have not had an opportunity to comment. Parties may submit final comments on this information on or before February 10, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 9, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–22096 Filed 9–13–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Nexstar Broadcasting Group 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, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Nexstar Broadcasting Group, Inc.,* Civil Action No. 1:16–cv–01772 (JDB). On September 2, 2016, the United States filed a Complaint alleging that Nexstar Broadcasting Group, Inc.'s acquisition of Media General, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed on the same day as the Complaint, resolves the case by requiring Nexstar to divest certain broadcast television stations in Green Bay-Appleton, Wisconsin; Roanoke-Lynchburg, Virginia; Lafayette, Louisiana; Terre Haute, Indiana; Ft. Wayne, Indiana; and Davenport, Iowa/Rock Island-Moline, Illinois. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and the industry.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection 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 Owen Kendler, Asst. Chief, Litigation III, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone: 202–305–8376).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 7000, Washington, DC 20530, Plaintiff, v. *Nexstar Broadcasting Group, Inc., 545 E. John Carpenter Freeway, Suite 700, Irving, TX 75062,* and *Media General, Inc., 333 E. Franklin Street, Richmond, VA 23219* Defendants.

Case No.: 1:16–cv–01772
Judge: John D. Bates
Filed: 09/02/2016

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 acquisition by Nexstar Broadcasting Group, Inc. (''Nexstar'') of Media General, Inc. (''Media General'') (collectively, ''Defendants''), and to obtain other equitable relief.

I. Nature of the Action

1. Pursuant to an Agreement and Plan of Merger dated January 27, 2016, Nexstar agreed to acquire Media General for approximately $4.6 billion. Nexstar and Media General own and operate broadcast television stations in multiple Designated Market Areas (''DMAs'') throughout the United States.

2. Nexstar's and Media General's television stations compete head to head for the business of local and national companies that seek to advertise on broadcast television stations operating in the following DMAs: Roanoke-Lynchburg, Virginia; Terre Haute, Indiana; Ft. Wayne, Indiana; Green Bay-Appleton, Wisconsin; Lafayette, Louisiana; and Davenport, Iowa/Rock Island-Moline, Illinois (''Quad Cities'') (collectively, the ''DMA Markets''). In each of these six DMAs, Nexstar and Media General together account for a substantial share of the broadcast television station advertising revenues in that DMA.

3. Specifically, the Defendants operate three stations that account for approximately 41 percent of broadcast television station gross advertising revenues in the Roanoke-Lynchburg, Virginia DMA; three stations that account for approximately 100 percent of broadcast television station gross advertising revenues in the Terre Haute, Indiana DMA; three stations that account for approximately 51 percent of broadcast television station gross advertising revenues in the Ft. Wayne, Indiana DMA; two stations that account for approximately 51 percent of broadcast television station gross advertising revenues in the Green Bay-Appleton, Wisconsin DMA; three stations that account for approximately 53 percent of broadcast television station gross advertising revenues in the Lafayette, Louisiana DMA; and three stations that account for approximately 56 percent of broadcast television station gross advertising revenues in the Quad Cities DMA.

4. Nexstar and Media General also compete to license programming to multichannel video programming distributors (''MVPDs'') for retransmission to MVPD subscribers and each operate at least one station affiliated with a major broadcast network in each of the DMA Markets. Because MVPDs in each DMA Market retransmit the Defendants' programming to MVPD subscribers in those markets, Nexstar and Media General compete for viewers who are MVPD subscribers.

5. If consummated, the proposed acquisition would eliminate the substantial head-to-head competition that currently exists between Nexstar and Media General and likely result in (1) higher prices for broadcast television spot advertising in each of the DMA Markets; and (2) higher licensing fees for the retransmission of broadcast television programming to MVPD subscribers in each of the DMA Markets. Consequently, Defendants' proposed transaction likely would substantially lessen competition in those markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. Jurisdiction, Venue, and Commerce

6. The United States brings this action pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain Nexstar and Media General from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

7. The Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

8. Nexstar and Media General are engaged in interstate commerce and in activities substantially affecting interstate commerce. They each own and operate broadcast television stations in various locations throughout the United States. They each sell television advertising for those stations and license programming to MVPDs for retransmission to MVPD subscribers. Their television advertising sales and retransmission licenses have a substantial effect upon interstate commerce.

9. Defendants have consented to venue and personal jurisdiction in this District. Therefore, venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(c).

III. The Defendants

10. Nexstar is a Delaware corporation with its headquarters in Irving, Texas. Nexstar reported net operating revenues of over $890 million in 2015. Nexstar owns, operates, or services broadcast television stations in 62 metropolitan areas.

11. Media General is a Virginia corporation with its headquarters in Richmond, Virginia. Media General reported net operating revenues of over $1.3 billion in 2015. Media General owns, operates, or services broadcast television stations in 48 metropolitan areas.

IV. Relevant Markets

12. The relevant product and geographic markets and lines of commerce and sections of the country for assessing this merger under Section 7 of the Clayton Act are (1) the sale of broadcast television spot advertising to advertisers targeting viewers in each of the DMA Markets and (2) the licensing of broadcast television programming to MVPDs that retransmit the programming to subscribers in each of the DMA Markets.

13. A DMA is a geographic unit for which A.C. Nielsen Company—a firm that surveys television viewers—furnishes broadcast television stations, MVPDs, cable and satellite television networks, advertisers, and advertising agencies in a particular area with data to aid in evaluating audience size and composition. DMAs are widely accepted by television stations, MVPDs, cable and satellite television networks, advertisers, and advertising agencies as the standard geographic area to use in evaluating television audience size and demographic composition. The Federal Communications Commission (''FCC'') also uses DMAs as geographic units with respect to its MVPD regulations.

14. Nexstar and Media General sell television advertising to local and national advertisers in each of the DMA Markets. Nexstar's and Media General's television stations in each of the DMA Markets generate a significant amount of revenues by selling advertising to local and national advertisers who want to reach viewers in those markets. Spot advertising placed on television stations in a DMA is aimed at reaching viewing audiences in that DMA, and television stations broadcasting outside that DMA do not provide effective access to those audiences. For this reason, in the event of a small but significant increase in broadcast television advertising spot prices in a DMA Market, advertisers would not switch enough advertising purchases to television stations outside the DMA Market to render the price increase unprofitable.

15. Spot advertising differs from network and syndicated television advertising. In contrast to spot advertising sales, television networks and producers of syndicated programs sell network and syndicated television advertising on a nationwide basis for broadcast in every market where the network or syndicated program is aired.

16. Broadcast television stations attract viewers through their programming, which is delivered for free over the air or retransmitted to viewers, primarily through MVPDs. Broadcast television stations then sell advertising to businesses that want to advertise their products to television viewers. A television station's advertising rates typically are based on the station's ability, relative to competing television stations, to attract viewing audiences that have certain demographic characteristics that advertisers want to reach.

17. Broadcast television spot advertising possesses a unique combination of attributes that set it apart from advertising using other types of media. Television combines sight, sound, and motion, thereby creating a more memorable advertisement. Moreover, broadcast television spot advertising generally reaches the largest percentage of all potential customers in a particular target geographic area and is therefore especially effective in introducing, establishing, and maintaining the image of a product. Other media, such as radio, newspapers, or outdoor billboards, are not desirable substitutes for broadcast television advertising. None of these media can provide the important combination of sight, sound, and motion that makes television unique and impactful as a medium for advertising.

18. Like broadcast television, other satellite and cable television networks, such as those carried by MVPDs, combine elements of sight, sound, and motion, but they are not a desirable substitute for broadcast television spot advertising for two important reasons. First, broadcast television can reach well over 90 percent of homes in a DMA, while other satellite and cable television networks carried by MVPDs often reach many fewer homes. Even when several MVPDs within a DMA jointly offer television spot advertising through a consortium called an interconnect, MVPD spot advertising does not match the reach of broadcast television spot advertising. As a result, an advertiser can achieve greater audience penetration through broadcast television spot advertising than through advertising on satellite and cable television networks that MVPDs distribute. Second, because MVPDs may offer more than 100 channels, they fragment the audience into small demographic segments. Because broadcast television programming typically has higher rating points than other cable and satellite television networks that MVPDs distribute, broadcast television provides a much easier and more efficient means for an advertiser to reach a high proportion of its target demographic in a broad area.

19. While media buyers often buy advertising on cable and satellite networks that MVPDs distribute, they

do so not as a substitute for broadcast television spot advertising in the DMA Markets, but rather as a supplement, in order to reach a specific demographic (*e.g.,* 18–24 year olds) with greater frequency, or to target narrow geographic areas within a DMA. A small but significant price increase by broadcast television spot advertising providers would not be made unprofitable by advertisers switching to advertising on other cable and satellite networks distributed by MVPDs.

20. Internet-based media is also not currently a substitute for broadcast television spot advertising. Although Online Video Distributors (''OVDs'') such as Netflix and Hulu are important sources of video programming, as with cable and satellite television advertising on MVPDs, the local video advertising of OVDs lacks the reach of broadcast television spot advertising. Non-video Internet advertising, *e.g.,* Web site banner advertising, lacks the important combination of sight, sound, and motion that gives television its impact. Consequently, local media buyers currently purchase Internet-based advertising primarily as a supplement to broadcast television spot advertising, and a small but significant price increase by broadcast television spot advertising providers would not be made unprofitable by advertisers switching to Internet-based advertising.

21. In addition, broadcast television stations negotiate prices individually with advertisers; consequently, television stations can charge different advertisers different prices. Broadcast television stations generally can identify advertisers with strong preferences to advertise on broadcast television stations in their DMAs. Because of this ability to price discriminate among customers, broadcast television stations may target with higher prices advertisers that view broadcast television in their DMA as particularly effective for their needs, while maintaining lower prices for more price-sensitive advertisers. As a result, a hypothetical monopolist could profitably raise prices to those advertisers that view broadcast television as a necessary advertising medium, either as their sole means of advertising or as a necessary part of a total advertising plan.

22. In addition to selling broadcast spot advertising, Nexstar and Media General independently license competing broadcast television programming to MVPDs for retransmission to MVPD subscribers in each of the DMA Markets. MVPDs pay fees for these retransmission rights under a process known in the television industry and under FCC regulations as ''retransmission consent.'' As described below, in each of the DMA Markets, Nexstar and Media General each own and operate broadcast television stations that are affiliated with one of the major broadcast television networks, and their stations reach broad audiences. As a consequence of their retransmission agreements with MVPDs, Nexstar and Media General compete for viewers who are MVPD subscribers in each of the DMA Markets.

V. Likely Anticompetitive Effects

23. Broadcast television station ownership in each of the DMA Markets is already highly concentrated. In each of those markets, four stations—each affiliated with a major network—had more than 90 percent of gross broadcast television advertising revenues in 2015. Defendants' stations accounted for at least 40 percent of such revenues, reflecting that in each of the DMA Markets, Nexstar and Media General own and operate stations that are affiliated with one of the major broadcast television networks. These networks offer popular programming that individually reach a much broader audience than any other video programming, including cable and satellite network programming carried by MVPDs and OVDs. Consequently, bringing the Nexstar and Media General stations under common ownership would significantly concentrate the television viewing audiences in each of the DMA Markets.

24. Market concentration is often one useful indicator of the likely competitive effects of a merger. The more concentrated a market, and the more a transaction would increase concentration in a market, the more likely it is that the transaction would result in a meaningful reduction in competition that harms consumers.

25. The Herfindahl-Hirschman Index (''HHI'') is a standard measure of market concentration (defined and explained in Appendix A). Under the *Horizontal Merger Guidelines* issued by the Department of Justice and the Federal Trade Commission, mergers resulting in highly concentrated markets (with an HHI in excess of 2,500) that involve an increase in the HHI of more than 200 points are presumed to be likely to enhance market power.

26. Using 2015 gross broadcast television advertising revenues, the combination of Nexstar and Media General would result in HHIs in excess of 2,500 in each DMA Market:

Designated market area	Post-acquisition HHI
Roanoke-Lynchburg, Virginia	3,300
Terre Haute, Indiana	9,800
Fort Wayne, Indiana	3,600
Green Bay-Appleton, Wisconsin	3,900
Lafayette, Louisiana	4,700
Quad Cities, Iowa and Illinois	4,200

These post-acquisition HHIs, which reflect increases of more than 200 points in each DMA Market, are well above the 2,500 threshold at which a merger is presumed likely to enhance market power.

27. In addition to substantially increasing the concentration levels in each of the DMA Markets, the proposed transaction would combine television stations that are at least partial substitutes and vigorous competitors in markets with limited alternatives. In each of the DMA Markets, Defendants each have broadcast television stations that are affiliated with the major national television networks: ABC, CBS, NBC and FOX. In the Roanoke-Lynchburg, Virginia DMA, Nexstar owns and operates WFXR, a FOX affiliate; and Media General owns and operates WSLS–TV, an NBC affiliate. In the Terre Haute, Indiana DMA, Nexstar owns or operates WTWO, an NBC affiliate, and WAWV–TV, an ABC affiliate; and Media General owns and operates WTHI–TV, a CBS affiliate. In the Ft. Wayne, Indiana DMA, Nexstar owns and operates WFFT–TV, a FOX affiliate; and Media General owns and operates WANE–TV, a CBS affiliate. In the Green Bay-Appleton, Wisconsin DMA, Nexstar owns and operates WFRV–TV, a CBS affiliate; and Media General owns and operates WBAY–TV, an ABC affiliate. In the Lafayette, Louisiana DMA, Nexstar owns and operates KADN–TV, a FOX affiliate, and KLAF–LD, an NBC affiliate; and Media General owns and operates KLFY–TV, a CBS affiliate. In the Quad Cities DMA, Nexstar owns or operates WHBF–TV, a CBS affiliate, and KLJB, a FOX affiliate; and Media General owns and operates KWQC–TV, an NBC affiliate. Their respective affiliations with those networks, and their local news operations, provide Defendants' stations with a variety of competing programming options that are often each other's next-best or second-best substitutes for many viewers and advertisers.

28. Advertisers benefit from Defendants' head-to-head competition in the sale of broadcast television spot advertising in the DMA Markets. Advertisers purposefully spread their

advertising dollars across numerous spot advertising suppliers to reach their marketing goals most efficiently. After the proposed acquisition, advertisers in each of the DMA Markets would likely find it more difficult to ''buy around'' Defendants' combined stations in response to higher advertising rates, than to ''buy around'' Nexstar's stations or Media General's stations, as separate entities, as they could have done before the proposed acquisition. Because a significant number of advertisers would likely be unable to reach their desired audiences as effectively unless they advertise on at least one station that Nexstar would control after the proposed acquisition, those advertisers' bargaining positions would be weaker, and the advertising rates they pay would likely increase.

29. The proposed merger between Nexstar and Media General would also diminish competition in the negotiation of retransmission agreements with MVPDs in the DMA Markets. Post-acquisition, Nexstar would gain the ability to threaten MVPDs in each of the DMA Markets with the simultaneous blackout of at least two major broadcast networks: its own network(s) and Media General's network(s). That threatened loss of programming, and the resulting diminution of an MVPD's subscribers and profits, would significantly strengthen Nexstar's bargaining position with MVPDs. Prior to the merger, an MVPD's failure to reach a retransmission agreement with Nexstar for a broadcast television station might result in a blackout of that station and threaten some subscriber loss for the MVPD. But because the MVPD would still be able to offer programming on Media General's major network affiliates, which are at least partial substitutes for Nexstar's, many MVPD subscribers would simply switch stations instead of cancelling their MVPD subscriptions. After the merger, an MVPD negotiating with Nexstar over a retransmission agreement could be faced with the prospect of a dual blackout of major broadcast networks (or worse), a result more likely to cause the MVPD to lose subscribers and therefore to accede to Nexstar's retransmission fee demands. For these reasons, the loss of competition between the Nexstar and Media General stations in each DMA Markets would likely lead to an increase in retransmission fees in each DMA and, because increased retransmission fees typically are passed on to consumers, higher MVPD subscription fees.

VI. Absence of Countervailing Factors

30. De novo entry into each of the DMA Markets is unlikely. The FCC regulates entry through the issuance of broadcast television licenses, which are difficult to obtain because the availability of spectrum is limited and the regulatory process associated with obtaining a license is lengthy. Even if a new signal became available, commercial success would come, at best, over a period of many years. Thus, entry into each DMA Market's broadcast television spot advertising market would not be timely, likely, or sufficient to deter post-merger anticompetitive effects.

31. Other broadcast television stations in each of the DMA Markets also likely would not increase their advertising capacity in response to a price increase by Nexstar. The number of 30-second spots in a DMA is largely fixed by programming and time constraints. This fact makes the pricing of spot advertising responsive to changes in demand. Adjusting programming in response to a pricing change is risky, difficult, and time-consuming. Network affiliates are often committed to the programming provided by the network with which they are affiliated, and it often takes years for a station to build its audience. Programming schedules are complex and carefully constructed, taking many factors into account, such as audience flow, station identity, and program popularity. In addition, stations typically have multi-year contractual commitments for individual shows. Accordingly, a television station is unlikely to change its programming sufficiently or with sufficient rapidity to overcome a small but significant price increase imposed by Nexstar.

32. Entry into the licensing of major broadcast television network programming to MVPDs for retransmission in each of the DMA markets is similarly unlikely. The FCC regulates the ability of MVPDs to import non-local broadcast station signals into a local market. Consequently, in the event of a blackout of a major broadcast television network's signal, an MVPD typically would not be allowed to import the signal from a non-local affiliate of that broadcast television network. Thus, entry would not be timely, likely, or sufficient to deter Nexstar from engaging in anticompetitive price increases or other anticompetitive conduct in its licensing of major broadcast television network programming to MVPDs for retransmission in the DMA markets.

33. Defendants cannot demonstrate acquisition-specific and cognizable efficiencies that would be sufficient to offset the proposed acquisition's likely anticompetitive effects.

VII. Violation Alleged

34. The United States hereby repeats and realleges the allegations of paragraphs 1 through 33 as if fully set forth herein.

35. Nexstar's proposed acquisition of Media General likely would substantially lessen competition in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed acquisition likely would have the following effects, among others:

a. Competition in the sale of broadcast television spot advertising in each of the DMA Markets would be substantially lessened;

b. actual and potential competition among Nexstar and Media General in the sale of broadcast television spot advertising in each of the DMA Markets would be eliminated;

c. prices for spot advertising on broadcast television stations in each of the DMA Markets would increase, and the quality of services would decline; and

d. retransmission licensing fees to MVPDs in each of the DMA Markets would increase.

VIII. Request for Relief

36. The United States requests:

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

b. that the Court permanently enjoin and restrain Defendants from carrying out the transaction, or entering into any other agreement, understanding, or plan by which Nexstar would acquire Media General;

c. that the Court award the United States the costs of this action; and

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

Dated: September 2, 2016

Respectfully submitted,

For Plaintiff United States:

/s/ ______________________________

Renata B. Hesse (D.C. Bar #466107),

Acting Assistant Attorney General, Antitrust Division.

/s/ ______________________________

Juan A. Arteaga,

Deputy Assistant Attorney General.

/s/ ______________________________

Patricia A. Brink,

Director of Civil Enforcement.

/s/ ______________________________

Owen M. Kendler,

Asst. Chief, Litigation III Section.

/s/ ______________________________

Mark A. Merva* (D.C. Bar #451743),
Trial Attorney.

United States Department of Justice, Antitrust Division, Litigation III Section, 450 Fifth Street NW., Suite 4000, Washington, DC 20530, Phone: 202-616–1398, Facsimile: 202-514-7308, Email: Mark.Merva@usdoj.gov.

* *Attorney of Record*

Appendix A

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

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

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Nexstar Broadcasting Group, Inc., and Media General, Inc.,* Defendants.

Case No.: 1:16–cv–01772
Judge: John D. Bates
Filed: 09/02/2016

Competitive Impact Statement

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

I. Nature and Purpose of the Proceeding

Defendants Nexstar Broadcasting Group, Inc. (''Nexstar'') and Media General, Inc. (''Media General'') (collectively, ''Defendants'') entered into an Agreement and Plan of Merger, dated January 27, 2016, pursuant to which Nexstar would acquire Media General for approximately $4.6 billion. Defendants compete head-to-head in the sale of broadcast television spot advertising in the following Designated Market Areas (''DMAs''): Roanoke-Lynchburg, Virginia; Terre Haute, Indiana; Ft. Wayne, Indiana; Green Bay-Appleton, Wisconsin; Lafayette, Louisiana; and Davenport, Iowa/Rock Island-Moline, Illinois (''Quad Cities'') (collectively, ''the DMA Markets''). Defendants also compete in the DMA Markets for viewers who are multichannel video programming distributor (''MVPD'') subscribers.

The United States filed a civil antitrust Complaint on September 2, 2016, seeking to enjoin the proposed acquisition. The Complaint alleges that the proposed transaction likely would lead to (1) higher prices for broadcast television spot advertising in each of the DMA Markets and (2) higher licensing fees for the retransmission of broadcast television programming to MVPD subscribers in each of the DMA Markets. These likely competitive effects would substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the likely anticompetitive effects of the acquisition. The proposed Final Judgment, which is explained more fully below, requires Defendants to divest the following broadcast television stations (the ''Divestiture Stations'') to Acquirers approved by the United States in a manner that preserves competition in each of the DMA Markets:

- WBAY–TV, located in the Green Bay-Appleton, Wisconsin DMA;
- WSLS–TV, located in the Roanoke-Lynchburg, Virginia DMA;
- KADN–TV, located in the Lafayette, Louisiana DMA;
- KLAF–LD, located in the Lafayette, Louisiana DMA;
- WTHI–TV, located in the Terre Haute, Indiana DMA;
- WFFT–TV, located in the Ft. Wayne, Indiana DMA; and
- KWQC–TV, located in the Quad Cities DMA.

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

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

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Acquisition

Nexstar is a Delaware corporation with its headquarters in Irving, Texas. Nexstar owns, operates, or services broadcast television stations in 62 metropolitan areas.

Media General is a Virginia corporation with its headquarters in Richmond, Virginia. Media General owns, operates, or services broadcast television stations in 48 metropolitan areas.

Pursuant to an Agreement and Plan of Merger, dated January 27, 2016, Nexstar agreed to acquire Media General for approximately $4.6 billion.

The proposed transaction, as initially agreed to by Defendants, likely would lessen competition substantially in each of the DMA Markets in (1) the sale broadcast television spot advertising and (2) the licensing of broadcast television programming to MVPDs for retransmission to MVPD subscribers. This acquisition is the subject of the Complaint and proposed Final Judgment filed today by the United States.

B. The Transaction's Likely Anticompetitive Effects

1. Relevant Markets

i. Broadcast Television Spot Advertising in the DMA Markets

The Complaint alleges that the sale of broadcast television spot advertising to advertisers targeting viewers located in each DMA Market constitutes a relevant market under Section 7 of the Clayton Act.

Nexstar and Media General sell television advertising to local and national advertisers that seek to target viewers in each of the DMA Markets. A DMA is a geographical unit designated by the A.C. Nielsen Company, a company that surveys television viewers and furnishes broadcast television stations, advertisers, and advertising agencies in a particular area with data to aid in evaluating television audiences. DMAs are widely accepted by television stations, advertisers, and advertising agencies as the standard geographic area to use in evaluating television audience size and demographic composition. A television station's advertising rates typically are based on the station's ability, relative to competing television stations, to attract viewing audiences that have certain demographic characteristics that advertisers are seeking to reach. The Federal Communications Commission (''FCC'') also uses DMAs as geographic units with respect to its MVPD regulations.

Nexstar's and Media General's broadcast television stations in the DMA Markets generate almost all of their revenues by selling advertising to local and national advertisers who want to reach viewers present in those DMAs. Advertising placed on broadcast television stations in a DMA is aimed at reaching viewing audiences in that DMA, and television stations broadcasting outside that DMA do not provide effective access to these audiences.

Broadcast television spot advertising possesses a unique combination of attributes that sets it apart from advertising using other types of media. Because of this unique combination of attributes, broadcast television spot advertising has no close substitute for a significant number of advertisers.

Television combines sight, sound, and motion, thereby creating a more memorable advertisement when compared to other types of advertising. For example, radio spots lack the visual impact of television advertising; and newspaper and billboard ads lack sound and motion, as do many internet search engine and Web site banner ads.

Broadcast television spot advertising also generally reaches the largest percentage of potential customers in a targeted geographic area and is therefore especially effective in introducing, establishing, and maintaining a product's image.

Spot advertising differs from network and syndicated television advertising, which are sold on a nationwide basis by major television networks and by producers of syndicated programs and are broadcast in every market area in which the network or syndicated program is aired. Spot advertising on cable and satellite networks distributed by MVPDs and internet-based video advertising also lacks the same reach as broadcast television spot advertising.

In addition, through information provided during individualized price negotiations, broadcast television stations can identify advertisers with strong preferences for using broadcast television spot advertising and charge different prices to those advertisers. Consequently, if there was a small but significant and non-transitory increase in the price (''SSNIP'') of broadcast television spot advertising on broadcast television stations in the DMA Markets, advertisers would not reduce their purchases sufficiently to render the price increase unprofitable. Moreover, advertisers would not switch enough purchases of advertising time to television stations outside the DMA Markets, or to other media to render the price increase unprofitable.

ii. Retransmission Licensing Fees in the DMA Markets

The Complaint also alleges that the licensing to MVPDs in each of the DMA Markets of broadcast television programming for retransmission to subscribers constitutes a relevant market under Section 7 of the Clayton Act.

In each of the DMA Markets, Nexstar and Media General each own and operate broadcast television stations that are affiliated with one of the major broadcast television networks. Nexstar and Media General independently license the broadcast television programming from these stations to MVPDs to retransmit to the MVPDs' subscribers in each of the DMA Markets. MVPDs pay fees for these rights under a process known in the television industry and under FCC regulations as ''retransmission consent.'' As a consequence of their retransmission agreements with MVPDs, Nexstar and Media General compete for viewers that are MVPD subscribers in each of the DMA Markets. Nexstar's and Media General's stations are at least partial substitutes for these viewers.

2. Harm to Competition in Each of the DMA Markets

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

(a) Competition in the sale of broadcast television spot advertising in each of the DMA Markets would be substantially lessened;

(b) actual and potential competition between Nexstar and Media General in the sale of broadcast television spot advertising in each of the DMA markets would be eliminated;

(c) prices for spot advertising on broadcast television stations in each of the DMA Markets would increase, and the quality of services would decline; and

(d) prices for retransmission licensing to MVPDs in each of the DMA Markets would increase.

The acquisition, by eliminating Media General as a separate competitor and combining its operations with those of Nexstar, would allow the combined entity to increase its market share of broadcast television viewers, spot advertising, and revenues in each of the DMA Markets. Specifically, the acquisition would give the merged company the following shares of broadcast television station gross advertising revenues in each DMA Market:

DMA	Market share (percent)
Roanoke-Lynchburg, VA	41
Terre Haute, IN	100
Ft. Wayne, IN	51
Green Bay-Appleton, WI	51
Lafayette, LA	53
Quad Cities, IA/IL	56

As alleged in the Complaint, Nexstar's acquisition of Media General would further concentrate the already highly concentrated broadcast television market in each of the DMA Markets. Using the Herfindahl-Hirschman Index (''HHI''), a standard measure of market concentration, the post-acquisition HHI in each of the DMA Markets would exceed 2,500 and the transaction would increase each DMA Market's HHI by over 200 points. As a result, the proposed acquisition is presumed likely to enhance market power under the Horizontal Merger Guidelines issued by the Department of Justice and Federal Trade Commission.

Moreover, the acquisition combines stations that are at least partial substitutes and vigorous competitors in a product market with limited alternatives. In each of the DMA Markets, Defendants have broadcast stations that are affiliated with the major national television networks: ABC, CBS, NBC, and FOX. Their respective affiliations with those networks, and their local news operations, provide Defendants' stations with a variety of competing programming options that are often each other's next-best or second-best substitutes for viewers and advertisers.

As alleged in the Complaint, advertisers benefit from Defendants' competition in the sale of broadcast television spot advertising in the DMA Markets. Advertisers purposefully spread their advertising dollars across numerous spot advertising suppliers to reach their marketing goals most efficiently. After the proposed acquisition, advertisers in each of the DMA Markets would likely find it more difficult to ''buy around'' Defendants' combined stations in response to higher advertising rates than they could have done before the proposed acquisition. Because a significant number of advertisers would likely be unable to reach their desired audiences as effectively unless they advertise on at least one station that Nexstar would control after the proposed acquisition, those advertisers' bargaining positions would be weaker, and the advertising rates they pay would likely increase.

The proposed merger would also diminish competition in the negotiation of retransmission agreements with MVPDs in the DMA Markets. The acquisition would provide Nexstar with the ability to threaten MVPDs in each of the DMA Markets with the simultaneous blackout of at least two major broadcast networks: its own network(s) and Media General's network(s). That threatened loss of programming, and the resulting diminution of an MVPD's subscribers and profits, would significantly strengthen Nexstar's bargaining position. Prior to the merger, an MVPD's failure to reach a retransmission agreement with Nexstar for a broadcast television station might result in a blackout of that station and threaten some subscriber loss for the MVPD. But because the MVPD would still be able to offer programming on Media General's major network affiliates, which are at least partial substitutes for Nexstar's affiliates, many MVPD subscribers would simply switch stations instead of cancelling their MVPD subscriptions. After the merger, an MVPD negotiating with Nexstar over a retransmission agreement could be faced with the prospect of a dual blackout of major broadcast networks (or worse), a result more likely to cause the MVPD to lose subscribers and therefore to accede to Nexstar's retransmission fee demands. For these reasons, the loss of competition between the Nexstar and Media General stations in each DMA Market would likely lead to an increase in retransmission fees in those markets and, because increased retransmission fees typically are passed on to consumers, higher MVPD subscription fees.

3. Entry

The Complaint alleges that entry or expansion in broadcast television spot advertising and the licensing of major broadcast television network programming to MVPDs for retransmission in each of the DMA Markets would not be timely, likely, or sufficient to prevent any anticompetitive effects.

With respect to broadcast television spot advertising, new entry is unlikely because any new station would require an FCC license, which is difficult to obtain. Even if a new station became operational, commercial success would come over a period of many years. Because the number of 30-second spots available at a station is generally fixed, other television stations in each of the DMA Markets could not readily increase their advertising capacity in response to a SSNIP by Nexstar.

With respect to retransmission licensing fees, new entry of major broadcast television network programming for MVPD retransmission in each of the DMA Markets is unlikely. The FCC regulates the ability of MVPDs to import non-local broadcast station signals into a local market. Consequently, in the event of a blackout of a major broadcast television network's signal, an MVPD typically would not be allowed to import the signal from a non-local affiliate of that broadcast television network. Thus, entry would not be timely, likely, or sufficient to deter Nexstar from engaging in anticompetitive price increases or other anticompetitive conduct after the proposed acquisition is consummated.

III. Explanation of the Proposed Final Judgment

The divestiture requirement of the proposed Final Judgment will eliminate the likely anticompetitive effects of the acquisition in each of the DMA Markets by maintaining the Divestiture Stations as independent, economically viable competitors. The proposed Final Judgment requires Nexstar to divest the Divestiture Stations to the following Acquirers:

- WBAY–TV, located in Green Bay-Appleton, Wisconsin, and KWQC–TV, located in Quad Cities to Gray Television, Inc.;
- WSLS–TV, located in Roanoke-Lynchburg, Virginia to Graham Holdings Company;
- KADN–TV and KLAF–LD, both located in Lafayette, Louisiana to Bayou City Broadcasting Lafayette, Inc.; and
- WTHI–TV, located in Terre Haute, Indiana, and WFFT–TV, located in Ft. Wayne, Indiana to USA Television MidAmerica Holdings, LLC.

The United States has approved each of these Acquirers as suitable divestiture buyers. The United States required Nexstar to identify each Acquirer of a Divestiture Station in order to provide greater certainty and efficiency in the divestiture process. If, for any reason, Defendants are unable to complete the divestitures to one or more of these Acquirers, Defendants must divest the remaining Divestiture Stations to one or more alternative Acquirers approved by the United States in its sole discretion.

The ''Divestiture Assets'' are defined in Paragraph II.P of the proposed Final Judgment to include all assets, tangible or intangible, principally devoted to or necessary for the operation of the Divestiture Stations as viable, ongoing commercial broadcast television stations. With respect to each Divestiture Station, the divestiture will include assets sufficient to satisfy the United States, in its sole discretion, that such assets can and will be used to operate each station as a viable, ongoing, commercial television business. In addition, order to facilitate the continuous operations of the Divestiture Stations until the Acquirer(s) can provide such capabilities independently, Paragraph IV.G of the proposed Final Judgment provides that, at the option of an Acquirer, Defendants shall enter into a transition services agreement with the Acquirer for a period of up to six months.

To ensure that the Divestiture Stations are operated independently from Nexstar after the divestitures, Sections IV and XI of the proposed Final Judgment prohibit Defendants from entering into any agreements during the term of the Final Judgment that create a long-term relationship with or any entanglements that affect competition between Nexstar and an Acquirer of a Divestiture Station concerning the Divestiture Assets after the divestitures are completed. Examples of prohibited agreements include agreements during the term of the Final Judgment to reacquire any part of the Divestiture Assets; agreements to acquire any option to reacquire any part of the Divestiture Assets or to assign the Divestiture Assets to any other person; agreements to enter into any local marketing agreement, joint sales agreement, other cooperative selling arrangement, or shared services agreement; agreements to conduct other business negotiations jointly with the Acquirer(s) with respect to the Divestiture Assets; and agreements to provide financing or guarantees of financing with respect to the Divestiture Assets. The shared services agreement prohibition does not preclude Defendants from entering into an agreement pursuant to which an Acquirer can begin operating a Divestiture Station immediately after the Court's approval of the Hold Separate in this matter, so long as the agreement with the Acquirer expires upon the consummation of a final agreement to divest the Divestiture Assets to the Acquirer.

Defendants are required to take all steps reasonably necessary to accomplish the divestitures quickly and to cooperate with prospective purchasers. Pursuant to Paragraph IV.A of the proposed Final Judgment, divestiture of each of the Divestiture Stations must occur within 90 calendar days after the filing of the Complaint, or five calendar days after notice of the entry of the Final Judgment by the Court, whichever is later. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 90 calendar days in total, and shall notify the Court in such circumstances.

Because transferring the broadcast license for each of the Divestiture Stations requires FCC approval, Paragraph IV.A of the proposed Final Judgment specifically requires Defendants to use their best efforts to obtain all necessary FCC approvals as expeditiously as possible. If applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirers of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to the divestiture of the Divestiture Assets for which no FCC order has issued until five calendar days after such order is issued.

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

IV. Remedies Available to Potential Private Litigants

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

V. Procedures Available for Modification of the Proposed Final Judgment

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

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

Written comments should be submitted to: Owen M. Kendler, Asst. Chief, Litigation III Section, Antitrust Division, United States Department of Justice, 450 5th Street NW. Suite 4000, Washington, DC 20530.

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

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Nexstar's acquisition of Media General. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the sale of broadcast television spot advertising and for the licensing of broadcast television programming to MVPDs for retransmission to MVPD subscribers in each of the DMA Markets. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

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

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461

(D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *U.S. Airways Group, Inc.,* 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.'').[1]

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).[2] 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 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.

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

[2] *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' '').

Supp. 2d at 11.[3] 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 2, 2016

Respectfully submitted,

/s/Mark A. Merva

Mark A. Merva* (D.C. Bar #451743),

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**Attorney of Record*

Certificate of Service

I, Mark A. Merva, of the Antitrust Division of the United States Department of Justice, do hereby certify that true copies of the Complaint, Competitive Impact Statement, Hold Separate Stipulation and Order, Proposed Final Judgment, and Plaintiff's Explanation of Consent Decree Procedures were served this 2nd day of September, 2016, by email, to the following:

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/s/Mark A. Merva

Mark A. Merva.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *NEXSTAR Broadcasting Group, Inc., and Media General, Inc.,* Defendants.

Case No.: 1:16–cv–01772

Judge: John D. Bates

Filed: 09/02/2016

Proposed Final Judgment

WHEREAS, Plaintiff, the United States of America, filed its Complaint on September 2, 2016, and Defendant Nexstar Broadcasting Group, Inc. (''Nexstar'') and Defendant Media General, Inc. (''Media General''), 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 for the purpose of remedying the loss of competition alleged in the Complaint;

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

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

I. Jurisdiction

This Court has jurisdiction over the subject matter 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. ''Nexstar'' means Defendant Nexstar Broadcasting Group, Inc., a Delaware corporation headquartered in Irving, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. ''Media General'' means Defendant Media General, Inc., a Virginia corporation headquartered in Richmond, Virginia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Gray'' means Gray Television, Inc., a Georgia corporation headquartered in Atlanta, Georgia, its successor and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Graham'' means Graham Holdings Company, a Delaware corporation headquartered in Arlington, Virginia, its successor and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Bayou City'' means Bayou City Broadcasting Lafayette, Inc., a privately held company headquartered in Houston, Texas, its successor and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, including, but not limited to, Bayou City Broadcasting, LLC, and their directors, officers, managers, agents, and employees.

F. ''USA TV'' means USA Television MidAmerica Holdings, LLC, a privately held company headquartered in Atlanta, Georgia, its successor and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, including, but not limited to, MSouth Equity Partners, Heartland Media, LLC, and USA Television Holdings, LLC, and their directors, officers, managers, agents, and employees.

G. ''Acquirer'' means Gray, Graham, Bayou City, USA TV, or another entity to which Defendants divest any of the Divestiture Assets.

H. ''DMA'' means Designated Market Area as defined by A.C. Nielsen Company based upon viewing patterns and used by the *Investing in Television BIA Market Report 2016* (1st edition). DMAs are ranked according to the number of households therein and are used by broadcasters, advertisers, and advertising agencies to aid in evaluating television audience size and composition.

I. ''WBAY–TV'' means the ABC-affiliated broadcast television station

[3] *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.'').

located in the Green Bay-Appleton, Wisconsin DMA owned by Defendant Media General.

J. ''WSLS–TV'' means the NBC-affiliated broadcast television station located in the Roanoke-Lynchburg, Virginia DMA owned by Defendant Media General.

K. ''KADN–TV'' means the FOX-affiliated broadcast television station located in the Lafayette, Louisiana DMA owned by Defendant Nexstar.

L. ''KLAF–LD'' means the NBC-affiliated broadcast television station located in the Lafayette, Louisiana DMA owned by Defendant Nexstar.

M. ''WTHI–TV'' means the CBS-affiliated broadcast television station located in the Terre Haute, Indiana DMA owned by Defendant Media General.

N. ''WFFT–TV'' means the FOX-affiliated broadcast television station located in the Ft. Wayne, Indiana DMA owned by Defendant Nexstar.

O. ''KWQC–TV'' means the NBC-affiliated broadcast television station located in the Davenport, Iowa/Rock Island-Moline, Illinois DMA owned by Defendant Media General.

P. ''Divestiture Assets'' means the WBAY–TV, WSLS–TV, KADN–TV, KLAF–LD, WTHI–TV, WFFT–TV, and KWQC–TV broadcast television stations and all assets, tangible or intangible, principally devoted to or necessary for the operation of the stations as viable, ongoing commercial broadcast television stations, including, but not limited to, all real property (owned or leased), all broadcast equipment, office equipment, office furniture, fixtures, materials, supplies, and other tangible property; all licenses, permits, authorizations, and applications therefore issued by the Federal Communications Commission (''FCC'') and other government agencies related to the stations; all contracts (including programming contracts and rights), agreements, network affiliation agreements, leases, and commitments and understandings of Defendants; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials, and promotional materials relating to the stations; all customer lists, contracts, accounts, and credit records; and all logs and other records maintained by Defendants in connection with the stations.

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

IV. Divestitures

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to one or more Acquirers acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed ninety (90) calendar days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by Defendants or a trustee appointed pursuant to Section V of this Final Judgment, if applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirers of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of the Divestiture Assets for which no FCC order has issued until five (5) days after such order is issued. Defendants agree to use their best efforts to divest the Divestiture Assets and to obtain all necessary FCC approvals as expeditiously as possible. This Final Judgment does not limit the FCC's exercise of its regulatory powers and process with respect to the Divestiture Assets. Authorization by the FCC to conduct the divestiture of a Divestiture Asset in a particular manner will not modify any of the requirements of this Final Judgment.

B. In the event that Defendants are attempting to divest assets related to WBAY–TV or KWQC–TV to an Acquirer other than Gray, or assets related to WSLS–TV to an Acquirer other than Graham, or assets related to KADN–TV or KLAF–LD to an Acquirer other than Bayou City, or assets related to WTHI–TV or WFFT–TV to an Acquirer other than USA TV:

(1) Defendants, in accomplishing the divestitures ordered by this Final Judgment, promptly shall make known, by usual and customary means, the availability of the Divestiture Assets to be divested;

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

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

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

C. Defendants shall provide the Acquirer(s) and the United States information relating to the personnel involved in the operation and management of the relevant Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants shall not interfere with any negotiations by the Acquirer(s) to employ or contract with any employee of any Defendant whose primary responsibility relates to the operation or management of the relevant Divestiture Assets.

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

E. Defendants shall warrant to the Acquirers that each Divestiture Asset will be operational on the date of sale.

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

G. At the option of the Acquirer(s), Defendants shall enter into a transition services agreement with the Acquirer(s) for a period of up to six (6) months to facilitate the continuous operations of the relevant Divestiture Assets until the Acquirer(s) can provide such capabilities independently. The terms and conditions of any contractual arrangement intended to satisfy this provision must be reasonably related to market conditions and shall be subject to the approval of the United States, in its sole discretion. Additionally, the United States in its sole discretion may approve one or more extensions of this agreement for a total of up to an additional six (6) months.

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

I. Unless the United States otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Divestiture Assets and be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirers as part of a viable, ongoing commercial television broadcasting business. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable, and the divestiture of such assets will achieve the purposes of this Final Judgment and remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

(1) Shall be made to Acquirer(s) that, in the United States' sole judgment, have the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the commercial television broadcasting business; and

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

V. Apppointment of Trustee

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

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the relevant Divestiture Assets. The 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 trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

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

D. The trustee shall serve at the cost and expense of Defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The trustee shall account for all monies derived from the sale of the relevant Divestiture Assets and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets subject to sale by the trustee and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the trustee and Defendants are unable to reach agreement on the trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The 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 trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other agents retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the trustee's efforts to accomplish the relevant divestitures ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such report shall not be filed in the public docket of the Court. Such report 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 trustee shall maintain full records of all efforts made to divest the relevant Divestiture Assets.

G. If the trustee has not accomplished the divestitures ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such report contains information that the trustee deems confidential, such report shall not be filed in the public docket of the Court.

The trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

H. If the United States determines that the 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 trustee.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the 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 trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirers. Defendants and the 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 trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

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

VIII. Hold Separate

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

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V of this Final Judgment, Defendants shall deliver to the United States an affidavit as to the fact and manner of their compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) 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 and complete the sale of the Divestiture Assets, including efforts to secure FCC or other regulatory approvals, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitations on information, shall be made within fourteen (14) 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 VIII 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.

X. 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 Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

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

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

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

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition and Other Prohibited Activities

Defendants may not (1) reacquire any part of the Divestiture Assets, (2) acquire any option to reacquire any part of the Divestiture Assets or to assign the Divestiture Assets to any other person, (3) enter into any local marketing agreement, joint sales agreement, other cooperative selling arrangement, or shared services agreement, or conduct other business negotiations jointly with the Acquirers with respect to the Divestiture Assets, or (4) provide financing or guarantees of financing with respect to the Divestiture Assets, during the term of this Final Judgment. The shared services prohibition does not preclude Defendants from continuing or entering into agreements in a form customarily used in the industry to (1) share news helicopters or (2) pool generic video footage that does not include recording a reporter or other on-air talent, and does not preclude Defendants from entering into any non-sales-related shared services agreement or transition services agreement that is approved in advance by the United States in its sole discretion.

XII. Retention of Jurisdiction

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

XIII. Expiration of Final Judgment

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

XIV. Public Interest Determination

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

Date: ____________

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

____

United States District Judge.

[FR Doc. 2016–22086 Filed 9–13–16; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Alcami Wisconsin Corporation

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 November 14, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on November 18, 2015, Alcami Wisconsin Corporation, W130 N10497 Washington Drive, Germantown, Wisconsin 53022 applied to be registered as a bulk manufacturer of alfentanil (9737), a basic class of controlled substance listed in schedule II.

The company plans to manufacture reference standards for distribution to their research and forensic customers.

Dated: September 7, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–22100 Filed 9–13–16; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of various classes of controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as manufacturers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

Company	FR Docket	Published
Johnson Matthey, Inc	81 FR 3475	January 21, 2016.
Mallinckrodt, LLC	81 FR 31959	May 20, 2016.
American Radiolabeled Chemicals	81 FR 31960	May 20, 2016.
Rhodes Technologies	81 FR 34371	May 31, 2016.