DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Safran S.A., 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. Safran S.A., et al.*, Civil Action No. 1:25-cv-01897. On June 17, 2025, the United States filed a Complaint alleging that Safran S.A.'s proposed acquisition of Collins Aerospace's actuation and flight control business from RTX Corporation would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Safran. S.A. to divest its North American actuation business, including THSAs and secondary flight control actuators, and its Canada-based electronic control units.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website 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 website, filed with the Court, and, under certain circumstances,

published in the *Federal Register*. Comments should be submitted in English and directed to Soyoung Choe, Acting Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530 (email address: ATR.DIA-Information@usdoj.gov).

Suzanne Morris,

Deputy Director of Civil Enforcement Operations,

Antitrust Division.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA
450 Fifth Street NW
Washington, DC 20530

Plaintiff,

v.

SAFRAN, S.A.
2, bd du General Martial-Valin
Paris, France 75015

SAFRAN, USA, INC.
700 South Washington Street, Suite 250
Alexandria, VA 22314

and

RTX CORPORATION,
1000 Wilson Blvd
Arlington, VA 22209

Defendants.

No. 1:25-cv-01897-CRC
Judge: Christopher R. Cooper

COMPLAINT

Safran S.A., Safran USA, Inc. (combined "Safran") and RTX Corporation ("RTX") are two of the leading suppliers in the worldwide market for trimmable horizontal stabilizer actuators ("THSAs") for large aircraft and are significant direct competitors. Safran's proposed acquisition of RTX's business related to THSAs threatens to substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. The proposed transaction should, therefore, be enjoined.

I. NATURE OF THE ACTION

1. Pursuant to an asset purchase agreement dated July 20, 2023, Safran proposes to acquire certain assets from RTX's Collins Aerospace business comprising

Collins Aerospace's flight control and actuation business, which produces THSAs for large aircraft. The transaction is valued at approximately $1.8 billion.

2. THSAs help an aircraft maintain the proper altitude during flight and are critical to the safe operation of the aircraft. The proposed acquisition would eliminate competition between Safran and RTX in the market for THSAs for large aircraft.

3. As a result, the proposed acquisition likely would substantially lessen competition in the worldwide market for the development, manufacture, and sale of THSAs for large aircraft in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. THE DEFENDANTS

4. Safran S.A. is incorporated in France and has its headquarters in Paris, France. Safran produces a wide range of products for the aerospace industry and other industries, including THSAs for large aircraft. Safran USA, Inc. is a US-based subsidiary of Safran S.A., headquartered in Alexandria, Virginia. In 2024, Safran had revenues of approximately €27 billion.

5. RTX is incorporated in Delaware and is headquartered in Arlington, Virginia. RTX is a major provider of aerospace and defense electronics systems. RTX produces, among other products, THSAs for large aircraft. In 2024, RTX had revenues of approximately $80 billion.

III. PRIOR DIVESTITURE IN UTC-ROCKWELL COLLINS

6. On October 1, 2018, the Antitrust Division entered a consent decree requiring United Technologies Corporation ("UTC") to divest two businesses critical to the safe operation of aircraft to resolve competitive concerns raised by UTC's acquisition of Rockwell Collins, Inc. ("Rockwell Collins"). One of the divesture businesses identified in the decree was Rockwell Collins's THSA business. Because of the safety critical nature of THSAs, it was imperative that the divesture buyer have an established presence in the aerospace industry with well-established customer relationships.

Ultimately, the Antitrust Division approved Safran as the divestiture buyer and since that time Safran has operated the divested business as a competitor in the market for THSAs.

7. In April of 2020, following UTC's acquisition of Rockwell Collins, UTC merged with Raytheon Company, forming the company now branded as RTX. Safran's proposed acquisition of RTX would recombine the THSA assets that were divested to resolve the Division's concerns with the UTC-Rockwell Collins transaction.

IV. JURISDICTION AND VENUE

8. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

9. Defendants develop, manufacture, and sell THSAs for large aircraft in the flow of interstate commerce. Defendants' activities in the development, manufacture, and sale of these products substantially affect interstate commerce. This 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.

10. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22 and 28 U.S.C. § 1391(b) and (c).

V. TRIMMABLE HORIZONTAL STABILIZER ACTUATORS FOR LARGE AIRCRAFT

A. Background

11. Actuators are responsible for the proper positions of an aircraft by manipulating the "control surfaces" on its wings and tail section. A THSA is a type of actuator and helps an aircraft maintain the proper altitude during flight by adjusting ("trimming") the angle of the horizontal stabilizer, the control surface of the aircraft's tail responsible for aircraft pitch. This control surface is critical to the safety and performance of the aircraft, as a loss of control could cause the aircraft to crash. The stabilizer

encounters significant aerodynamic loads for extended periods of time, and the THSA must be capable of handling these loads. THSAs thus tend to be the largest and most technically demanding actuators on an aircraft.

12. THSAs vary in size, complexity, and cost based on the size and type of aircraft on which they are used. Because large aircraft encounter significantly higher aerodynamic loads than smaller aircraft, THSAs for large aircraft are considerably larger, more complex, and more expensive than those used on smaller aircraft. Large aircraft primarily include commercial aircraft that seat at least six passengers abreast (such as the Airbus A320 and A350 and the Boeing 737, 787 and 777x) and military transport aircraft, but exclude regional aircraft, business jets, and tactical military aircraft.

13. THSAs can also vary in the type of power source used to effect actuation. Actuation can be effected using an electric or hydraulic source of control. Typically, an aircraft uses only one type so that all actuation on the aircraft, including THSAs, is controlled by either electric or hydraulic means. At the design phase, large aircraft manufacturers can choose either type of power source to control actuation. Once a plane is designed, manufacturers are unable to switch between electric or hydraulic actuation components, including THSAs, due in part to the certification required for these components.

B. Relevant Markets

1. Product Market

14. THSAs for large aircraft do not have technical substitutes. Large aircraft manufacturers cannot switch to THSAs for smaller aircraft, or actuators for other aircraft control surfaces, because those products cannot adequately control the lift and manage the load generated by the horizontal stabilizer of a large aircraft. A small but significant increase in the price or worsening of terms of THSAs for large aircraft would not cause aircraft manufacturers to substitute THSAs designed for smaller aircraft or actuators for

other control surfaces in volumes sufficient to make such a price increase unprofitable. Accordingly, THSAs for large aircraft are a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18.

2. Geographic Market

15. The relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18 is worldwide. THSAs for large aircraft are marketed internationally and may be sourced from suppliers globally because transportation costs are a small proportion of the cost of the product and thus are not a major factor in supplier selection.

C. Anticompetitive Effects of the Proposed Acquisition

16. Safran and RTX are two of the leading suppliers in the worldwide market for the development, manufacture, and sale of THSAs for large aircraft. Safran and RTX have respectively won two of the most significant recent contract awards for THSAs for large aircraft: the Boeing 777X and the Airbus A350. Boeing and Airbus are the world's largest manufacturers of passenger aircraft, and these aircraft represent two of only three THSA awards by these manufacturers in this century.

17. Other producers of THSAs tend to concentrate on THSAs for smaller aircraft, such as business jets or regional aircraft, or to focus on products for other aircraft control surfaces.

18. Safran and RTX view each other as a significant competitive threat for the development, manufacture, and sale of THSAs worldwide for large aircraft. The two companies are among the few that have demonstrated expertise in designing and producing THSAs for large aircraft. Each firm considers the other company's offering when planning bids.

19. Customers have benefitted from the competition between Safran and RTX for the development, manufacture, and sale of THSAs worldwide for large aircraft.

Competition between two of the leading suppliers of a product results in more favorable contractual terms, more innovative products, and shorter delivery times. The combination of Safran and certain assets from RTX's Collins Aerospace business would eliminate this competition and its future benefits to customers. Post-acquisition, Safran likely would have the incentive and the ability to increase prices profitably and offer less favorable contractual terms.

20. Safran and RTX also invest significantly to remain leading suppliers for the development, manufacture, and sale of THSAs worldwide for large aircraft, and aircraft manufacturers expect them to remain leading suppliers of new products in the future. The combination of Safran and certain assets from RTX's Collins Aerospace business would likely eliminate this competition, depriving large aircraft customers of the benefit of future innovation and product development.

21. The proposed acquisition, therefore, likely would substantially lessen competition for the development, manufacture, and sale of THSAs worldwide for large aircraft in violation of Section 7 of the Clayton Act.

D. Difficulty of Entry

22. Sufficient, timely entry of additional competitors into the market for THSAs for large aircraft is unlikely to prevent the harm to competition that is likely to result if the proposed transaction is consummated.

23. Designing and developing a THSA for large aircraft is technically difficult. Even manufacturers of THSAs for smaller aircraft face significant technical hurdles in designing and developing THSAs for large aircraft. As aerodynamic loads are a major design consideration for THSAs, and such loads are tightly correlated with the size of the aircraft, THSAs for large aircraft present more demanding technical challenges than those for smaller aircraft.

24. Opportunities to enter are limited. Because certification of a THSA is expensive and time-consuming, once a THSA is certified for a particular aircraft type, it is rarely replaced in the aftermarket by a different THSA. Accordingly, competition between suppliers of THSAs generally only occurs when an aircraft manufacturer is designing a new aircraft or an upgraded version of an existing aircraft, which are infrequent occurrences because development costs for such aircraft can be tens of billions of dollars. As a result, several years usually pass between contract awards for THSAs for a new aircraft design.

25. Potential entrants into the production of THSAs for large aircraft face several additional obstacles. First, manufacturers of large aircraft are more likely to purchase THSAs from those firms already supplying THSAs for other large aircraft. The important connection between THSAs and aircraft safety drives aircraft manufacturers toward suppliers experienced with production of THSAs of the relevant type and size. While some companies may have demonstrated experience in THSAs for smaller aircraft, such experience is not considered by customers to be as relevant as experience in THSAs for large aircraft. A new entrant would face significant costs and time to be considered a potential alternative to the existing suppliers.

26. Substantial time and significant financial investment would be required for a company to design and develop a THSA for large aircraft. Even companies that already make other types of THSAs would require years of effort and an investment of many millions of dollars to develop a product that is competitive with those offered by existing large aircraft THSA suppliers.

27. As a result of these barriers, entry into the market for THSAs for large aircraft would not be timely, likely, or sufficient to defeat the substantial lessening of competition that would likely result from Safran's acquisition of certain assets from RTX's Collins Aerospace business.

VI. VIOLATIONS ALLEGED

28. Safran's acquisition of certain assets from RTX's Collins Aerospace business likely would lessen competition substantially in the development, manufacture, and sale of THSAs for large aircraft, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

29. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects relating to THSAs for large aircraft, among others:

(a) actual and potential competition between Safran and RTX would be eliminated;

(b) competition likely would be substantially lessened; and

(c) prices would likely increase, contractual terms likely would be less favorable to the customers, quality would likely be reduced, and innovation likely would decrease.

VII. REQUEST FOR RELIEF

30. The United States requests that this Court:

(a) adjudge and decree that Safran's acquisition of certain assets from RTX's Collins Aerospace business would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed acquisition of certain assets from RTX's Collins Aerospace business by Safran, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine Safran with certain assets from RTX's Collins Aerospace business;

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

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

Dated: June 17, 2025

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

ABIGAIL A. SLATER (D.C. Bar #90027189)
Assistant Attorney General

ROGER P. ALFORD (D.C. Bar #445158)
Principal Deputy Assistant Attorney General

WILLIAM J. RINNER (D.C. Bar #997485)
Deputy Assistant Attorney General

RYAN DANKS
Director of Civil Enforcement

SOYOUNG CHOE
Acting Chief, Defense, Industrials, and Aerospace Section

_____
DANIEL MONAHAN*
Trial Attorney

U.S. Department of Justice
Antitrust Division
Defense, Industrials, and Aerospace Section
450 Fifth Street NW, Suite 8700
Washington, DC 20530
Tel.: 202-598-8774
Fax: 202-514-9033
Email: daniel.monahan@usdoj.gov

*LEAD ATTORNEY TO BE NOTICED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *Plaintiff*, v. SAFRAN, S.A., SAFRAN USA INC., and RTX CORPORATION, *Defendants*.	No. 1:25-cv-01897-CRC Judge: Christopher R. Cooper

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on June 17, 2025;

AND WHEREAS, the United States and Defendants, Safran S.A., Safran USA Inc., and RTX Corporation, have consented to entry of this Final Judgment without the taking of testimony, 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 relating to any issue of fact or law;

AND WHEREAS, Defendant Safran agrees to make a divestiture to remedy the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants represent that the divestiture and other relief required by this Final Judgment can and will be made and that Defendants will not later raise a claim of hardship or difficulty as grounds for asking the Court to modify any provision of this Final Judgment;

NOW THEREFORE, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

The Court has jurisdiction over the subject matter of, and each of the parties to, this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act (15 U.S.C. § 18).

II. DEFINITIONS

As used in this Final Judgment:

A. "Safran" means Defendant Safran S.A., a French corporation with its headquarters in Paris, France, its successors and assigns, and its subsidiaries, including Defendant Safran USA Inc., divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. "RTX" means Defendant RTX Corporation, a Delaware corporation with its headquarters in Arlington, Virginia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Woodward" means Woodward, Inc., a Delaware corporation with its headquarters in Fort Collins, Colorado, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Acquirer" means Woodward.

E. "Divestiture Business" means (1) Safran's North American actuation business, including the entirety of the business activities and assets engaged in the development, manufacture, and sale of trimmable horizontal stabilizer actuators ("THSAs"), secondary flight control actuation products and nose-wheel steering gearboxes; and (2) Safran Electronics & Defense, Canada Inc. ("SEDC"), Safran's Canada-based electronic control units business.

F. "Divestiture Assets" means all of Defendant Safran's rights, titles, and interests in and to all property and assets related to the Divestiture Business, tangible and intangible, wherever located, relating to or used in connection with the Divestiture Business, including:

1. the long-term leases for the facilities located at 2000 and 2020 Fisher Dr., Peterborough, ON K9J 6X6, Canada;

2. the Transitional Safran Brands License;

3. all other real property, including fee simple interests, real property leasehold interests and renewal rights thereto, improvements to real property, and options to purchase any adjoining or other property, together with all buildings, facilities, and other structures;

4. all tangible personal property, including fixed assets, machinery and manufacturing equipment, tools, vehicles, inventory, materials, office equipment and furniture, computer hardware, and supplies;

5. all contracts, contractual rights, and customer relationships (including contracts for the supply of THSAs to Airbus, S.E), and all other agreements, commitments, and understandings, including supply agreements, teaming agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement;

6. all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations, including those issued or granted by any governmental organization, and all pending applications or renewals;

7. all records and data, including (a) customer lists, accounts, sales, and credits records, (b) production, repair, maintenance, and performance records, (c) manuals and technical information Defendant Safran provides to its own employees, customers, suppliers, agents, or licensees, (d) records and research data concerning historic and current research and development activities, including designs of

experiments and the results of successful and unsuccessful designs and experiments, and (e) drawings, blueprints, and designs;

8. all intellectual property owned, licensed, or sublicensed, either as licensor or licensee, including (a) patents, patent applications, and inventions and discoveries that may be patentable, (b) registered and unregistered copyrights and copyright applications, and (c) registered and unregistered trademarks, trade dress, service marks, trade names, and trademark applications; and

9. all other intangible property, including (a) commercial names and d/b/a names, (b) technical information, (c) computer software and related documentation, know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (e.g., for the handling of materials and substances), quality assurance and control procedures, (d) design tools and simulation capabilities, and (e) rights in internet web sites and internet domain names.

Provided, however, that the assets specified in Paragraphs II.F.1–9 above do not include the Excluded Assets.

G. "Divestiture Date" means the date on which the Divestiture Assets are divested to Acquirer pursuant to this Final Judgment.

H. "Excluded Assets" means (1) the interests in the facilities located at Av. Sierra San Agustín 2498, Col el Porvenir, Parque Industrial Progreso, and 21185 Mexicali, B.C., Mexico and 1833 Alton Parkway, Irvine, California, United States; (2) any intellectual property associated with the brand names Safran and SEDA; and (3) the contracts to supply: (i) Virgin Galactic with the mechanical portion of an electromechanical THSA actuator (on a build to print basis), (ii) the signal interface unit for user ("SIFU") remote data concentrator for Archer Aviation, Inc., (iii) the French legacy THSA activity consisting of original equipment THSAs produced at Safran's facilities in Mantes, Fougères, Montluçon, and Auxerre, France, for the Embraer KC-390

Millenium, the Bombardier CL650, the Pilatus PC-24 and the Piaggio P.180; (iv) the maintenance, repair, and operation services and related spare parts for the Mitsubishi Heavy Industries (MHI) CRJ family; and (v) Bell with actuation products unrelated to THSAs for helicopters.

I. "Including" means including, but not limited to.

J. "Regulatory Approvals" means (1) any approvals or clearances from the Committee on Foreign Investment in the United States ("CFIUS") or under antitrust or competition laws that are required for the Transaction to proceed; and (2) any approvals or clearances under antitrust or competition laws that are required for Acquirer's acquisition of the Divestiture Assets to proceed.

K. "Relevant Personnel" means (1) all full-time, part-time, or contract employees, wherever located, whose job responsibilities relate in any way to the Divestiture Business at any time between June 14, 2023, and the Divestiture Date and (2) the employees in the positions listed in Schedule A. The United States, in its sole discretion, will resolve any disagreement relating to which employees are Relevant Personnel.

L. "Transaction" means the proposed acquisition of part of Collins Aerospace flight control and actuation business from RTX by Safran.

M. "Transitional Safran Brands License" means a non-exclusive, non-transferrable, non-sublicensable, fully paid-up, worldwide license to use the marks "Safran" and "SEDA" in connection with the products and services provided under the agreements described in Section IV.K for a time period equal to the duration of those agreements and any extensions approved by the United States and a non-exclusive, non-transferrable, non-sublicensable, fully paid-up, worldwide license to use the name "SEDC" for 180 days from the Divestiture Date.

III. APPLICABILITY

A. This Final Judgment applies to Safran and RTX, as defined above, and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment.

B. If, prior to complying with Section IV of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of business units that include the Divestiture Assets, Defendants must require any purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from Acquirer.

IV. DIVESTITURE

A. Defendants are ordered and directed, within 90 calendar days after the Court's entry of the Asset Preservation and Hold Separate Stipulation and Order in this matter or within 90 calendar days after Regulatory Approvals are received, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to Woodward. The United States, in its sole discretion, may agree to one or more extensions of this time period and will notify the Court of any extension.

B. For all contracts, agreements, and customer or supplier relationships (or portions of such contracts, agreements, and customer or supplier relationships) included in the Divestiture Assets, Defendant Safran must assign or otherwise transfer all contracts, agreements, and customer or supplier relationships, including contracts for the supply of THSAs to Airbus, S.E., to Acquirer; *provided, however,* that for any contract or agreement that requires the consent of another party to assign or otherwise transfer, Defendant Safran must use best efforts to accomplish the assignment or transfer. Defendants must not interfere with any negotiations between Acquirer and a contracting party.

C. Defendants must use best efforts to divest the Divestiture Assets as expeditiously as possible. Defendants must take no action that would jeopardize the

completion of the divestiture ordered by the Court, including any action to impede the permitting, operation, or divestiture of the Divestiture Assets.

D. Unless the United States otherwise consents in writing, divestiture pursuant to this Final Judgment must include the entire Divestiture Assets and must be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business for the development, manufacture, and sale of THSAs and that the divestiture to Acquirer will remedy the competitive harm alleged in the Complaint.

E. The divestiture must be made to an Acquirer that, in the United States' sole judgment, has the intent and capability, including the necessary managerial, operational, technical, and financial capability, to compete effectively in the development, manufacture, and sale of THSAs.

F. The divestiture must be accomplished in a manner that satisfies the United States, in its sole discretion, that none of the terms of any agreement between Acquirer and Defendants give Defendants the ability unreasonably to raise Acquirer's costs, to lower Acquirer's efficiency, or otherwise interfere in the ability of Acquirer to compete effectively in the development, manufacture, and sale of THSAs.

G. Defendant Safran must provide Acquirer with (1) access to make inspections of the Divestiture Assets; (2) access to all environmental, zoning, and other permitting documents and information relating to the Divestiture Assets; and (3) access to all financial, operational, or other documents and information relating to the Divestiture Assets that would customarily be provided as part of a due diligence process. Defendants also must disclose all encumbrances on any part of the Divestiture Assets, including on intangible property.

H. Defendant Safran must cooperate with and assist Acquirer in identifying and, at the option of Acquirer, hiring all Relevant Personnel, including:

1. Within 10 business days following the filing of the Complaint in this matter, Defendant Safran must identify all Relevant Personnel to Acquirer and the United States, including by providing organization charts covering all Relevant Personnel.

2. Within 10 business days following receipt of a request by Acquirer, the United States, or the monitor, Defendant Safran must provide to Acquirer, the United States, and the monitor additional information relating to Relevant Personnel, including name, job title, reporting relationships, past experience, responsibilities, training and educational histories, relevant certifications, and job performance evaluations. Defendant Safran must also provide to Acquirer, the United States, and the monitor information relating to current and accrued compensation and benefits of Relevant Personnel, including most recent bonuses paid, aggregate annual compensation, current target or guaranteed bonus, if any, any retention agreement or incentives, and any other payments due, compensation or benefits accrued, or promises made to the Relevant Personnel. If Defendant Safran is barred by any applicable law from providing any of this information, Defendant Safran must provide, within 10 business days following receipt of the request, the requested information to the full extent permitted by law and also must provide a written explanation of Defendant Safran's inability to provide the remaining information, including specifically identifying the provisions of the applicable laws.

3. At the request of Acquirer, Defendant Safran must promptly make Relevant Personnel available for private interviews with Acquirer during normal business hours at a mutually agreeable location.

4. Defendants must not interfere with any effort by Acquirer to employ any Relevant Personnel. Interference includes offering to increase the compensation or improve the benefits of Relevant Personnel unless (a) the offer is part of a company-wide increase in compensation or improvement in benefits that was

announced prior to June 14, 2023, or (b) the offer is approved by the United States in its sole discretion. Defendants' obligations under this Paragraph IV.H.4. will expire 180 calendar days after the Divestiture Date.

5. For Relevant Personnel who elect employment with Acquirer within 180 calendar days of the Divestiture Date, Defendant Safran must waive all non-compete and non-disclosure agreements; vest and pay to the Relevant Personnel (or to Acquirer for payment to the employee) on a prorated basis any bonuses, incentives, other salary, benefits or other compensation fully or partially accrued at the time of the transfer of the employee to Acquirer; vest any unvested pension and other equity rights; and provide all other benefits that those Relevant Personnel otherwise would have been provided had the Relevant Personnel continued employment with Defendant Safran, including any retention bonuses or payments. Defendant Safran may maintain reasonable restrictions on disclosure by Relevant Personnel of Defendant Safran's proprietary non-public information that is unrelated to the Divestiture Assets and not otherwise required to be disclosed by this Final Judgment.

6. For a period of 12 months from the Divestiture Date, Defendant Safran may not solicit to rehire Relevant Personnel who were hired by Acquirer within 180 calendar days of the Divestiture Date unless (a) an individual is terminated or laid off by Acquirer or (b) Acquirer agrees in writing that Defendant Safran may solicit to re-hire that individual. Nothing in this Paragraph IV.H.6. prohibits Defendants from advertising employment openings using general solicitations or advertisements and re-hiring Relevant Personnel who apply for an employment opening through a general solicitation or advertisement.

I. Defendant Safran must warrant to Acquirer that (1) the Divestiture Assets will be operational and without material defect on the date of their transfer to Acquirer; (2) there are no material defects in the environmental, zoning, or other permits relating to

the operation of the Divestiture Assets; and (3) Defendant Safran has disclosed all encumbrances on any part of the Divestiture Assets, including on intangible property. Following the sale of the Divestiture Assets, Defendants must not undertake, directly or indirectly, challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

J. Defendant Safran must use best efforts to assist Acquirer to obtain all necessary licenses, registrations, and permits to operate the Divestiture Business. Until Acquirer obtains the necessary licenses, registrations, and permits, Defendant Safran must provide Acquirer with the benefit of Defendant Safran's licenses, registrations, and permits to the full extent permissible by law.

K. At the option of Acquirer, subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendant Safran must enter into a contract or contracts for the operation of the portion of the Divestiture Assets located at Av. Sierra San Agustín 2498, Col el Porvenir, Parque Industrial Progreso, and 21185 Mexicali, B.C., Mexico, facilities, sufficient to meet Acquirer's needs, as determined by Acquirer, for a period of up to 24 months, on terms and conditions reasonably related to market conditions for such asset operation. At the option of Acquirer, subject to approval by the United States in its sole discretion, Defendant Safran must enter into one or more extensions of any such contracts for a total of up to an additional 12 months, on terms and conditions reasonably related to market conditions for such asset operation. Any amendment to or modification of any provision of any such contract or extension must first be approved by the United States, in its sole discretion. If Acquirer seeks an extension of the term of any such contract, Defendant Safran must notify the United States in writing at least 30 days prior to the date the contract expires. Acquirer may terminate such a contract (including an extension), or any portion of such a contract (including an extension), without cost or penalty upon 60 calendar days' written notice.

The employees of Defendant Safran tasked with operation of the Divestiture Assets located in Mexicali must not share any competitively sensitive information of Acquirer with any employee of Defendants other than those tasked with providing operation services.

L. At the option of Acquirer, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendant Safran must enter into a contract to provide transition services for back office, human resources, accounting, employee health and safety, and information technology services and support for a period of up to 24 months, on terms and conditions reasonably related to market conditions for the provision of the transition services. At the option of Acquirer, subject to approval by the United States in its sole discretion, Defendant Safran must enter into one or more extensions of any contracts to provide transition services for a total of up to an additional 12 months, on terms and conditions reasonably related to market conditions for the provision of the transition services. Any amendment to or modification of any provision of a contract or extension to provide transition services must first be approved by the United States, in its sole discretion. If Acquirer seeks an extension of the term of any contract for transition services, Defendants must notify the United States in writing at least 30 calendar days prior to the date the contract expires. Acquirer may terminate a contract (including an extension) for transition services, or any portion of a contract (including an extension) for transition services, without cost or penalty at any time upon 30 calendar days' written notice. The employees of Defendant Safran tasked with providing transition services must not share any competitively sensitive information of Acquirer with any other employee of Defendants, other than those tasked with providing transition services.

M. At the option of Acquirer, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendants must enter into a lease

or assignment of a lease for Suite 3, Section 1 on the first floor of 1733 Alton Parkway, Irvine, California 92614 for a period of up to 12 months, on terms and conditions reasonably related to market conditions for such leases. At the option of Acquirer, subject to approval by the United States in its sole discretion, Defendants must enter into one or more extensions of any lease for a total of up to an additional 12 months, on terms and conditions reasonably related to market conditions for such leases. Any amendment to or modification of any provision of a lease or extension must first be approved by the United States, in its sole discretion. If Acquirer seeks an extension of the term of any lease, Defendants must notify the United States in writing at least 30 calendar days prior to the date the lease expires. Acquirer may terminate a lease (including an extension), or any portion of a lease (including an extension), without cost or penalty at any time upon 30 calendar days' written notice.

N. If any term of an agreement between Defendants and Acquirer, including an agreement to effectuate the divestiture required by this Final Judgment, varies from a term of this Final Judgment, to the extent that Defendants cannot fully comply with both, this Final Judgment determines Defendants' obligations.

V. FINANCING

Defendants may not finance all or any part of Acquirer's purchase of all or part of the Divestiture Assets.

VI. ASSET PRESERVATION AND HOLD SEPARATE

Defendants must take all steps necessary to comply with the Asset Preservation and Hold Separate Stipulation and Order entered by the Court.

VII. AFFIDAVITS

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestiture required by this Final Judgment has been completed, each Defendant must deliver to the United States an affidavit, signed by

each Defendant's Chief Financial Officer and General Counsel, describing in reasonable detail the fact and manner of that Defendant's compliance with this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

B. Defendants must keep all records of any efforts made to divest the Divestiture Assets until one year after the Divestiture Date.

C. Within 20 calendar days of the filing of the Complaint in this matter, Defendants must deliver to the United States an affidavit signed by Defendants' Chief Financial Officer and General Counsel that describes in reasonable detail all actions that Defendant Safran has taken and all steps that Defendants have implemented on an ongoing basis to comply with Section VI of this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

D. If a Defendant makes any changes to actions and steps described in affidavits provided pursuant to Paragraph VII.C., the Defendant must, within 15 calendar days after any change is implemented, deliver to the United States an affidavit describing those changes.

E. Defendants must keep all records of any efforts made to comply with Section VI until one year after the Divestiture Date.

VIII. APPOINTMENT OF MONITOR

A. Upon application of the United States in its sole discretion, which Defendants may not oppose, the Court will appoint a monitor selected by the United States and approved by the Court. Defendants may propose candidates for the monitor appointment to the United States. Once approved, the court-appointed monitor should be considered by the United States and Defendants to be an arm and representative of the Court.

B. The monitor will have the power and authority to monitor Defendants' compliance with the terms of this Final Judgment and the Asset Preservation and Hold

Separate Stipulation and Order entered by the Court and will have other powers as the Court deems appropriate. The monitor will have no responsibility or obligation for operation of the Divestiture Assets.

C. The monitor must investigate and report on Defendants' compliance with this Final Judgment and the Asset Preservation and Hold Separate Stipulation and Order, including Paragraphs IV.H, IV.K., IV.L, IV.M. and Section X. The monitor must provide periodic reports to the United States setting forth Defendants' efforts to comply with their obligations under this Final Judgment and under the Asset Preservation and Hold Separate Stipulation and Order. The United States, in its sole discretion, will set the frequency of the monitor's reports.

D. The monitor will have the authority to take such steps as, in the monitor's discretion and the United States' view, may be necessary to accomplish the monitor's responsibilities. The monitor may seek information from Defendants' personnel, including in-house counsel, compliance personnel, and internal auditors. Defendants must establish a policy, annually communicated to all employees, that employees may disclose any information to the monitor without reprisal for such disclosure. Defendants must not retaliate against any employee or third party for disclosing information to the monitor.

E. Defendants may not object to actions taken by the monitor in fulfillment of the monitor's responsibilities under any Order of the Court on any ground other than malfeasance by the monitor. Disagreements between the monitor and Defendants related to the scope of the monitor's responsibilities do not constitute malfeasance. Objections by Defendants must be conveyed in writing to the United States and the monitor within 10 calendar days of the monitor's action that gives rise to Defendants' objection or the objection is waived.

F. The monitor will serve at the cost and expense of Defendant Safran pursuant to a written agreement, on terms and conditions, including confidentiality

requirements and conflict of interest certifications, approved by the United States in its sole discretion. If the monitor and Defendant Safran are unable to reach such a written agreement within 14 calendar days of the Court's appointment of the monitor, or if the United States, in its sole discretion, declines to approve the proposed written agreement, the United States, in its sole discretion, may take appropriate action, including making a recommendation to the Court, which may set the terms and conditions for the monitor's work, including the monitor's compensation.

G. The monitor may hire, at the cost and expense of Defendant Safran, any agents and consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the monitor's judgment to assist with the monitor's duties. These agents or consultants will be directed by and solely accountable to the monitor and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion. Within three business days of hiring any agents or consultants, the monitor must provide written notice of the hiring and the rate of compensation to Defendant Safran and the United States. The compensation of the monitor and agents or consultants retained by the monitor must be on reasonable and customary terms commensurate with the individuals' experience and responsibilities. The monitor must account for all costs and expenses incurred.

H. Defendant Safran's failure to promptly pay the monitor's invoices and accounted-for costs and expenses, including for agents and consultants, will constitute a violation of this Final Judgment and may result in sanctions imposed by the Court. If Defendant Safran makes a timely objection in writing to the United States to any part of the monitor's invoices or accounted-for costs and expenses, Defendant Safran must establish an escrow account into which Defendant Safran must pay the disputed amount until the dispute is resolved.

I. Defendants must use best efforts to cooperate fully with the monitor and to assist the monitor to monitor Defendants' compliance with their obligations under this Final Judgment and the Asset Preservation and Hold Separate Stipulation and Order. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants must provide the monitor and agents or consultants retained by the monitor with full and complete access to all personnel (current and former), agents, consultants, books, records, and facilities of the Divestiture Assets. Defendants may not take any action to interfere with or to impede accomplishment of the monitor's responsibilities.

J. The monitor may communicate *ex parte* with the Court when, in the monitor's sole discretion, the monitor believes such communication is reasonably necessary to the monitor's duties under this Final Judgment, including if Defendant Safran fails to timely pay the monitor's invoices or accounted-for costs and expenses or if Defendants otherwise violate this Final Judgment.

K. The monitor will serve until 180 calendar days after (1) the expiration of the last contracts between Defendants and Acquirer related to the operation of any of the Divestiture Assets pursuant to Paragraph IV.K, the provision of any transition services pursuant to Paragraph IV.L, the provision of any lease pursuant to Paragraph IV.M, or any other obligations of Defendants to Acquirer, and (2) the expiration of Defendants' obligations under Section X, unless the United States, in its sole discretion, determines a different period is appropriate.

L. If the United States determines that the monitor is not acting diligently or in a reasonably cost-effective manner, or if the monitor resigns or becomes unable to accomplish the monitor's duties, the United States may recommend that the Court appoint a substitute monitor.

IX. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment or of related orders such as the Asset Preservation and Hold Separate Stipulation and Order or of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Defendants, Defendants must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents, wherever located, 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, wherever located, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must 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 for the Antitrust Division, Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

X. FIREWALLS

A. Defendant Safran must implement and maintain effective procedures to prevent Acquirer's competitively sensitive information from being shared or disclosed, by or through implementation and execution of the obligations required by this Final Judgment and any associated agreements, including agreements entered pursuant to

Paragraphs IV.K, IV.L, and IV.M, by the employees of Defendant Safran tasked with (1) operating the Divestiture Assets at Av. Sierra San Agustín 2498, Col el Porvenir, Parque Industrial Progreso, and 21185 Mexicali, B.C., Mexico, facilities ("Mexicali Facilities") for Acquirer, or (2) providing transition services to Acquirer (collectively, "Firewall Employees") and any other employees of Defendants. In particular, no employee of Defendant Safran assigned to, or with any management responsibility for, the Collins Aerospace flight control and actuation business may be given, or have access to, information about the production for Acquirer at the Mexicali Facilities, including information about demand, product, sales, or price.

B. Defendant Safran must, within thirty (30) calendar days of the entry of the Asset Preservation Stipulation and Order, submit to the United States and, if one has been appointed, to the monitor, a compliance plan setting forth in detail the procedures Defendant Safran proposes to implement to effect compliance with this Section X. The United States must inform Defendant Safran within ten (10) business days of receipt whether, in its sole discretion, the United States approves or rejects Defendant Safran's compliance plan. Within ten (10) business days of receiving a notice of rejection, Defendant Safran must submit a revised compliance plan. The United States may request that the Court determine whether Defendant Safran's proposed compliance plan fulfills the requirements of this Section X.

C. At minimum, an effective compliance plan must include, for all Firewall Employees, (1) initial written notice on or before the Divestiture Date, (2) training within thirty (30) days of the Divestiture Date followed by training on a yearly basis, and (3) provision of written acknowledgment of the obligations of this Section X within thirty (30) days of the Divestiture Date and on a yearly basis thereafter. The form of all written notifications must first be reviewed by the monitor, if one has been appointed, and approved by the United States, in its sole discretion. Defendant Safran must maintain

complete records of all written notices, training, employee acknowledgments, and all other efforts made to comply with this Section X until the termination of all contracts between Defendant Safran and Acquirer related to the operation of, support of, or transition services for the Divestiture Assets or five years after the Divestiture Date, whichever is later.

XI. NO REACQUISITION

Defendants may not reacquire any part of or any interest in the Divestiture Assets during the term of this Final Judgment without prior authorization of the United States.

XII. PUBLIC DISCLOSURE

A. No information or documents obtained pursuant to any provision of this Final Judgment, including reports the monitor provides to the United States pursuant to Paragraph VIII.C, may be divulged by the United States or the monitor 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, for the purpose of evaluating a proposed Acquirer or securing compliance with this Final Judgment, or as otherwise required by law.

B. In the event that the monitor receives a subpoena, court order, or other court process seeking or requiring production of information or documents obtained pursuant to any provision in this Final Judgment, including reports the monitor provides to the United States pursuant to Paragraph VIII.C, the monitor must notify the United States and Defendants immediately and prior to any disclosure, so that Defendants may address such potential disclosure and, if necessary, pursue alternative legal remedies, including if deemed appropriate by Defendants, intervention in the relevant proceedings.

C. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, for disclosure of information obtained pursuant to any

provision of this Final Judgment, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 C.F.R. part 16, including the provision on confidential commercial information, at 28 C.F.R. § 16.7. Defendants submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 C.F.R. § 16.7. Designations of confidentiality expire 10 years after submission, "unless the submitter requests and provides justification for a longer designation period." *See* 28 C.F.R. § 16.7(b).

D. If at the time that Defendants furnish information or documents to the United States pursuant to any provision of this Final Judgment, Defendants represent and identify in writing information or documents for 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," the United States must give Defendants 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XIII. RETENTION OF JURISDICTION

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the 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.

XIV. ENFORCEMENT OF FINAL JUDGMENT

A. If any time during the five years from entry of this Final Judgment, the United States determines in its sole discretion that the Final Judgment has failed to fully redress the violations alleged in the Complaint, then the United States may re-open this proceeding to seek additional relief, including divestiture of additional assets. Such

additional relief may be ordered by this Court upon a finding by a preponderance of the evidence that there is a reasonable probability that the proposed Final Judgment did not fully redress the violations alleged in the Complaint.

B. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in a civil contempt action, a motion to show cause, or a similar action brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

C. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

D. In an enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

E. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XIV.

XV. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and continuation of this Final Judgment is no longer necessary or in the public interest.

XVI. PUBLIC INTEREST DETERMINATION

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

Schedule A

SR. ELECTRO-MECHANICAL DESIGNER	SafranEDA Irvine, CA
SR PROJECT ENGINEER	SafranEDA Irvine, CA
SR PROJECT ENGINEER	SafranEDA Irvine, CA
SR. ENGINEERING PROJECT ASSISTANT	SafranEDA Irvine, CA
SR. ELECTRONICS TECHNICIAN	SafranEDA Irvine, CA
PR SYSTEMS ENGINEER	SafranEDA Irvine, CA
SENIOR ACCOUNTANT	SafranEDA Irvine, CA
PR SYSTEMS SAFETY ENGINEER	SafranEDA Irvine, CA
CONTRACTS MANAGER	SafranEDA Irvine, CA
DIRECTOR OF PROGRAM MANAGEMENT (ELLINGTON)	SafranEDA Irvine, CA
MECHANICAL ENGINEER	SafranEDA Irvine, CA
Sr. Program Manager	SafranEDA Irvine, CA
SR QUALITY ENGINEER	SafranEDA Irvine, CA
DIRECTOR - ENGINEERING (ELLINGTON)	SafranEDA Irvine, CA
SR STRESS ENGINEER	SafranEDA Irvine, CA
SR. SUPPLIER RELATIONSHIP MANAGER	SafranEDA Irvine, CA
SR. MECHANICAL ENGINEER	SafranEDA Irvine, CA
SR. ELECTRONICS TECHNICIAN	SafranEDA Irvine, CA
PR SYSTEMS ENGINEER	SafranEDA Irvine, CA
SR ELECTRICAL ENGINEER	SafranEDA Irvine, CA

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *Plaintiff*, v. SAFRAN, S.A., SAFRAN USA INC., and RTX CORPORATION, *Defendants*.	1:25-cv-01897-CRC Judge: Christopher R. Cooper

I. COMPETITIVE IMPACT STATEMENT

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (the "APPA" or "Tunney Act"), the United States of America files this Competitive Impact Statement related to the proposed Final Judgment filed in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On July 20, 2023, Safran S.A. ("Safran") agreed to acquire certain assets of the Collins Aerospace business from RTX Corporation ("RTX") for approximately $1.8 billion. The United States filed a civil antitrust Complaint on June 17, 2025, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to substantially lessen competition for the development, manufacture, and sale of trimmable horizontal stabilizer actuators ("THSAs") for large aircraft in the worldwide market 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 filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order ("Stipulation and Order"), which are designed to remedy the loss of competition alleged in the Complaint.

Under the proposed Final Judgment, which is explained more fully below, Defendant Safran is required to divest its North American actuation business, including the development, manufacture, and sale of THSAs; secondary flight control actuation products and nose-wheel steering gearboxes; and Safran's Canada-based electronic control units business, to Woodward, Inc. ("Woodward").

The Stipulation and Order requires Defendants to take certain steps to operate, preserve, and maintain the full economic viability, marketability, and competitiveness of the assets that must be divested pending entry of the Final Judgment by this Court. In addition, management, sales, and operations of the assets that must be divested must be held entirely separate, distinct and apart from Defendants' other operations. The purpose of these terms in the Stipulation and Order is to ensure that competition is maintained during the pendency of the required divestiture.

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 will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Proposed Transaction

Safran S.A. is incorporated in France and has its headquarters in Paris, France. Safran produces a wide range of products for the aerospace industry and other industries,

including THSAs for large aircraft. Safran USA, Inc. is a US-based subsidiary of Safran headquartered in Alexandria, Virginia. In 2024, Safran had revenues of approximately €27 billion.

RTX is incorporated in Delaware and is headquartered in Arlington, Virginia. RTX is a major provider of aerospace and defense electronics systems. RTX produces, among other products, THSAs for large aircraft. In 2024, RTX had revenues of approximately $80 billion.

Pursuant to an asset purchase agreement dated July 20, 2023, Defendant Safran proposes to acquire certain assets from Defendant RTX's Collins Aerospace business. The transaction is valued at approximately $1.8 billion.

B. Prior Divestiture in UTC-Rockwell Collins

On October 1, 2018, the Antitrust Division entered a consent decree requiring United Technologies Corporation ("UTC") to divest two businesses critical to the safe operation of aircraft to resolve competitive concerns raised by UTC's acquisition of Rockwell Collins, Inc. ("Rockwell Collins"). One of the divestiture businesses identified in the decree was Rockwell Collins's THSA business. Because of the safety critical nature of THSAs, it was imperative that the divesture buyer have an established presence in the aerospace industry with well-established customer relationships. Ultimately, the Antitrust Division approved Safran as the divestiture buyer and, since that time, Safran has operated the divested business as a viable competitor in the market for THSAs.

In April of 2020, following UTC's acquisition of Rockwell Collins, UTC merged with Raytheon Company, forming the company now branded as RTX. The Complaint alleges that Safran's proposed acquisition of RTX would recombine the THSA assets that were divested to resolve the Division's concerns with UTC's acquisition of Rockwell Collins.

C. The Competitive Effects of the Transaction

The Complaint alleges that the transaction will result in anticompetitive effects in the market for the development, manufacture, and sale of THSAs for large aircraft.

1. Relevant Product Market

Actuators are responsible for the proper positions of an aircraft by manipulating the control surfaces on its wings and tail section. A THSA is a type of actuator and helps an aircraft maintain the proper altitude during flight by adjusting ("trimming") the angle of the horizontal stabilizer, the control surface of the aircraft's tail responsible for aircraft pitch. This control surface is critical to the safety and performance of the aircraft, as a loss of control could cause the aircraft to crash. The stabilizer encounters significant aerodynamic loads for extended periods of time, and the THSA must be capable of handling these loads. THSAs thus tend to be the largest and most technically demanding actuators on an aircraft.

THSAs vary in size, complexity, and cost based on the size and type of aircraft on which they are used. Because large aircraft encounter significantly higher aerodynamic loads than smaller aircraft, THSAs for large aircraft are considerably larger, more complex, and more expensive than those used on smaller aircraft. Large aircraft primarily include commercial aircraft that seat at least six passengers abreast (such as the Airbus A320 and A350 and the Boeing 737, 787, and 777x) and military transport aircraft, but exclude regional aircraft, business jets, and tactical military aircraft.

THSAs can also vary in the type of power source used to effect actuation. Actuation can be effected using an electric or hydraulic source of control. Typically, an aircraft uses only one type so that all actuation on the aircraft, including THSAs, is controlled by either electric or hydraulic means. At the design phase, large aircraft manufacturers can choose either type of power source to control actuation. Once a plane is designed, manufacturers are unable to switch between electric or hydraulic actuation

components, including THSAs, due in part to the certification required for these components.

THSAs for large aircraft do not have technical substitutes. Large aircraft manufacturers cannot switch to THSAs for smaller aircraft, or actuators for other aircraft control surfaces, because those products cannot adequately control the lift and manage the load generated by the horizontal stabilizer of a large aircraft. A small but significant increase in the price of THSAs for large aircraft would not cause aircraft manufacturers to substitute THSAs designed for smaller aircraft or actuators for other control surfaces in volumes sufficient to make such a price increase unprofitable. Accordingly, THSAs for large aircraft are a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18.

2. Relevant Geographic Market

The relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. § 18 is worldwide. THSAs for large aircraft are marketed internationally and may be sourced from suppliers globally because transportation costs are a small proportion of the cost of the product and, thus, are not a major factor in supplier selection.

3. Competitive Effects

Safran and RTX are two of the leading suppliers in the worldwide market for the development, manufacture, and sale of THSAs for large aircraft. Safran and RTX have respectively won two of the most significant recent contract awards for THSAs for large aircraft: the Boeing 777X and the Airbus A350. Boeing and Airbus are the world's largest manufacturers of passenger aircraft, and these aircraft represent two of only three THSA awards by these manufacturers in this century. Other producers of THSAs tend to

concentrate on THSAs for smaller aircraft, such as business jets or regional jets, or to focus on products for other aircraft control surfaces.

Safran and RTX view each other as a significant competitive threat for the development, manufacture, and sale of THSAs worldwide for large aircraft. The two companies are among the few that have demonstrated expertise in designing and producing THSAs for large aircraft. Each firm considers the other company's offering when planning bids. Customers have benefitted from the competition between Safran and RTX for the development, manufacture, and sale of THSAs worldwide for large aircraft. Competition between two of the leading suppliers of a product results in more favorable contractual terms, more innovative products, and shorter delivery times. The combination of Safran and certain assets from RTX's Collins Aerospace business would eliminate this competition and its future benefits to customers. Post-acquisition, Safran likely would have the incentive and the ability to increase prices profitably and offer less favorable contractual terms.

Safran and RTX also invest significantly to remain leading suppliers for the development, manufacture, and sale of THSAs worldwide for large aircraft, and aircraft manufacturers expect them to remain leading suppliers of new products in the future. The combination of Safran and certain assets from RTX's Collins Aerospace business would likely eliminate this competition, depriving large aircraft customers of the benefit of future innovation and product development.

The proposed acquisition, therefore, likely would substantially lessen competition for the development, manufacture, and sale of THSAs worldwide for large aircraft in violation of Section 7 of the Clayton Act.

4. Difficulty of Entry

Sufficient, timely entry of additional competitors into the market for THSAs for large aircraft is unlikely to prevent the harm to competition that is likely to result if the proposed transaction is consummated.

Designing and developing a THSA for large aircraft is technically difficult. Even manufacturers of THSAs for smaller aircraft face significant technical hurdles in designing and developing THSAs for large aircraft. As aerodynamic loads are a major design consideration for THSAs, and such loads are tightly correlated with the size of the aircraft, THSAs for large aircraft present more demanding technical challenges than those for smaller aircraft.

Opportunities to enter are limited. Because certification of a THSA is expensive and time-consuming, once a THSA is certified for a particular aircraft type, it is rarely replaced in the aftermarket by a different THSA. Accordingly, competition between suppliers of THSAs generally only occurs when an aircraft manufacturer is designing a new aircraft or an upgraded version of an existing aircraft, which are infrequent occurrences because development costs for such aircraft can be tens of billions of dollars. As a result, several years usually pass between contract awards for THSAs for a new aircraft design.

Potential entrants into the production of THSAs for large aircraft face several additional obstacles. First, manufacturers of large aircraft are more likely to purchase THSAs from those firms already supplying THSAs for other large aircraft. The important connection between THSAs and aircraft safety drives aircraft manufacturers toward suppliers experienced with production of THSAs of the relevant type and size. While some companies may have demonstrated experience in THSAs for smaller aircraft, such experience is not considered by customers to be as relevant as experience in THSAs for

large aircraft. A new entrant would face significant costs and time to be considered a potential alternative to the existing suppliers.

Substantial time and significant financial investment would be required for a company to design and develop a THSA for large aircraft. Even companies that already make other types of THSAs would require years of effort and an investment of many millions of dollars to develop a product that is competitive with those offered by existing large aircraft THSA suppliers.

As a result of these barriers, entry into the market for THSAs for large aircraft would not be timely, likely, or sufficient to defeat the substantial lessening of competition that would likely result from Safran's acquisition of certain assets from RTX's Collins Aerospace business.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

Paragraph IV.A of the proposed Final Judgment requires Defendant Safran, within 90 days after the entry of the Stipulation and Order by the Court or within 90 days after regulatory approvals are received, to divest Safran's North American actuation business, explained in further detail below, including the development, manufacture, and sale of THSAs, secondary flight control actuation products, and nose-wheel steering gearboxes; and Safran's Canada-based electronic control units business to Woodward. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and must cooperate with the acquirer. Regulatory approvals, as defined in Paragraph II.J, include any approvals or clearances: (1) from the Committee on Foreign Investment in the United States ("CFIUS") or under antitrust or competition laws that are required for the Safran-RTX transaction to proceed; and (2) under antitrust or competition laws that are required for Woodward's acquisition to proceed.

Defendant Safran is required to divest the Divestiture Assets, which consist of all of its rights, titles, and interests in and to all property and assets related to the Divestiture

Business. The Divestiture Business, defined in Paragraphs II.E, includes: (1) Safran's North American actuation business, including the development, manufacture, and sale of THSAs, secondary flight control actuation products, and nose-wheel steering gearboxes; and (2) Safran Electronics & Defense, Canada Inc., Safran's Canada-based electronic control units business.

Paragraph II.F of the proposed Final Judgment identifies nine categories of Divestiture Assets, including: (1) real property interests at specified locations used in the Divestiture Business in Peterborough, Canada; (2) a transitional Safran brands license; (3) all other real property related to the Divestiture Business; (4) all personal property, including machines, manufacturing equipment, tools, inventory, and materials; (5) all contracts, contractual rights, and customer relationships and all other agreements, commitments, and understandings, including supply agreements; (6) all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations; (7) all records and data; (8) all intellectual property owned, licensed, or sublicensed, either as licensor or licensee; and (9) all other intangible property. These Divestiture Assets are broadly defined to ensure a complete divestiture of all assets needed for the Divested Businesses. Any exceptions to the divestiture obligations are specified in the proposed Final Judgment.

The Divestiture Assets do not include certain specified assets, as defined in Paragraph II.H as Excluded Assets, including: (1) the interests in specified facilities located in Mexicali, Mexico and Irvine, California; (2) any intellectual property associated with the brand names "Safran" and "SEDA"; and (3) the contracts to supply (i) Virgin Galactic with the mechanical portion of an electromechanical THSA actuator (on a build to print basis); (ii) the signal interface unit for user ("SIFU") remote data concentrator for Archer Aviation, Inc.; (iii) the French legacy THSA activity consisting of original equipment THSAs produced at Safran's facilities in specified locations in

France, for a limited number of specified aircraft; (iv) the maintenance, repair, and operation services and related spare parts for the Mitsubishi Heavy Industries (MHI) CRJ family; and (v) the contract to supply Bell with actuation products unrelated to THSA for helicopters.

The proposed Final Judgment contains provisions intended to facilitate the acquirer's efforts to hire certain employees. Specifically, Paragraph IV.H of the proposed Final Judgment requires Defendant Safran to identify all Relevant Personnel, including by providing the acquirer and the United States with organization charts and information relating to these employees and making them available for interviews. It also provides that Defendants must not interfere with any negotiations by the acquirer to hire these employees. In addition, for employees who elect employment with the acquirer, Defendant Safran must waive all non-compete and non-disclosure agreements, vest all unvested pension and other equity rights, provide any pay pro rata, provide all compensation and benefits that those employees have fully or partially accrued, and provide all other benefits that the employees would generally be provided had those employees continued employment with Defendant Safran, including but not limited to any retention bonuses or payments. This paragraph further provides that Defendant Safran may not solicit to rehire any of those employees who were hired by the acquirer, unless an employee is terminated or laid off by the acquirer or the acquirer agrees in writing that Defendant Safran may solicit to hire that individual. The non-solicitation period runs for one year from the date of the divestiture.

Paragraph IV.B of the proposed Final Judgment requires Defendant Safran to transfer all contracts, agreements, and relationships to the acquirer and to make best efforts to assign, subcontract, or otherwise transfer contracts or agreements that require the consent of another party before assignment, subcontracting, or other transfer. This

includes the transfer of customer contracts, such as a contract with Airbus, S.E. for THSAs, and supplier contracts.

The proposed Final Judgment requires Defendant Safran to provide certain transition services to maintain the viability and competitiveness of the Divestiture Business during the transition to the acquirer. Paragraph IV.L of the proposed Final Judgment requires Defendant Safran, at the acquirer's option, to enter into a transition services contract(s) for back office, billing, provisioning, human resources, accounting, employee health and safety, and information technology services and support for a period of up to 24 months. The acquirer may terminate the transition services agreement, or any portion of it, without cost or penalty at any time upon commercially reasonable notice. The paragraph further requires Defendant Safran, at the acquirer's option and subject to the United States's approval, in its sole discretion, to enter into one or more extensions of this transition services agreement for a total of up to an additional 12 months and that any amendments to or modifications of any provisions of a transition services agreement are subject to approval by the United States in its sole discretion. Paragraph IV.L also provides that employees of Defendant Safran tasked with supporting this agreement must not share any competitively sensitive information of the acquirer with any other employee of Defendants, unless such sharing is for the sole purpose of providing transition services to the acquirer.

Paragraph IV.K of the proposed Final Judgment requires Defendant Safran, at the acquirer's option, to enter into a contract for operation of the portion of the Divestiture Assets located at specified locations in Mexicali, Mexico for a period of up to 24 months. The acquirer may terminate the operation contract, or any portion of it, without cost or penalty at any time upon commercially reasonable notice. Upon the acquirer's request, the United States, in its sole discretion, may approve one or more extensions of the operation contract for up to an additional 12 months and that any amendments to or

modifications of any provisions of a supply contract are subject to approval by the United States, in its sole discretion. Paragraph IV.K also provides that employees of Defendant Safran tasked with supporting this contract must not share any competitively sensitive information of the acquirer with any other employee of Defendants, unless such sharing is for the sole purpose of operation of the Divestiture Assets under this contract.

Paragraph IV.M of the proposed Final Judgment requires Defendants, at acquirer's option, to enter into a lease or assignment of a lease for a specified location in Irvine, California, for a period of up to 12 months. The acquirer may terminate the lease, or any portion of it, without cost or penalty at any time upon commercially reasonable notice. The paragraph further provides that Defendants, at the acquirer's option and subject to the approval of the United States, in its sole discretion, must enter into one or more extensions of this lease or assignment of a lease for a total of up to an additional 12 months and that any amendments to or modifications of any provisions of a lease are subject to approval by the United States, in its sole discretion.

Section VIII of the proposed Final Judgment provides that the United States may appoint a monitor who will have the power and authority to investigate and report on Defendants' compliance with the terms of the Final Judgment and the Stipulation and Order, including Paragraphs IV.H, IV.K., IV.L, IV.M. and Section X. The monitor will not have any responsibility or obligation for the operation of Defendants' businesses. The monitor will serve at Defendant Safran's expense, on such terms and conditions as the United States approves, and Defendants must assist the monitor in fulfilling his or her obligations. The monitor will provide periodic reports to the United States and will serve until 180 days after the expiration of the transition services agreements, operation agreements, and lease, and the expiration of Defendants' obligations in Section X of the proposed Final Judgment to prevent Acquirer's competitively sensitive information from

being shared or disclosed by or through the implements of the obligations required by the proposed Final Judgment.

Paragraph XIV.A of the proposed Final Judgment provides that, if at any time during the five (5) year period following entry of the Final Judgment, the United States determines at its sole discretion that the Final Judgment has failed to fully redress the violations alleged in the Complaint, then the United States may re-open the proceeding to seek additional relief, including divestiture of additional assets.

Paragraph XIV.B of the proposed Final Judgment provides that the United States retains and reserves all rights to enforce the Final Judgment, including the right to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance with the Final Judgment with the standard of proof that applies to the underlying offense that the Final Judgment addresses.

Paragraph XIV.C of the proposed Final Judgment provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment is intended to remedy the loss of competition the United States alleges would otherwise be harmed by the transaction. Defendants agree that they will abide by the proposed Final Judgment and that they may be held in contempt of the Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIV.D of the proposed Final Judgment provides that if the Court finds in an enforcement proceeding that a Defendant has violated the Final Judgment, the United States may apply to the Court for an extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgment, Paragraph XIV.D provides that, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, the Defendant must reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with that effort to enforce this Final Judgment, including the investigation of the potential violation.

Paragraph XIV.E of the proposed Final Judgment states that the United States may file an action against a Defendant for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, Section XV of the proposed Final Judgment provides that the Final Judgment will expire ten (10) years from the date of its entry, except that after five (5) years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and continuation of the Final Judgment is no longer necessary or in the public interest.

The relief required by the proposed Final Judgment is designed to remedy the loss of competition alleged in the Complaint by establishing an independent and economically viable competitor in the market for THSAs for large aircraft. The assets referenced above must be divested in such a way as to satisfy the United States, in its sole discretion, that the assets can and are likely to be operated by the acquirer as a viable, ongoing business that can compete effectively in the relevant market.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

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 neither impairs nor assists 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 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 60 days of the date of publication of this Competitive Impact Statement in the Federal Register, or within 60 days of the first 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 U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, the comments and the United States' responses will be published in the *Federal Register* unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to:

Soyoung Choe
Acting Chief, Defense, Industrials and Aerospace Section
Antitrust Division
United States Department of Justice
450 Fifth St. NW, Suite 8700
Washington, DC 20530
ATR.DIA-Information@usdoj.gov

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

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Safran's acquisition of certain assets of the Collins Aerospace business from RTX. Under the circumstances present here, however, the United States concludes that entry of the proposed Final

Judgment is in the public interest insofar as it avoids the time, expense, and uncertainty of a full trial on the merits.

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

Under the Clayton Act and APPA, proposed Final Judgments, or "consent decrees," in antitrust cases brought by the United States are subject to a 60-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); *United States v. U.S. Airways Grp., 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 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a proposed Final 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 mechanisms to enforce the final judgment are clear and manageable").

As the U.S. 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 in the government's Complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not "make de novo determination of facts and issues." *United States v. W. Elec. Co.*, 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Instead, "[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General." *W. Elec. Co.*, 993 F.2d at 1577 (quotation marks omitted). "The court should also bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is the one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest." *Microsoft*, 56 F.3d at 1460 (quotation marks omitted); *see also United States v. Deutsche Telekom AG*, No. 19-2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would "have enormous practical consequences for the government's ability to negotiate future settlements," contrary to congressional intent. *Microsoft*, 56 F.3d at 1456. "The Tunney Act was not intended to create a disincentive to the use of the consent decree." *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g.*, *Microsoft*, 56 F.3d at 1461 (recognizing courts should give "due respect to the Justice Department's . . . view of the nature of its case"); *United*

States v. Iron Mountain, Inc., 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) ("In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." (internal citations omitted)); *United States v. Republic Servs., Inc.*, 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting "the deferential review to which the government's proposed remedy is accorded"); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) ("A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case."). The ultimate question is whether "the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.'" *Microsoft*, 56 F.3d at 1461 (*quoting W. Elec. Co*., 900 F.2d at 309).

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 ("[T]he '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.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Pub. L. 108-237 § 221, and added 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). This language explicitly wrote into the statute what Congress intended when it first 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). "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 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

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: June 17, 2025

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA:

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Daniel Monahan
United States Department of Justice
Antitrust Division
Defense, Industrials, and Aerospace Section
450 Fifth St. NW, Suite 8700
Washington, DC 20530
Telephone: 202-598-8774
Email: daniel.monahan@usdoj.gov

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