



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

BUREAU OF COMPETITION
OFFICE OF THE DIRECTOR

The Bureau of Competition typically disfavors behavioral remedies and will accept them only in rare cases based on special characteristics of an industry or particular transaction.³ This settlement does not depart from that policy. The special characteristics of the defense industry play an important role in considering appropriate remedies in many transactions. For instance, the defense industry is characterized by a single buyer—DOD—whose procurement processes are often distinct from other industries. That is the case here. In addition, the DOD depends on sophisticated products, such as the solid rocket motors at issue in this case, that are part of complex systems subject to winner-take-all competition for programs that can last decades.

Transactions in the defense industry can also implicate national security concerns. As
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As in other industries, the lengths of consent decrees vary to account for the characteristics of the market in which the consent is occurring and the characteristics of the consent decree itself.⁸ The Commission’s order will remain in place for a twenty-year term, an appropriate duration to protect competition in light of the long duration of the particular defense programs and the bidding processes at issue, the potential effects for future unidentified missile programs, and the high barriers to entry in this industry.

As the Commission recognized two years ago: “Our mission, when reviewing defense industry mergers is to ensure that our military continues to receive the effective and innovative products at competitive prices over both the short- and long-term, thereby protecting both our troops and our nation’s taxpayers.”⁹ The remedy in this case does that by protecting competition and preserving procompetitive benefits for our nation’s critical missile systems for at least the next twenty years. Finally, the Commission retains jurisdiction in the event of a violation of its order and may modify the order to address such violations.

⁸ See, e.g., *In re* Enbridge, Inc., Dkt. C-4604 (complaint filed Mar. 24, 2017); *In re* PepsiCo, Inc., Dkt. C-4301 (complaint filed Feb. 26, 2010); *In re* The Coca-Cola Co., Dkt. C-4305 (complaint filed Sept. 27, 2010); *In re* Boeing/Rockwell, Dkt. C-3723 (complaint filed Mar. 7, 1997).

⁹ Joint Statement of the U.S. Dep’t of Justice & Federal Trade Comm’n on Preserving Competition in the Defense Industry (April 12, 2016), available at https://www.ftc.gov/system/files/documents/public_statements/944493/160412doj-ftc-defense-statement.pdf.