request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 23, 2012, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.*

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

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: September 27, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–24286 Filed 10–2–12; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On September 27, 2012, the Department of Justice lodged a proposed a consent decree with the United States District Court for the District of Maryland in the lawsuit entitled *United States* v. *BP Products North America, Inc.,* Civil Action No. 1:12–cv–2886.

The United States filed this lawsuit under the Clean Water Act. The United States' complaint seeks injunctive relief and civil penalties for violations of the regulations that govern preparations for responding to oil spills at the defendant's petroleum terminal in Curtis Bay, Maryland. The consent decree requires the defendant to perform injunctive relief and pay a $210,000 civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *BP Products North America, Inc.,* D.J. Ref. No. 90–5–1–1–08982. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| To submit comments: | Send them to: |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. |

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.00 (25 cents per page reproduction cost) payable to the United States Treasury.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2012–24284 Filed 10–2–12; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### United States v. Standard Parking Corporation, KSPC Holdings, Inc. and Central Parking 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, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Standard Parking Corporation, et al.,* Civil Action No. 1:12–cv–01598–RJL. On September 26, 2012, the United States filed a Complaint alleging that the proposed acquisition by Standard Parking Corporation of the parking business of KCPC Holdings, Inc., including its wholly owned subsidiary Central Parking Corporation, would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Standard Parking Corporation, KCPC Holdings, Inc. and Central Parking Corporation to divest certain parking facilities in Atlanta, Georgia; Baltimore, Maryland; Bellevue, Washington; Boston, Massachusetts; Bronx, New York City, New York; Charlotte, North Carolina; Chicago, Illinois; Cleveland, Ohio; Columbus, Ohio; Dallas, Texas; Denver, Colorado; Fort Meyers, Florida; Fort Worth, Texas; Hoboken, New Jersey; Houston, Texas; Kansas City, Missouri; Los Angeles, California; Miami, Florida; Milwaukee, Wisconsin; Minneapolis, Minnesota; Nashville, Tennessee; Newark, New Jersey; New Orleans, Louisiana; Philadelphia, Pennsylvania; Phoenix, Arizona; Rego Park, New York City, New York; Richmond, Virginia; Sacramento, California; and Tampa, Florida.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Scott A. Scheele, Chief, Telecommunications and Media Section, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone: 202–514–5621).

**Patricia A. Brink,**

*Director of Civil Enforcement.*

**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

| | |
|---|---|
| UNITED STATES OF AMERICA<br>United States Department of Justice<br>Antitrust Division<br>450 Fifth Street NW., Suite 7000<br>Washington, DC 20530,<br><br>Plaintiff<br><br>v.<br><br>STANDARD PARKING CORPORATION<br>900 N. Michigan Avenue, Suite 1600<br>Chicago, Illinois 60611–1542<br><br>KCPC HOLDINGS, INC.<br>c/o Kohlberg & Company<br>111 Radio Circle<br>Mt. Kisco, New York 10549<br><br>and<br><br>CENTRAL PARKING CORPORATION<br>2401 21st Avenue South, Suite 200<br>Nashville, Tennessee 37212,<br><br>Defendants | Case no. 1:12–cv–01598 |

**COMPLAINT**

The United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against Defendants Standard Parking Corporation (''Standard''), and KCPC Holdings, Inc., including its wholly owned subsidiary, Central Parking Corporation (together, ''Central''), to enjoin Standard's proposed acquisition of Central. The United States alleges as follows:

**I. NATURE OF THE ACTION**

1. Pursuant to an Agreement and Plan of Merger dated February 28, 2012, Standard proposes to acquire all the shares of Central from affiliates of Kohlberg & Co. LLC, Lubert-Adler Partners LP and Versa Capital Management LLC, who will in turn acquire minority interests in Standard with board representation. The transaction is valued at approximately $345–348 million in total, including cash, about 6.1 million shares of Standard's common stock, and assumption of Central's debt.

2. The merger will combine the two largest nationwide operators of off-street parking facilities in the United States, in terms of parking facilities, spaces, and parking revenues, effectively doubling the size of Standard. Together, Standard and Central will operate about 4,400 parking facilities, with over 2.2 million parking spaces, and more than $1.5 billion in combined total revenues. In many of the markets where Standard and Central now compete, market concentration would increase substantially, and the merged entity would have a dominant share.

3. Standard and Central are direct and substantial head-to-head competitors in providing off-street parking services to motorists, the consumers of such parking services, visiting the central business districts (''CBDs'') of various cities in the United States. In many of the cities where both Standard and Central operate, one of the two firms is the largest or among the largest operators of off-street parking services, and the other firm operates nearby parking facilities that constitute attractive competitive alternatives for consumers.

4. Head-to-head competition between Standard and Central has benefitted consumers through lower prices and better services. The proposed merger threatens to end the substantial competition between Standard and Central in those areas where they operate competing parking facilities that are attractive alternatives for consumers, in violation of Section 7 of the Clayton Act.

**II. THE DEFENDANTS**

5. Standard Parking Corporation, which is publicly held, is incorporated in Delaware and headquartered in Chicago, Illinois. It is one of the two largest operators of off-street parking facilities in the United States, with parking operations in 41 states and the District of Columbia. Standard operates approximately 2,200 parking facilities containing over 1.2 million parking spaces in hundreds of cities. More than 90% of its facilities and spaces are located in the United States, with some in Canada. Its portfolio includes leased and managed parking facilities, with about 90% of its facilities under management contracts. Standard's total reported revenues for 2011 were over $729 million, including more than $321 million from leases and management contracts, and more than $408 million from reimbursement of management contract expenses. Standard has grown in large part through several earlier mergers with other parking management companies, though none were as large as Central.

6. Central Parking Corporation, which is privately held, is incorporated in Tennessee and headquartered in Nashville, Tennessee. Central Parking Corporation is a wholly owned subsidiary of KCPC Holdings, Inc., which is incorporated in Delaware and located at the address of its largest owner, Kohlberg & Company, in Mt. Kisco, New York. Central is the other of the two largest operators of off-street parking facilities in the United States, with parking operations in 38 states and the District of Columbia and Puerto Rico. Central operates more than 2,200 parking facilities and approximately 1 million parking spaces. Its portfolio includes owned, leased and managed parking facilities, with most of its facilities under management contracts though many facilities are also leased. Central's total revenues for 2011 were in excess of $800 million.

**III. JURISDICTION AND VENUE**

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

8. In states where Defendants operate parking facilities, they serve motorists that cross state lines; provide centralized management services across state lines from their respective headquarters; and purchase substantial quantities of equipment, services and supplies in the flow of interstate commerce. The operation of off-street parking services by Standard and Central is thus an activity that substantially affects and is in the flow of interstate trade and commerce. Accordingly, this Court has jurisdiction over the subject matter of this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a) and 1345.

9. Defendants have consented to venue and personal jurisdiction in this judicial district.

Venue is therefore proper in this District under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

## IV. RELEVANT PRODUCT AND GEOGRAPHIC MARKETS

10. The relevant product market in which to assess the likely competitive effects of the proposed merger is the provision of off-street parking services.

11. Consumers drive their vehicles to the CBDs of cities for work, business, shopping or entertainment. Off-street parking facilities are usually where they park their vehicles while they are in the city. These parking facilities include open lots, free-standing garages, or parking garages located within commercial or residential buildings.

12. Standard and Central, as operators of parking facilities, each offer consumers off-street parking services at facilities that the operator owns, leases, or manages. When an operator owns a parking facility, it is the proprietor of the business and sets the conditions of operation, including prices. When an operator leases a parking facility from the property owner, it pays the owner a set lease amount or sharing revenues with the owner, has substantial or complete control over pricing and other conditions of operation, and keeps all or a substantial share of the revenues. When an operator manages a parking facility for the owner of that facility, the operator commonly conducts competitive rate analyses of the parking prices in the area near the facility and recommends prices and other operating practices to the owner. In addition, the operator of a managed parking facility is not only compensated with a set management fee and reimbursement of a large part of its expenses in operating the facility, but also often receives a share of revenues or profits, giving the manager an incentive to operate the facility so as to maximize revenues and profits. Often, in such managed parking facilities, the incentives of the operator are the same or similar to those of the owner to maximize profits, especially as to non-tenant monthly customers, or transient (daily, hourly and event parking) customers.

13. Off-street parking services are commonly offered to consumers on the basis of monthly, daily, hourly, and less-than-hourly prices. In addition, such services are frequently offered to consumers at special prices for certain events in the area, or for lower demand times, including ''early-bird,'' evening, and overnight prices.

14. On-street parking is generally not a practical substitute for off-street parking services. Off-street parking services provide many advantages over on-street parking. Off-street parking services can allow consumers to select a level of service (such as using a valet parking service instead of just self-parking), a feature not available with on-street parking. Off-street parking facilities often provide consumers with relative certainty about availability of suitable parking and the location and time that it will be available, especially for consumers who purchase monthly contracts. Off-street parking also offers consumers greater security for their vehicles, and in the case of a garage, the vehicles are sheltered from the elements, a feature not available with on-street parking. In addition, consumers usually can leave vehicles in an off-street parking facility as long as desired without the need to move them or ''feed the meter,'' thereby eliminating the risk that the vehicles will receive parking tickets. On-street parking in CBDs is frequently only short-term parking, limited to a few hours and unavailable in certain locations at particular times of day, such as ''rush hour,'' when more traffic lanes in CBDs need to be open. Finally, in most CBDs on-street parking is available only in small quantities compared with off-street parking.

15. For all these reasons, the prospect that motorists would switch to on-street parking is unlikely to affect significantly pricing decisions of managers of off-street parking facilities.

16. Consumers who decide to drive to the CBD rather than take public transportation do so for a variety of reasons, and public transportation is not a practical substitute for off-street parking. Thus, the possibility of traveling to a CBD by public transportation is not likely to be a significant constraint on pricing decisions of managers of off-street parking facilities, even where adequate public transportation is available in a city.

17. Competition among off-street parking facilities occurs in CBDs and smaller areas within the CBDs of cities across the United States. Defendants' managers make pricing decisions and recommendations to owners for each facility based on market conditions within a few blocks of that facility.

18. For convenience, motorists park near their destination, typically within a few blocks, since they need to walk the remainder of the way to their destination.

19. Consumers faced with a small but significant and nontransitory increase in off-street parking prices near their destinations would not turn to more distant parking facilities, on-street parking, or public transportation in sufficient numbers to render the price increase unprofitable. Therefore, the provision of off-street parking services is a relevant product market, and a line of commerce within the meaning of Section 7 of the Clayton Act. In addition, the relevant geographic markets within which to assess the likely anticompetitive effects of the proposed merger are no larger than CBDs of cities, and commonly consist of considerably smaller areas of CBDs that encompass those off-street parking facilities within a few blocks of a destination for consumers. These areas are ''sections of the country'' within the meaning of Section 7 of the Clayton Act.

20. The relevant geographic markets for off-street parking services, where Standard and Central both operate parking facilities close enough to be attractive competitive alternatives to customers, are contained within areas of the CBDs in the following 29 cities or parts of cities in the United States: (1) Atlanta, GA; (2) Baltimore, MD; (3) Bellevue, WA; (4) Boston, MA; (5) New York City (Bronx), NY; (6) Charlotte, NC; (7) Chicago, IL; (8) Cleveland, OH; (9) Columbus, OH; (10) Dallas, TX; (11) Denver, CO; (12) Fort Myers, FL; (13) Fort Worth, TX; (14) Hoboken, NJ; (15) Houston, TX; (16) Kansas City, MO; (17) Los Angeles, CA; (18) Miami, FL; (19) Milwaukee, WI; (20) Minneapolis, MN; (21) Nashville, TN; (22) New Orleans, LA; (23) Newark, NJ; (24) Philadelphia, PA; (25) Phoenix, AZ; (26) New York City (Rego Park), NY; (27) Richmond, VA; (28) Sacramento, CA; and (29) Tampa, FL.

## V. UNLAWFUL COMPETITIVE EFFECTS

21. Standard and Central are direct and substantial competitors in offering off-street parking services to consumers. Standard and Central compete on the prices charged to consumers and on the terms and conditions and other services offered to consumers, including hours of operation, the mixture of parking options offered (e.g., monthly contracts, ''early-bird'' or evening specials), cleanliness and security of facilities, and the skill, efficiency and courtesy of staff.

22. Standard and Central establish, either unilaterally or in cooperation with the owners of the parking facilities, parking prices and terms and conditions of services in order to attract consumers to the facilities they operate and to maximize the profitability of their various parking facilities. Generally, prices and services are established on a location-by-location basis. In recommending and determining prices and services, Standard and Central take into consideration a variety of factors, including the prices charged by nearby competing firms and other local market conditions, including the demand for off-street parking and the availability of other off-street parking locations.

23. In the relevant geographic markets for off-street parking services, the proposed merger threatens substantial and serious harm to consumers. On its own or in cooperation with the owners of the parking facilities Standard operates, Standard could profitably unilaterally raise prices to consumers, or reduce the quantity or quality of services offered.

24. In some of the relevant geographic markets, there are no other competing parking facilities that would be attractive competitive alternatives to consumers using the facilities operated by either Central or Standard, so that the merger would give rise to a monopoly. In other relevant geographic markets, there are other competitors present, but the number of the other facilities and their capacities are insufficient to preclude the exercise of market power by a merged Standard and Central. In all of the geographic markets identified, the merger of Standard and Central would result in at least a moderately concentrated market and in the great majority of cases a highly concentrated market, as measured by the Herfindahl-Hirschman Index (''HHI''), which is defined and explained in Appendix A to this Complaint, leaving one firm operating at least 35%, and often much more than that, of the total parking capacity. In all of the relevant geographic markets, the merger of Standard and Central would also result in a significant increase in concentration in the market following the merger, reflected by an increase in the HHI of at least 200 points, and, in the great majority of cases, by several hundred or even more than 1000 points.

**VI. DIFFICULTY OF ENTRY**

25. Creation of new parking facilities and spaces in CBDs is largely a by-product of other decisions, such as whether to build or tear down a building, which are not directly related to the demand for, or changes in the price of, parking services. The creation of a significant number of new parking spaces in a CBD would not be timely, likely, or sufficient to prevent anticompetitive effects from the merger of Standard and Central in each of the affected markets. Other operators of parking facilities can enter only to the extent that capacity is available, and in the parking industry leases and management contracts typically run for periods of several years and are usually awarded to the incumbent operator by the owners when they come up for renewal. There can be no expectation that existing leases or management contracts currently held by Standard and Central would be transferred to new operators in a manner that would be timely, likely or sufficient to prevent anticompetitive effects from the merger in the affected markets.

**VII. VIOLATIONS ALLEGED**

26. The proposed merger between Standard and Central is likely substantially to lessen competition in interstate trade and commerce, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

27. The effect of the proposed merger, if consummated, may be the substantial lessening of competition in the relevant product and geographic markets by, among other things:

a. eliminating Central as an effective independent competitor of Standard in the sale of off-street parking services;

b. eliminating or reducing substantial competition between Standard and Central for the sale of off-street parking services; and

c. providing Standard with the ability to exercise market power by raising prices or reducing the quality of services offered for off-street parking services.

**VIII. REQUESTED RELIEF**

28. The United States respectfully requests that this Court: (a) adjudge and decree that the merger of Standard and Central would be unlawful and violate Section 7 of the Clayton Act; (b) preliminarily and permanently enjoin and restrain Defendants and all other persons acting on their behalf from consummating the proposed merger of Standard and Central as expressed in their merger agreement dated on or about February 28, 2012, or from entering into or carrying out any other contract, agreement, understanding or plan, the effect of which would be to combine the businesses or assets of Standard and Central; (c) award the United States its costs for this action; and (d) award the United States such other and further relief as the Court deems just and proper.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

/s/
Joseph F. Wayland
Acting Assistant Attorney General

/s/
Renata B. Hesse (D.C. Bar No. 466107)
Deputy Assistant Attorney General

/s/
Carl Willner (D.C. Bar No. 412841)*
Michael J. Hirrel (D.C. Bar No. 940353)
Alvin H. Chu
Trial Attorneys
United States Department of Justice
Antitrust Division
Telecommunications and Media Enforcement Section
450 Fifth Street NW., Suite 7000
Washington, DC 20530
Phone: (202) 514–5813
Facsimile: (202) 514–6381
Email: *carl.willner@usdoj.gov*
*Attorney of Record

/s/
Patricia A. Brink
Director of Civil Enforcement

/s/
Scott A. Scheele (D.C. Bar No. 429061)
Chief, Telecommunications and Media Enforcement Section

/s/
Lawrence M. Frankel (D.C. Bar No. 441532)
Assistant Chief, Telecommunications and Media
Enforcement Section
Dated: September 26, 2012

**APPENDIX A**

**Herfindahl-Hirschman Index**

The term ''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 (302 + 302 + 202 + 202 = 2,600). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1,500 and 2,500 points are considered to be moderately concentrated, and markets in which the HHI is in excess of 2,500 points are considered to be highly concentrated. *See Horizontal Merger Guidelines* § 5.3 (issued by the U.S. Department of Justice and the Federal Trade Commission on Aug. 19, 2010). Transactions that increase the HHI by more than 200 points in highly concentrated markets will be presumed to be likely to enhance market power. *Id.* Mergers resulting in highly concentrated markets that involve an increase in the HHI of between 100 points and 200 points potentially raise significant competitive concerns and often warrant scrutiny. *Id.*

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

| | | |
|---|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>v.<br><br>STANDARD PARKING CORPORATION, KCPC HOLDINGS, INC., and CENTRAL PARKING CORPORATION,<br><br>Defendants. | ) | Case no. 1:12–cv–01598 |

**COMPETITIVE IMPACT STATEMENT**

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

**I. NATURE AND PURPOSE OF THE PROCEEDING**

Defendants Standard Parking Corporation (''Standard'') and KCPC Holdings, Inc. entered into an agreement on February 28,

2012, by which Standard will acquire KCPC Holdings, Inc. and its wholly owned subsidiary, Defendant Central Parking Corporation (together ''Central''), for approximately $345 million. This transaction will combine the two largest nationwide operators of off-street parking facilities, who compete in providing parking services in numerous cities throughout the United States. The United States filed a civil antitrust Complaint on September 26, 2012, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for off-street parking services in various local geographic markets in 29 specified cities, or parts of cities, throughout the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of competition likely would result in higher prices and lower quality of services for off-street parking in the affected local geographic markets.

At the same time the Complaint was filed, the United States also filed an Asset Preservation Stipulation and Order (''Stipulation'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, Defendants will be required within a specified time to divest their interests in at least 107 identified parking facilities in the affected local geographic markets, including the parking facility leases or management contracts (''parking facility agreements'') under which they operate those parking facilities on behalf of the owners. Under the terms of the Stipulation, Standard and Central will ensure that each of the parking facilities to be divested continues to be operated as a competitively and economically viable ongoing business concern during the pendency of the ordered divestiture.

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

## II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

### *A. The Defendants and the Proposed Transaction*

Standard and Central are the two largest nationwide operators of off-street parking facilities in the United States. Together, Standard and Central will operate about 4,400 parking facilities with over 2.2 million parking spaces and more than $1.5 billion in combined total revenues.

Standard, a publicly held Delaware corporation with its headquarters in Chicago, Illinois, has parking operations in 41 states and the District of Columbia. Standard operates approximately 2,200 parking facilities containing over 1.2 million parking spaces in hundreds of cities. Standard's portfolio includes both leased and managed parking facilities, with about 90% of its facilities under management contracts. Standard's total reported revenues for 2011 were more than $729 million.

Central Parking Corporation, a privately held Tennessee corporation with its headquarters in Nashville, Tennessee, is a wholly owned subsidiary of KCPC Holdings, Inc., a Delaware corporation with its principal place of business in Mt. Kisco, New York. Central has parking operations in 38 states along with the District of Columbia and Puerto Rico, and operates more than 2,200 parking facilities and approximately 1 million parking spaces. Central's portfolio includes owned, leased and managed parking facilities, with most of its facilities under management contracts though many facilities are also leased. Central's total revenues for 2011 were in excess of $800 million.

Pursuant to an Agreement and Plan of Merger dated February 28, 2012, Standard will acquire KCPC Holdings, Inc. and its wholly owned subsidiary, Central Parking Corporation, from the owners of Central. The transaction is valued at approximately $345–348 million in total, including cash compensation, about 6.1 million shares of common stock amounting to a 28% interest in Standard, and assumption by Standard of Central's debt.

The proposed transaction, as initially agreed to by Defendants, would substantially lessen competition in local geographic markets in 29 cities, or parts of cities, throughout the United States where Standard and Central are close competitors, as stated in the Complaint.

### *B. The Competitive Effects of the Transaction on Off-Street Parking Services*

Standard and Central are both in the business of providing off-street parking services to consumers in hundreds of cities throughout the United States. Defendants act principally as operators of parking facilities owned by others, entering into leases or management contracts with the owners or agents of the owners to operate the facilities (though Central still has a few owned facilities). Standard and Central supply employees and equipment, as well as back-office support from their regional and headquarters management.

Standard and Central, as operators of parking facilities, are direct and substantial head-to-head competitors in providing off-street parking services. The consumers of off-street parking services are motorists visiting the central business districts (CBDs) of numerous cities, or parts of cities, throughout the United States. In many of the geographic markets where Standard and Central now compete, one of the two firms is the largest or among the largest operators of off-street parking services, and the other firm operates nearby parking facilities that constitute attractive competitive alternatives for consumers. Therefore, as a result of the merger of Standard and Central, in many of the markets where these firms now compete, market concentration would increase substantially, and the merged entity would have a dominant share. Head-to-head competition between Standard and Central has benefitted consumers through lower prices and better services, and the proposed merger threatens to end this substantial competition in areas where both firms operate competing parking facilities that are attractive alternatives for consumers.

As alleged in the Complaint, the relevant product market is the provision of off-street parking services. When consumers drive their vehicles to CBDs of cities, or parts of cities, whether for work, business, shopping or entertainment, they primarily park their vehicles in off-street parking facilities. These parking facilities can be open lots, free-standing garages, or parking garages located within commercial or residential buildings. Off-street parking services are commonly offered to consumers with varying price structures, for monthly, daily, hourly, or less-than-hourly parking. In addition, special prices can be offered for certain events in the area, such as sports games, concerts or theatre productions, or for lower demand times, such as ''early- bird,'' evening and overnight prices.

On-street parking is generally not a practical substitute for off-street parking services. Off-street and on-street parking are distinct services, with off-street parking services providing many advantages over on-street parking. Off-street parking services can allow customers to select a level of service (e.g., using a valet parking service instead of just self-parking), a feature not available with on-street parking. In addition, off-street parking services provide consumers with relative certainty about availability of suitable parking, particularly for customers who purchase monthly off-street parking contracts. Off-street parking offers greater security, and, with garages, shelter from the elements. On-street parking is limited and is also frequently only short-term parking, which may be unavailable in certain locations or at particular times of day. With off-street parking, customers usually do not need to ''feed the meter,'' nor do they need to move their vehicles periodically to comply with traffic restrictions and avoid parking tickets. For all these reasons, as alleged in the Complaint, the prospect that motorists would switch to on-street parking is unlikely to affect significantly the pricing decisions of managers of off-street parking facilities.

Likewise, the possibility of consumers traveling to a CBD by public transportation, even where adequate public transportation is available, is not an alternative that is likely to be a significant constraint on pricing decisions at off-street parking facilities. Consumers decide to drive to a CBD rather than take public transportation for a variety of reasons, including the need to have a car available, and the inconvenience of using public transportation to reach their homes, workplaces or other destinations.

There are a variety of arrangements by which Central and Standard, as well as other operators of parking facilities, obtain the rights to offer parking services in those facilities, including direct ownership, leases, and management contracts with the owners of the facilities. An operator that owns a parking facility is the proprietor of the business and sets the conditions of operation, including prices. Direct ownership by these operators is now rare, though still used occasionally by Central.

Leasing is used by both Central and Standard, with Central using it more

frequently. An operator that leases a parking facility from the property owner pays the owner a set lease amount or shares some of the parking revenues with the owner, and retains substantial or complete control over pricing and other conditions of operation. The lessee operating the facility generally assumes the risk that the facility will be unprofitable and is responsible for the costs of operation.

Management contracts are now the most common form under which parking facilities are operated by both Standard and Central, and especially so for Standard. When an operator manages a parking facility for the owner, the operator is commonly compensated with a set management fee and reimbursement of a large part of its expenses in operating the facility, avoiding the risk of loss that a lessee faces. In addition, the operator often receives a share of revenues or profits as specified in the management contract, providing a financial incentive to the manager to operate the facility so as to maximize revenues and profits.

In managed parking facilities, the incentives of the operator are often the same as or similar to those of the owner: to maximize profits, especially as to non-tenant monthly customers or transient (daily, hourly and event parking) customers, who do not have a special relationship with the owner of the building in which the facility is located. An operator such as Standard or Central managing a parking facility for an owner commonly conducts competitive rate analyses of the parking market in the area near the facility and recommends conditions of business operation, including prices, to the owner. Even if owners are not obliged to accept such recommendations, they often do, relying on the expertise of the operator to help them maximize their revenues and profits from the facility. For all these reasons, parking facilities managed by either Standard or Central, as well as ones leased or owned by Standard or Central, have been considered as part of the competitive analysis in evaluating the impact of this merger.

Though the process of identifying relevant geographic markets for parking services and the competitors in those markets can be complex, the underlying principle guiding this process is well understood in the parking industry. As reflected in the competitive rate analyses conducted by the parking operators, motorists park near their destinations, typically within a few blocks of where they are going. Consumers faced with a small but significant and nontransitory increase in parking prices for the parking facilities near their destinations would not turn to more distant parking facilities in sufficient numbers to render the price increase unprofitable. Parking managers for Central, Standard, and other competitors in the industry make their pricing decisions or recommendations separately for each facility, based on market conditions within a few blocks of that facility. Therefore, the relevant geographic markets within which the likely competitive effects of this merger have been assessed are no larger than the CBDs of individual cities, or parts of cities, where Standard and Central both have parking facilities, and commonly consist of considerably smaller areas of the CBDs that encompass those off-street parking facilities within a few blocks of a destination for consumers.

Two methods have been used to identify relevant geographic markets. In most cases, the geographic market is based on overlapping pairs of parking facilities, one operated by Central and one by Standard, that are within close enough walking distance typically to be considered by customers as alternatives for parking. The extent of the overlap between the Standard and Central facilities is the area containing consumer destinations for which the Standard and Central facilities compete to provide parking. This analysis then determines which facilities of other competitors would be considered within close enough walking distance to that overlap area to be alternatives to the customers for which Standard or Central compete. In some cases, where there is a single attraction likely to draw a large part of the parking business in an area, such as a sports stadium, or where one of the overlapping facilities of the parties is not open to the general public but the other is and could serve as a competitive alternative to parkers in the first, the geographic market includes all other parking facilities within close enough walking distance of the attraction or restricted facility that consumers would be likely to consider them as alternatives.

This process has led to the identification of numerous relevant geographic markets for off-street parking services within the CBDs of cities, or parts of cities, where Standard and Central both operate, each consisting of areas containing several city blocks around the parking facilities at issue. Within one or multiple such areas in 29 cities, or parts of cities, and 21 states of the United States, as listed below, Standard and Central both operate parking facilities close enough to be attractive competitive alternatives to customers, and a likelihood of competitive harm arises as a result of this merger in view of the extent of competition in those markets:

Atlanta, GA
Baltimore, MD
Bellevue, WA
Boston, MA
New York City (Bronx), NY
Charlotte, NC
Chicago, IL
Cleveland, OH
Columbus, OH
Dallas, TX
Denver, CO
Fort Myers, FL
Fort Worth, TX
Hoboken, NJ
Houston, TX
Kansas City, MO
Los Angeles, CA
Miami, FL (including Coral Gables, FL)
Milwaukee, WI
Minneapolis, MN
Nashville, TN
New Orleans, LA
Newark, NJ
Philadelphia, PA
Phoenix, AZ
New York City (Rego Park), NY
Richmond, VA
Sacramento, CA
Tampa, FL

In the relevant geographic markets, substantial competitive harm to consumers is likely to result from this merger in off-street parking services, as alleged in the Complaint. The proposed merger would substantially increase Standard's market shares in the relevant geographic markets, and it would place in Standard's hands substantial control over prices and services available to consumers. On its own or in cooperation with the owners of parking facilities, who often have the same or similar incentives to Standard to maximize profits, Standard could profitably unilaterally raise prices to consumers, or reduce the quantity or quality of services offered.

Standard and Central now compete in these relevant geographic markets in several respects, including the prices charged; hours of operation; the mixture of parking operations offered, such as monthly contracts, ''early-bird,'' and evening specials; cleanliness and security of facilities; and the skill, efficiency and courtesy of staff. When Standard and Central determine, or recommend to owners, prices and terms of service, they take into consideration a variety of factors relevant to competition in the local geographic market in which a specific facility operates, including local market conditions such as the demand for off-street parking and the availability of other off-street parking locations, and the prices charged by available competing firms in the local geographic market.

Following the merger, in some of the relevant geographic markets, there would be no other parking facilities that would be competitive alternatives to Central or Standard facilities, so that the merger would create a monopoly. More often, in the relevant geographic markets, some other competitors are present, but the number of their facilities and the capacities of those facilities are insufficient to preclude the exercise of market power by a merged Standard and Central. Control over a large share of available parking capacity in a local geographic market is likely to give rise to the ability to exert market power unilaterally over prices and terms of service for off-street parking in that area.

Market shares in the relevant geographic markets have generally been assessed based on total capacity of parking facilities in terms of parking spaces, for both Standard and Central, and for competing facilities that would be attractive alternatives to their customers. In all of the local geographic markets identified for off-street parking services, the merger of Standard and Central would result in the merged firm having at least 35%, and often much more than that, of the total parking capacity. In all of these markets, the merger would result in at least a moderately concentrated market and in the great majority of cases a highly concentrated market, as measured by the Herfindahl-Hirschman Index (''HHI'').[1] In addition, in all

[1] The term ''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm

of the geographic markets identified, the merger of Standard and Central would also result in a significant increase in concentration in the market following the merger, reflected by an increase in the HHI of at least 200 points. Under the *Horizontal Merger Guidelines*, the combination of a highly concentrated market and an increase in concentration of at least 200 points gives rise to a presumption of competitive harm. Indeed, in the great majority of the relevant geographic markets, the merger would result in an increase in concentration of several hundred points, or of even more than 1000 points, as measured by the HHI.

Entry of new off-street parking capacity would not be likely, timely, or sufficient to remedy the competitive harm otherwise likely to result from this merger, in any of the affected relevant geographic markets. That is because creation of new parking facilities and spaces in CBDs is largely a by-product of other decisions, such as whether to build or tear down a building, that are not directly related to the demand for, or changes in the price of, parking services in that area. Given the local character of competition, the cost of land, the limited availability of substitutable parking facilities, and the alternative options for the use of convenient land in the market, new entry of parking capacity cannot be viewed as a response likely to make a small but significant and nontransitory price increase unprofitable.

Other operators of parking facilities can enter only to the extent that capacity is available. Assuming that new capacity has not been built, new operators could only enter in a way that might alter Standard's and Central's dominant position in a relevant market by taking capacity from them. But in the parking industry, leases and management contracts typically run for periods of several years, and are usually awarded to the incumbent operators by the owners when they come up for renewal. Given these practices, it cannot be expected that existing leases or management contracts currently held by Standard and Central would be transferred to new operators in a manner that would be timely, likely or sufficient to prevent anticompetitive effects from the merger in the affected markets.

## III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture in the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in off-street parking services in the relevant geographic markets in 29 cities, or parts of cities, by providing for the divestiture of the parking businesses of Central or Standard in those markets involving 107 or 108 named parking facilities.[2] Such a divestiture most commonly will involve the sale of Standard's or Central's interests in the parking facilities in those markets, including its parking facility lease or management agreements, to a different operator or operators, thereby establishing the divested facility as an economically viable competitor independent of Standard. In some cases, as provided by Paragraph IV.K of the proposed Final Judgment, the Defendants may elect to accomplish a divestiture by terminating Standard's or Central's parking facility agreement for the specified facility—or letting the agreement expire without renewal at the end of its natural term—after notice to the affected facilities owners. This alternative may be particularly relevant in the case of agreements with a very short remaining term that could be difficult to sell. In these cases, the owner of the parking facility would select a new operator for the facility following the divestiture.

The proposed Final Judgment requires Defendants, within 90 days after the filing of the Complaint, or 5 days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest, as a viable ongoing parking service business, all of their interests in each of the Parking Facilities listed in Schedule A to the proposed Final Judgment. Defendants are required to use their best efforts to accomplish the divestitures ordered as expeditiously as possible, and the United States has the sole discretion, under Paragraph IV.D of the proposed Final Judgment, to extend the time period for any divestiture, but not for more than 90 additional days. Such extensions can be granted by the United States on an individual basis for any facility, but the United States expects it will take into account both the extent of the efforts Defendants have made to divest the facility within the original time provided, and the prospects that they will succeed in doing so within the additional time that the extension would permit.

''Parking Facilities'' are defined in the proposed Final Judgment, Paragraph II.E, to mean all of Defendant's interests in the properties listed in Schedule A, including but not limited to Parking Facility Agreements (whether leases, management agreements or otherwise). In turn, ''Parking Facility Agreements'' are defined in Paragraph II.D of the proposed Final Judgment as all agreements that are related to the management of off-street parking facilities as listed in Schedule A, and are between or among the Defendants and the owners or their agents of the properties listed in Schedule A. Defendants must also divest all other tangible and intangible assets used by them primarily in connection with those properties, such as: the other contracts (whether with employees, customers or otherwise); equipment and other property; customer lists, business accounts and records, and market research data for the individual Parking Facilities; manuals and instructions provided to employees; and other physical assets they may have associated with their operation of the specific properties. This would not include, however, assets such as centralized systems software, that are located outside the Parking Facilities and that do not relate primarily to the properties listed on Schedule A. Thus, Defendants will be able to retain back-office systems or other assets and contracts used at the corporate level to support multiple parking facilities, which they would need to conduct their remaining operations, and which other purchasers experienced in the operation of parking facilities could supply for themselves.

The Parking Facility assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. This means, for example, that the United States retains the right to preclude Defendants from divesting their interests in a Parking Facility to a purchaser that in its view would not have the support systems or other needed centralized capabilities to continue the effective competitive operation of the facility. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

Defendants are also obliged, under Paragraph IV.E of the proposed Final Judgment, to provide information to acquirers concerning the personnel involved in the operation of any Parking Facility, so as to make offers of employment, and not to interfere with negotiations by any acquirer to employ a person currently employed by a Defendant whose primary responsibility concerns the parking service business of that Parking Facility. This includes, for example, removing impediments to the employees accepting such employment, such as non-compete agreements, which also may not be enforced with respect to any employee whose responsibilities at a local or regional level include a Parking Facility and whose employment terminates within six months of the date after this merger is completed.

Defendants are required, under Paragraphs IV.B and C of the proposed Final Judgment, to cooperate with prospective acquirers of the Parking Facilities, by furnishing them information and documents about the Parking Facilities as customarily provided in a due diligence process, and giving them reasonable access to personnel and other documents and information, and the ability to make inspection of the Parking Facilities. They are also required not to take any action that would impede the operation of any parking business connected with the Parking Facilities, or take any action that would impede divestiture, under Paragraph IV.G.

In the event that Defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the Final Judgment provides in Section VI that upon application of the United States the

competing in the market and then summing the resulting numbers. The agencies generally consider markets in which the HHI is in excess of 2,500 points to be highly concentrated. See *U.S. Department of Justice & FTC, Horizontal Merger Guidelines § 5.3* (2010). Transactions that increase the HHI by more than 200 points in highly concentrated markets are presumed likely to enhance market power under the Horizontal Merger Guidelines issued by the Department of Justice and the Federal Trade Commission. *See id.*

[2] The reason why there is not a single number for the total parking facilities to be divested is that Defendants have the option in one city, Milwaukee, WI, to accomplish the required divestiture in the relevant geographic markets through either three parking facilities currently operated by Standard, or four parking facilities currently operated by Central. In either form, the divestiture would be sufficient to remedy competitive harm in those markets.

Court will appoint a trustee selected by the United States to effect the divestiture. The appointment of a trustee can be made individually for any Parking Facility, so that some facilities, for example, might be assigned to the trustee even as extensions of time are granted by the United States for the Defendants to complete the divestitures of others, and those Parking Facilities might also be assigned to the trustee later if the Defendants fail to complete the divestiture within the extended time.

If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. The Defendants will have no right to object to a divestiture by the trustee on any ground other than malfeasance.

After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months from the time that the trustee has assumed responsibility for divestiture of any individual Parking Facility, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The proposed Final Judgment also provides a mechanism for protecting competition in the event that an individual divestiture cannot be made. The Defendants are required to report to the United States at 30-day intervals on compliance with the proposed Final Judgment, including submission of affidavits. Beginning with the second of these periodic reports, Defendants are required to identify any instances in which they anticipate that divestitures of any Parking Facilities cannot be practically accomplished within 30 additional days. This might occur, for example, because the owner of the facility refuses to grant consent to the transfer to an acquirer under the terms of the lease or management contract, or because no prospective purchaser may appear in time. Thus, whenever a Parking Facility is not divested within 60 days of the filing of the Complaint, and no definitive agreement for divestiture exists, the United States has the right under the proposed Final Judgment, Paragraph IV.N, to require Defendants to propose alternative divestitures of Parking Facilities sufficient to preserve competition. The United States has sole discretion whether to accept a proposed alternative divestiture, and if it refuses to accept the alternative, the Defendants must continue to propose alternative divestitures in the relevant market until an acceptable one is found. If the alternative is accepted, it becomes for all purposes a Parking Facility in place of the other Parking Facility listed in Schedule A of the proposed Final Judgment that could not be divested. This process of identifying alternatives in the absence of a divestiture agreement does not apply where Defendants will be divesting a property under Paragraph IV.K by letting the lease or management contract terminate before the time allowed for divestiture has elapsed.

Once a Parking Facility is divested, whether this occurs through transfer to an acquirer acceptable to the United States, or by termination or non-renewal of the lease or management contract, Defendants are prohibited by Paragraph IV.I of the proposed Final Judgment from entering into any agreement to acquire, lease or operate, or acquiring in any other manner an interest in ownership or management of, that Parking Facility during the ten-year term of the proposed Final Judgment. A shorter limitation on reacquisition of only three years from the divestiture of a Parking Facility is provided, however, where Defendants reacquire a Parking Facility directly from the owner of the Parking Facility or the owner's agent through a process that does not involve a transaction with the operator of the Parking Facility. This provision serves to ensure that acquisition of the divested Parking Facilities will be attractive to new operators, who will have a reasonable time to establish themselves and demonstrate to owners that they can operate the facilities effectively before having to compete again against the former incumbent for the right to operate the property. At the same time, it gives the Defendants the opportunity within a reasonable period of time to return to competing for the rights to operate the divested Parking Facilities from the facility owners in a normal manner, rather than having to wait for the expiration of the proposed Final Judgment. This may involve either processes initiated by the owners of facilities, such as requests for bids, or requests to compete for the operating rights initiated by Defendants, provided that a transaction between the operator of the facility and Defendants is not involved. The period of time during which reacquisition is prohibited even for direct transactions with the owner takes into account the normal term of many management contracts for parking facilities. The broader prohibition on reacquisition during the term of the decree also safeguards against any ''sweetheart deals'' where an acquirer or a facility owner takes control of operation of a Parking Facility merely to satisfy the divestiture obligation and then returns it to the Defendants, and thereby ensures that the remedy cannot be circumvented.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the provision of off-street parking services, in the relevant local geographic markets in the 29 cities, or parts of cities, named in the Complaint where Defendants compete closely now. This relief is designed to ensure that the merger does not increase Standard's market share and control of parking capacity in the relevant local geographic markets in these cities, or parts of cities, to a level likely to lead to the exercise of market power. Nothing in the proposed Final Judgment is intended to limit the United States' ability to investigate or bring actions, where appropriate, to challenge other past or future activities of the Defendants.

## IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

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

## V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

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

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

Written comments should be submitted to:

Scott A. Scheele
Chief, Telecommunications and Media Enforcement Section
Antitrust Division
United States Department of Justice
450 Fifth Street, NW., Suite 7000
Washington, DC 20530

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

## VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the

litigation and sought preliminary and permanent injunctions against Standard Parking Corporation's acquisition of KCPC Holdings, Inc. and its wholly owned subsidiary, Central Parking Corporation. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the provision of off-street parking services in the relevant markets identified by the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

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

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

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' United States v. Microsoft Corp., 56 F.3d 1448, 1461 (DC Cir. 1995); see generally United States v. SBC Commc'ns, Inc., 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); United States v. InBev N.V./S.A., 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See Microsoft, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' United States v. BNS, Inc., 858 F.2d 456, 462 (9th Cir. 1988) (citing United States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir. 1981)); see also Microsoft, 56 F.3d at 1460–62; United States v. Alcoa, Inc., 152 F. Supp. 2d 37, 40 (D.D.C. 2001); InBev, 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' SBC Commc'ns, 489 F. Supp. 2d at 17; see also Microsoft, 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); United States v. Archer-Daniels-Midland Co., 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' United States v. Am. Tel. & Tel. Co., 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975)), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983); see also United States v. Alcan Aluminum Ltd., 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' SBC Commc'ns, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' Microsoft, 56 F.3d at 1459; see also InBev, 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. Microsoft, 56 F.3d at 1459–60. As this Court recently confirmed in SBC Communications, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' SBC Commc'ns, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed

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

[4] Cf. BNS, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). See generally Microsoft, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

by precedent and the nature of Tunney Act proceedings.'' SBC Commc'ns, 489 F. Supp. 2d at 11.[5]

**VIII. DETERMINATIVE DOCUMENTS**

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: September 26, 2012.

Respectfully submitted,

/s/ Carl Willner.

Carl Willner (DC Bar No. 412841)
Michael J. Hirrel (DC Bar No. 940353)
U.S. Department of Justice
Antitrust Division
Telecommunications and Media
Enforcement Section
450 Fifth Street, NW., Suite 7000
Washington, DC 20530
(202) 514–5813.
Email: *carl.willner@usdoj.gov*

**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

| | |
|---|---|
| UNITED STATES OF AMERICA, | |
| Plaintiff, | |
| v. | Case no. 1:12-cv-01598. |
| STANDARD PARKING CORPORATION, KCPC HOLDINGS, INC., and CENTRAL PARKING CORPORATION, | |
| Defendants. | |

**PROPOSED FINAL JUDGMENT**

WHEREAS, Plaintiff, United States of America, filed its Complaint on September 26, 2012, the United States and Defendants Standard Parking Corporation (''Standard'') and KCPC Holdings, Inc., and Central Parking Corporation, a wholly owned subsidiary of KCPC Holdings, Inc. (both together and separately, ''Central''), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party regarding any issue of law or fact;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of parking facilities, including agreements concerning the operation of such facilities, by the Defendants to ensure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

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

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

**I. JURISDICTION**

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

**II. DEFINITIONS**

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' mean the entity or entities to whom the Defendants divest the Parking Facilities, or who succeed to the Defendants' interests in any Parking Facility Agreement that is transferred pursuant to this Final Judgment.

B. ''Standard'' means Defendant Standard Parking Corporation, a Delaware corporation, with its headquarters in Chicago, Illinois, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. ''Central'' means Defendant KCPC Holdings, Inc., a Delaware corporation, with its headquarters in Mt. Kisco, New York, together with its wholly owned subsidiary, Defendant Central Parking Corporation, a Tennessee corporation with its headquarters in Nashville, Tennessee, and includes their successors and assigns, and their subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

D. ''Parking Facility Agreements'' means all agreements, whether leases, management agreements or otherwise, related to the operation or management of off-street parking facilities as listed in Schedule A below, between or among the Defendants and the owners or agents of the owners of the properties listed in Schedule A.

E. ''Parking Facilities'' means all Defendants' interests in the properties listed in Schedule A, including the Parking Facility Agreements for those properties, and all tangible and intangible assets used by Defendants primarily in connection with those properties, including, but not limited to: employment, customer or other contracts; equipment and other property; the customer lists, business accounts and records, and market research data for the individual Parking Facilities; manuals and instructions provided to employees; and other physical assets, associated with the properties; but not assets, such as centralized systems software, that are located outside the Parking Facilities and do not relate primarily to the properties listed on Schedule A.

F. ''Divest'' or ''Divestiture'' means the transfer, sale or assignment of Parking Facilities.

**III. APPLICABILITY**

A. This Final Judgment applies to the Defendants and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV, Section V, and Section VI of this Final Judgment, either Defendant sells all or substantially all its assets or lesser business units that include the Parking Facilities, it shall require the purchaser or purchasers, as a condition of the sale, to be bound by the provisions of this Final Judgment; however, Defendants need not obtain such an agreement from an Acquirer of the assets divested pursuant to this Final Judgment.

[5] See United States v. Enova Corp., 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); United States v. Mid-Am. Dairymen, Inc., 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

**IV. DIVESTITURES**

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or within five (5) days after notice of entry of the Final Judgment by the Court, whichever is later, to divest all their interests in the Parking Facilities in a manner consistent with this Final Judgment to an Acquirer or Acquirers acceptable to the United States in its sole discretion. The requirement to divest to an Acquirer or Acquirers is subject to the qualifications specified in Paragraph IV.K below.

B. In accomplishing the divestitures ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Parking Facilities to be divested. Defendants shall inform any person making an inquiry that the divestiture is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents in Defendants' possession, custody or control relating to the Parking Facilities customarily provided in a due diligence process, except such information or documents subject to attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall permit prospective Acquirers of the Parking Facilities to have reasonable access to personnel and to any and all environmental, zoning, building, and other permit documents and information, and to make inspection of the Parking Facilities and of any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

D. Defendants shall use their best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously as possible. The United States, in its sole discretion, may agree to one or more extensions of the time period for divestiture outlined in Paragraph IV.A not to exceed ninety (90) calendar days in total, and shall inform the Court in such circumstances.

E. Defendants shall provide the Acquirers and the United States information concerning the personnel involved in the operation of the Parking Facilities to enable the Acquirer to make offers of employment. Defendants shall not interfere with any negotiations by any Acquirer to employ any Standard or Central (or former Standard or Central) employee whose primary responsibility concerns any parking services business connected with the Parking Facilities. Defendants shall remove any impediments that may deter these employees from accepting such employment, including but not limited to, non-compete agreements. Defendants will not seek to enforce such non-compete agreements, nor will they seek to enforce any non-compete agreements against any employee whose responsibilities at a local or regional level include any Parking Facility and whose employment terminates within six (6) months after the date the transaction between the Defendants is completed.

F. Defendants shall warrant to the Acquirer(s) that each Parking Facility will be operational on the date of divestiture.

G. Defendants shall not take any action, direct or indirect, that will impede in any way the operation of the Parking Facilities, or take any action, direct or indirect, that would impede the divestiture of any Parking Facility.

H. Defendants shall warrant to Acquirer(s) that they did not cause during the term of their operation or management of the Parking Facility any condition that would constitute a material defect in the environmental, zoning, or other permit pertaining to the operation of the Parking Facility, and that following the sale of the Parking Facility, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Parking Facility.

I. Defendants may not enter into any agreement to acquire, lease or operate, nor may they in any other manner acquire an interest in ownership or management of, any Parking Facility for the term of this Final Judgment, except that after three (3) years from the date that a Parking Facility is divested, nothing in this Final Judgment would prevent Defendants from acquiring a Parking Facility Agreement directly from the owner of such Parking Facility or the owner's agent through a process that does not involve a transaction with the operator of such Parking Facility.

. J. Unless the United States otherwise consents in writing, and subject to the qualification specified in Paragraph IV.K, the divestitures pursuant to Section IV, or by the trustee appointed pursuant to Section VI, shall include all of the Defendants' interests in the Parking Facilities, and be accomplished by divesting the Parking Facilities to an Acquirer or Acquirers in such a way as to satisfy the United States, in its sole discretion, that the Parking Facilities can and will be used by Acquirers as viable ongoing off-street parking services businesses, and the divestitures will remedy the harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section VI of this Final Judgment, shall: (1) be made to an Acquirer or Acquirers that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, and financial capability) of competing effectively with the defendants in providing off-street parking services; and (2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between Acquirers and Defendants gives Defendants the ability to raise unreasonably the Acquirers' costs, to lower the Acquirers' efficiency, or otherwise to interfere in the ability of Acquirers to compete effectively.

K. As an alternative to divestiture to a specific Acquirer or Acquirers, Defendants may, if contractually permitted to do so, accomplish divestitures by either: 1) terminating Parking Facility Agreements; or 2) allowing those Agreements to expire without renewal. All such divestitures must be preceded by notice to the affected facilities owners, and/or other persons with whom Defendants are in contractual relationships to operate the Parking Facilities, not less than sixty (60) days before the divestiture, or, if longer, such notice as is required by the applicable Parking Facility Agreements. With respect to all such divestitures, Defendants must comply with Paragraphs D, E, F, G, H, and I of Section IV. Divestitures accomplished under this paragraph must be completed in the time frame set forth in Paragraph IV.A. In addition, Defendants must comply with Paragraphs IV.B and IV.C to the extent that Defendants must make available the specified documents and information to every prospective successor in operation of the Parking Facilities if so requested by the owners of those properties, or by the owner's agents. At the time they give such notice, Defendants shall provide those owners and agents a copy of this Final Judgment, and inform them in writing of the applicable parts of Paragraphs IV.B and IV.C.

L. Within thirty (30) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed pursuant to Section IV or VI of this Final Judgment, Defendants shall deliver to the United States an affidavit as to the fact and manner of compliance with Sections IV, V, and VI of this Final Judgment. Each such affidavit shall describe in detail all efforts to accomplish the divestitures, including: 1) the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Parking Facilities; 2) a description of all communications with any such person during that period; and 3) a description of all other efforts Defendants have taken to solicit an Acquirer or Acquirers for any and all Parking Facilities, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming that the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitations on information provided by Defendants, shall be made within fourteen (14) days of receipt of such affidavit.

M. Beginning with the second affidavit delivered to the United States on the sixtieth day from the filing of the Complaint, and thereafter in every subsequent affidavit, Defendants shall identify any Parking Facilities that Defendants anticipate they cannot practically divest within thirty (30) days of the submission of the affidavit, and the basis for that belief.

N. For any Parking Facility not divested (and for which no definitive agreement to divest exists) within sixty (60) days of the filing of the Complaint, the United States shall have the right to require the Defendants to propose, within seven (7) days of receiving notice, alternative divestitures sufficient to

preserve competition. The United States may in its sole discretion accept or reject the alternative proposal. If the alternative is accepted, the alternative divested facility or facilities shall become a Parking Facility in place of the relevant Schedule A Parking Facility for all purposes under this Final Judgment, and the United States shall inform the Court of the change in a written report. If the proposed alternative is not accepted by the United States the Defendants must propose within five (5) days other alternative divestitures until an alternative acceptable to the United States is identified. The requirements of this paragraph will not apply to any Parking Facility for which divestitures will be accomplished under Paragraph IV.K.

O. Defendants shall keep records of all efforts made to preserve and divest each Parking Facility until one year after all the divestitures have been completed.

**V. NOTICE OF PROPOSED DIVESTITURES**

A Within two (2) business days following execution of a definitive divestiture agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestiture pursuant to Section IV or VI of this Final Judgment, Defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States of the proposed divestiture. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any management or leasehold interest in the Parking Facility to be divested, together with full details of same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer or Acquirers, any third party, or the trustee, additional information concerning the proposed divestiture and the proposed Acquirer or Acquirers, or any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice, or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer or Acquirers, any third party, or the trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, then the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph VI.C of this Final Judgment. Absent written notice that the United States does not object to the proposed divestiture, or upon objection by the United States, a proposed divestiture under Section IV or Section VI may not be consummated. Upon objection by Defendants under the provision in Paragraph VI.C, a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

**VI. APPOINTMENT OF TRUSTEE**

A. If Defendants have not divested each of the Parking Facilities by the time and in the manner specified in Section IV of this Final Judgment, Defendants shall notify the United States of that fact in writing at the time the period for the relevant divestiture expires, identifying the Parking Facility or Facilities that have not been divested. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of any such Parking Facilities, as designated by the United States.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to divest the Parking Facilities for which the divestiture period has expired. The trustee shall have the power and authority to accomplish any and all divestitures of Parking Facilities to an Acquirer or Acquirers acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Paragraph VI.C of this Final Judgment, the trustee may hire at the cost and expense of the Defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures or terminations, and such professionals and agents shall be accountable solely to the trustee. The trustee shall seek to accomplish the divestitures at the earliest possible time.

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

D. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the United States approves. The trustee shall account for all monies derived from the divestiture of each Parking Facility divested by the trustee. The trustee shall also account for all costs and expenses incurred to accomplish the divestitures. After approval by the Court of the trustee's accounting, including any yet unpaid fees for its services and those of any professionals and agents retained by the trustee, any money remaining shall be paid to Defendants, or if the trustee's fees and costs exceed the monies derived from the divestitures the Defendants shall pay the difference, and the trust shall then be terminated. The compensation of the trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested facility and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished, timeliness being paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals, and the consents of any owners or other persons whose consent may be needed for transfer of a Parking Facility Agreement. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the Parking Facilities to be divested, and Defendants shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestitures.

F. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered 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 month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Parking Facilities to be divested, 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 the Parking Facilities.

G. If the trustee has not accomplished any divestiture with which it is charged within six months after it has been authorized to divest the relevant Parking Facility, the trustee thereupon shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have 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 make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the Final Judgment which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

**VII. ASSET PRESERVATION**

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

**VIII. COMPLIANCE INSPECTION**

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

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

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

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit such written reports or respond to written interrogatories, 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 Paragraphs IV.L or Section VIII of this Final Judgment shall be divulged by a representative of the United States to any person other than an authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

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

**IX. RETENTION OF JURISDICTION**

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

**X. FINANCING**

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

**XI. EXPIRATION OF FINAL JUDGMENT**

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

**XII. PUBLIC INTEREST**

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

Dated .

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

United States District Judge

## SCHEDULE A

| City | Facility |
|---|---|
| Atlanta, GA | Central Facility CP6 at 3390 Peachtree Rd. NE |
| Baltimore, MD | Standard Facility SP5 at 400–404 Park Ave. |
| Bellevue, WA | Standard Facility SP7 at 600 106th Ave. NE |
| | Standard Facility SP8 at NE 8th St. & 106th Ave. NE |
| Boston, MA | Central Facility CP38 at 377 Commercial St. |
| | Standard Facility SP2 at 660 Washington St. |
| Bronx, NY | Central Facility CP4 at 70 East 162nd St. |
| Charlotte, NC | Central Facility CP2 at 207 South Church |
| | Central Facility CP5 at East West University, 501 E. Trade St. |
| | Central Facility CP8 at Gateway Village Garage, 800 West Trade St. |
| | Central Facility CP17 at 121 West Trade St. |
| Chicago, IL | Central Facility CP12 at 172 W Madison St. |
| | Central Facility CP14 at 540 N State St. |
| | Central Facility CP15 at 333 N Dearborn St. |
| | Central Facility CP27 at 816 N Clark St. |
| | Central Facility CP28 at 938 W North Ave. |
| | Central Facility CP29 at 1547 N Kingsbury St. |
| | Standard Facility SP13 at 1101 S State St. |
| | Standard Facility SP22 at 8 E 9th St. |
| | Standard Facility SP73 at 640 W Washington St. |
| | Standard Facility SP151 at 3134 N Clark St. |
| Cleveland, OH | Central Facility CP1 at 708 St Clair Ave |
| | Central Facility CP4 at 1801 East 12th St. |
| | Central Facility CP5 at 750 Vincent Ave |
| Columbus, OH | Central Facility CP2 at 55 E Long St. |
| | Central Facility CP5 at 21 E State St. |
| | Central Facility CP8 at 45 E Spring St. |
| | Central Facility CP13 at 107 S High St. |
| Dallas, TX | Central Facility CP15 at 400 N. Akard St. |
| | Central Facility CP18 at 811–817 Elm St. |
| | Standard Facility SP4 at 300 N Akard St. |
| Denver, CO | Central Facility CP4 at 1207 Cherokee St. |
| | Central Facility CP10 at 1131 Lincoln St. |
| | Central Facility CP13 at 1745 Sherman St. |
| | Central Facility CP14 at 1550 Welton St. |
| | Central Facility CP30 at 1735 Stout St. |

SCHEDULE A—Continued

| City | Facility |
|---|---|
| | Central Facility CP49 at El Jebel, 1750 Sherman St. |
| | Central Facility CP58 at 1530 Cleveland Pl. |
| | Standard Facility SP14 at 1221 Sherman St. |
| | Standard Facility SP19 at 1820 California St. |
| | Standard Facility SP22 at 1515 Arapahoe St. |
| | Standard Facility SP25 at 1999 Broadway |
| | Standard Facility SP29 at 621 17th St. |
| | Standard Facility SP32 at 1899 Wynkoop St. |
| | Standard Facility SP33 at 1825 Welton St. |
| | Standard Facility SP36 at 1543 Wazee St. |
| | Standard Facility SP39 at 1999 Broadway |
| Fort Myers, FL | Central Facility CP1 at 1530 Heitman St. |
| Fort Worth, TX | Central Facility CP4 at 110 W 7th St. |
| | Central Facility CP6 at 910 Houston St. |
| | Central Facility CP7 at 1011 Calhoun St. |
| | Central Facility CP9 at 1123 Calhoun St. |
| | Central Facility CP22 at 315 E 9th St. |
| | Central Facility CP23 at 921 Calhoun St. |
| | Central Facility CP24 at 1105 Calhoun St. |
| | Central Facility CP25 at 1115 Calhoun St. |
| | Central Facility CP26 at 1024 Monroe St. |
| Hoboken, NJ | Central Facility CP7 at 50 Bloomfield St. |
| Houston, TX | Central Facility CP17 at 1001 McKinney St. |
| | Central Facility CP38 at 1300 Leeland Ave. |
| | Central Facility CP81 at 1111 Main St. |
| | Standard Facility SP26 at 611 Clay St. |
| Kansas City, MO | Central Facility CP13 at 1100 Main St. |
| | Central Facility CP15 at 117 W 9th St. |
| | Central Facility CP30 at 920 Main St. |
| | Standard Facility SP4 at 2300 Main St. |
| | Standard Facility SP54 at 1221 Charlotte St. |
| | Standard Facility SP56 at 1600 Baltimore Ave. |
| Los Angeles, CA | Central Facility CP7 at 707 Wilshire Blvd. |
| | Central Facility CP22 at 936 Maple Ave. |
| | Central Facility CP27 at 905 Maple Ave. |
| | Central Facility CP33 at 1019 S Broadway |
| | Standard Facility SP5 at 7920 W Sunset Blvd. |
| | Standard Facility SP12 at 5757 Wilshire Blvd. |
| Miami, FL (including Coral Gables, FL) | Central Facility CP22 at 800 Brickell Ave. |
| | Standard Facility SP28 at 2 Alhambra Plaza |
| | Standard Facility SP30 at 2 Alhambra Plaza |
| Milwaukee, WI | Standard Facility SP6 at 1000 N Water St. |
| | Standard Facility SP7 at 724 N 2nd St. |
| | Standard Facility SP8 at 324 W Highland Ave. OR |
| | Central Facility C1 at 100 East Garage |
| | Central Facility C9 at 1128 N 6th Street |
| | Central Facility C13 at 1030 N 6th Street |
| | Central Facility C22 at 330 E Kilbourn |
| Minneapolis, MN | Central Facility CP7 at 80 South 8th St. |
| | Central Facility CP11 at 425 Park Ave. |
| | Central Facility CP12 at 400 South 3rd St. |
| | Central Facility CP15 at 600 Hennepin Ave. |
| | Central Facility CP18 at 102–120 First St. North |
| Nashville, TN | Standard Facility SP1 at 158 4th Ave. N |
| New Orleans, LA | Central Facility CP2 at 400 Elysian Fields Ave. |
| | Central Facility CP8 at 1515 Poydras St. |
| | Central Facility CP10 at 1555 Poydras St. |
| | Central Facility CP14 at 222 Loyola Ave. |
| | Central Facility CP16 at 1600 Cleveland Ave. |
| Newark, NJ | Standard Facility SP1 at 42 Mulberry St. |
| | Standard Facility SP2 at 42 Mulberry St. |
| Philadelphia, PA | Central Facility CP11 at 1717 Arch St. |
| | Central Facility CP13 at 1616 Sansom St. |
| | Central Facility CP18 at 1815 John F Kennedy Blvd. |
| | Central Facility CP23 at 1900 John F Kennedy Blvd. |
| Phoenix, AR | Central Facility CP12 at 3300 N Central Ave. |
| Rego Park, NY | Standard Facility SP4 at Rego Center I & II, 96–05 Queens Blvd. |
| | Standard Facility SP5 at Rego Center I & II, 95–05 Queens Blvd. |
| Richmond, VA | Central Facility CP4 at 100 E Marshall St. |
| | Central Facility CP6 at S 4th St & E Main St. |
| | Central Facility CP9 at N 8th St & E Marshall St. |
| | Standard Facility SP9 at 1531 E Cary St. |

SCHEDULE A—Continued

| City | Facility |
|---|---|
| Sacramento, CA | Central Facility CP13 at RAS, 3161 L St. |
| Tampa, FL | Central Facility CP13 at Hyatt Regency Tampa, Two Tampa City Center |
| | Central Facility CP14 at 400 N Ashley Dr. |

[FR Doc. 2012–24336 Filed 10–2–12; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

### Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

**AGENCY:** Federal Bureau of Investigation, DOJ.

**ACTION:** Meeting notice.

**SUMMARY:** The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 29 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) Best Practices Guide: The Outsourcing of Noncriminal Justice Administrative Functions

(2) The Report on the Operational Analysis System Integrity Support (OASIS) Group's Study of Fingerprint Image Submission (FIS) Enhancement Procedures

(3) Sharing Information on Lessons Learned During National Fingerprint File (NFF) Implementation

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the Federal Bureau Of Investigation (FBI) Compact Officer, Mr. Gary S. Barron at (304) 625–2803, at least 24 hours prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic.

*Dates and Times:* The Council will meet in open session from 9 a.m. until 5 p.m., on November 14–15, 2012.

**ADDRESSES:** The meeting will take place at the W Atlanta Midtown, 188 14th Street Northeast, Atlanta, Georgia, telephone (404) 892–6000.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be addressed to Mr. Gary S. Barron, FBI Compact Officer, Module D3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone (304) 625–2803, facsimile (304) 625–2868.

Dated: September 19, 2012.

**Gary S. Barron,**

*FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.*

[FR Doc. 2012–24235 Filed 10–2–12; 8:45 am]

BILLING CODE 4410–02–P

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP (NIJ) Docket No. 1607]**

### Draft of SWGDOC Standard Classification of Typewritten Text

**AGENCY:** National Institute of Justice, DOJ.

**ACTION:** Notice and request for comments.

**SUMMARY:** In an effort to obtain comments from interested parties, the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Scientific Working Group for Forensic Document Examination will make available to the general public a draft document entitled, ''SWGDOC Standard Classification of Typewritten Text''. The opportunity to provide comments on this document is open to forensic document examiners, law enforcement agencies, organizations, and all other stakeholders and interested parties. Those individuals wishing to obtain and provide comments on the draft document under consideration are directed to the following Web site: *http://www.swgdoc.org.*

**DATES:** Comments must be received on or before November 21, 2012.

**FOR FURTHER INFORMATION CONTACT:** Patricia Kashtan, by telephone at 202–353–1856 [**Note:** this is not a toll-free telephone number], or by email at *Patricia.Kashtan@usdoj.gov.*

**John Laub,**

*Director, National Institute of Justice.*

[FR Doc. 2012–24316 Filed 10–2–12; 8:45 am]

BILLING CODE 4410–18–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Privacy Act of 1974, as Amended; System of Records Notices

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of the establishment of new privacy system of record, NARA 44.

**SUMMARY:** The National Archives and Records Administration (NARA) proposes to add a system of records to its existing inventory of systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552(a)) (''Privacy Act''). In this notice, NARA publishes NARA 44, Reasonable Accommodation Request Records.

**DATES:** This new system of records, NARA 44, will become effective November 2, 2012 without further notice unless comments are received that result in further revision. NARA will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received. To be assured of consideration, comments should be received on or before the date above.

**ADDRESSES:** You may submit comments, identified by SORN number NARA 44, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 301–837–0293.
- *Mail:* Kimberly Keravuori, Strategy Division (SP), Room 4100, National