

(5) 41,500 annual burden hours.
(6) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: February 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95-4005 Filed 2-16-95; 8:45 am]

BILLING CODE 4410-10-M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) The title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.
- (3) Who will be asked or required to respond, as well as a brief abstract;
- (4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (5) An estimate of the total public burden (in hours) associated with the collection; and
- (6) An indication as to whether Section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514-4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application—Land Border Facilitation PORTPASS Program

(2) I-823, I-823A, I-823B, I-823C, and I-823D. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary = Individuals and Households, Others = None. This form covers two land border programs. At participating ports-of-entry, this form will be used by frequent crossers to voluntarily apply for permission to use the dedicated commuter lane, or to enter through an Automated Permit Port.

(4) 200,000 annual respondents at .73 hours (44 minutes) per response.

(5) 132,800 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96-511.

Public comment on this item is encouraged.

Dated: February 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95-4006 Filed 2-16-95; 8:45 am]

BILLING CODE 4410-10-M

Antitrust Division

United States v. Sabreliner Corporation; 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 and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Sabreliner Corporation*.

The Complaint in this case alleges that the acquisition of Midcoast Aviation, Inc. ("Midcoast") by Sabreliner Corporation ("Sabreliner") may substantially lessen competition in the sale of jet fuel to transient general aviation aircraft at Lambert-St. Louis International airport ("Lambert") in violation of Section 7 of the Clayton Act.

Sabreliner and Midcoast are the only two fixed base operators ("FBOs") at Lambert Field. Fixed base operators provide terminaling services, such as aircraft cleaning, de-icing and fueling to general aviation aircraft. These services are typically included in the price of jet fuel sold to the general aviation customer. This acquisition, left unchallenged, would result in a monopoly in the provision of jet fuel to transient general aviation customers at Lambert.

The proposed Final Judgment requires Sabreliner to divest either its transient general aviation fueling facilities at Lambert, or, if necessary to attract a purchaser, its entire FBO operation at Lambert. If defendant does not complete the divestiture by the allotted time, a trustee will be appointed to conduct the divestiture.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, Room 9104, Judiciary Center Building, 555 4th Street, NW., Washington, DC 20001 (202-307-6351).

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States of America; Plaintiff; vs. Sabreliner Corporation, a corporation; Defendant.

[Docket Number: 95-0241]

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the District for the District of Columbia.

(2) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

(3) In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: November 2, 1994.

For Plaintiff United States of America:
 Anne K. Bingham,
Assistant Attorney General.
 Steven C. Sunshine,
Deputy Asst. Attorney General.
 Constance K. Robinson,
Director of Operations.
 Roger W. Fones,
 May Jean Moltenbrey,
 Kelly Signs,
 Stephen B. Donovan,
Attorneys.

For Defendant Sabreliner Corporation:
 Winthrop, Stimson, Putnam & Roberts,
 By: John Gillick,
A Member of the Firm.

Final Judgment

Whereas, plaintiff, United States of America, having filed its Complaint herein on February 6, 1995, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And whereas, defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, prompt and certain divestiture is the essence of this agreement, and defendant has represented to plaintiff that the divestiture required below can and will be made and that defendant will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

Jurisdiction

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

II

Definitions

As used in this Final Judgment:

A. "TWA" means Trans World Airlines, Inc., each of its predecessors, successors, divisions, subsidiaries, and

affiliates, each person directly or indirectly, wholly or in part, owned or controlled by it, or which owns or controls it, and each partnership or venture to which any of them is a party, and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

B. "Midcoast" means Midcoast Aviation, Inc., each of its predecessors, successors, divisions, subsidiaries, and affiliates, and each person directly or indirectly, wholly or in part, owned or controlled by it, or which owns or controls it, and each partnership or venture to which any of them is a party, and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

C. "Sabreliner" means defendant Sabreliner Corporation, each of its predecessors, successors, divisions, subsidiaries, and affiliates, each person directly or indirectly, wholly or in part, owned or controlled by it, or which owns or controls it, and each partnership or venture to which any of them is a party, and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

D. "Sabreliner's Transient Fuel Service Business" means the following assets, owned or controlled by Sabreliner, that are or have been used at Lambert Field to provide fuel and other services to general aviation customers:

1. 5,000 square feet of ramp space located west of Hangar 6;
2. Office space (with associated office equipment), which includes pilot's lounge/flight planning room and access to lobby area, restrooms, conference facilities and canteen;
3. Space on the north side of Hangar 6 sufficient to park any fueling trucks required by the purchaser; and
4. Non-discriminatory access to the Fuel Delivery Cabinet on the west end of Sabreliner's fuel farm, the right to draw from Sabreliner's jet fuel tanks at least 2500 gallons of jet fuel per day, and the right to purchase that jet fuel directly from the fuel supplier from whom Sabreliner obtains its fuel.

E. "Sabreliner's Cargo and General Aviation Business" means the following assets, owned or controlled by Sabreliner, that are or have been used at Lambert Field to provide fuel and other services to general aviation and based cargo customers:

1. Sabreliner's entire leasehold interest in its tank farm, and all improvements and assets used in the business, including five fuel tanks, truck loading cabinet, and associated equipment;

2. All rolling stock, including the fuel trucks, deicing vehicle, ramp tugs, auxiliary power unit and courtesy van;

3. Office space (with associated office equipment), including pilot's lounge/flight planning room and access to lobby area, restrooms, conference facilities and canteen; and

4. The entire ramp area around the west of hangers 6 and 7, comprising approximately eleven (11) acres, subject to access easements of any subtenants in Hangers 6 and 7.

F. "Person" means any natural person, corporation, association, firm, partnership, or other business or legal entity.

G. "Lambert Field" means Lambert St. Louis International Airport.

III

Applicability

A. The provisions of this Final Judgment shall apply to the defendant, to defendant's successors and assigns, to defendant's subsidiaries, affiliates, directors, officers, managers, agents, and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. The provisions of Sections IV through VIII of this Final Judgment shall be applicable only upon the consummation of the acquisition of Midcoast by Sabreliner.

C. Defendant shall require, as a condition of the sale or other disposition of all or substantially all of their assets or stock, or of the assets required to be divested herein, that the acquiring party agree to be bound by the provisions of this Final Judgment.

D. Nothing herein shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV

Divestiture of Sabreliner's Transient Fuel Business

A. Defendant is hereby ordered and directed to divest, to an eligible purchaser, all of its direct and indirect ownership and control of Sabreliner's Transient Fuel Business or Sabreliner's Cargo and General Aviation Business. Nothing contained herein shall preclude Sabreliner from dealing with or contracting for services from the divested entity in the ordinary course of business.

B. Divestiture of Sabreliner's leasehold interest in any of the assets of Sabreliner's Transient Fuel Service

Business or Sabreliner's Cargo and General Aviation Business may be by transfer of the entire leasehold interest or by sublease. If divestiture of any or all of the assets is by sublease, each such sublease shall be for the entire term of Sabreliner's lease, including the same rights for renewal Sabreliner has, and the sublease shall specify, for the entire period of the sublease:

1. The price, or a formula for computing the price, for each and every payment due from the purchaser to Sabreliner pursuant to the sublease, including rent, and any uplift or other service charge for the use of Sabreliner's fuel tanks; and

2. The terms and conditions under which Sabreliner may evict the purchaser or exercise any other rights for breach of the sublease; and

3. That the airport authority must specifically approve any action by Sabreliner to exercise any rights under the sublease against the purchaser, unless such approval is arbitrarily and unreasonably withheld in the event of a breach of the sublease by the purchaser, in which case defendant must give a minimum of thirty (30) days notice to plaintiff prior to exercising any rights against the purchaser.

C. If defendant has not accomplished the required divestiture prior to May 1, 1995, plaintiff may, in its sole discretion, extend this time period for an additional period of time not to exceed two months.

D. Defendant agrees to take all reasonable steps to accomplish quickly said divestiture. In carrying out its obligation to divest the Sabreliner's Transient Fuel Business, defendant may divest these operations alone, or may divest along with these operations any other assets of Sabreliner.

E. In accomplishing the divestiture ordered by this Final Judgment, the defendant promptly shall make known in the United States and in other major countries, by usual and customary means, the availability of Sabreliner's Transient Fuel Business for sale as an ongoing business. The defendant shall notify any person making an inquiry regarding the possible purchase of this operation that the sale is being made pursuant to this Final Judgment and provide such person with a copy of the Final Judgment. The defendant shall also offer to furnish to all bona fide prospective purchasers of Sabreliner's Transient Fuel Business, subject to customary confidentiality assurances, all pertinent information regarding Sabreliner's Cargo and General Aviation Business, including Sabreliner's Transient Fuel Business except such information subject to attorney-client

privilege or attorney work product privilege. Defendant shall make available such information to the plaintiff at the same time that such information is made available to any other person. Defendant shall permit prospective purchasers of Sabreliner's Transient Fuel Business to have access to personnel at Sabreliner's Cargo and General Aviation Business, including Sabreliner's Transient Fuel Business, and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale required by this Final Judgment.

F. Unless the plaintiff otherwise consents, divestiture under Section IV.A., or by the trustee appointed pursuant to Section V, shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that Sabreliner's Transient Fuel Business or Sabreliner's Cargo and General Aviation Business can and will be operated by the purchaser as a viable, ongoing business engaged in the provision of fuel and other services to general aviation and cargo customers at Lambert Field. Divestiture shall be made to a purchaser for whom it is demonstrated to plaintiff's satisfaction that (1) the purchase is for the purpose of competing effectively in the provision of fuel and other services to general aviation customers at Lambert Field; (2) the purchaser has the managerial, operational, and financial capability to compete effectively in the provision of fuel and other services to general aviation customers at Lambert Field; and (3) none of the terms of any sublease between the purchaser and Sabreliner give Sabreliner the ability artificially to raise the purchaser's costs, lower the purchaser's efficiency, or otherwise interfere in the ability of the purchaser to provide fuel and other services to general aviation customers at Lambert Field. If the divestiture is of Sabreliner's Transient Fuel Business, it must be demonstrated to plaintiff's satisfaction that the purchaser can operate a transient fueling business on a stand-alone basis with costs and efficiency comparable to those achieved by Sabreliner's current integrated general aviation and cargo business.

G. Except to the extent otherwise approved by plaintiff, any assets divested pursuant to this Final Judgment shall be divested free and clear of all mortgages, encumbrances and liens to Sabreliner or TWA.

V

Appointment of Trustee

A. If defendant has not accomplished the divestiture required by Section IV of the Final Judgment by March 15, 1995, defendant shall notify plaintiff of that fact. Within ten (10) days of that date, or twenty (20) days prior to the expiration of any extension granted pursuant to Section IV(B), whichever is later, plaintiff shall provide defendant with written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. Defendant shall notify plaintiff within ten (10) days thereafter whether either or both of such nominees are acceptable. If either or both of such nominees are acceptable to defendant, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to defendant, they shall furnish to plaintiff, within ten (10) days after plaintiff provides the names of its nominees, written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. If either or both of such nominees are acceptable to plaintiff, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to plaintiff, it shall furnish the Court the names and qualifications of its proposed nominees and the names and qualifications of the nominees proposed by defendant. The Court may hear the parties as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

B. If defendant has not accomplished the divestiture required by Section IV of this Final Judgment at the expiration of the time period specified in Section IV(C), the appointment by the Court of the trustee shall become effective. The trustee shall then take steps to effect divestiture of Sabreliner's Transient Fuel Service Business. The trustee shall have the right, in its sole discretion, to include in the package of assets to be divested any or all of the assets of Sabreliner's Cargo and General Aviation Business.

C. After the trustee's appointment has become effective, only the trustee shall have the right to sell Sabreliner's Transient Fuel Service Business and Sabreliner's General Aviation and Cargo Business. The trustee shall have the power and authority to accomplish the divestiture to a purchaser acceptable to plaintiff at such price and on such terms

as are then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section VIII of this Final Judgment, and shall have such other powers as this Court shall deem appropriate. Defendant shall not object to a sale of Sabreliner's Transient Fuel Service Business or any or all Sabreliner's Cargo and General Aviation Business by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendant must be conveyed in writing to plaintiff and the trustee within fifteen (15) days after the trustee has notified defendant of the proposed sale in accordance with Section VIII of this Final Judgment.

D. The trustee shall serve at the cost and expense of defendant, shall receive compensation based on a fee arrangement providing an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, and shall serve on such other terms and conditions as the Court may prescribe; provided, however, that the trustee shall receive no compensation, nor incur any costs or expenses, prior to the effective date of his or her appointment. The trustee shall account for all monies derived from a sale of Sabreliner's Cargo and General Aviation Business and all costs and expenses incurred in connection therewith. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to defendant and the trust shall then be terminated.

E. Defendant shall take no action to interfere with or impede the trustee's accomplishment of the divestiture of Sabreliner's Transient Fuel Service Business or any or all of Sabreliner's Cargo and General Aviation Business and shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee shall have full and complete access to the personnel, books, records, and facilities of Sabreliner's overall business, and defendant shall develop such financial or other information relevant to Sabreliner's Cargo and General Aviation Business.

F. After its appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture of Sabreliner's Transient Fuel Service Business or any or all of Sabreliner's Cargo and General Aviation Business as contemplated under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the

name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in Sabreliner's Cargo and General Aviation Business, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest these operations.

G. Within six months after its appointment has become effective, if the trustee has not accomplished the divestiture required by Section VI of this Final Judgment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which shall, if necessary, include augmenting the assets to be divested, and extending the trust and the term of the trustee's appointment.

VI

Notification

Immediately following entry of a binding contract, contingent upon compliance with the terms of this Final Judgment, to effect any proposed divestiture pursuant to Sections IV or V of this Final Judgment, defendant or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendant. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in the business that is the subject of the binding contract, together with full details of same. Within fifteen (15) days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestiture and the proposed purchaser.

Defendant and/or the trustee shall furnish any additional information requested within twenty (20) days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within twenty (20) days after plaintiff has been provided the additional information requested (including any additional information requested of persons other than defendant or the trustee), whichever is later, plaintiff shall provide written notice to defendant and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff provides written notice to defendant and/or the trustee that it does not object, then the divestiture may be consummated, subject only to defendant's limited right to object to the sale under the provisions in Sections VI(C). Absent written notice that the plaintiff does not object to the proposed purchaser, a divestiture proposed under Section IV shall not be consummated. Upon objection by plaintiff, a divestiture proposed under Section V shall not be consummated. Upon objection by plaintiff, or by defendant under the proviso in Sections VI(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII

Affidavits

Upon filing of this Final Judgment and every thirty (30) days thereafter until the divestiture has been completed or authority to effect divestiture passes to the trustee pursuant to Section V of this Final Judgment, defendant shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Sections IV and V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in Sabreliner's Transient Fuel Business or Sabreliner's Cargo and General Aviation Business, and shall describe in detail each contact with any such person during that period. Defendant shall maintain full records of all efforts made to divest these operations.

VIII

Financing

With prior consent of the plaintiff, defendant may finance all or any part of

any purchase made pursuant to Sections IV or V of this Final Judgment.

IX

Preservation of Assets

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendant shall take all steps necessary to assure that Sabreliner's Cargo and General Aviation Business will be maintained as separate and independent economically viable, ongoing businesses with Midcoast's assets required for the provision of Midcoast's transient fuel services (including leaseholds, contracts, management, operations, and books and records) separate, distinct and apart from those of Sabreliner. The defendant shall use all reasonable efforts on behalf of Sabreliner's Cargo and General Aviation Business to maintain and increase sales of transient fuel and other services to general aviation customers at Lambert Field, and otherwise maintain the business as a viable and active competitor at Lambert Field.

B. The defendant shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans (except such loans as are currently outstanding or replacements of substitutes therefore), assets required to be divested pursuant to Sections IV or V except that any component of such assets as is replaced in the ordinary course of business with a newly purchased component may be sold or otherwise disposed of, provided the newly purchased component is so identified as a replacement component for one to be divested.

C. The defendant shall provide capital and provide and maintain sufficient working capital to maintain Sabreliner's Cargo and General Aviation Business, as viable, ongoing businesses consistent with the requirements of Section IX(A).

D. The defendant shall preserve the assets required to be divested pursuant to Section IV and V, except those replaced with newly acquired assets in the ordinary course of business, in a state of repair equal to their state of repair as of the date of this Final Judgment, ordinary wear and tear excepted. Defendant shall preserve the documents, books and records of Midcoast until the date of divestiture of Sabreliner' Transient Fuel Business and shall preserve the documents, books and records of Sabreliner's Cargo and General Aviation Business until the date of divestiture of that business.

E. Except in the ordinary course of business, or as is otherwise consistent with the requirements of Section IX, the

defendant shall refrain from terminating or altering one or more current employment, salary, or benefit agreements for one or more executive, managerial, sales, marketing, engineering, or other technical personnel of Sabreliner's Cargo and General Aviation Business, including its Transient Fuel Business, and shall refrain from transferring any employee so employed without the prior approval of plaintiff.

F. Defendant shall refrain from taking any action that would jeopardize the sale of Sabreliner's Cargo and General Aviation Business.

X

Compliance Inspection

For the purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted:

1. Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees, and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

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

D. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII

Termination

This Final Judgment will expire on the tenth anniversary of the date of its entry.

XIII

Public Interest

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

Competitive Impact Statement

United States of America, Plaintiff, v. Sabreliner Corporation, Defendant.
Case Number 1:95CV00241
Judge: Stanley Sporkin
Deck Type: Antitrust
Date Stamp: 02/06/95

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. (b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of Sabreliner Corporation in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On February 6, 1995, the United States filed a Complaint alleging that the

acquisition of Midcoast Aviation, Inc. (hereinafter "Midcoast") by Sabreliner Corporation, (hereinafter "Sabreliner") was a violation of Section 7 of the Clayton Act (15 U.S.C. 18). The Complaint alleges that the effect of the merger may be substantially to lessen competition for the sale of jet fuel by fixed base operators ("FBOs") to general aviation aircraft at St. Louis-Lambert International Airport. Sabreliner and Midcoast are the only two providers of jet fuel for transient general aviation customers at Lambert Field.

On February 6, 1995, the United States and defendant also filed a Stipulation by which they consented to the entry of a proposed Final Judgment designed to eliminate the anticompetitive effects of the merger. Under the proposed Final Judgment, as explained more fully below, Sabreliner would be required to sell or assign, by May 1, 1995, certain assets and leasehold interests. If it should fail to do so, a trustee appointed by the Court would be empowered to divest these assets.

The United States and Sabreliner have agreed that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify and enforce the Final Judgment, and to punish violations of the Final Judgment.

II

Events Giving Rise to the Alleged Violation

On November 2, 1994, Sabreliner, Midcoast, and Trans World Airlines, Inc. (the parent of Midcoast) entered into an agreement under which Sabreliner would acquire all of the stock of Midcoast for approximately \$7.2 million.

Sabreliner, engaged primarily in the business of repairing and overhauling jet aircraft, also operates a FBO service at Lambert Field in St. Louis. Sabreliner's total revenues for fiscal 1994 were over \$100 million.

Midcoast has FBO facilities at Adams Field in Little Rock, AK, Bi-State Parks in Cahokia, IL, and St. Louis-Lambert in St. Louis, MO. From these facilities, Midcoast performs repairs, maintenance, and overhauls in addition to other FBO services, including jet fueling. Midcoast had revenues of \$41 million in 1993.

FBOs provide aircraft terminaling services to general aviation aircraft customers, typically charter operators or other private operators that provide transportation for business executives.

These services principally involve aircraft fueling services and maintenance services, such as aircraft cleaning and de-icing, and also the provision of such facilities as lounges for passengers and flight crews, ground transportation, and canteens. Last year, general aviation customers purchased around \$1 billion of jet fuel from FBOs nationwide.

General aviation customers flying into airports other than the airport where they are based are called "transients." If transient general aviation customers need to purchase fuel away from home, they must purchase fuel from an FBO.

Pilots of corporate and charter jets select the airports to which they will fly based on where their passengers need to go, or where their passengers need to be picked up. The pilots will then choose then FBO at that airport offering the most favorable combination of fuel prices and services. There are no alternative sources to which the pilots would switch to obtain jet fuel if the FBOs raise prices.

Although Lambert Field is one of several airports in the St. Louis area servicing general aviation aircraft, Lambert is the only airport in St. Louis that provides commercial scheduled domestic and international service. In addition, Lambert offers close proximity to downtown St. Louis. Both of these features make Lambert attractive to general aviation passengers.

Because of the large volume of commercial traffic served by Lambert, however, the airport is frequently very congested. To avoid this congestion, general aviation pilots prefer to use other airports in the St. Louis area, which accommodate primarily general aviation traffic. General aviation aircraft usually will fly into Lambert only if it is necessary to satisfy a passenger's travel requirements. Those pilots that select Lambert as their destination airport, therefore, are not likely to change their flight plan to obtain lower fuel prices at other airports.

The Complaint alleges that the sale of jet fuel to transient general aviation customers is a relevant product market for antitrust purposes. The Complaint further alleges that Lambert-St. Louis International Airport is a relevant geographic market within the meaning of Section 7 of the Clayton Act. The Complaint refers to the relevant market as the "Lambert transient general aviation jet fuel market."

Sabreliner and Midcoast have been the only two FBOs providing, and capable of providing in the future, fueling services to general aviation aircraft at Lambert Field. Based on jet fuel sales revenue, Sabreliner has 15%

of that market and Midcoast has 85%. Transient general aviation customers have benefited from competition between these two firms, receiving lower jet fuel prices and improved FBO services. As a result of its acquisition of Midcoast, Sabreliner now has a monopoly of the Lambert transient general aviation jet fuel market, which, absent relief, will likely cause general aviation customers to pay higher prices for jet fuel and received diminished services.

The St. Louis Airport Authority has committed to expanding the amount of space available at Lambert for scheduled commercial traffic and is unlikely to allocate more space to accommodate another FBO in the near future. Therefore, an increase in the price of jet fuel to transient general aviation customers will not be defeated by a new entrant.

III

Explanation of The Proposed Final Judgment

The United States brought this action because the effect of the acquisition of Midcoast by Sabreliner may be substantially to lessen competition, in violation of Section 7 of the Clayton Act, in the Lambert transient general aviation jet fuel market. The risk to competition posed by this acquisition, however, would be eliminated if the assets and leases currently held by Sabreliner to operate its Lambert transient general aviation fueling business were sold and assigned to a purchaser that could operate them as an active, independent and financially viable competitor. To this end, the provisions of the proposed Final Judgment are designed to accomplish the sale and assignment of certain assets and leaseholds to such a purchaser and thereby prevent the anticompetitive effects of the proposed acquisition.

Section IV of the proposed Final Judgment requires defendant Sabreliner, by May 1, 1995, to divest either its Transient Fuel Service Business as defined in Section II. D, or its Cargo and General Aviation Business, as defined in Section II. E of the proposed Final Judgment. Divestiture of one of the two groups of assets and leaseholds will cure the potential anticompetitive consequences of Sabreliner's acquisition of Midcoast.

The first group, Sabreliner's Transient General Aviation Business, includes the assets and leases a prospective purchaser would need to effectively operate a stand-alone transient general aviation fueling business. Should a purchaser elect to acquire and operate

these assets, the competition lost through Sabreliner's acquisition of Midcoast would be restored. However, Sabreliner's current revenue stream from its transient general aviation fueling business may be too small to attract, or viably support, a satisfactory purchaser. Accordingly, the second group, Cargo and General Aviation Business, is a broader package that includes assets that Sabreliner currently operates to provide fuel and other services to both cargo and general aviation aircraft at Lambert Field.

Under the proposed Final Judgment, Sabreliner must take all reasonable steps necessary to accomplish quickly the divestiture of one of the two specified groups of assets, and shall cooperate with *bona fide* prospective purchasers by supplying all information relevant to the proposed sale. Should Sabreliner fail to complete its divestiture by May 1, 1995, the Court will appoint, pursuant to Section V, a trustee to accomplish the divestiture. The United States will have the discretion to delay the appointment of the trustee for up to an additional two months should it appear that the assets can be sold in the extended time period.

Following the trustee's appointment, only the trustee will have the right to sell the divestiture assets, and defendant Sabreliner will be required to pay for all of the trustee's sale-related expenses. It will be in the sole discretion of the trustee to sell either package of assets, or any combination of those assets, necessary to accomplish a timely divestiture of Sabreliner's Transient Fuel Service Business.

Section VI of the proposed Final Judgment would assure the United States an opportunity to review any proposed sale, whether by Sabreliner or by the trustee, before it occurs. Under this provision, the United States is entitled to receive complete information regarding any proposed sale or any prospective purchaser prior to consummation. Upon objection by the United States to a sale of the divestiture assets by the defendant Sabreliner, a proposed divestiture may not be completed. Should the United States object to a sale of the divested assets by the trustee, that sale shall not be consummated unless approved by the Court.

Pursuant to Section V.G., should the trustee not accomplish the divestiture within six months of appointment, the trustee and the parties will make recommendations to the Court, which shall enter such orders as it deems appropriate to carry out the purpose of the trust, which may include extending

the trust or the term of the trustee's appointment.

Under Section IX of the proposed Final Judgment, defendant Sabreliner must take certain steps to ensure that, until the required divestiture has been completed, the divestiture assets—Sabreliner's cargo and general aviation business—will be maintained as a separate, ongoing, viable business and kept distinct from Midcoast's assets and facilities at Lambert. Until such divestiture, Sabreliner must also continue to maintain and operate the business as a viable, independent competitor at Lambert Field, using all reasonable efforts to maintain and increase transient fuel sales. Sabreliner must maintain the business, so that it continues to be salable, including maintaining all records, loans, and personnel necessary for its operation.

Section X requires the defendant to make available, upon request, the business records and the personnel of its business. This provision allows the United States to inspect and ensure that the defendant is complying with the requirements of the proposed Final Judgment. Section XII of the proposed Final Judgment provides that it will expire on the tenth anniversary of its entry by the Court.

IV

Remedies Available to Potential Private Litigants

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

V

Procedure for Commenting on the Proposed Final Judgment

The United States and defendant 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. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to comments. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Judiciary Center Building, 555 4th Street, N.W., Room 9104, Washington, DC 20001.

VI

Alternatives to the Proposed Final Judgment

The proposed Final Judgment requires that the divestiture assets be sold to a purchaser with the capability and present intent of operating them as part of a viable, ongoing business capable of providing transient general aviation fueling services at Lambert Field. Thus, compliance with the proposed Final Judgment and the completion of the sale required by the Judgment should resolve the competitive concerns raised by the acquisition.

Litigation is, of course, always an alternative to a consent decree in a Section 7 case. The United States rejected this alternative because the sale required under the proposed Final Judgment should prevent the acquisition by Sabreliner of Midcoast from having a significant anticompetitive effect in the relevant market alleged.

The United States is satisfied that the proposed Final Judgment fully resolves the anticompetitive effects of the proposed merger alleged in the Complaint. Although the proposed Final Judgment may not be entered until the criteria established by the APPA (15 U.S.C. 16(b)-(h)) have been satisfied, the public will benefit immediately from the safeguards in the proposed Final Judgment because the defendant has stipulated to comply with the terms of the Judgment pending its entry by the Court.

VII

Determinative Materials and Documents

There are no materials or documents that the United States considered to be determinative in formulating this proposed Final Judgment. Accordingly,

none are being filed with this Competitive Impact Statement.

Dated: February 6, 1995.

Respectfully submitted.

Roger W. Fones,

Chief.

Donna N. Kooperstein,

Assistant Chief.

Jonathan D. Lee,

Attorney.

Certificate of Service

I hereby certify that I am an attorney for the United States in this action, and have caused a true and correct copy of the foregoing Complaint, Stipulation, proposed Final Judgment, and Competitive Impact Statement, to be served by first class mail and February 6, 1995 for the defendant at the address below:

John Gillick,

Winthrop, Stimson, Putnam & Roberts.

For defendant Sabreliner Corporation.

Jonathan D. Lee,

Attorney in Charge.

[FR Doc. 95-3889 Filed 2-16-95; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the

subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 27, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Allied Signal (wkrs)	Greenville, OH	02/06/95	01/26/95	30,701	Automobile Filters.
Bearings, Inc (wkrs)	Cleveland, OH	02/06/95	01/10/95	30,702	Bearings and Power Transmission.
Dauman Dislays (wkrs)	New York, NY	02/06/95	01/22/95	30,703	Glass Display Cabinets.
Lynwood Fashions (ILGWU)	Wilkes-Barre, PA	02/06/95	01/24/95	30,704	Ladies' Dresses.
M.W. Carr Co., Inc (Co)	Somerville, MA	02/06/95	01/20/95	30,705	Wood & Metal Frames.
Xerox Corp (wkrs)	Rochester, NY	02/06/95	01/18/95	30,706	Copiers and Printers.
Tidewater Inc. (wkrs)	New Orleans, LA	02/06/95	01/24/95	30,707	Oilfield Services.
U.S. Dept. of Agri., F.S.I.S.,I.I.D. (wkrs)	New Orleans, LA	02/06/95	01/23/95	30,708	Meat Inspection Services.
Contract Mfg./Monroe Mfg. (ACTWU)	Monroe, LA	02/06/95	01/23/95	30,709	Baby Bottles & Infant Gift Sets.
Crown Cork & Seal (wkrs)	Swedesboro, NJ	02/06/95	01/23/95	30,710	Metal Cans—Baby Formula.
Avenue West Sportswear (wkrs)	Hammonton, NJ	02/06/95	01/09/95	30,711	Ladies Sportswear.
U.S. Information Agency (wkrs)	Mason, OH	02/06/95	01/20/95	30,712	Domestically Produced Radio Programing.
Cascade Woolen Mills, Inc (wkrs)	Oakland, ME	02/06/95	01/26/95	30,713	Woolen & Synthetic Fabrics.
Endicott Forgings & Mfg Co(IAMAW)	Endicott, NY	02/06/95	01/26/95	30,714	Metal Forgings.
Hanover Shoe C (Co)	Marlinton, WV	02/06/95	01/25/95	30,715	Men's Dress Shoes.
Hanover Shoe Co (Co)	Franklin, WV	02/06/95	01/25/95	30,716	Men's Dress Shoes.
3m Co (OCAW)	Freehold, NJ	02/06/95	01/25/95	30,717	Electric Tapes.
Q.T. Foundations (ILGWU)	Bergen Field, NJ	02/06/95	01/25/95	30,718	Under Garments.
Joseph Frank (ILGWU)	Passaic, NJ	02/06/95	01/25/95	30,719	Women's Coats.
SNE Enterprises, Inc. (wkrs)	Spokane, WA	02/06/95	01/24/95	30,720	Wood Windows & Doors.
Sunbeam-Oster Household Products (wkrs)	Holly Springs, MS	02/06/95	01/26/95	30,721	Kitchen Appliances.

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