DE: 4410-11

DEPARTMENT OF JUSTICE

Antitrust Division

***United States et al. v. RealPage, Inc. et al.* Response to Public Comments**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that the Response of the United States to Public Comment on the Proposed Final Judgment in *United States of America et al.* v. *RealPage et al.,* Civil Action No. 24-cv-00710- WLO-JLW, in regards to Defendant RealPage, Inc., has been filed in the United States District Court for the Middle District of North Carolina, together with the response of the United States to the comments.

Copies of the public comment and the United States' Response are available for inspection on the Antitrust Division's website at http://www.justice.gov/atr.

Suzanne Morris,

Deputy Director Civil Enforcement Operations,

Antitrust Division.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, et al., Plaintiffs, vs. REALPAGE, INC., et al., Defendants.	No. 1:24-cv-00710-WLO-JGM

RESPONSE OF PLAINTIFF UNITED STATES TO PUBLIC COMMENTS ON THE PROPOSED FINAL JUDGMENT

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the "APPA" or "Tunney Act"), 15 U.S.C. § 16(b)–(h), the United States submits this response to the eight public comments received regarding the proposed Final Judgment as to Defendant RealPage, Inc. (Doc. 159-1).[1]

After careful consideration of the submitted comments, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint.[2]

After this Response has been published in the *Federal Register*, pursuant to 15 U.S.C § 16(d), the United States will move the Court to enter the proposed Final Judgment. On March 4, 2026 the Court granted the United States' motion to allow the United States to publish the public comments on the Antitrust Division's website due to the expense of publishing the comments in the Federal Register and the public

[1] The United States has redacted personally identifiable information from the comments. If the Court requests unredacted versions, the United States will provide unredacted comments under seal.

[2] The Complaint includes a number of claims asserted by co-Plaintiff States. This Response, like other filings that the United States has made under the Tunney Act, focuses only on the United States' claims in the Complaint, which are the only claims that would be resolved by the proposed Final Judgment, if entered.

accessibility of the Division's website. (Doc. 174.) These comments can be accessed at www.justice.gov/atr.

I. PROCEDURAL HISTORY

On August 23, 2024, the United States, along with several States ("Plaintiffs"), filed a civil antitrust Complaint against RealPage, Inc. ("RealPage"). (Doc. 1.) On January 7, 2025, Plaintiffs amended their Complaint (the "Complaint") to add six property management companies (referred to herein as "landlords") as Defendants. (Doc. 47.) The Complaint alleges that RealPage violated Section 1 of the Sherman Act, 15 U.S.C. § 1, by unlawfully agreeing to share and use landlords' competitively sensitive information and agreeing to use RealPage's software to align pricing among competing landlords. The Complaint also alleges that RealPage violated Section 2 of the Sherman Act, 15 U.S.C. § 2, by monopolizing or attempting to monopolize the commercial revenue management software market for conventional multifamily rental housing by preventing other software providers from effectively competing with products that do not harm the competitive process.

On November 24, 2025, the United States filed a proposed Final Judgment (Doc. 159-1) as to RealPage, which is designed to remedy the loss of competition alleged in the Complaint due to RealPage's conduct, and a Stipulation and Proposed Order (Doc. 159), in which RealPage consented to entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act. On November 24, 2025, the United States filed a Competitive Impact Statement describing the proposed Final Judgment as to RealPage. (Doc. 160.) On March 26, 2026, the Court entered the Stipulation and Proposed Order. (Doc. 182.)

The United States arranged for the publication of the Complaint, proposed Final Judgment, and Competitive Impact Statement in the *Federal Register* on December 5, 2025, *see* 15 U.S.C. § 16(b)-(c); 90 Fed. Reg. 56,286 (Dec. 5, 2025), and caused notice

regarding the same, together with directions for the submission of written comments relating to the proposed Final Judgment, to be published in *The Washington Post* from December 10-16, 2025 and in the *Greensboro News and Record* from December 10–15, 2025 and December 16–17, 2025. The 60-day period for public comment has now ended. The United States received eight comments in response, which are described below and attached as Exhibit 1 hereto.

II. THE COMPLAINT AND THE PROPOSED FINAL JUDGMENT

As explained in the Competitive Impact Statement (Doc. 160), RealPage licenses three revenue management products to property management companies and property owners (collectively, "landlords"). These software products are AI Revenue Management ("AIRM"), YieldStar, and Lease Rent Options ("LRO"). RealPage's revenue management products are used by landlords to determine how to price floor plans and units in conventional multifamily rental housing, i.e., multiunit apartments that they manage and lease.

The Complaint alleges that RealPage, along with six landlords, violated Section 1 of the Sherman Act, 15 U.S.C. § 1, by unlawfully agreeing to share and use competitively sensitive information for the properties that each landlord manages and leases. RealPage uses nonpublic, competitively sensitive data to train its algorithmic models ("models") that AIRM leverages and to provide floor plan price recommendations and unit-level pricing to landlords when they are running AIRM or YieldStar. The sharing and use of nonpublic, competitively sensitive information harms or is likely to harm the competitive process, renters, and prospective renters.

The Complaint further alleges that RealPage and the landlords that use AIRM and YieldStar violated Section 1 of the Sherman Act, 15 U.S.C. § 1, by unlawfully agreeing to use RealPage's software to align pricing among competing landlords. RealPage entered into individual agreements with landlords to use AIRM or YieldStar. By agreeing

to use AIRM or YieldStar as each has been designed by RealPage, competing landlords align their pricing processes, strategies, and pricing responses, e.g., how they go about setting rents, pricing amenities, and managing occupancy levels in local rental markets. As alleged in the Complaint, both RealPage and landlords knew that the software was designed to align pricing. They used the phrase "a rising tide rises [sic] all ships" to explain that AIRM and YieldStar would move prices in a "similar manner" to how the top and bottom of the market moved. (*See* Am. Compl. ¶ 33.) Collectively, these agreements harm the competitive process and actual and prospective renters.

Finally, the Complaint alleges that RealPage violated Section 2 of the Sherman Act, 15 U.S.C. § 2, by monopolizing or attempting to monopolize the commercial revenue management software market for conventional multifamily rental housing. Through its licensing agreements with landlords that use its software products, RealPage has amassed a massive reservoir of competitively sensitive data from competing landlords. RealPage has ensured that other providers of revenue management products cannot compete on the merits unless they enter into similar agreements with landlords, thereby obstructing them from competing with products that do not harm the competitive process.

The proposed Final Judgment imposes a number of requirements and restrictions on RealPage that address the United States' concerns regarding RealPage's anticompetitive conduct alleged in the Complaint. First, the proposed Final Judgment imposes restrictions on how RealPage can use competitively sensitive data from landlords. The proposed Final Judgment identifies two discrete phases of how RealPage's revenue management products operate: runtime operation and model training. Runtime operation is a landlord's use of the software to provide pricing recommendations and prices for the specific floor plans and units in a particular rental property. Model training is any process of analyzing data to create a model or algorithm, including the models that

RealPage uses to predict supply and demand, which is then used in the runtime operation. Subject to limited exceptions, RealPage will not be allowed to use nonpublic data from competing properties in runtime operation. In training the models, RealPage will be limited to using backward-looking data that has been aged at least 12 months and is not from active leases, i.e., a unit with a rental agreement that is in effect.

Second, the proposed Final Judgment restricts RealPage's ability to source nonpublic information from and share nonpublic information among landlords. The proposed Final Judgment imposes significant limitations on RealPage's ability to use, share, publish, disclose, or provide competitors' nonpublic data to a landlord, including through RealPage's revenue management products or its pricing advisors. Relatedly, RealPage must not conduct any market surveys (the collection of potentially competitively sensitive nonpublic data through call arounds, emails, or other methods) for use in its revenue management products or to recommend a rental price or occupancy level during the term of the proposed Final Judgment. Finally, RealPage must not discuss with or facilitate discussions among landlords about market analyses or trends based on nonpublic data, or about pricing strategies.

Third, the proposed Final Judgement limits RealPage's ability to use models trained using nonpublic, competitively sensitive information to determine price and supply below a certain geographic level. RealPage may not train its AI Demand, AI Supply I, and AI Supply II models with a geographic variable narrower than a state.[3] RealPage may not use nonpublic, competitively sensitive data to train any future models with a geographic variable narrower than the nation.

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[3] As explained in the Competitive Impact Statement (Doc. 160), RealPage relies on three models in AIRM: AI Demand, AI Supply I, and AI Supply II. AI Demand predicts the likelihood that a prospective tenant will apply for a unit at a specific property. The AI Supply models predict the likelihood that an expiring lease will be renewed rather than terminated. AI Supply I predicts the likelihood of renewal before a renewal rent offer has been approved by the landlord, while AI Supply II predicts the likelihood of renewal using an approved renewal rent offer. Each of RealPage's models is one of multiple inputs used to determine, during runtime operation, the supply and demand at a particular property.

Fourth, RealPage must modify or otherwise ensure that certain software features are designed so that they no longer raise competitive concerns that underlie the allegations in the Complaint. For example, RealPage may not prohibit or impede a landlord's ability to reject or override a recommended price. Similarly, any software feature that automatically accepts recommended prices must require that a landlord individually set the parameters regarding that acceptance. Any limit on price increases and decreases must be symmetrical, and a landlord must individually determine the limits.

Fifth, RealPage must adopt and comply with a series of compliance measures. A monitor selected by the United States in its sole discretion will be appointed for a term of three years, which the United States may extend by up to 18 months if it deems appropriate. RealPage will also adopt a written antitrust compliance policy and train its employees on the policy. RealPage must allow the United States to inspect its documents and to interview its employees to ensure compliance with the Final Judgment, among other requirements.

Finally, RealPage must provide cooperation to the United States in this civil proceeding (*United States et al. v. RealPage et al.*) with respect to the United States' Section 1 claims against the non-settling landlord defendants.

Under the terms of the Stipulation and Order, RealPage must abide by and comply with the provisions of the proposed Final Judgment until it is entered by the Court or until the time for all appeals of any Court ruling declining entry of the proposed Final Judgment has expired.

The United States and RealPage have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action with respect to the United States' claims against

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

III. STANDARD OF JUDICIAL REVIEW

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 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 Tunney Act 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
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> (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. US 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 consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and

manageable"); *United States v. Keyspan Corp.*, 763 F. Supp. 2d 633, 637–38 (S.D.N.Y. 2011); *see SEC v. Citigroup Global Mkts. Inc.*, 673 F.3d 158, 168 (2d Cir. 2012) ("We are bound in such matters to give deference to an executive agency's assessment of the public interest.").

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; *United States v. Apple, Inc.*, 889 F. Supp. 2d 623, 631 (S.D.N.Y. 2012) (citing *Microsoft*, 56 F.3d at 1458, 1461–62). 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 consent 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 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 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.*[4]

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"). In determining whether a proposed settlement is in the public interest, a district court "is not permitted to reject the proposed remedies merely because the court believes other remedies are preferable." *United States v. Morgan Stanley*, 881 F. Supp. 2d 563, 567 (S.D.N.Y. 2012) (quoting *United States v. Abitibi–Consol. Inc.*, 584 F. Supp. 2d 162, 165 (D.D.C. 2008)). 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).

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[4] See also United States v. BNS Inc., 858 F.2d 456, 464 (9th Cir. 1988) (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass").

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 the APPA 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 US 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); *Keyspan Corp.*, 763 F. Supp. 2d at 637–38 ("The Court's function is not to determine whether the proposed [d]ecree results in the balance of rights and liabilities that is the one that will best serve society, but only to ensure that the resulting settlement is 'within the reaches of the public interest.'" (quoting *United States v. Alex. Brown & Sons, Inc.*, 963 F. Supp. 235, 238 (S.D.N.Y. 1997)); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. *See also Heckler v. Chaney*, 470 U.S. 821, 832 (1985) (quoting U.S. Const. art. II, § 3) (recognizing that the decision about which claims to bring "has long been regarded as the special province of the Executive Branch").

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent 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 US 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." *US Airways*, 38 F. Supp. 3d at 76 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

IV. SUMMARY OF PUBLIC COMMENTS AND THE UNITED STATES' RESPONSE

The United States received eight public comments from seven commenters in response to the proposed Final Judgment. These comments were submitted by the American Antitrust Institute ("AAI Comment") and by private individuals, whom the United States will refer to by each individual's initials: AK ("AK Comment"), BA ("BA Comment"), CC ("CC Comment"), DR ("DR Comment" and "DR Supplemental Comment"), JP ("JP Comment"), and ST ("ST Comment").[5]

A. The AAI Comment

The AAI submitted some questions and recommendations related to the proposed Final Judgment. The United States responds to each in turn.[6]

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[5] The JP Comment also includes comments about the proposed Final Judgment between the United States and Greystar, Inc. The United States addressed JP's comments about its proposed Final Judgment with Greystar in the United States' Response to Public Comments on the Greystar Final Judgment. See Doc. 169.

[6] In the response below, the United States may refer to specific sections and paragraphs of the proposed Final Judgment, and all capitalized terms (e.g., "Unaffiliated Property Data," "Runtime Operation") are as defined in the proposed Final Judgment.

1. How do the individual terms of the agreement serve to prevent RealPage from coordinating the exchange of data and setting common pricing rules?

The proposed Final Judgement explicitly limits RealPage's ability to coordinate the exchange of data among landlords. Paragraphs IV.A-B require RealPage, among other restrictions, to (i) cease using current or historical Unaffiliated Property Data in the Runtime Operation; (ii) notify licensees that RealPage does not seek the use of Unaffiliated Property Data; (iii) cease using current, forward-looking, or historical Unaffiliated Property Data or Owner Inputted Data unless the data is aged; (iv) not share, publish, disclose, or otherwise make accessible in a Revenue Management Product (including in Runtime Operation) to any licensee of a Revenue Management Product any Unaffiliated Property Data or Owner Inputted Data from a different Property Owner. Paragraph VI.A further requires Pricing Advisors not to disclose, share with, or otherwise disseminate Unaffiliated Property Data or Owner Inputted Data in the Revenue Management Product or for purposes or recommending floor plan pricing, unit level pricing, or occupancy levels. Given these restrictions, RealPage will not retain "significant leeway" to use competitors' nonpublic data to make pricing recommendations.[7]

AAI also comments on terms of the proposed Final Judgment that serve to prevent RealPage from coordinating what AAI calls "common pricing rules." The Complaint alleges specific mechanisms by which RealPage aligned pricing among landlords, including the use of guardrails designed into the revenue management software and RealPage-sponsored meetings with landlords. (*E.g.*, Doc. 47 at ¶¶ 102–16, 142—52.) Paragraphs V.A–B of the proposed Final Judgment restrict RealPage's ability to use these

[7] AAI Comment at 2.

guardrails in this alleged anticompetitive manner. Paragraph VI.B of the proposed Final Judgment prohibits RealPage from discussing or facilitating discussions of market analyses or trends based on nonpublic data or any pricing strategies, whether based on nonpublic or public data. The Complaint does not allege that adoption and use of the same revenue management software by competing landlords, standing alone, is necessarily anticompetitive; instead, it is RealPage's specific design of its software, and landlords' agreements to use that software as designed, that results in anticompetitive pricing alignment.[8]

2. What is the quantity and scope of the Owner Inputted Data that RealPage is allowed to use in its Runtime Operations under the agreement, and why is such use of competitor data consistent with the goals and principles laid out in the CIS?

Owner Inputted Data refers to data that is directly inputted by landlords into a revenue management product and includes both public and nonpublic data. (Doc. 159-1 at ¶ II.U.) As alleged in the Complaint, landlords directly exchanged competitively sensitive information to update rents within another RealPage revenue management product known as Lease Rent Options or LRO. (Doc. 47 at ¶¶ 99–100.) Because Owner Inputted Data may include both public and nonpublic data, the proposed Final Judgment restricts how RealPage can use Owner Inputted Data. First, RealPage is not allowed to use any Owner Inputted Data in model training. The proposed Final Judgment does not provide any exception to this restriction. (Doc. 159-1 at ¶ IV.A.3.) Second, RealPage is not allowed to share, publish, disclose, or otherwise make accessible in a revenue

[8] The AAI Comment's speculation as to the impact of the proposed Final Judgment's required geographic limitations, see AAI Comment at 6–7, misunderstands the connection between the specific output of the AIRM AI Demand and Supply Models and the AIRM price recommendation generated in runtime operation. The geographic limitations at issue apply to model training and thus affect only the output of the AIRM AI Demand and Supply Models, for example. By contrast, the restrictions on runtime operation inherently and implicitly incorporate a geographic dimension through their reference to competing properties. See infra IV.A.5.

management product any Owner Inputted Data inputted by another Property Owner or a Property Manager acting on the Owner's behalf. In other words, RealPage may not use Owner Inputted Data in the Runtime Operation for a property from a different Property Owner for which it was inputted. (Doc. 159-1 at ¶ IV.B.) Third, Pricing Advisors are not allowed to disclose, share, or otherwise disseminate Owner Inputted Data nor is RealPage allowed to discuss or facilitate discussions about market analysis or trends based on Owner Inputted Data. (Doc. 159-1 at ¶ VI.A–B.) Finally, RealPage must notify all Property Managers or Property Owners that license or use RealPage's Revenue Management Products that RealPage may not seek Unaffiliated Property Data for use in Runtime Operation, including Owner Inputted Data. (Doc. 159-1 at ¶ IV.A.2.) These restrictions address the anticompetitive conduct alleged in the Complaint because they eliminate RealPage's use of potentially nonpublic data from different owners in determining rental prices or pricing recommendations.[9]

3. How will the individual terms of the agreement prevent RealPage from continuing to facilitate anticompetitive coordination notwithstanding its limits on the use of certain data, particularly with respect to RealPage's continued ability to recommend above-market prices to its licensees?

Please refer to answers IV.A.1 and IV.A.4.

4. Considering the DOJ's allegations that RealPage's price recommendations raise market prices even when they are not

[9] While outside of the scope of RealPage's proposed Final Judgment, the United States' Final Judgments with Cortland Management, LLC (Doc. 184) and Greystar Management Services, LLC (Doc. 172), and its proposed Final Judgment with LivCor, LLC (Doc. 164-1) prohibit disclosing, soliciting, or using nonpublic data from a third-party for setting rental prices or generating rental pricing recommendations. This would include inputting nonpublic data from a third-party into any revenue management product, in line with the stated objection of stopping the exchange and use of competitor data in setting prices. (See also Docs. 63, 155, and 168 (competitive impact statements for the settlements with these landlords).)

accepted, how will the proposed settlement's limits on RealPage's software features serve to prevent it from raising market prices?

The proposed Final Judgment eliminates the means by which the Complaint alleges that RealPage harms the competitive process and renters. First, the Complaint alleges that the agreement among RealPage and landlords to share nonpublic, competitively sensitive information is anticompetitive because it harms the competitive process. (Doc. 47 at ¶¶ 260-269.) A result of the unlawful information sharing is an increase in rents, harming renters. (*See, e.g.*, Doc. 47 at ¶ 127.) Second, the Complaint alleged that the design of AIRM and YieldStar, including certain product features such as the Hard Floor and Governor Guardrail, harms the competitive process and likely results in an alignment of pricing for competing properties in local markets.[10] (*See* Doc. 47 at ¶¶ 271-279.)

The proposed Final Judgment addresses both avenues of competitive harm. As explained above in II and IV.A.1, RealPage is restricted from using competitors' nonpublic, competitively sensitive data to provide pricing recommendations or prices to a landlord. And the restrictions on product design features shift decision-making and product customization from RealPage to the property management companies or property owners, reducing the possibility of pricing alignment between competitors in a given market and promoting independent decision-making on pricing and other competitive elements. For example, Auto Accept and the Governor Guardrail require a licensee or

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[10] As alleged in the Complaint, AIRM and YieldStar will not recommend a floor plan price that falls below the smoothed market minimum effective rent. The market minimum is a hard floor. AIRM and YieldStar thus explicitly constrain floor plan price recommendations based on the prices of competitors, using shared nonpublic information. (Doc. 47 at ¶ 143.)

As alleged in the Complaint, AIRM and YieldStar favor recommended price increases over price decreases. When the model calculates that the current day's "optimal" price will result in greater revenue than the previous day, a feature called the "governor" causes the model to recommend the current day's optimal price. (Id. at ¶ 151.)

user to set the specific parameters, and the Governor Guardrail must be symmetrical in upper and lower bounds. (Doc. 159-1 at ¶¶ IV.A.1-2.) The Sold-out Guardrail must now only use the Subject Property's own information, regardless of whether the data is public or nonpublic. (Doc. 159-1 at ¶ IV.A.3.) RealPage cannot implement an asymmetric hard floor and must allow users to go below a pricing floor to the same extent they can go above a pricing ceiling. (Doc. 159-1 at ¶ V.B.) Finally, Paragraph V.D. of the proposed Final Judgment prohibits RealPage from implementing any product feature that uses competitors' nonpublic data in a way that is inconsistent with the terms set forth in the proposed Final Judgment. (Doc. 159-1 at ¶ IV.D.)

By promoting decentralized, independent decision-making, expanding the range of user choices, and generally eliminating shared nonpublic information in Runtime Operation to inform recommendations, the proposed Final Judgment addresses the United States' concerns that AIRM and YieldStar harm the competitive process and thereby harm renters through higher rents or pricing behavior that is more likely to produce higher rents.

5. Considering the sophistication of RealPage's models and its ability to supplement training with granular, up-to-date, location-specific public data, how does the agreement prevent RealPage from continuing to develop and implement collusive pricing rules?

The Complaint alleges anticompetitive effects based on RealPage's use of nonpublic data to set prices for competing properties. The proposed Final Judgment addresses these concerns. (*See* Doc. 159-1 at ¶¶ IV.A.) The restrictions include: (i) restrictions on RealPage's use of Unaffiliated Property Data in runtime operation; (ii) requiring RealPage to age certain nonpublic data for model training; and (iii) restrictions

on RealPage's use of models that filter or can identify geographic effects below a nationwide and, in some circumstances, statewide scope.

The Complaint also alleges that certain product features tended to align pricing. To remedy this concern, the proposed Final Judgment's provisions shift decision-making and product customization from RealPage to each property management company or property owner, reducing the possibility of collusive pricing. For example, Auto Accept and the Governor Guardrail require a licensee or user to set the specific parameters. (Doc. 159-1 at ¶¶ IV.A.1-2.) The Sold-out Guardrail must now only use the Subject Property's own information, regardless of whether the data is public or nonpublic. (Doc. 159-1 at ¶ IV.A.3.) Finally, Paragraph V.D. prohibits RealPage from implementing any product feature that is inconsistent with the terms set forth in the proposed Final Judgment. (Doc. 159-1 at ¶ IV.D.)

These restrictions address the United States' concerns regarding RealPage's use of nonpublic data and product design features that align pricing among competing landlords.

6. The DOJ should resolve the ambiguity or otherwise clarify the meaning of Paragraph IV.A.1, including by amending Paragraph IV.A.1 and the definitions of "Subject Property," Unaffiliated Property," and "Unaffiliated Property Data" and any other provisions necessary to resolve any ambiguity or confusion.

The proposed Final Judgment provides definitions for these terms, eliminating ambiguity. RealPage's software provides pricing recommendations and prices for the floor plans and units within a specific Subject Property. Per Paragraph II.JJ, "Subject Property" is a property for which a Revenue Management Product provides price recommendations or prices. In other words, a Subject Property refers to, as described by

the commenter, "one property at any given time–the property to which RealPage's software is currently providing price recommendations in a given Runtime Operation."[11] "Unaffiliated Property," as defined in Paragraph II.OO, refers to a property or properties that do not have the same Property Owner as the Subject Property. Finally, Paragraph II.PP defines "Unaffiliated Property Data" as the nonpublic data from an Unaffiliated Property.

Paragraph IV.A.1 prohibits the use of Unaffiliated Property Data in Runtime Operation. In other words, RealPage may not "use the real-time [nonpublic] data of all licensees as an input to make price recommendations to any one licensee."[12] Rather, it is limited in Runtime Operation to using nonpublic data from a given Property Owner to make rental price recommendations for that Property Owner's specific property. (*See* Doc. 159-1 at ¶¶ II.F and IV.A.)

The United States believes the terms are properly defined and it is not necessary to amend the proposed Final Judgment.

7. The DOJ should appoint a monitor with the necessary expertise to ensure that RealPage complies with both the letter and the spirit of the agreement as finalized.

Under the proposed Final Judgment, the United States has sole discretion to select the monitor to be appointed by the Court. (Doc. 159-1 at ¶ VII.A.) The United States agrees with the commenter's suggestion for the appointment of a monitor with the necessary expertise to properly monitor compliance with the terms of the Final Judgment.

8. The DOJ should continue to monitor rental prices in the affected markets listed in the complaint to ensure that the

[11] AAI Comment at 4.

[12] AAI Comment at 3.

limitations on RealPage's conduct effectively prevent it from raising rental prices above the competitive level. If such monitoring suggests that the use of RealPage's products continues to result in supracompetitive prices in the relevant markets, the DOJ should reopen the matter and/or modify its decree accordingly.

Paragraphs IX.A–B provide the United States continued compliance inspection rights related to any matters contained in the Final Judgment. Relatedly, Paragraph XIII.A permits the United States to re-open the proceedings to seek additional relief should the Final Judgment fail to address the violations alleged in the Complaint.

B. The AK Comment

AK describes herself as a renter in South Dakota. AK does not believe the proposed Final Judgment goes far enough to address price-fixing concerns. The commenter provides four examples of where the proposed Final Judgment is allegedly too weak.

First, AK describes perceived loopholes and "exceptions to exceptions" that would allow RealPage to "approximate much of the earlier behavior."[13] As an example, AK explains that the consent decree "doesn't say that RealPage can't offer similar synthetic curve to different clients," essentially providing competitors a "slightly tweak[ed]" list of prices.[14] The proposed Final Judgment is designed to restrict the use of nonpublic data and some product features that, as alleged in the Complaint, harmed the consumers and the competitive process. While there are exceptions to the use of nonpublic data, these exceptions were carefully considered given how the data would be used. For example, while there is an exception to using Unaffiliated Property Data in

[13] AK Comment at 1.

[14] AK Comment at 1.

Runtime Operation, this is limited to properties that do not have "comparable Surrogate Data available from the same reasonably identifiable Property Owner." (Doc. 159-1 at ¶ IV.C.) RealPage, however, may not use the same data in the Runtime Operation for a competing property in the same CBSA. In addition to limiting the nonpublic data that can be used, the proposed Final Judgment requires RealPage to further customize its revenue management software to the specific needs and goals of each property management company or property owner. Finally, the commenter misunderstands synthetic curves. Synthetic curves are not created from a list of prices. A Synthetic Curve is "a demand or supply curve created by [RealPage or RealPage's] agents without the use of Transactional Data or Nonpublic Data of any kind." (Doc. 159-1 at ¶II.LL.) Transactional Data includes both public and nonpublic current and historical data. (Doc. 159-1 at ¶II.NN.) These synthetic curves, if used, would be one of multiple inputs to determine a price recommendation. Therefore, the commenter's conclusion that RealPage would be able to "slightly tweak" a "list of prices" is incorrect.

Second, AK is concerned with the proposed Final Judgment allowing RealPage to continue to offer pricing advisory services. The commenter believes that RealPage's pricing advisors will continue to advise clients to increase rents based on a different client's nonpublic data. The proposed Final Judgment prohibits this conduct. Pricing advisors must not "disclose, share with, or otherwise disseminate Unaffiliated Property Data or Owner Inputted Data" through the revenue management products or for purposes of recommending rental pricing or occupancy levels. (Doc. 159-1 at ¶ VI.A.) The proposed Final Judgment provides for various mechanisms, such as a monitor, certifications, and the United States' authority to inspect documents and records, to ensure RealPage's compliance with this provision. (*See id*. ¶¶ VIII.C.3, VII.K, IX.A–B.)

Third, AK states that the settlement does not require RealPage to "disgorge any of the profit it made through illegal collusive price-fixing."[15] The United States did not allege a claim of price-fixing in its Complaint.

Fourth, AK is concerned that RealPage is allowed to "keep all the old data that it gathered unlawfully and build models upon it."[16] The proposed Final Judgment imposes restrictions on what data RealPage may use to train its models. RealPage is not allowed to use "current, forward-looking, or historical" data from unaffiliated properties except that it may use historical or backward-looking data from unaffiliated properties that is at least 12 months old and not from active leases. (Doc. 159-1 at ¶ IV.A.3.) The proposed Final Judgment further restricts RealPage's ability to use its models to identify geographic effects narrower than nationwide and build models that would calculate market rent or market rank. (Doc. 159-1 at ¶ IV.A.4–5.) These restrictions are significant. RealPage models cannot be trained using nonpublic data that represent the current competitive conditions in the market, nor can RealPage use such data to determine rental prices at a relevant geographic level in which competition for conventional multifamily rentals occurs.[17]

C. The BA Comment

BA describes himself as a pricing professional and a RealPage user. BA believes that the proposed Final Judgment will harm competition and consumers and that the Court should deny entry of the proposed Final Judgment. BA argues that the Complaint did not demonstrate anticompetitive effects, failed to address procompetitive arguments for sharing data, and that the proposed remedy is not connected to the harm.

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[15] AK Comment at 1.

[16] AK Comment at 2.

[17] As described in the Complaint, geographic markets for conventional multifamily housing are inherently local because "renters are typically tied to a particular location for work, family, or other needs." (Doc. 47 at ¶ 200.)

First, BA argues that Plaintiffs "[assume] harm rather than demonstrating it" and comments on the lack of expert testimony on "market dynamics."[18] These comments are outside the scope of Tunney Act review, which focuses on whether the proposed Final Judgment adequately resolves the United States' antitrust claims against RealPage.

Second, BA alleges that Plaintiffs failed to address the "procompetitive arguments for sharing data."[19] Again, such comments are outside the scope of Tunney Act review.

Finally, the commenter argues that "even if one accepts entirely DOJ's argument that the harm outweighs the procompetitive benefits," the proposed settlement is not connected to the harm alleged.[20] The commenter further states that the Complaint "alleges price fixing agreements" but the remedy is "not about agreements or price fixing."[21] The commenter misstates the allegations in the Complaint.

First, the Complaint alleges that Defendants, including RealPage, unlawfully shared information for use in competitors' pricing. The proposed Final Judgment restricts RealPage's use of nonpublic data in RealPage's Revenue Management Products. (Doc. 159-1 at ¶ IV.A-C.) Further, RealPage will not be able to "conduct, commission, solicit, or otherwise knowingly accept" nonpublic data through market surveys for use in its Revenue Management Products or for recommending rental pricing or occupancy levels. (Doc. 159-1 at ¶ IV.D.) Finally, the proposed Final Judgment restricts RealPage's ability to use, share, publish, or disclose competitors' data through Revenue Management Products, Pricing Advisors, or in RealPage Revenue Management Meetings. (Doc. 159-1 at ¶¶ IV.E and VI.A-B.)

Second, the Complaint alleges that Defendants, by agreeing to use the software as designed and intended, agreed to align users' pricing processes, strategies, and pricing

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[18] BA Comment at 2-3.

[19] BA Comment at 3.

[20] BA Comment at 7.

[21] BA Comment at 7.

responses. (Doc. 47 at ¶¶ 270-279.) The proposed Final Judgment addresses these concerns. Paragraphs V.A-D impose restrictions on RealPage's product features, such as Auto Accept and the Governor Guardrail, that the Complaint alleges aligned pricing between competitors. (*See, e.g.,* Doc. 47 at ¶ 142-152.)

Finally, the Complaint alleges that RealPage has unlawfully monopolized, or attempted to monopolize, the commercial revenue management software market. (Doc. 47 at ¶¶ 280-289.) The Complaint also alleges RealPage engaged in unlawful exclusionary conduct based on RealPage's use of competitively sensitive data from competing landlords to market and sell AIRM and YieldStar. As discussed earlier, the proposed Final Judgment limits RealPage's ability to use competitively sensitive data in competing landlords' pricing. (Doc. 159-1 at ¶ IV.A-C.) Therefore, the proposed Final Judgment addresses Plaintiffs' final claim.

The terms of the proposed Final Judgment directly remedy the conduct alleged in Plaintiffs' Complaint. Therefore, the United States believes that the proposed Final Judgment addresses the claims alleged in the Complaint.

D. The CC Comment

CC describes herself as a resident of a property in South Dakota. CC explains that in November 2025, the property management company notified tenants of a mandatory digital rent payment mechanism for tenants. Digital payment mechanisms are not relevant to the Complaint's claims and are thus outside the scope of the Tunney Act review.

E. The DR Comments

DR describes herself as a resident at a multifamily building in Minnesota. DR raises concerns regarding her building's use of RealPage's OneSite, RealPage Utility Management, and YieldStar products. In particular, the commenter is concerned that by using these RealPage products, rent and utility bills might be inflating overall housing

costs.[22] Additionally, DR requests that (1) full disclosure is provided to tenants regarding the use of algorithmic pricing and how pricing is calculated; (2) the United States ensures compliance with Minneapolis's ordinance banning algorithmic rent-setting; (3) the United States investigates whether the commenter's building practices contribute to patterns of algorithmic rent-setting; and (4) the United States considers additional oversight into properties not included in the proposed Final Judgment.[23]

DR's concerns regarding the use of RealPage Utility Management and RealPage's Onesite products, compliance with the Minneapolis ordinance banning algorithmic rent-setting, and investigating whether the commenter's building practices contribute to algorithmic price setting are not relevant to the Complaint's claims and are thus outside the scope of the Tunney Act review.

DR further suggests full disclosure to tenants on how price is calculated. This suggestion falls outside the scope of the Court's review under the Tunney Act because the proposed Final Judgment applies only to RealPage, and not to any landlord that licenses and uses RealPage's revenue management products in leasing its properties to tenants.

Finally, DR suggests that the terms of the proposed Final Judgment be expanded to other properties. This suggestion also falls outside the scope of the Tunney Act review because the proposed Final Judgment applies only to RealPage, and not to any landlord that licenses and uses RealPage's revenue management products in leasing its properties to tenants.

F. The JP Comment

JP describes himself as a resident of a Greystar property in Atlanta, Georgia. JP is concerned that the proposed Final Judgment with RealPage does not impose financial

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[22] DR Comment at 1 and 5.

[23] DR Comment at 6; DR Supplemental Comment at 3.

penalties on RealPage, does not include an admission of wrongdoing by RealPage, allows RealPage to continue using certain data for model training, and does not "adequately address the ongoing harms to vulnerable populations."[24]

The United States did not seek financial penalties as a remedy for the violations alleged in its Complaint.

JP also comments that the RealPage settlement does not include an admission of wrongdoing. The Tunney Act, however, does not require a settlement to include an admission of wrongdoing as a prerequisite to judicial approval. *See Morgan Stanley*, 881 F. Supp. 2d at 568. On the contrary, the statute specifically excepts consent judgments like this one from being prima facie evidence or having a collateral estoppel effect in another action or proceeding. *See* 15 U.S.C. § 16(a)("A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: **Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken**.") (emphasis added). Congress has designed the remedial provisions of the antitrust laws to encourage consent judgments, which allow the government to obtain relief without the "time, expense and inevitable risk of litigation." *United States v. Armour and Co.*, 402 U.S. 673, 681 (1971). *See also United States v. Nat'l Ass'n of Broadcasters*, 553 F. Supp. 621, 623 (D.D.C. 1982) ("Congress apparently enacted this proviso in order to encourage defendants to settle promptly government-initiated antitrust claims and thereby to save the government

[24] JP Comment at 3.

the time and expense of further litigation."). To insist on more would impose substantial resource costs on government antitrust enforcement, risk the possibility of litigation resulting in no relief, and establish a precedent that could impede enforcement of the antitrust laws in the future.

JP is also concerned that the proposed Final Judgment will allow RealPage to continue using certain data for model training. Paragraph IV.A.3 of the proposed Final Judgment prohibits RealPage from using current, forward-looking, or historical nonpublic data in training its revenue management software models, unless the data are at least 12 months old and not from active leases.[25] The data aging requirements effectively eliminate active leases—i.e., a unit with a rental agreement that is in effect—from the process of training the supply and demand models. These restrictions address the competitive concerns alleged in the Complaint.

Finally, JP is concerned that the settlement does not address "ongoing harm to vulnerable populations" and subsidized tenants.[26] JP's concerns are not relevant to the Complaint's claims and are thus outside the scope of the Tunney Act review.

G. The ST Comment

ST believes that the restrictions in the RealPage proposed Final Judgment prohibiting the use of nonpublic data in runtime operation, aging data, and removing features that limited price decreases or aligned prices are "vital to restoring competitive conditions in rental markets."[27] ST raises concerns related to low-income residents who live in properties assisted by the U.S. Department of Housing and Urban Development. According to ST, these individuals face heightened risks when algorithmic tools "indirectly shape owner's expectations and submissions to HUD." ST suggests additional

[25] Doc. 159-1.

[26] JP Comment at 4.

[27] SK Comment at 1.

conditions related to HUD-assisted properties related to HUD pricing certifications and compliance.[28] These concerns are outside the scope of the Tunney Act review because they are not relevant to the Complaint's claims, which do not involve HUD-assisted properties.

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To the extent that commenters wish to raise the possibility of additional unlawful conduct not addressed by the Complaint brought in this matter, members of the public are encouraged to submit information about any antitrust violation, including potentially unlawful exchanges of information between competitors, to the Department of Justice Antitrust Division's Citizen Complaint Center (https://www.justice.gov/atr/report-violations).

V. CONCLUSION

After careful consideration of the public comments, the United States continues to believe that the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after the comments and this response are published in a manner approved by the Court, as required by 15 U.S.C. § 16(d).

Dated: April 30, 2026 Respectfully submitted,

By: _____

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[28] SK Comment at 1–2.

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