

Complaint

IN THE MATTER OF

CERIDIAN CORPORATION**CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND
SECTION 7 OF THE CLAYTON ACT**

*Docket C-3933; File No. 9810030
Complaint, April 5, 2000--Decision, April 5, 2000*

This consent order addresses the acquisition by Respondent Ceridian Corporation of NTS Corporation and Trendar Corporation. The order requires Respondent to grant fleet card issuers access to Comdata's Trendstar fuel purchase desk automation system and to grant fuel purchase desk automation systems suppliers the right to process Comdata's fleet cards. The order also requires Comdata, for a period of three years, to grant a ten-year license to effect transactions on the Trendar system to any company providing, or seeking to provide, fleet card services. Comdata is required to promptly disseminate the software to all truck stops on the Trendar network. Comdata is further required to provide licensees with equal access to any upgrades or modifications to the Trendar system, and is prohibited from basing any transaction fees charged to truck stops for processing the Comdata card, as well as access to the Comdata card, on whether such truck stops accept any other firm's fleet cards. The order requires Comdata, for a period of three years, to grant a ten-year license to all incumbent suppliers of fuel purchase desk automation systems, and to the first three new system providers that request a license.

Participants

For the Commission: *Michael R. Moiseyev, Yolanda R. Gruendel, Andrew J. Topps, Robert R. Pickett, Sylvia M. Brooks, Ann Malester, Daniel P. Ducore, Christopher Garmon, Jeffrey Fischer, and Gregory Vistnes.*

For the Respondents: *Jeane Thomas and Randy Smith, Crowell & Moring, R. Dale Grimes, Bass, Berry & Sims, and Joe Warren, Michael Crimmens, and Joe Kattan, Gibson, Dunn & Crutcher.*

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COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that Respondent, Ceridian Corporation ("Ceridian"), a corporation subject to the jurisdiction of the Commission, has acquired, through its wholly owned subsidiary Comdata Network, Inc., substantially all of the assets of NTS, Inc. ("NTS"), a corporation subject to the jurisdiction of the Commission, from First Data Corporation ("First Data"), and, through its wholly owned subsidiary Comdata Holdings Corporation, has acquired Trendar Corporation ("Trendar"), a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENT

1. Respondent Ceridian is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware with its office and principal place of business located at 8100 34th Avenue, South, Minneapolis, Minnesota 55425.
2. Respondent is engaged in, among other things, the provision of fleet card services to over the road trucking companies and the development, manufacture and sale of truck stop fuel desk automation systems.
3. Respondent is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. THE ACQUIRED COMPANIES

4. First Data is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at 901 Hackensack Avenue, Hackensack, New Jersey 07601.

5. NTS, a subsidiary of First Data, was, until the time of its acquisition by Respondent, engaged in, among other things, the business of providing fleet card services to over the road trucking companies.

6. First Data was at all times relevant herein engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

7. Trendar was, until the time it was acquired by Respondent, a corporation organized, existing, and doing business under and by virtue of the laws of Tennessee, with its office and principal place of business located at Murfreesboro Road, Nashville, Tennessee.

8. Trendar was, until the time of its acquisition by Respondent, engaged in, among other things, the design, manufacture and sale of truck stop fuel desk automation systems.

9. Trendar was at all times relevant herein engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affects commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

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III. THE ACQUISITIONS

10. In January, 1998, Respondent Ceridian, through its wholly owned subsidiary Comdata Network, Inc., acquired substantially all of the assets of NTS from First Data Corporation in exchange for certain Ceridian assets and businesses and \$50 million.

11. In March, 1995, Comdata Holdings Corporation, a subsidiary of Respondent Ceridian, acquired Trendar Corporation, for approximately \$14.2 million.

IV. THE RELEVANT MARKETS

12. For purposes of this Complaint, the relevant lines of commerce in which to analyze the effects of the Acquisitions are the provision of fleet card services to over the road trucking companies and the development, manufacture and sale of truck stop fuel desk automation systems.

13. For purposes of this Complaint, the United States is the relevant geographic area in which to analyze the effects of the Acquisitions in the relevant lines of commerce.

V. STRUCTURE OF THE MARKET

14. The market for the provision of fleet card services for over the road trucking companies is highly concentrated as a result of the acquisition of NTS by Ceridian. At the time of its acquisition, NTS was Ceridian's closest and most significant competitor in the market for fleet card services for over the road trucking companies.

15. The market for fuel desk automation systems is highly concentrated. At the time of its acquisition by Respondent, Trendar was the leading supplier of truck stop fuel desk automation systems in the United States. Trendar remains the

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leading supplier of truck stop fuel desk automation systems in the United States.

VI. BARRIERS TO ENTRY

16. The relevant markets described in Paragraphs 12 and 13 are characterized by high barriers to entry. Prospective entrants into the market for the provision of fleet card services to over the road trucking companies must be accepted onto Ceridian's Trender fuel desk automation system and must establish a nationwide network of truck stop locations that accept their cards. Potential entrants into the truck stop fuel desk automation system market must be able to process Ceridian's fleet cards in order to be viable options for truck stops. Entry into the relevant markets would not occur in a timely manner to deter or counteract the adverse competitive effects described in Paragraph 17 because of these high barriers.

VII. EFFECTS OF THE ACQUISITIONS

17. The effects of the Acquisitions may be substantially to lessen competition and to tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, in the following ways, among others:

(a) by increasing the likelihood that customers of fleet card services to over the road trucking companies will pay higher prices; and

(b) by increasing the likelihood that customers of truck stop fuel desk automation systems will pay higher prices; and

(c) by raising barriers to entry into the market for fleet card services to over the road trucking companies; and

(d) by raising barriers to entry into the market for truck stop fuel desk automation systems.

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VIII. VIOLATIONS CHARGED

18. The Acquisitions described in Paragraphs 10 and 11 constitute violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this fifth day of April, 2000, issues its Complaint against said respondent.

By the Commission.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of the acquisition by Comdata Network, Inc., a wholly-owned subsidiary of respondent, of substantially all of the assets of NTS, Inc., and the acquisition by Comdata Holdings Corporation, a wholly-owned subsidiary of respondent, of Trendar Corporation, and the respondent having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order, an admission by respondent of all the jurisdictional facts

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set forth in the aforesaid draft of Complaint, a statement that the signing of said Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to § 2.34 of its Rules, and having modified the Consent Order in certain respects, now in further conformity with the procedure described in § 2.34 of its Rules, the Commission hereby issues its Complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent Ceridian Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 8100 34th Avenue South, Minneapolis, Minnesota 55425.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER**I.**

IT IS ORDERED that, as used in this Order, the following definitions shall apply (where appropriate, words in the singular include the plural, and words in the plural include the singular):

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- A. “Acquisitions” means the acquisition of substantially all of the assets of NTS, Inc. by Comdata Network, Inc., a wholly-owned subsidiary of Ceridian, and the purchase of Trendar Corporation by Comdata Holdings Corporation, a wholly-owned subsidiary of Ceridian.
- B. “Comdata” means Comdata Network, Inc., a Maryland corporation and wholly-owned subsidiary of Ceridian, with its office and principal place of business located at 5301 Maryland Way, Brentwood, Tennessee 37027.
- C. “Comdata Business” means any division or entity within or controlled by Respondent that is engaged in, among other things, the development, issuance, distribution, sale or licensing of the Comdata Cards.
- D. “Comdata Cards” means all of Comdata’s current and future proprietary, private label Comchek®, TIC, NTS, EDS or other Fleet Cards, however named, issued by Comdata, either directly or indirectly through an approved third-party designated by Comdata, to Trucking Companies or truck drivers who use such cards to effect Transactions at Fueling Locations approved by Comdata; provided, however, that Comdata Cards shall not include cards for which Respondent does not have final authority to determine which POS Systems are permitted to effect diesel fuel purchases or data capture transactions for those cards. For the purposes of this Order, Comdata Cards shall be included as one type or kind of Fleet Card, as hereinafter defined.

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- E. “Comdata Confidential Information” means any information not in the public domain disclosed by Respondent to a Designated POS System Provider or Fleet Card Issuer, as applicable, in its capacity as the provider of the Comdata Cards or Trendar Services, respectively. Comdata Confidential Information shall not include: (1) information that falls within the public domain through no act, error, or omission by the Designated POS System Provider or Fleet Card Issuer, as applicable; (2) information that becomes known to the Designated POS System Provider or Fleet Card Issuer, as applicable, from a third party not in breach of a confidentiality or non-disclosure agreement with respect to such information; (3) information already known to the Designated POS System Provider or Fleet Card Issuer, as applicable, prior to requesting a license pursuant to Paragraph II. or III., respectively; and (4) information independently developed by the Designated POS System Provider or Fleet Card Issuer, as applicable, without reference to or use of any Comdata Confidential Information.
- F. “Commission” means the Federal Trade Commission.
- G. “Designated POS System Providers” means New System Providers that have received Commission approval and Incumbent System Providers.
- H. “Fleet Card” means any card issued to cardholders who are authorized to use such cards to effect data capture Transactions or Transactions funded by the Fleet Card Issuer.
- I. “Fleet Card Issuer” means any Person who (1) issues or seeks to engage in the business of issuing Fleet Cards to Trucking Companies, truck drivers, or other cardholders who may use such Fleet Cards to effect Transactions, provided that a Fleet Card Issuer must

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have, or seek to have, issued at least one thousand (1,000) Fleet Cards; or (2) develops a Fleet Card for the purpose of having it issued by third-parties, provided that the Fleet Card Issuer must have, or seek to have, third-parties issue at least one thousand (1,000) Fleet Cards.

- J. "Fueling Location" means any truck stop, gasoline service station, fueling service center, Terminal Fueling Facility, cardlock, or unattended fueling site.
- K. "Incumbent System Provider" means any Person who is authorized by Respondent on the date Respondent signs this Order to effect all Transactions using any one (1) Fleet Card issued by Respondent.
- L. "Injunctive Relief" means: (1) a permanent injunction obtained on or after January 1, 1994; (2) a temporary restraining order or preliminary injunction obtained on or after January 1, 1994 that is in effect; or (3) a temporary restraining order or preliminary injunction obtained on or after January 1, 1994 that has expired or terminated due to mootness, and was not obtained in an ex parte proceeding.
- M. "New System Provider" means any Person not affiliated with Respondent who manufactures, markets, sells, deploys, maintains or has developed a POS System used by Fueling Locations to effect Transactions, and whose POS System has been operational at 25 Fueling Locations for a period of not less than six (6) months. The term "New System Provider" does not include any Incumbent System Provider.

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- N. “Non-Public Fleet Card Information” means any information not in the public domain disclosed by any Fleet Card Issuer (other than Ceridian) to Respondent in its capacity as the provider of Trendar Services. Non-Public Fleet Card Information shall not include: (1) information that falls within the public domain through no violation of this Order by Respondent; (2) information that becomes known to Respondent from a third party not in breach of a confidentiality or non-disclosure agreement with respect to such information; (3) information already known to Respondent on the date it signs the Agreement Containing Consent Order; and (4) information independently developed by Respondent without reference to or use of any Non-Public Fleet Card Information.
- O. “Non-Public Point of Sale Information” means any information not in the public domain disclosed by any Designated POS System Provider (other than Ceridian) to Respondent in its capacity as provider of the Comdata Cards. Non-Public Point of Sale Information shall not include: (1) information that falls within the public domain through no violation of this Order by Respondent; (2) information that becomes known to Respondent from a third party not in breach of a confidentiality or non-disclosure agreement with respect to such information; (3) information already known to Respondent on the date it signs the Agreement Containing Consent Order; and (4) information independently developed by Respondent without reference to or use of any Non-Public Point of Sale Information.
- P. “Non-Public Programming Information” means any information not in the public domain disclosed by any Fleet Card Issuer (other than Ceridian) to the Third-Party Developer. Non-Public Programming Information shall not include: (1) information that falls

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within the public domain through no violation of this Order by Respondent; (2) information that becomes known to the Third-Party Developer from a third party not in breach of a confidentiality or non-disclosure agreement with respect to such information; (3) information already known to the Third-Party Developer on the date Respondent signs the Agreement Containing Consent Order; and (4) information independently developed by the Third-Party Developer without reference to or use of any Non-Public Programming Information.

- Q. "Person" means any individual, corporation, partnership, limited liability partnership, joint venture, association, joint-stock company, limited liability company, trust or unincorporated organization.
- R. "POS Standards" means the following standards that a Designated POS System Provider must maintain: (1) its POS System complies with the same Comdata Card functional specifications as the Trendar System; (2) it promptly disseminates Comdata Card specification changes or updates that have been implemented on the Trendar System; (3) it provides twenty-four (24) hour support for its POS System; (4) its POS System is Year 2000 compliant; and (5) it maintains the confidentiality of all Comdata Confidential Information.
- S. "POS System" means a point of sale purchase authorization system comprised of hardware, software, communications networks and related components used by Fueling Locations for any or all of the following purposes: (1) to obtain authorization for Transactions; (2) to capture and compile information related to such Transactions for themselves and others;

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and (3) to execute ancillary services related thereto as may be made available from time to time in connection with such POS System.

- T. "Respondent" or "Ceridian" means Ceridian Corporation, its directors, officers, employees, agents, representatives, predecessors, successors and assigns, subsidiaries, divisions, groups and affiliates controlled by Ceridian Corporation, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- U. "Terminal Fueling Facility" means any fueling facility owned or operated by or on behalf of a Trucking Company.
- V. "Third-Party Developer" means the Person designated by Respondent to perform the functions described in Paragraph III.C. of this Order.
- W. "Transactions" means any diesel fuel purchase, cash advance, data capture, or any other type of transaction effected by a Fleet Card holder with the Fleet Card Issuer either: (1) by use of a Fleet Card; or (2) based on information, numbers, or data obtained from a Fleet Card. Transactions shall not include transactions that are not authorized by the Fleet Card Issuer.
- X. "Transaction Fee" means the fee per transaction that a Fleet Card Issuer may charge to: (1) Fueling Locations authorized to accept the Fleet Card Issuer's Fleet Card; or (2) cardholders authorized to use the Fleet Card Issuer's Fleet Card.
- Y. "Trendar Business" means any division or entity within or controlled by Respondent that is engaged in, among other things, the development, sale or licensing of the Trendar System or Trendar Services.

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- Z. “Trendar Facility” means any Fueling Location that has purchased or leased a Trendar System.
- AA. “Trendar Services” means all services provided by Respondent that allow Fleet Card Transactions to be effected through the Trendar System, including, but not limited to: (1) reading the Fleet Card; (2) recognizing the Fleet Card's functions; (3) prompting for information required to execute Transactions; (4) transmitting information about Transactions; (5) communicating with the appropriate Fleet Card Issuer to seek authorization for Transactions; and (6) printing receipts with the requisite transaction information.
- BB. “Trendar System” means all versions of the proprietary POS System developed, marketed, deployed or maintained by Respondent.
- CC. “Trucking Companies” means companies and their employees and agents that operate trucks to haul their own products or provide trucking services to other Persons.

II.

IT IS FURTHER ORDERED that for the purpose of ensuring that Designated POS System Providers may effect Transactions originated by Comdata Cards, and to remedy the lessening of competition resulting from the Acquisitions as alleged in the Commission's complaint, Respondent shall:

- A. Except as otherwise provided in this Order, for a period of three (3) years beginning on the date this Order becomes final, grant a ten (10) year unrestricted non-exclusive royalty-free license to effect

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Transactions originated by Comdata Cards to each Incumbent System Provider who notifies Comdata in writing after this Order is issued; provided, however, that Respondent may require the licensee to enter into a license agreement containing the Comdata Card License Conditions attached as Appendix I hereto;

- B. Except as otherwise provided in this Order, for a period of three (3) years beginning on the date this Order becomes final, grant a ten (10) year unrestricted non-exclusive royalty-free license to effect Transactions originated by Comdata Cards to three (3) New System Providers. The licenses shall be granted, subject to the prior approval of the applicants by the Commission, to the first three (3) New System Providers who apply in writing by facsimile to the Federal Trade Commission's Bureau of Competition, Mergers I Division at (202) 326-2655 after this Order is issued, provided they subsequently become certified pursuant to Paragraph II.G. of this Order. The New System Provider applicants shall promptly notify Respondent in writing of their intent to seek a license under this Order. Paragraph II.B. of this Order is subject to the following conditions:
1. If any one of the New System Providers fails to be certified, the license shall be granted to another New System Provider in the manner set forth in this Paragraph II.B., and that is certified pursuant to Paragraph II.G.;
 2. Any such license may be transferred by the New System Provider to any Person that meets the definition of a New System Provider and that is certified pursuant to Paragraph II.G. of this Order; and

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3. Respondent may require the licensee to enter into a license agreement containing the Comdata Card License Conditions attached as Appendix I hereto;
- C. Make available to any Person requesting a license: (1) a description of the procedures for obtaining a license; and (2) a copy of this Order;
- D. Make available to any Person who so requests a list of the New System Providers that obtain a license to effect Transactions originated by Comdata Cards under Paragraph II.B. of this Order;
- E. Within ten (10) days of receipt of a written request by a Designated POS System Provider, provide to the Designated POS System Provider any and all information or assistance necessary to enable the Designated POS System Provider to effect on its POS System the same Transactions originated by Comdata Cards on the Trendar System, including, but not limited to, specifications (including, as applicable but not limited to, transaction set information specifications, card track or other card identification specifications, pre- and post-authorization specifications, settlement specifications, and receipt and report format specifications), protocols, programming, know-how, test accounts, site numbers, and host telephone numbers;
- F. Include in each license with each Designated POS System Provider a provision that requires the Designated POS System Provider to provide the Monitor Trustee with any information or access requested by the Monitor Trustee relating to Comdata Cards for the purpose of determining whether

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Respondent is complying with Paragraph II. of this Order;

- G. Within thirty (30) days of receipt of a written request by a New System Provider, either: (1) grant a written certification that such New System Provider's POS System successfully executes Comdata Card Transactions in conformance with the POS Standards and has a right to do so; (2) deny certification in the event the New System Provider's POS System fails to execute Comdata Card Transactions in conformance with the POS Standards, and that failure is solely a result of the New System Provider's act or omission; or (3) extend, upon mutual written consent with the New System Provider, the time within which the New System Provider may obtain certification through testing of the New System Provider's POS System;
- H. Have the right to monitor processing of Comdata Cards by the POS System of the Designated POS System Provider to ensure continuing compliance with the POS Standards, provided that Respondent shall bear any cost associated with such monitoring; provided, however, that Respondent shall not terminate the license and may only suspend the license for the period that any Designated POS System Provider fails to comply with the POS Standards, provided that Comdata has furnished written notice, including an enumeration of all claimed deficiencies, ten (10) days in advance of suspension and the Designated POS System Provider has failed to cure the deficiencies within that time;
- I. Not Charge the Designated POS System Provider any fee for the license to effect Transactions originated by Comdata Cards or for certification of the Designated POS System Provider's POS System; provided, however, that Respondent may charge a Transaction

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Fee to approved Comdata Card holders; provided, further, however, that nothing herein shall require Respondent to pay any Designated POS System Provider a fee for processing Comdata Card Transactions;

- J. Not charge any Transaction Fee that is based upon which POS System a Fueling Location has purchased, leased, or otherwise acquired;
- K. Not condition the availability of the Comdata Card or related services to any Fueling Location on whether such Fueling Location has purchased, leased, or otherwise acquired any POS System other than the Trendar System;
- L. Provide all of the Designated POS System Providers that may process Comdata Card Transactions in accordance with the terms of this Order with equal access to Comdata Cards, including, but not limited to, all Comdata Card functions, changes, modifications, upgrades, or new card developments with sufficient notice and assistance so that the Designated POS System Providers may introduce such changes no later than they are introduced by Respondent; and
- M. Notwithstanding any provision in this Paragraph, Respondent shall not be required to license (or continue to license) or provide any information under this Paragraph II. to any Person or an entity controlled by any such Person against whom Comdata or its predecessors have obtained Injunctive Relief to prevent the misuse, misappropriation, unauthorized use or improper disclosure or distribution of Comdata Cards, Comdata Card Transactions, Comdata equipment, data, information or other materials.

III.

IT IS FURTHER ORDERED that for the purpose of ensuring that Fleet Card Issuers may effect Fleet Card Transactions through the Trendar System, and to remedy the lessening of competition resulting from the Acquisitions as alleged in the Commission's complaint, Respondent shall:

- A. Except as otherwise provided in this Order, for a period of three (3) years beginning on the date this Order becomes final, grant a ten (10) year unrestricted non-exclusive royalty-free license to the Trendar Services to any Fleet Card Issuer who notifies Comdata in writing after this Order is issued, provided it subsequently receives certification from the Third-Party Developer pursuant to Paragraph III.C. of this Order or becomes qualified pursuant to Paragraph III.D. of this Order; provided, however, that Respondent may charge a one-time access fee not to exceed US\$30,000; provided, further, however, that Respondent may require the licensee to enter into a license agreement containing the Trendar License Conditions attached hereto as Appendix II;
- B. Make available to any Person requesting a license: (1) a description of the procedures for obtaining a license, including, but not limited to, obtaining programming and certification services from the Third-Party Developer; and (2) a copy of this Order;
- C. By the date this Order becomes final, enter into a contract, subject to the prior approval of the Commission, with an independent Third-Party Developer to perform all programming and certification services for Fleet Card Issuers relating to the provision of Trendar Services that is subject to the following terms and conditions:

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1. Respondent shall provide to the Third-Party Developer all assistance, specifications, protocols, programming codes, interfaces, and any other information used to effect Fleet Card Transactions, and necessary to enable the Fleet Card Issuer to effect Fleet Card Transactions through the Trendar System;
2. Respondent shall not receive either directly or indirectly any compensation for such programming and certification services;
3. The contract between Respondent and the Third-Party Developer shall provide that the Third-Party Developer shall:
 - a. Render such programming and certification services to any Fleet Card Issuer that notifies Comdata pursuant to Paragraph III. A. of this Order;
 - b. Certify any Fleet Card that is able to execute Transactions on the Trendar System;
 - c. Notify Comdata (which, in turn, shall notify the Commission and the Monitor Trustee if one has been appointed) of any request by a Fleet Card Issuer for programming and certification services;
 - d. Notify Comdata (which, in turn, shall notify the Commission and the Monitor Trustee if one has been appointed) within ten (10) days of denying certification, including any grounds for any denials;

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- e. Provide the Monitor Trustee, if one has been appointed, with access to the personnel performing such programming and certification services, and the books, records and other relevant materials relating to the provision of (or inability to provide) such programming and certification services; and
 - f. Charge the Fleet Card Issuer a fee for such programming and certification services according to the schedule set forth in the contract between the Third-Party Developer and Respondent;
4. If the Third-Party Developer ceases to act or fails to act diligently, a substitute Third-Party Developer may be designated in the same manner as provided in this Paragraph III.C.;
- D. In the event the Third-Party Developer fails to provide to any Fleet Card Issuer programming and certification described in Paragraph III.C. in a timely manner, provide, within a reasonable time period, or cause to be provided, to the Fleet Card Issuer all assistance, specifications, protocols, programming codes, interfaces, and any other information used to effect Fleet Card Transactions, and necessary to enable the Fleet Card Issuer to effect Fleet Card Transactions through the Trendar System;
- E. Not terminate the license and may only suspend the license for the period that any Fleet Card Issuer fails to pay any amounts due to Respondent or the Third-Party Developer or fails to maintain the confidentiality of Comdata Confidential Information, provided that Comdata has furnished written notice, including an enumeration of all claimed deficiencies, ten (10) days in advance of suspension and the Fleet Card Issuer has failed to cure the deficiencies within that time;

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- F. Provide to every Trendar Facility designated by the Fleet Card Issuer all programming used to effect the Fleet Card Issuer's Fleet Card Transactions in the next regular quarterly release if such programming is completed at least thirty (30) days prior to such quarterly release or within three (3) months of the date such programming is completed, whichever is earlier;
- G. Not charge any Transaction Fee to any approved Fueling Location that is based upon, or in any way related to, whether such Fueling Location accepts any Fleet Cards other than the Comdata Card;
- H. Not condition the availability of the Comdata Card or related services to any Fueling Location on whether such Fueling Location accepts any Fleet Card other than the Comdata Card;
- I. Provide all of the Fleet Card Issuers with equal access to the Trendar Services, including, but not limited to, all new developments, changes, modifications or upgrades relating to the Trendar Services with sufficient notice so that the Fleet Card Issuer may introduce such changes, if such Fleet Card Issuer elects to do so, no later than they are made available on the Trendar System; provided, however, that this provision shall not prevent Respondent from undertaking technological and other modifications to the Trendar System and/or its hardware, software, communications networks, and related components, including modifications that require changes to Fleet Cards processed through the Trendar System;
- J. Have the right to discontinue the Trendar System should Ceridian reasonably determine the System is no longer commercially viable; and

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- K. Notwithstanding any provision in this Paragraph, Respondent shall not be required to license (or continue to license) or provide any information under this Paragraph III. to any Person or an entity controlled by any such Person against whom Comdata or its predecessors have obtained Injunctive Relief to prevent the misuse, misappropriation, unauthorized use or improper disclosure or distribution of the Trendar System, Trendar Services, or any other Comdata equipment, data, information or other materials.

IV.**IT IS FURTHER ORDERED** that:

- A. Respondent shall not, absent the prior written consent of the proprietor of Non-Public Point of Sale Information, provide, disclose, or otherwise make available to any individual acting for the Trendar Business any Non-Public Point of Sale Information. Respondent shall use any Non-Public Point of Sale Information only in Respondent's capacity as a provider of the Comdata Cards or as otherwise provided by this Order, absent the prior written consent of the proprietor of Non-Public Point of Sale Information.
- B. Respondent shall not, absent the prior written consent of the proprietor of Non-Public Fleet Card Information, provide, disclose, or otherwise make available to any individual acting for the Comdata Business any Non-Public Fleet Card Information. Respondent shall use any Non-Public Fleet Card Information only in Respondent's capacity as a provider of Trendar Services or as otherwise provided by this Order, absent the prior written consent of the proprietor of Non-Public Fleet Card Information.

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- C. Respondent shall not, absent the prior written consent of the proprietor of Non-Public Programming Information, obtain or seek to obtain, directly or indirectly, any Non-Public Programming Information. Respondent shall use any Non-Public Programming Information only in Respondent's capacity as a provider of Trendar Services or as otherwise provided by this Order, absent the prior written consent of the proprietor of Non-Public Programming Information.

V.**IT IS FURTHER ORDERED** that:

- A. After the date this Order becomes final, the Commission may appoint a Monitor Trustee to monitor any disputes, claims or controversies under this Order as outlined in Paragraph V.B.4. below.
- B. If a Monitor Trustee is appointed by the Commission, Respondent shall consent to the following terms and conditions regarding the Monitor Trustee's powers, duties, authority and responsibilities:
1. The Commission shall select the Monitor Trustee, the identity of the Monitor Trustee being subject to the consent of Respondent, which consent shall not be unreasonably withheld. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed Monitor Trustee within ten (10) days after notice by the staff of the Commission to Respondent of the identity of the proposed Monitor Trustee, Respondent shall be deemed to have consented to the selection of the proposed Monitor Trustee;

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2. Within ten (10) days after appointment of the Monitor Trustee, Respondent shall execute a Trust Agreement, subject to the prior approval of the Commission, that authorizes and permits the Monitor Trustee to perform the duties set forth in this Order;
3. The Monitor Trustee shall have the rights, duties, or powers necessary to perform the duties enumerated in Paragraph V.B.4. herein;
4. The Monitor Trustee shall prepare a written report and recommendation, if appropriate, which may include a finding of fault, with respect to each dispute or controversy arising out of: (a) each failure to grant certification or suspension of certification pursuant to Paragraph II. of this Order; (b) each instance when the Fleet Card Issuer alleges that the Third-Party Developer has failed to provide programming and certification services in a timely manner pursuant to Paragraph III. of this Order; (c) each failure to grant certification pursuant to Paragraph III. of this Order; or (d) Respondent's compliance with this Order;
5. If the Monitor Trustee elects to prepare a written report and recommendation, the Monitor Trustee shall issue such report and recommendation to the Commission within ninety (90) days after notification that a dispute or controversy exists;
6. The Monitor Trustee shall maintain the confidentiality of all confidential or proprietary information of Respondent, Designated POS System Providers, Fleet Card Issuers, and the Third-Party Developer, except that the Monitor Trustee may disclose to the Commission any confidential and proprietary information when reporting to the Commission on any matter bearing on compliance with the Trust

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Agreement and Order or bearing on the Monitor Trustee's performance of his duties;

7. The Monitor Trustee shall serve pursuant to the Trust Agreement from the time it is approved by the Commission for the term of the Order;
8. Respondent shall give the Monitor Trustee full and complete access to the personnel, facilities, computers, books, and records related to the performance of his duties under this Order. The Monitor Trustee shall attempt to schedule any access or requests for information in such a manner as will not unreasonably interfere with Respondent's operations;
9. The Monitor Trustee shall serve without bond or other security and shall use his best judgment in performing his duties hereunder. The Monitor Trustee shall be exempt from personal liability, to the extent permitted by law, for any action or decision not to act taken or made in good faith, except that the Monitor Trustee may be liable for misfeasance in performing under this Agreement or to the extent the loss, claim, damage or liability results from the Monitor Trustee's gross negligence, willful or wanton acts, or bad faith;
10. The Monitor Trustee shall have the authority to retain at the cost and expense of Respondent, and at reasonable fees, such employees, agents, consultants, or any other third party the Monitor Trustee determines to be reasonably necessary to assist in performing his duties hereunder;
11. The Monitor Trustee shall be compensated by Respondent for the reasonable value of his services as provided in the Trust Agreement. In addition to such

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compensation, Respondent shall compensate the Monitor Trustee for reasonable expenses and costs (including travel, lodging, meals and incidental items) incurred by the Monitor Trustee in connection with the discharge of his duties and efforts under the Trust Agreement;

12. The Monitor Trustee may recover his costs of collection, including reasonable attorneys fees, if Respondent fails to pay compensation pursuant to Paragraphs V.B.10. and 11. herein; and
13. If the Monitor Trustee ceases to act or fails to act diligently, a substitute Monitor Trustee may be appointed by the Commission in the same manner as provided in this Paragraph.

VI.**IT IS FURTHER ORDERED** that:

- A. Within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter for one (1) year, Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order. Respondent shall include in its compliance reports, among other things that are required from time to time: (a) a list of Designated POS System Providers that have applied for licenses to effect Transactions originated by Comdata Cards; (b) the state of certification (granted, denied, or pending) of the POS System of each such Designated POS System Provider; (c) a list of Fleet Card Issuers that have applied for licenses to effect Fleet Card Transactions through the Trendar System; (d) the state of certification (granted, denied, or pending) of the Fleet

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Card of each such Fleet Card Issuer; and (e) a full description of the efforts being made to comply with Paragraphs II. through V. of this Order.

- B. One (1) year from the date this Order becomes final, annually until this Order has terminated, and at other times as the Commission may require, Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with this Order.

VII.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of this Order.

VIII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, upon written request, Respondent shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondent relating to any matters contained in this Order; and

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- B. Upon five (5) days' notice to Respondent and without restraint or interference from it, to interview officers, directors, or employees of Respondent, who may have counsel present, regarding such matters.

IX.

IT IS FURTHER ORDERED that this Order shall terminate upon the later of: (a) April 5, 2003; or (b) the expiration of all licenses required by this Order.

By the Commission.

APPENDIX IComdata Card License Conditions

Respondent may require each Person licensed pursuant to Paragraph II. of this order to:

- 1) Comply with the POS Standards;
- 2) Permit Respondent to audit the licensee's POS System through an independent third-party that is subject to a confidentiality agreement prohibiting disclosure of the licensee's information that is not in the public domain to Respondent or any other Person;
- 3) Make available the services to be performed by the licensee to effect all Transactions through the licensee's POS system no less than 99.8% of the time (exclusive of down-time for maintenance) during every consecutive three (3) month period;
- 4) For any third-party products supplied to licensee by Respondent, comply with the licenses between Respondent and the third-party, return any third-party products supplied by

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- Respondent in good working order upon expiration of the license or upon Respondent's written request, and hold Respondent harmless for any damages incurred in connection with the use of third-party products;
- 5) Consent to a provision under which Respondent and licensee each indemnify the other for any third-party claims resulting from any breach;
 - 6) Consent to a provision prohibiting both the licensee and Respondent from disclosing the other party's confidential information as defined in the Order;
 - 7) Consent to a provision under which Respondent and licensee shall hold each other harmless for any failure to perform due to force majeure;
 - 8) Promptly pay any amounts due to Respondent relating to the license agreement;
 - 9) Not be insolvent or in bankruptcy;
 - 10) Cease processing Comdata Cards and using Comdata Confidential Information upon expiration or suspension of the license pursuant to Paragraph II.H. of this Order;
 - 11) Consent to a provision under which Respondent and the licensee each acknowledge that the other has not obtained any right to the trademarks, trade names, service marks or logos belonging to the other through the license agreement; provided, however, that the licensee may display the Comdata Card name and/or logo in advertising and promotional information;
 - 12) Consent that assignment of the license shall be only: (a) in accordance with Paragraph II.B. of the Order; or (b) in connection with the acquisition of the licensee's truck stop POS System business;
 - 13) Consent to reasonable notice requirements pertaining to any notices required under the license agreement;
 - 14) Consent to a provision under which Respondent and the licensee agree to comply with applicable laws and regulations;

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- 15) Consent to a provision requiring that any legal action arising out of the license agreement be brought in the appropriate judicial forum located in Nashville, Davidson County, TN;
- 16) Consent to a provision requiring that the license agreement be governed by the laws of the State of Tennessee; and
- 17) Consent to a provision under which Respondent and licensee agree not to contest the license agreement on the ground of insufficiency or lack of consideration.

APPENDIX IITrendar License Conditions

Respondent may require each Person licensed pursuant to Paragraph III. of this Order to:

- 1) Promptly pay any amounts due to Respondent or the Third-Party Developer relating to the license agreement;
- 2) Consent to a provision that states that Respondent is the exclusive owner of any programming performed by the Third-Party Developer relating to the Trendar System;
- 3) Identify which Fueling Locations accept the licensee's Fleet Card;
- 4) Consent to a provision prohibiting both the licensee and Respondent from disclosing the other party's confidential information as defined in the Order;
- 5) Consent to a provision under which Respondent and licensee each indemnify the other for any third-party claims resulting from any breach;
- 6) Consent to a provision under which Respondent and licensee shall hold the other harmless for any failure to perform due to force majeure;

Statement of the Commission

- 7) Cease use of the Trendar System and any Comdata Confidential Information upon expiration or suspension of the license pursuant to Paragraph III.E. of this Order;
- 8) Consent to a provision under which Respondent and the licensee each acknowledge that the other has not obtained any right to the trademarks, trade names, service marks or logos belonging to the other through the license agreement; provided, however, that the licensee may display the Trendar name and/or logo in advertising and promotional information;
- 9) Consent to reasonable notice requirements pertaining to any notices required under the license agreement;
- 10) Not be insolvent or in bankruptcy;
- 11) Consent that assignment of the license shall be only in connection with the acquisition of the licensee's trucking Fleet Card business;
- 12) Consent to a provision under which Respondent and the licensee agree to comply with applicable laws and regulations;
- 13) Consent to a provision requiring that any legal action arising out of the license agreement be brought in the appropriate judicial forum located in Nashville, Davidson County, TN;
- 14) Consent to a provision requiring that the license agreement be governed by the laws of the State of Tennessee; and
- 15) Consent to a provision under which Respondent and licensee agree not to contest the license agreement on the ground of insufficiency or lack of consideration.

STATEMENT OF THE COMMISSION

The Commission has determined to issue, with certain modifications, a final consent order against Ceridian Corporation in connection with its acquisitions of NTS, Inc. and Trendar Corporation. We reached this decision after careful and thorough

Analysis to Aid Public Comment

consideration of the public comments received and discussions with industry representatives.

Based on the evidence currently before us, we believe that this order provides the most appropriate relief available. The investigation that led to this order began after the two transactions were consummated and Ceridian had already integrated its networks and the acquired businesses. Consequently, in lieu of some alternative form of relief, we chose to accept the current order -- which requires that Ceridian provide access and licensing to its networks -- to offset the loss of competition occasioned by the acquisitions.

We remain concerned, however, about the complexity of the behavioral remedy required in this case. Thus, we will review the effectiveness of the remedy over the next few years in light of evolving industry conditions and, as we do for all of our orders, we will carefully monitor Ceridian's compliance with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to public comment, an agreement containing a proposed Consent Order from Ceridian Corporation ("Ceridian"), which is designed to remedy the anticompetitive effects resulting from Ceridian's acquisitions of NTS Corporation and Trendar Corporation. Under the terms of the agreement, Ceridian will grant licenses to providers of truck stop fuel desk automation systems to process transactions originated by Ceridian's fleet cards, and will grant licenses to fleet card issuers to have their cards processed through Ceridian's Trendar fuel desk automation system.

Analysis to Aid Public Comment

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the proposed Consent Order and the comments received, and will decide whether it should withdraw from the proposed Consent Order or make final the proposed Order.

Pursuant to an asset exchange agreement executed in January, 1998, Ceridian, through its wholly owned subsidiary Comdata Network, Inc. ("Comdata"), acquired substantially all of the assets of NTS. In March, 1995, Comdata Holdings Corporation, a subsidiary of Ceridian, acquired Trendar Corporation. Because the price of Trendar was below \$15 million, it was not reportable under the Hart-Scott-Rodino Antitrust Improvements Act. The proposed Complaint alleges that these two acquisitions violated Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the market for the provision of fleet card services to over-the-road trucking companies and the market for truck stop fuel desk automation systems.

Fleet Card Services for Over-the-Road Trucking Companies

The services provided by fleet card issuers are of critical importance to over-the-road trucking companies. Fleet cards physically resemble traditional credit cards in that they are plastic laminated cards with embossed numbers on the front and a magnetic stripe on the back. Fleet cards are similar to traditional credit cards in that they provide a means by which cardholders can make purchases at retail locations that accept the card. Fleet cards issued on behalf of trucking companies provide additional services that go beyond the capabilities of traditional credit cards, allowing trucking companies to control the type, volume and frequency of their drivers' purchases, and capture important information relating to the transactions, such as drivers' odometer

readings and vehicle identification numbers. Because of the specialized features of these fleet cards, traditional credit cards and other types of fleet cards are not acceptable substitutes. Comdata is the largest provider of fleet card services to over-the-road trucking companies in the United States. At the time Ceridian acquired NTS, NTS and Comdata were substantial, actual competitors in that market.

Fuel Purchase Desk Automation Systems

Fuel purchase desk automation systems are the means by which most truck stops process fleet card transactions. Fuel purchase desk automation systems used by truck stops can process multiple card issuers' fleet cards with a single device, thereby minimizing the physical space truck stops must allocate to point of sale ("POS") equipment and the training required for fuel purchase desk attendants. Such systems report transactions data and other information to the fleet card issuer, process the approval or rejections of requested transactions, and interface with fueling pumps. Comdata's fuel purchase desk automation system, Trendar, is the dominant means by which truck stops process fleet card transactions.

Fleet cards and fuel purchase desk automation systems are complementary products, and both products exhibit strong network effects. Demand for a fleet card rises with the number of truck stops that accept the card, which in turn depends on the number of fuel purchase desk automation systems that accept the card. Similarly, demand for a fuel purchase desk automation system rises with the number of fleet cards that can use the system. Effective entry into either market alleged in the complaint would be difficult, time consuming and unlikely to be successful without access to a substantial portion of the other market.

Analysis to Aid Public Comment

Effects of the Acquisitions

The acquisitions of NTS and Trendar resulted in Comdata's having a dominant position in both the fleet card services market and the fuel purchase desk automation systems market. In addition, the acquisitions raised barriers to entry in both markets, because effective entry into either market now requires Comdata's acquiescence. In the absence of the two acquisitions, Comdata would have had strong incentives to ensure that its fleet card was accepted on as many fuel purchase desk automation systems as possible, and Trendar would have maximized its value by accepting as many fleet cards as possible. With the acquisitions, however, these incentives became skewed: Comdata now must consider the impact on its Trendar system of allowing a competing fuel purchase desk automation system to process its card, and the impact on its fleet card business of allowing a rival fleet card to be processed on the Trendar system.

The market for the provision of fleet card services for over-the-road trucking companies is highly concentrated. Comdata controls the majority of that market and, with its acquisition of NTS, is more than five times larger than its nearest competitor. At the time of its acquisition, NTS was Comdata's closest competitor in the market for fleet card services for over-the-road trucking companies. The market for fuel purchase desk automation systems is also highly concentrated. At the time of its acquisition by Comdata, Trendar was the leading supplier of truck stop fuel purchase desk automation systems in the United States. Trendar remains the nation's leading supplier of truck stop fuel purchase desk automation systems.

Ceridian's acquisitions of NTS and Trendar have given Comdata the power to control new entry into, and expansion by incumbent providers in, both the market for the provision of fleet card services to over-the-road trucking companies and the market for truck stop fuel purchase desk automation systems. By

Analysis to Aid Public Comment

acquiring Trendar, Comdata gained control of the predominant means by which fleet cards are processed by truck stops. Comdata therefore has the ability to preclude or delay new entry into the fleet card market, and to discipline or disadvantage new entrants or incumbent providers of fleet cards who seek to compete effectively with Comdata, by denying them access to Trendar's POS system or by granting access only on discriminatory terms. The investigation revealed evidence that Comdata has delayed or denied some fleet card competitors access to Trendar and Comdata has increased the fees to other firms for Trendar access. Similarly, by acquiring NTS, Comdata enhanced its control over the means by which over-the-road trucking companies purchase fuel.

In addition, both acquisitions increased the difficulty of entry into the fuel purchase desk automated system market. Comdata can defend Trendar's dominant position in that market by denying new entrants access to the fleet card protocols needed to process Comdata and NTS cards, or by granting access only on discriminatory terms. The investigation revealed evidence that Comdata has sought to impede entry. Given Comdata's dominance in the fleet card market, truck stop operators are unlikely to accept a POS system that cannot process Comdata's fleet cards. Because of the complementary nature of the fleet card and fuel purchase desk automation systems products, a new entrant that is unable to secure access to Comdata's products would have to enter both markets simultaneously. Such entry would be time consuming and costly, and is much less likely to be successful.

The Proposed Consent Order

While litigation with a goal of forcing the divestiture of NTS and Trendar was an alternative considered by the Commission, the proposed Consent Order effectively remedies the competitive effects of the two acquisitions without the delay and expenditure of resources that would be incurred with litigation. The proposed Consent Order requires Ceridian to grant fleet card issuers access

Analysis to Aid Public Comment

to Comdata's Trendar fuel purchase desk automation system, and to grant fuel purchase desk automation systems suppliers the right to process Comdata's fleet cards. While access to the Trendar network and the NTS card could also have been accomplished through divestiture, the Commission concluded that divestiture was not necessary to resolve the competitive concerns raised by the two transactions, in part because numerous firms have indicated that they intend to take advantage of the terms of the proposed Consent Order to enter or expand their presence in the two markets.

In order to remedy the concerns in the fleet card services market, the Consent Order requires Comdata, for a period of three years, to grant a ten-year license to effect transactions on the Trendar system to any company providing, or seeking to provide, fleet card services. The order requires Comdata to refer any requests for such a license to a third-party developer approved by the Commission, that will perform all programming or other services necessary to enable the licensee to process transactions on the Trendar system. Once such programming services are completed by the third-party developer, Comdata is required to promptly disseminate the software to all truck stops on the Trendar network. Comdata is further required to provide licensees with equal access to any upgrades or modifications to the Trendar system, and is prohibited from basing any transaction fees charged to truck stops for processing the Comdata card, as well as access to the Comdata card, on whether such truck stops accept any other firm's fleet cards.

In order to remedy concerns in the fuel purchase desk automation systems market, the Consent Order requires Comdata, for a period of three years, to grant a ten-year license to all incumbent suppliers of fuel purchase desk automation systems, and to the first three new system providers that request a license. The license awarded to new system providers shall be

transferrable, ensuring that if a better positioned entrant emerges in the future, it will be able to acquire a license.

In order to qualify for a license, new system providers must meet certain established criteria. Under the Consent Order, Comdata is required to promptly provide all licensees with all information or assistance necessary to enable the licensee to effect Comdata card transactions in a manner comparable to the way in which those transactions are processed on the Trendar system. The Order permits Comdata to certify that a licensee's system is capable of processing Comdata card transactions using criteria set forth in the Consent Order, and, if Comdata denies such certification, it must provide a complete enumeration for the reasons for such denial. The Order further requires Comdata to grant licensees complete and equal access to all Comdata card functions, upgrades and new developments. Finally, the Order provides that Comdata may not discriminate against any supplier of fuel purchase desk automation systems by charging transaction fees to truck stops that are based on which fuel purchase desk automation system the truck stop uses.

The Consent Order contains additional provisions that are designed to prevent the flow of confidential information obtained from Comdata's competitors between Comdata's fleet card and fuel purchase desk automation system businesses. Under the Order, Comdata is prohibited from providing any non-public information obtained from fuel purchase desk automation system providers to its Trendar business. Likewise, the Order prohibits Comdata from providing any non-public information obtained from fleet card issuers to its Comdata card business.

In order to ensure Comdata's compliance with the terms of the Order, the Commission is allowed to appoint a trustee to monitor any disputes, claims or controversies arising under the Order. The order specifically permits the monitor-trustee to prepare a report for the Commission relating to any failure by Comdata to certify either a fuel purchase desk automation system or a new fleet card and any failure by the third-party developer to provide

Complaint

programming and certification services to fleet card issuers in a timely manner. The trustee is also permitted, where appropriate, to report to the Commission regarding Ceridian's compliance with the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify their terms in any way.

Complaint

IN THE MATTER OF

SHAW'S SUPERMARKETS, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3934; File No. 991 0075
Complaint, April 5, 2000--Decision, April 5, 2000

This consent addresses the \$490 million acquisition by Shaw's Supermarkets, Inc., a wholly owned subsidiary of J Sainsbury plc, of Star Market Holdings, Inc., the second and third largest supermarket chains, respectively, operating in the Greater Boston area. The complaint alleges that the proposed acquisition would substantially lessen competition in the markets for the retail sale of food and grocery items in supermarkets in the relevant geographic market. The consent order requires Shaw's to divest ten supermarkets, which represent all of either the Shaw's or Star supermarkets in the relevant market areas to buyers who do not currently operate supermarkets in these markets.

Participants

For the Commission: *Jessica D. Gray* and *David von Nirschl*

For the Respondents: *Carrie M. Anderson* and *Steven A. Newborn, Rogers & Wells*; and *John Herfort* and *Malcolm Pfunder, Gibson, Dunn & Crutcher*.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission ("Commission"), having reason to believe that respondent J Sainsbury plc ("J Sainsbury") and respondent Shaw's Supermarkets, Inc. ("Shaw's"), a wholly-owned subsidiary of respondent J Sainsbury's, have entered into an agreement to acquire all of the outstanding shares of respondent Star Markets Holdings, Inc. ("Star Markets"), all subject to the jurisdiction of the Commission, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15