicle-specific information, and Chrome offers significantly more vehicle data than any other supplier

Every full-featured IMS relies on Chrome data, as do most other automotive solutions and Web sites with which the IMSs exchange information about specific vehicles. Indeed, Chrome has become the *de facto* standard that these solutions and Web sites employ to enable the efficient exchange of information about specific vehicles. Incorporation of Chrome data into most major automotive solutions has resulted in significant network efficiencies.

3. Market Structure and Competitive Effects

Full-featured IMSs are most frequently used by large franchised and independent dealers. These dealers generally have larger IT budgets, make more decisions centrally, and have more complex operating requirements than smaller dealers due to larger vehicle inventories, higher inventory turns, and more rooftops. These dealers are more dependent on full-featured IMSs and other robust, integrated automated solutions to effectively manage their businesses. Although some other solutions offer dealers certain aspects of inventory management functionality, they are less comprehensive and less robust than full-featured IMSs. These solutions are used primarily by smaller dealers and are not meaningful alternatives to full-featured IMSs.

Cox and Dealertrack are by far the two leading providers of full-featured IMSs. Cox is the market leader with a market share of approximately 60%; Dealertrack has a market share of about 26%.

Cox and Dealertrack currently compete head-to-head in the development, marketing, and sale of their respective full-featured IMSs. The proposed acquisition would eliminate this competition, and Cox would emerge as the clearly dominant full-featured IMS provider with the ability to exercise substantial market power, thereby increasing the likelihood that Cox can and would unilaterally increase prices or reduce its investment or other efforts to improve the quality of its products and services. Moreover, with the acquisition of Dealertrack, Cox would acquire an ownership interest in Chrome that could enable Cox to deny or restrict access to Chrome data and thereby unilaterally undermine the competitive viability of Cox's remaining IMS competitors.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture and other remedial measures of the proposed Final Judgment will prevent the alleged anticompetitive effects of the acquisition by preserving Dealertrack's IMS business as an economically viable competitor. Pursuant to Section IV, the proposed Final Judgment requires Defendants, within ten (10) days after the Court's signing of the Hold Separate or the closing of Cox's acquisition of Dealertrack, whichever is later, to divest the products, related assets, and ongoing business operations relating to Dealertrack's IMS business operations in the United States.[1] The assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the Acquirer as a viable, ongoing business that can compete effectively in providing IMSs.

[1] Some IMS products that Dealertrack sells in the U.S. are also sold in Canada. Defendants are required to divest Dealertrack's entire interest in the specified IMS products.

Defendants must use their best efforts to complete the required divestiture as expeditiously as possible. Defendants have proposed a divestiture to DealerSocket. If the proposed divestiture to DealerSocket is delayed, abandoned, or not approved, the United States, in its sole discretion, may agree to one or more extensions of the time for Defendants to complete the divestiture to DealerSocket or another Acquirer that is acceptable to the United States. All such extensions may not exceed one hundred and twenty (120) calendar days.

If Defendants do not complete the divestiture within the prescribed time, Section VI of the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. Defendants are required to use their best efforts to assist the trustee in accomplishing the divestiture and will pay the trustee's costs and expenses. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. The trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. If the trustee does not complete the divestiture within six 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 proposed Final Judgment, including potentially extending the trust or the term of the trustee's appointment.

Section V of the proposed Final Judgment imposes additional obligations to foster a smooth transfer of Dealertrack's IMS business to DealerSocket or another Acquirer and to ensure for a reasonable time that Defendants permit the uninterrupted exchange of data and content between the divested IMS products and other data sources, Internet sites, and automotive solutions that are owned, controlled, provided, or managed by Defendants. Section V.A requires Defendants to provide for up to one year any transition services that are necessary to enable the Acquirer to operate the divested assets and compete effectively in the market for IMSs as of the date of the divestiture.

Section V.B requires Defendants to enable for up to four years the exchange of data and other content that is currently being exchanged between the divested IMS products and any destinations, sites, or other data sources that Defendants control. This section provides for the continuing exchange of

data between the divested IMS products and, for example, Cox's Manheim, AutoTrader, and KBB products. Section V.C requires Defendants to provide for the exchange of this data on the same terms that were in effect before the divestiture and specifies conditions when the Acquirer may elect to exchange the data under more favorable terms.

Section V.F requires Defendants to enable, at cost, for up to four years the exchange of an IMS customer's data that is currently being exchanged between the divested IMS products and any of the customer's other sites or solutions that are provided or managed by Defendants. This section provides for the continuing exchange of a customer's data between the divested IMS product used by the customer and, for example, the customer's Web site that is managed by Dealertrack's Dealer.com or the customer's Dealertrack DMS. Section V.G requires Defendants to provide for the exchange of this customer data on the same terms that were in effect before the divestiture and specifies conditions when the Acquirer may elect to exchange the data under more favorable terms.

Sections V.L through V.P impose various obligations to ensure that Defendants do not take any action to disrupt access to Chrome data by their IMS competitors, including the Acquirer, or to reduce or limit the value that Defendants' IMS competitors derive from Chrome's status as a *de facto* standard in many automotive solutions and Web sites. In particular, Defendants are prohibited from taking any action that would prevent Autodata from exercising the right it will have to acquire and exercise control of Chrome after Cox completes its acquisition of Dealertrack (Section V.L); from exercising any rights, other than a limited right to veto the renewal of a Chrome license to CDK Global or Reynolds and Reynolds (''Reynolds'') (discussed below), with respect to the licensing or pricing of Chrome data to any customer or customer class that competes with Defendants (Section V.M); from reviewing or using the competitively sensitive information of any customer or customer class that competes with Defendants (Section V.N); and from acquiring any additional assets or interests in Chrome (Section V.O). Section V.P requires Defendants to use all reasonable efforts to amend the Chrome joint venture and operating agreements to incorporate the limitations or rights imposed by Sections V.L through V.O. These amendments would allow the requirements in Sections V.L through V.O to survive termination of the proposed Final Judgment in a private agreement that could be enforced by Autodata and could only be withdrawn or modified with Autodata's consent.

CDK Global and Reynolds currently account for the vast majority of all DMS sales, and Dealertrack currently has the right to veto any Chrome license with CDK Global or Reynolds. Section V.M would substantially limit Defendants' use of this preexisting right to when either CDK Global or Reynolds terminates, without reasonable cause, the ability of CDK Global's or Reynolds' DMS products to interoperate with the Defendants' products. This provision preserves an industry dynamic that favors interoperability and benefits consumers.

Section XI of the proposed Final Judgment provides that, on application of the United States, the Court shall appoint a Monitoring Trustee selected by the United States. The Monitoring Trustee will have the power and authority to investigate and report on Defendants' compliance with the Final Judgment and Hold Separate, including Defendants' compliance with all of the obligations in Section V relating to transition services, data exchange, and Chrome data. The Monitoring Trustee will not have any responsibility or obligation for the operation of Defendants' businesses. The Monitoring Trustee will serve at Defendants' expense, on such terms and conditions as the United States approves, and Defendants must use their best efforts to assist the trustee in fulfilling its obligations. The Monitoring Trustee will file quarterly reports and will serve until the required divestiture is complete and for so long as Defendants continue to have obligations under Section V.

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 U.S. Department of Justice, Antitrust Division's Internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

James J. Tierney, Chief
Networks & Technology Enforcement Section
Antitrust Division
United States Department of Justice
450 Fifth Street NW., Suite 7100
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties 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 Cox's acquisition of Dealertrack. The United States is satisfied, however, that the divestiture

of assets and other relief described in the proposed Final Judgment and Hold Separate will preserve competition for the provision of IMSs in the United States, and thus effectively addresses the violation alleged in the Complaint. The proposed Final Judgment would therefore 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.

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.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *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, 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,* 38 F. Supp. 3d at 75 (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,* 38 F. Supp. 3d at 76 (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,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the

[2] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for courts 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).

[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' '').

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 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,* 38 F. Supp. 3d at 76 (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 Sen. 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,* 38 F. Supp. 3d at 76.

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.

Dated: September 29, 2015

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA Plaintiff, v. *COX ENTERPRISES, INC., COX AUTOMOTIVE, INC.,* and *DEALERTRACK TECHNOLOGIES, INC.* Defendants.

Case No. 1:15–cv–01583
Judge: Thomas F. Hogan
Description: Antitrust
Filed: September 29, 2015

FINAL JUDGMENT

WHEREAS, Plaintiff United States of America filed its Complaint on September 29, 2015, the United States and Defendants, Cox Enterprises, Inc., Cox Automotive, Inc., and Dealertrack Technologies, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree 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 or assets by the Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures and to undertake certain actions and refrain from certain conduct for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestiture and conduct restrictions 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 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 ORDERED, ADJUDGED AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to 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. ''Acquirer'' means DealerSocket, Inc. or another entity to whom Defendants divest the Divestiture Assets.

B. ''Affiliate'' means directly or indirectly controlling, controlled by, or under common control with a Person.

C. ''Autodata'' means Autodata Solutions, Inc., a Delaware corporation; Autodata Solutions Company, a Nova Scotia unlimited liability company; and all of their successors and assigns, and their subsidiaries, divisions, groups, Affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, trustees, and employees.

D. ''Chrome'' means Chrome Data Solutions, LP, a Delaware limited partnership; Chrome Data Operating, LLC, a Delaware limited liability company; AutoChrome Company, a Nova Scotia unlimited liability company; and all of their successors and assigns, and their subsidiaries, division, groups, Affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, trustees and employees.

E. ''Chrome Agreements'' means the Operating Agreement of Chrome Data Operating, LLC, effective as of January 1, 2012; the Amended and Restated Agreement of Limited Partnership of Chrome Data Solutions, LP, effective as

[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.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (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, 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.'').

of January 1, 2012; and the Shareholders Agreement of AutoChrome Company, effective as of January 1, 2012; and all amendments, modifications, or codicils to any of them.

F. ''Chrome Data'' means any vehicle information data, databases, or data sets for any make or model of vehicle, and related software and services, licensed, sold, or resold by Chrome, including but not limited to editorial content, stock images, stock videos, ordering guide pricing data, automotive feature and specification data from new vehicle original equipment manufacturer (''OEM'') publications, new vehicle OEM rebates and incentives data, configuration related data, factory service schedule data, Vehicle Identification Number (''VIN'') decode data, OEM build data, and accessories data, and including any improvement, enhancement, or modification made thereto.

G. ''Competitively Sensitive Information'' means non-public information relating to (i) the terms and conditions (including but not limited to fees or prices) of any actual or prospective contract, agreement, understanding, or relationship concerning the licensing of Chrome Data, to specific or identifiable customers or classes or groups of customers, or (ii) the existence of any such prospective contract, agreement, understanding, or relationship, as well as any proprietary customer information, including but not limited to customer-specific vehicle queries, vehicle lists, or vehicle inventory. Competitively Sensitive Information does not include information (1) disclosed in public materials or otherwise in the public domain through no fault of the receiving party, (2) lawfully obtained by the receiving party from a third party without any obligation of confidentiality, (3) lawfully known to the receiving party prior to disclosure by the disclosing party, or (4) independently developed by the receiving party.

H. ''Cox'' means Cox Automotive, Inc., a Delaware corporation with its headquarters in Atlanta, Georgia; Cox Enterprises, Inc., a Delaware corporation with its headquarters in Atlanta, Georgia; and all of their successors and assigns, and their subsidiaries, divisions, groups, Affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, trustees, and employees (including but not limited to the Cox Family Voting Trust u/a/d 7/26/13 and its trustees).

I. ''Dealertrack'' means Dealertrack Technologies, Inc., a Delaware corporation with its headquarters in Lake Success, New York, its successors and assigns, and its subsidiaries, divisions, groups, Affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, trustees, and employees.

J. ''DealerSocket'' means DealerSocket, Inc., a Delaware corporation with its headquarters in San Clemente, California, its successors and assigns, and its subsidiaries, divisions, groups, Affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, trustees, and employees.

K. ''Defendants'' means Cox and Dealertrack, acting individually or collectively. Where this Final Judgment imposes an obligation to engage in or refrain from engaging in certain conduct, that obligation shall apply to each Defendant individually and to any combination of Defendants.

L. ''Divested Product'' means Dealertrack eCarList®, Dealertrack AAX®, and Dealertrack's Inventory+ and InventoryPro, and all products, options, applications, features, functions, modules, add-ons, and services relating to any such product, including the products listed in Schedule A. A Divested Product includes each predecessor version of the product and each version that has been or is currently under development or that has been developed but has not been sold or distributed.

M. ''Divestiture Assets'' means the ongoing business relating to any Divested Product and all tangible and intangible assets owned or licensed by Dealertrack relating to developing, testing, producing, marketing, licensing, selling, or distributing any Divested Product on a standalone basis or in supplying any support or maintenance services for any Divested Product on a standalone basis, including:

(1) all tangible assets related to the Divested Product, including all research and development activities; computer systems, databases, networking equipment and data centers; personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used exclusively in connection with the Divested Product; licenses; permits, licenses and authorizations issued by any governmental organization relating to the Divested Product to the extent transferrable; contracts, teaming arrangements, supply agreements, agreements, leases, commitments, certifications, and understandings relating to the Divested Product; customer lists, contracts, accounts, and credit records; sales support material; repair, maintenance and performance records; and all other records relating to the Divested Product; and

(2) all intangible assets related to the Divested Product, including, but not limited to, all vehicle data and information accessed by a Divested Product as of August 1, 2015; all patents, licenses and sublicenses, including data licenses; intellectual property; copyrights, trademarks, trade names, service marks, service names; computer software and related documentation, including software customizations, optional modules and add-ons for a Divested Product; source code, object code, and related documentation; development tools, development environments, proprietary programming languages, know-how, designs, drawing, specifications, research data, trade secrets, historic and current research and development, results of successful and unsuccessful designs and experiments, and all other intellectual property used to develop, upgrade or maintain a Divested Product; and software programs, instructions, manuals and all other technical information Dealertrack provides to its own employees, customers, suppliers, agents, or licensees to facilitate the operation of any Divested Product.

N. ''DMS'' means dealer management solution software, hardware, or services, or any combination thereof, used for automotive dealership management, including keeping track of, organizing, or in any way managing the operations, including sales, inventory, maintenance, service, payroll, accounting, personnel, and other aspects of the dealership's business.

O. ''IMS'' means inventory management solution software, hardware, or services, or any combination thereof, used for vehicle inventory management, including optimization, analytics, organization, stocking, provisioning, appraising, pricing, merchandising, sourcing, buying, selling, acquisition or disposal at auction or at wholesale, and inter-enterprise transfers.

P. ''Person'' means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, trust, or other business or legal entity, whether private or governmental.

Q. ''Transition Services Agreement'' means an agreement between Defendants and Acquirer for Defendants to provide all necessary transition services and support to enable Acquirer to fully operate the Divestiture Assets and compete effectively in the market

for IMSs as of the date the Divestiture Assets are sold.

III. APPLICABILITY

A. This Final Judgment applies to Defendants, 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 Defendants sell or otherwise dispose of all or substantially all of their assets, or of lesser business units that include the 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 Acquirer of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURE

A. Defendants are ordered and directed, within ten (10) calendar days after (i) the Court's signing of the Hold Separate Stipulation and Order in this matter, (ii) the closing of Cox's acquisition of Dealertrack, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to DealerSocket or another Acquirer 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, with any one extension not to exceed sixty (60) calendar days and all extensions not to exceed one hundred and twenty (120) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible. As to any Divestiture Asset that is not primarily related to the Divested Product because its primary use or application is in a product that will be retained by the Defendants, the asset may be divested pursuant to Section IV or VI of this Final Judgment by granting Acquirer a perpetual, non-exclusive license.

B. In the event Defendants attempt to divest the Divestiture Assets to an Acquirer other than DealerSocket, Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any Person making an 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.

C. In accomplishing the divestiture ordered by this Final Judgment, Defendants shall offer to furnish to all 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. Defendants shall make available such information to the United States at the same time that such information is made available to any other Person.

D. Defendants shall provide Acquirer and the United States information relating to the personnel involved in the operation, development, service, maintenance, customer support, license, and sale of the Divestiture Assets to enable Acquirer to make offers of employment. Defendants shall not interfere with any negotiations, offers, or actions by Acquirer to employ any Defendant employee whose primary responsibility is in the operation, development, service, maintenance, customer support, license, or sale of the Divestiture Assets.

E. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of Dealertrack that relate in any way to the Divestiture Assets; 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.

F. Defendants shall warrant to Acquirer that each of the Divestiture Assets will be in good working condition and repair on the date of sale.

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

H. Defendants shall warrant to Acquirer that the Divestiture Assets are in material compliance with the terms of each of, and have not received any written notices of violation or alleged violation with respect to any of, the environmental, zoning or other permits necessary for the operation of each of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture required pursuant to this Section IV, or by a Divestiture Trustee appointed pursuant to Section VI of this Final Judgment, shall include the entire Divestiture Assets, and shall 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 Acquirer as part of a viable, ongoing business of providing IMS. The divestiture, whether pursuant to Section IV or Section VI of this Final Judgment,

(1) shall be made to an Acquirer 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 business of providing IMS; 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 Acquirer's costs, to lower Acquirer's efficiency, or otherwise to interfere in the ability of Acquirer to compete effectively.

V. OTHER REQUIRED CONDUCT

A. At the election of Acquirer, Defendants and Acquirer shall enter into a Transition Services Agreement for a period of up to one (1) year from the date of the divestiture. The Transition Services Agreement shall enumerate all the duties and services that Acquirer requires of Defendants to support the development, marketing, and sale of any Divested Product. Defendants shall perform all duties and provide any and all services required of Defendants under the Transition Services Agreement. Any amendments, modifications, or extensions of the Transition Services Agreement may only be entered into with the approval of the United States, in its sole discretion.

B. In order for Acquirer to continue to have the uninterrupted ability to transfer, receive, or otherwise exchange content and other data between any Divested Product and destinations, sites, or other data sources controlled by Defendants, including but not limited to Manheim, AutoTrader, Kelly Blue Book (KBB), and any Dealertrack solution or database that prepares or stores data in an aggregated, normalized, and anonymized form, for three (3) years following the date of the sale of the Divestiture Assets, Defendants shall: (1) provide to Acquirer for use in its IMS business access to all such data sources under their control that were accessed by the Divestiture Assets as of August 1, 2015; and (2) allow Acquirer to provide content or other data (such as automotive listings) to any such destination or site under their control to which the Divestiture Assets provided content or other data as of August 1, 2015. Defendants shall, upon receiving a written request from Acquirer at least thirty (30) calendar days before expiration of the third year, continue to provide the services covered by this Section V.B for another one (1) year.

C. For any data or content subject to Section V.B, Defendants shall provide

for the exchange of such data or content on the same terms that were applicable to such data or content exchanges with the Divestiture Assets as of August 1, 2015. Provided, however, that if Defendants allow for the exchange of any such data or content with any other provider's IMS (including any IMS of Defendants) on terms (other than price) that are more favorable than the terms made available to Acquirer, Defendants shall notify Acquirer of the more favorable terms and Acquirer may elect to exchange the data or content on those terms. For the avoidance of doubt, the following is a non-exhaustive list of terms that may not be more favorable than those that are made available to Acquirer:

(1) speed and frequency of content transmission;

(2) server lag time and/or uptime;

(3) database or API synchronization; and

(4) data content or data fields transmitted or utilized.

Provided, further, that this Section V.C. does not require Defendants:

(1) To provide, or, if provided, to refrain from charging any additional fee for, any additional data fields that were not accessed by the Divestiture Assets as of August 1, 2015 and that Defendants do not make commercially available to any other third party; or

(2) to allow Acquirer to cache any data that Cox prohibited Dealertrack from caching in connection with the operation or use of any Divested Product as of August 1, 2015, and that Defendants prohibit all other third parties from caching.

D. For any data or content subject to Section V.B, Defendants shall not change except for good cause the format of any data or content exchange provided to Acquirer. For any such change, Defendants shall provide adequate notice for Acquirer to modify its IMS products and any customer installations to use the new data format without disruption.

E. Defendants may require as a condition of providing aggregated, normalized, and anonymized data that is covered by Section V.B that Acquirer provide the same data the Divested Product currently provides as an input into the aggregated, normalized, and anonymized data, if Acquirer is permitted to provide its data under terms that require Defendants to preserve the confidentiality of Acquirer's data and not use Acquirer's data except in the aggregated, normalized, and anonymized form.

F. In order for Acquirer to continue to have the uninterrupted ability to transfer, receive, or otherwise exchange a customer's content and other data between any Divested Product and the customer's other sites or solutions that are provided or managed by Defendants, and with which any Divested Product exchanges data as of August 1, 2015 (''Designated Sites or Solutions'') including but not limited to Dealer.com Web sites and the Dealertrack DMS, for three (3) years following the date of sale of the Divestiture Assets, upon a customer's approval, Defendants shall enable, at cost, the exchange of the customer's data and content between Acquirer's IMS products and any Designated Sites or Solutions . Defendants shall, upon receiving a written request from Acquirer at least thirty (30) calendar days before expiration of the third year, continue to provide the services covered by this Section V.F for another one (1) year.

G. For any customer data or content subject to Section V.F, Defendants shall provide for the exchange of such data or content on the same terms that were applicable to such data or content exchanges with the Divestiture Assets as of August 1, 2015. Provided, however, that if Defendants allow for the exchange of any such data or content with any other provider's IMS (including any IMS of Defendants) and any of the Designated Sites or Solutions on terms (other than price) that are more favorable than the terms made available to Acquirer, Defendants shall notify Acquirer of the more favorable terms and Acquirer may elect to exchange the data or content on those terms. For the avoidance of doubt, the following is a non-exhaustive list of terms that may not be more favorable than those that are made available to Acquirer:

(1) Speed and frequency of content transmission;

(2) server lag time and/or uptime;

(3) database or API synchronization; and

(4) data content or data fields transmitted or utilized.

H. Defendants may impose, with a customer's approval and as a condition of enabling the exchange of the customer's data and content that is covered by Section V.F, conditions that are reasonably related to maintaining the security, integrity and confidentiality of the data, except that Defendants may not impose conditions that are materially less favorable than the conditions under which Defendants allow the exchange of a customer's content or data between any IMS owned or controlled by Defendants and any of the customer's other solutions or sites that are provided or managed by Defendants.

I. For any data or content subject to Section V.F, Defendants shall not change except for good cause the format of any customer data or content exchange. For any such change, Defendants shall provide adequate notice for Acquirer to modify its IMS products and any customer installations to use the new data format without disruption.

J. Defendants shall take all reasonable steps to cooperate with and assist Acquirer in obtaining any third party license or permission that may be required for Defendants to convey, license, sublicense, assign or otherwise transfer to Acquirer rights in any of the Divestiture Assets or in any data that Defendants are required to provide to Acquirer pursuant to this Section V.

K. Defendants are prohibited from retaining a copy of, using, or offering for sale any of the Divestiture Assets other than those items provided to Acquirer through a non-exclusive license, except that Defendants may retain, use or sell Dealertrack SmartChat® and the Broker Connection access and interoperability software.

L. Effective immediately upon consummation of Cox's acquisition of control of Dealertrack, Defendants are prohibited from taking any action that would prevent Autodata from immediately exercising any or all of the following rights: (1) Acquiring a majority interest in the ownership of Chrome; (2) appointing the Chief Executive Officer of Chrome; or (3) appointing a third Director to the Board of Directors of Chrome, each pursuant to the change of control provisions of the applicable Chrome Agreements (but without requiring any of the specified waiting periods); provided, however, that Defendants may exercise any right to contest the price that Autodata proposes to pay to acquire a majority interest in the ownership of Chrome, as set forth in the applicable Chrome Agreements.

M. Effective immediately upon consummation of Cox's acquisition of control of Dealertrack, Defendants are hereby enjoined from exercising any rights with respect to the licensing or pricing of Chrome Data to any actual or prospective Chrome customer that competes with Defendants. Provided, however, that nothing in this Section V.M shall prevent Defendants from: (i) Engaging in discussions or negotiations relating to the licensing of Chrome Data to Defendants; or (ii) exercising any rights that Defendants may hold to prevent the renewal of any license that is applicable to the use of Chrome Data in the DMS of either CDK Global, Inc. or The Reynolds and Reynolds

Company (together with their respective Affiliates, ''CDK'' and ''Reynolds'') solely in the event that CDK or Reynolds terminates, without reasonable cause, a Defendant's (or any of its Affiliates') ability to integrate its products with the DMS of the company as to which the nonrenewal would apply.

N. Effective immediately upon consummation of Cox's acquisition of control of Dealertrack, Defendants are hereby enjoined from reviewing, receiving, obtaining, sharing, using, or attempting to obtain, share, or use any Competitively Sensitive Information, other than (i) Competitively Sensitive Information relating solely to Defendants; (ii) Competitively Sensitive Information relating solely to Chrome customers with whom Defendants do not compete; or (iii) information about the existence and prospective renewal of Chrome Data licensing agreements with CDK or Reynolds solely to the extent necessary to exercise Defendants' rights in Section V.M.(ii). For the avoidance of doubt, the following is a non-exhaustive list of activities as to which Defendants are enjoined:

(1) exercising any otherwise available audit right for the purpose of, or which would result in, Defendants obtaining access to any such Competitively Sensitive Information;

(2) participating in discussions or meetings of the Board of Directors of Chrome in which any such Competitively Sensitive Information is discussed or otherwise disclosed;

(3) requesting, obtaining, or reviewing any portion of any business plan, strategy, periodic report, or other document in which any such Competitively Sensitive Information is included or otherwise disclosed; and

(4) sharing or using any such Competitively Sensitive Information obtained from, or otherwise disclosed through or by, Chrome, whether inadvertently disclosed or otherwise, for any purpose whatsoever.

O. Defendants shall not acquire, directly or indirectly, any additional assets of or interest in Chrome, or any owner of any interest in Chrome, including Autodata, other than that which Dealertrack owned as of August 1, 2015. If Autodata acquires a majority ownership in Chrome, Defendants shall take no action to increase, directly or indirectly, their resulting minority interest in Chrome. Nothing in this Section V.O shall prohibit Defendants from receiving a proportional or less than proportional distribution of Chrome equity securities in connection with any equity distribution or any future conversion of Chrome into a corporation so long as Defendants' economic share in Chrome does not increase as a result of such distribution.

P. Promptly after Cox's acquisition of control of Dealertrack, Defendants shall use all reasonable efforts to amend or otherwise change the Chrome Agreements to incorporate into such agreements all of the requirements in Sections V.L through V.O. The required amendments or changes shall: (i) be acceptable to the United States, in its sole discretion; (ii) have no expiration date; and (iii) provide that they may not be withdrawn, amended, or otherwise changed without the consent of Autodata and, prior to the expiration of this Final Judgment, the United States. Provided, however, that any such amendments or changes to the Chrome Agreements may be applicable only to Defendants and may automatically terminate upon Defendants' sale of their entire interest in Chrome.

VI. APPOINTMENT OF DIVESTITURE TRUSTEE

A. If Defendants have not divested the Divestiture Assets within the time period specified in Section IV.A of this Final Judgment, 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 Divestiture 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 acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, VI and VII of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section VI.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 Divestiture Trustee, reasonably necessary in the Divestiture 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 Divestiture Trustee on any ground other than the Divestiture 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 Divestiture Trustee has provided the notice required under Section VII of this Final Judgment.

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 Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture 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 Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture 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 Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture 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 Divestiture 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 Divestiture 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 Divestiture Trustee's efforts to accomplish the divestiture ordered by 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 (6) months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture 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 this 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 that the Court appoint a substitute Divestiture Trustee.

VII. 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 VI 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, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, 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, any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture 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 VI.C. of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer 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 VI.C., a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. FINANCING

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

IX. 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.

X. 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 VI, Defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each Person who, during the preceding thirty (30) calendar 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 the Divestiture Assets, 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 limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants 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 IX of this Final Judgment. 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.

XI. APPOINTMENT OF MONITORING TRUSTEE

A. Upon application of the United States, the Court shall appoint a Monitoring Trustee selected by the United States and approved by the Court.

B. The Monitoring Trustee shall have the power and authority to monitor Defendants' compliance with the terms of this Final Judgment and the Hold Separate Stipulation and Order entered by this Court, and shall have such other powers as this Court deems appropriate. The Monitoring Trustee shall be required to investigate and report on the Defendants' compliance with this Final Judgment and the Hold Separate Stipulation and Order and the Defendants' progress toward effectuating the purposes of this Final Judgment, including but not limited to:

(1) Defendants' compliance with the terms of the Transition Services Agreement; and

(2) Defendants' compliance with the terms listed in Section V, ''Other Required Conduct.''

C. Subject to Section XI.E. of this Final Judgment, the Monitoring Trustee may hire at the cost and expense of Defendants any consultants, accountants, attorneys, or other agents, who shall be solely accountable to the Monitoring Trustee, reasonably necessary in the Monitoring Trustee's judgment. Any such consultants, accountants, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

D. Defendants shall not object to actions taken by the Monitoring Trustee in fulfillment of the Monitoring Trustee's responsibilities under any Order of this Court on any ground other than the Monitoring Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Monitoring Trustee within ten (10) calendar days after the action taken by the Monitoring Trustee giving rise to the Defendants' objection.

E. The Monitoring Trustee shall serve at the cost and expense of Defendants pursuant to a written agreement with Defendants and on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications. The compensation of the Monitoring Trustee and any consultants, accountants, attorneys, and other agents retained by the Monitoring Trustee shall be on reasonable and customary terms commensurate with the individuals' experience and responsibilities. If the Monitoring Trustee and Defendants are unable to reach agreement on the Monitoring Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Monitoring Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Monitoring Trustee shall, within three (3) business days of hiring any consultants, accountants, attorneys, or other agents, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

F. The Monitoring Trustee shall have no responsibility or obligation for the operation of Defendants' businesses.

G. Defendants shall use their best efforts to assist the Monitoring Trustee in monitoring Defendants' compliance with their individual obligations under this Final Judgment and under the Hold Separate Stipulation and Order. The Monitoring Trustee and any consultants, accountants, attorneys, and other agents retained by the Monitoring Trustee shall have full and complete access to the personnel, books, records, and facilities relating to compliance with this Final Judgment, 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 Monitoring Trustee's accomplishment of its responsibilities.

H. After its appointment, the Monitoring Trustee shall file reports quarterly, or more frequently as needed, with the United States, and, as appropriate, the Court setting forth Defendants' efforts to comply with its obligations under this Final Judgment and under the Hold Separate Stipulation and Order. To the extent such reports contain information that the Monitoring Trustee deems confidential, such reports shall not be filed in the public docket of the Court.

I. The Monitoring Trustee shall serve until the divestiture of all the Divestiture Assets is finalized pursuant to either Section IV or Section VI of this Final Judgment and for so long as the Defendant's obligations outlined in Section V persist.

J. If the United States determines that the Monitoring 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 Monitoring Trustee.

XII. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate or Asset Preservation Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time 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 copy 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 response 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 XII 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).

XIII. NO REACQUISITION

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIV. 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.

XV. EXPIRATION OF FINAL JUDGMENT

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

XVI. 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 upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated this __ day of_____, 2015.

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

United States District Judge

SCHEDULE A

List of products and functionality included in ''Divested Product,'' as defined in Section II.L of this Final Judgment:

Dealertrack eCarList®;
Dealertrack AAX®;
Inventory+;
InventoryPro;
PriceDriver;
TrueTarget® (including TrueTarget® Appraisal and TrueTarget® Pricing Reports);
TrueTarget® Mobile;
Inventory+Mobile (including Inventory+ for iPhone® and Android);
Inventory Management Stocking and Sourcing;
TrueScore;
Inventory+ Appraisal Workflow;
Inventory+ Merchandising;
AutoInk and eBay Listing and Merchandising Tools (including integrated AutoInk description writer and direct distribution to leading Web sites such as backpage.com, Craigslist, eBay Motors);
Dealer Web sites (eCarList only);
Dealertrack AutoReel® with TruVoice™;
Inventory+ integrated, ''multi-site'' lead Management system (including Email Lead Management);
Dealertrack Interactive Automated Incentives;
OutClick™;
Inventory Health Report;
Lot Services;
PROShots;
Inventory+ New Car Pricing;
Dealertrack Inventory+ integration;
Inventory+ Multiplatform Listing;
Appraisal Central;
GroupTrade;
Software code for Inventory+ Exchange (including Social Trade and OpenTrade) and its predecessor Dealertrack Marketplace;
Ability to enable Dealertrack SmartChat® reporting within Inventory+ for customers who have both Inventory+ and SmartChat®; and
Fully integrated access and interoperability with Broker Connection.

[FR Doc. 2015–26042 Filed 10–9–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Unither Manufacturing, LLC

ACTION: Notice of registration.

SUMMARY: Unither Manufacturing, LLC applied to be registered as an importer of a certain basic class of controlled substance. The Drug Enforcement Administration (DEA) grants Unither Manufacturing, LLC registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated April 14, 2015, and published in the **Federal Register** on April 22, 2015, 80 FR 22552, Unither Manufacturing, LLC, 331 Clay Road, Rochester, New York 14623 applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Unither Manufacturing, LLC to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of methylphenidate (1724), a basic class of controlled substance listed in schedule II.

The company plans to import the listed substance as a raw material for updated testing purposes for EU customer requirements.

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: October 2, 2015.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2015–25881 Filed 10–9–15; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: American Radiolabeled Chemicals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before December 14, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.