proceeding (other than a grand jury proceeding).

XI. Retention of Jurisdiction

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

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public Interest.

Dated:

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 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

The United States filed a civil antitrust Complaint on July 20, 1995, alleging that the proposed acquisition of Continental Baking Company ("Continental") by Interstate Bakeries Corporation ("Interstate") would violate Section 7 of the Clayton Act, 15 U.S.C. 18. Continental and Interstate are the nation's first and third largest producers of white pan bread.

The Complaint alleges that the combination of these major competitors would substantially lessen competition in the production and sale of white pan bread in five geographic markets: the Chicago area; the Milwaukee area; central Illinois (i.e., Peoria, Springfield, Champaign/Urbana); the Los Angeles area and the San Diego area. The prayer for relief seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction preventing Interstate from acquiring control of Continental's assets or otherwise combining them with its own business in these five geographic markets.

At the same time that the suit was filed, a proposed settlement was filed that would permit Interstate to complete its acquisition of Continental's assets in other parts of the country, yet preserve competition in the markets in which the transaction would raise significant competitive concerns. Also filed were a Hold Separate Stipulation and Order, a Stipulation, and a proposed Final Judgment.

The Hold Separate Stipulation and Order would. in essence. require Interstate to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, Continental's bread production and distribution facilities and ancillary assets located in the affected markets will be held separate and apart from, and operated independently of, other Interstate assets and businesses. Moreover, because the Final Judgment may require Interstate to divest either its or Continental's plants and ancillary assets in these geographic markets, until the divestitures are accomplished, Interstate must preserve and maintain both sets of assets as saleable and economically viable, ongoing concerns.

The proposed Final Judgment orders defendants to divest to one or more purchasers certain white pan bread labels in each market. Additional assets to be divested may include bread production and distribution facilities and ancillary assets currently used by Interstate or Continental in each market, as may be required by the purchaser to be able to sell branded white pan bread at levels substantially equivalent to the levels existing before the acquisition. Defendants must complete these divestitures within nine months after entry of the Final Judgment. If they do not, the Court may appoint a trustee to sell the assets.

The United States, Interstate, and Continental 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 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

Interstate, based in Kansas City, Missouri, is the third largest wholesale baker in the United States. In 1994, it reported total sales of \$1.1 billion. Interstate has 14,000 employees, operates 31 commercial bakeries, and transacts business in 39 states. Continental, a subsidiary of St. Louisbased Ralston Purina Company, is the nation's largest wholesale baker. In 1994, Continental reported total sales of \$1.95 billion. It employs 22,000 and operates 35 commercial bakeries that service 80% of the nation's population.

On January 8, 1995, Interstate and Continental announced an agreement by which Interstate would acquire Continental from its parent, Ralston Purina Corporation, for cash and stock. This \$450 million transaction, which would combine Interstate and Continental, precipitated the government's suit.

B. The White Pan Bread Industry

White pan bread describes the ubiquitous, white, sliced, soft loaf known to most consumers as "plain old white bread." An American household staple, white pan bread is sold in the commercial bread aisle of every grocery store, convenience store, and mass merchandiser. White pan bread differs significantly in product attributes from other types of bread, such as variety bread (e.g., wheat, rye or French) and freshly baked in-store breads, in taste, texture, uses, perceived nutritional value, keeping qualities, and appeal to various groups of consumers. These differing attributes give rise to distinct consumer preferences for each type of bread. Many children, for instance, strongly prefer to eat white pan bread, and hence, a primary use of this bread is for sandwiches in school lunches.

Because of its unique appeal and its distinguishing attributes, a small but significant increase in the price of white pan bread by all producers would not be rendered unprofitable by consumers substituting other breads. White pan bread is, therefore, an appropriate product market in which to assess the competitive effects of the acquisition.

White pan bread is mass produced on high speed production lines by wholesale commercial bakers,¹ who package and sell it to retailers under either their own brand or a private label (i.e., a brand controlled by a grocery chain or buying cooperative). Though physically similar to private label, branded white pan bread is perceived by consumers as fresher, better tasting, and higher quality bread; consequently, consumers often pay a premium of twice as much or more for branded white pan bread. Competition in the white pan bread market takes place on two levels, between different brands of

¹The bread is also made by so-called "captive" bakers, i.e., wholesale commercial bakers which are owned by, and bake bread exclusively for, a grocery chain or wholesale grocery buying cooperative.