produced by News Transcripts Inc. (''NTI''), and Reuters had the exclusive right to market these news transcripts.

The complaint alleges that by May 1993, FNS, Reuters and Cortes W. Randell agreed that Reuters would become a reseller of FNS-produced news transcripts and not sell news transcripts to FNS's customers; Reuters would not produce or sell any news transcripts which compete with FNS-produced news transcripts; and Reuters would not sell news transcripts below a minimum monthly price of $500.

The complaint further alleges that Reuters, in concert with FNS, induced NTI to cease producing news transcripts and not to compete with FNS. The complaint alleges that the purpose or effect of the agreements was to eliminate competition in the production and sale of news transcripts. The complaint alleges that after FNS became the sole producer of news transcripts, many customers of FNS received price increases.

The complaint also alleges that FNS and Cortes W. Randell, in concert with Reuters, coerced a reseller to raise the price of the reseller's news transcript database. The reseller raised its price to assure its continued supply of FNS-produced news transcripts.

FNS and Cortes W. Randell have signed a proposed consent agreement that prohibits them from agreeing to or attempting to agree to allocate customers or divide markets with any provider of news transcripts. For a five year period, the proposed consent agreement also prohibits FNS from having a supply agreement with Reuters or an agreement with Reuters to acquire or sell news transcript customer accounts. Additionally, the proposed consent agreement prohibits FNS or Cortes W. Randell from entering into agreements with Reuters that prevent Reuters from competing in the production, marketing, or sale of news transcripts. Finally, the proposed consent order prohibits FNS or Cortes W. Randell from fixing or attempting to fix resale prices for news transcriptions.

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 terms of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–24757 Filed 10–4–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 951–0107]

First Data Corporation; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require First Data, a Hackensack, New Jersey corporation to divest either the Western Union business acquired through its merger with First Financial Management Corporation or its own MoneyGram business to an entity that will operate it in competition with the merged company.

DATES: Comments must be received on or before December 4, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Bureau of Competition, Federal Trade Commission, H–374, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2932, or Ann Malester, Bureau of Competition, Federal Trade Commission, S–2307, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission'') having initiated an investigation of the proposed acquisition of all of the stock of First Financial Management Corporation (''First Financial'') by First Data Corporation (''First Data''), and it now appearing that First Data, hereinafter sometimes referred to as ''proposed respondent,'' is willing to enter into an agreement containing an Order to divest certain assets and providing for other relief:

It is hereby agreed by and between proposed respondent, by its duly authorized officers and attorney, and counsel for the Commission that:

1. Proposed respondent First Data 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 401 Hackensack Avenue, Hackensack, New Jersey 07601.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint, or that the facts alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following Order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to proposed

respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondent has read the proposed complaint and Order contemplated hereby. Proposed respondent understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that, as used in this Order (including Appendix I), the following definitions shall apply:

A. ''Respondent'' or ''First Data'' means First Data Corporation, its subsidiaries, divisions, groups and affiliates controlled by First Data Corporation, and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

B. ''First Financial'' means First Financial Management Corporation, a corporation providing certain services including consumer money wire transfers through Western Union Financial Services, Inc.

C. ''Western Union'' means Western Union Financial Services, Inc., a wholly-owned subsidiary of First Financial Management Corporation, with its principal office and place of business located at One Mack Center Drive, Paramus, New Jersey 07652. Western Union provides and markets, among other things, consumer money wire transfer services.

D. ''Commission'' means the Federal Trade Commission.

E. ''Acquisition'' means the direct or indirect acquisition of control of First Financial by Respondent First Data.

F. ''Consumer Money Wire Transfer Service'' means the business of transferring the right to money using computer or telephone lines from one person through the location of a Selling Agent to a different person physically present at the location of a Selling Agent available to the general public through Selling Agents at retail outlets as currently offered by First Data and Western Union. ''Consumer Money Wire Transfer Service'' does not include transactions involving only one customer utilizing automatic teller machines and other point of sale devices, transactions involving debit cards, cash advances utilizing credit cards, home banking, prepaid telephone and cash cards, money orders, and utility bill payment services and further does not include the provision of data processing services to a Consumer Money Transfer Service business.

G. ''Selling Agent'' means a person or business, such as a check cashing store, a drug store, a supermarket, a postal service, a bus station, or a travel agency, that contracts with Consumer Money Wire Transfer Service to provide the Consumer Money Wire Transfer Service to customers.

H. ''MoneyGram Service'' means First Data's Consumer Money Wire Transfer Service marketed under the name ''MoneyGram.''

I. ''MoneyGram Assets'' or ''MoneyGram Business'' include all assets, properties, business and goodwill, tangible and intangible, related to the sale and marketing of the MoneyGram Service, including, but not limited to:

1. the MoneyGram trade name, trade dress, trade marks, and service marks; and,

2. a group of contracts with Selling Agents to provide the MoneyGram Service that provides a network of Selling Agents at least comparable to the group of Selling Agents under contract to provide the MoneyGram Service on May 1, 1995 other than the American Express Travel Related Services Company Travel Services Offices, based on characteristics of the Selling Agents such as the countries and cities served, number of Selling Agents, and type of outlet; provided, however, that the condition regarding the ''number of Selling Agents'' is satisfied if the number of Selling Agents is 10,000 or greater.

J. ''Western Union Service'' means Western Union's Consumer Money Wire Transfer Service.

K. ''Western Union Assets'' or ''Western Union Business'' include all assets, properties, business and goodwill, tangible and intangible, related to the sale and marketing of the Western Union Service, including, but not limited to:

1. the Western Union trade name, trade dress, trade marks, and service marks; and,

2. all contracts with selling agents to provide the Western Union Service.

L. ''Assets To Be Divested'' means the MoneyGram Assets or the Western Union Assets. The definition of ''Assets To Be Divested'' as well as any other provision in this order, however, shall not be construed to prohibit First Data from divesting both the MoneyGram Assets and the Western Union Assets to different acquirers.

M. ''Marketability, Viability, and Competitiveness'' of the Assets To Be Divested means that such assets when used in conjunction with the assets of the acquirer or acquirers are capable of providing a Consumer Money Wire Transfer Service substantially similar to the Consumer Money Wire Transfer Service that the Assets To Be Divested are capable of providing at the time of the Acquisition.

N. ''Non-public information'' means any information not in the public domain furnished to First Data in its capacity as a provider of data processing services by a Consumer Money Wire Transfer Service provider.

II

It is further ordered that:

A. Respondent shall divest, absolutely and in good faith, within twelve (12) months after the date this Order becomes final, the Assets To Be Divested and shall also divest such additional ancillary assets and businesses other than money order or utility bill payments businesses and effect such arrangements as are necessary to assure the Marketability, Viability, and Competitiveness of the Assets To Be Divested.

B. Respondent shall divest the Assets To Be Divested only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of the Assets To Be Divested is to ensure the continued use of the Assets To Be Divested in the same businesses in which the Assets To Be Divested are presently engaged, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

C. Respondent shall make available to the acquirer or acquirers such First Data personnel, assistance and training as the acquirer or acquirers reasonably need to transfer technology and know-how, and First Data shall continue providing such personnel, assistance and training at no additional cost for a period of time sufficient to satisfy the acquirer's or acquirers' management that its personnel are appropriately trained in the business. However, Respondent shall not be required to continue providing such personnel, assistance

and training for more than six (6) months after the Assets To Be Divested are divested pursuant to this Order.

D. Pending divestiture of the Assets To Be Divested, Respondent shall take such actions as are necessary to maintain the marketability, Viability, and Competitiveness of the Assets To Be Divested, and to prevent the destruction, removal, wasting, deterioration or impairment of any of the Assets To Be Divested except for ordinary wear and tear. Provided, however, that nothing in this Paragraph shall be construed to prohibit First Data from competing in the ordinary course of business.

E. Respondent shall comply with all terms of the Agreement to Hold Separate, attached to this Order and made a part hereof as Appendix I. The Agreement to Hold Separate shall continue in effect until such time as Respondent has divested all Assets To Be Divested as required by this Order.

III

It is further ordered that:

A. If First Data has not divested, absolutely and in good faith, and with the Commission's prior approval, the Assets To Be Divested within the time period specified in Paragraph II.A. of this Order, the Commission may appoint a trustee to divest the Western Union Assets. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, First Data shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondent to comply with this Order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III. A. of this Order, Respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondent of the identity of any proposed trustee, Respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Western Union Assets.

3. Within ten (10) days after appointment of the trustee, Respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this Order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III. B. 3. to accomplish the divestiture of the Western Union Assets, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve (12) month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Western Union Assets or to any other relevant information, as the trustee may request. Respondent shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by Respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II. of this Order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of Respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ at the cost and expense of Respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondent, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Western Union Assets.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in this Paragraph of this Order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

11. The trustee shall have no obligation or authority to operate or maintain the Western Union Assets.

12. The trustee shall report in writing to Respondent and the Commission every thirty (30) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that if First Data divests the MoneyGram Assets pursuant to Paragraph II. of this Order, First Data shall not enter into any Consumer Money Wire Transfer Service contract with any Selling Agent who is under contract to provide the MoneyGram Service at the time of the divestiture; provided, however, that First Data may enter into such a Consumer Money Wire Transfer Service contract (i) after the time the Selling Agent's contract with First Data would have expired had the divestiture not occurred, determined without regard to any contract extension or renewal that could occur after the date of the divestiture, (ii) if the contract is terminated in accordance with its terms other than as may be permitted as a result of the divestiture of the MoneyGram Assets or (iii) if the First Data Consumer Money Wire Transfer Service being provided is a transfer service utilizing automatic teller machines or any other point of sale device, and the MoneyGram Service contract upon its terms would not have barred the Selling Agent from entering into such a contract.

V

It is further ordered that nothing in this Order shall be construed as prohibiting First Data from entering into agreements with any Consumer Money Wire Transfer Service provider, including the acquirer or acquirers of the MoneyGram Business and the Western Union Business, for the provision of data processing services provided that:

A. Any such agreement entered into within eighteen (18) months of the date of the divestiture does not run for a period of more than two years;

B. No First Data officer, employee or agent who is involved in providing First Data's Consumer Money Wire Transfer Service receives non-public information of any other Consumer Money Wire Transfer Service provider;

C. First Data uses any non-public information obtained by First Data only in First Data's capacity as a provider of data processing services; and

D. First Data delivers a copy of this Order to each officer, employee or agent involved in marketing First Data's Consumer Money Wire Transfer Service or in providing data processing to any other Consumer Money Wire Transfer Service provider prior to First Data's obtaining any non-public information relating to the provider's business.

VI

It is further ordered that:

A. Within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until Respondent has fully complied with the provision of Paragraphs II. and III. of this Order, 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 Paragraphs II. and III. of this Order. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II. and III. of the Order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at such 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 Paragraphs IV. and V. of 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, or 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, subject to any legally recognized privilege, and upon written request with reasonable notice to First Data made to its General Counsel, Respondent shall permit any duly authorized representative of the Commission.

A. Access during office hours of First Data 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

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

Appendix I

Agreement to Hold Separate

This Agreement to Hold Separate (the ''Agreement'') is by and between First Data Corporation (''First Data''), 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 at 401 Hackensack Avenue, Hackensack, New Jersey 07601; and the Federal Trade Commission (''the Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (collectively, the ''Parties'').

Premises

Whereas, First Data has proposed to acquire, directly or indirectly, all of the voting stock or substantially all of the assets of First Financial Management Corporation (''First Financial''), (hereinafter ''Acquisition''); and

Whereas, First Data, with its principal office and place of business located at 401 Hackensack Avenue, Hackensack, New Jersey 07601, provides and markets, among other things, Consumer Money Wire Transfer Services; and

Whereas, First Financial, with its principal office and place of business located at 3 Corporate Square, Suite 700, Atlanta, Georgia, 30329, provides and markets, among other things, Consumer Money Wire Transfer Services; and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the attached Agreement Containing Consent Order (''Consent Order''), the Commission must place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the status quo ante of the MoneyGram Business during the period prior to the final acceptance of the Consent Order by the Commission (after the 60-day public notice period), divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of the Assets To Be Divested as described in Paragraph I. of the Consent Order and the Commission's right to have the MoneyGram Business continued as a viable competitor; and

Whereas, the purpose of the Agreement and the Consent Order is:

1. To preserve the viability of the MoneyGram Business pending the divestiture of the Assets To Be Divested as a viable and ongoing enterprise,

2. To remedy any anticompetitive effects of the Acquisition, and

3. To preserve the MoneyGram Business as an ongoing and competitive Consumer Money Wire Transfer Service until divestiture is achieved; and

Whereas, First Data's entering into this Agreement shall in no way be construed as an admission by First Data that the Acquisition is illegal; and

Whereas, First Data understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the parties agree, upon the understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from First Data with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement to Hold Separate and the Consent Order to which it is annexed and made a part thereof, and in the event the required divestiture is not accomplished, to appoint a trustee to seek divestiture of the Western Union Assets pursuant to the Consent Order, as follows:

1. First Data agrees to execute and be bound by the attached Consent Order.

2. First Data agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 2.a. – 2.b., it will comply with the provisions of Paragraph 3. of this Agreement:

a. three business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's rules;

b. the day after the divestiture required by the Consent Order has been completed.

3. To ensure the complete independence and viability of the MoneyGram Business and to assure that no competitive information is exchanged between the MoneyGram Business and First Data, First Data shall hold the MoneyGram Business separate and apart on the following terms and conditions:

a. First Data will appoint three individuals to manage and maintain the MoneyGram Business. These individuals (''the management team'') shall manage the MoneyGram Business independently of the management of First Data's other businesses. The individuals on the management team shall not be involved in any way in the marketing, selling or management of any other First Data business, including the Western Union Business.

b. The management team, in its capacity as such, shall report directly and exclusively to an independent auditor/manager, to be appointed by First Data. The independent auditor/manager shall have expertise in management and marketing. The independent auditor/manager shall have exclusive control over the operations of the MoneyGram Business, with responsibility for the management of the MoneyGram Business and for maintaining the independence of that business.

c. First Data shall not exercise direction or control over, or influence directly or indirectly the independent auditor/manager or the management team or any of its operations relating to the operations of the MoneyGram Business; provided, however, that First Data may exercise only such direction and control over the independent auditor/manager, management team and MoneyGram Business is necessary to assure compliance with this Agreement and with all applicable laws.

d. First Data shall maintain the Marketability, Viability, and Competitiveness of the MoneyGram Assets and shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair their Marketability, Viability or Competitiveness.

e. Except for the management team, sales and marketing employees involved in the MoneyGram Business, and support service employees involved in the MoneyGram Business, such as Human Resource, Legal, Tax, Accounting, Insurance, and Internal Audit employees, First Data shall not permit any other First Data employee, officer, or director to be involved in the management of the MoneyGram Business. Sales and marketing employees involved in the MoneyGram Business, shall not be involved in any other First Data business, including the Western Union Business. Support service employees involved in the MoneyGram Business shall not be involved in the Western Union Business.

f. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations or litigation, or negotiating agreements to divest assets, First Data, other than sales and marketing employees involved in the MoneyGram Business, or support service employees involved in the MoneyGram Business, shall not receive or have access to, or the use of, any material confidential information about the MoneyGram Business, the activities of the management team, sales and marketing employees involved in the MoneyGram Business, or support service employees involved in the MoneyGram Business in managing that business not in the public domain, nor shall the management team, sales and marketing employees involved in the MoneyGram Business, or support service employees involved in the MoneyGram Business receive or have access to, or the use, any material confidential information about the Western Union Business or the activities of First Data in managing the Western Union Business not in the public domain. Any such information that is obtained pursuant to this subparagraph shall be used only for the purpose set forth in this subparagraph. (''Material confidential information,'' as used herein, means competitively sensitive or proprietary information not independently known to:

(a) First Data, with regard to the MoneyGram Business, from sources other than the management ream, sales and marketing employees involved in the MoneyGram Business, or support service employees involved in the MoneyGram Business; or

(b) the management team, sales and marketing employees involved in the MoneyGram Business, or support service employees involved in the MoneyGram Business with regard to the Western Union Business and includes but is not limited to customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

g. First Data shall not change the composition of the management team unless the independent auditor/manager consents. The independent auditor/manager shall have the power to remove members of the management team and to require First Data to appoint replacement members to the management team in the same manner as provided in Paragraph 3.a. of this Agreement to Hold Separate.

h. First Data shall circulate to all its employees involved with the MoneyGram Business, Western Union Business, or the data processing services provided to either the MoneyGram or Western Union Businesses, and appropriately display, a notice of this Hold Separate Agreement and Consent Order in the form attached hereto as Attachment A.

i. First Data shall make available for use in the MoneyGram Business until divestiture of the Assets To Be Divested is accomplished an amount of money for advertising and trade promotion of the MoneyGram Service not lower than $24 million annually, with no less than $10 million for any two consecutive quarters. First Data shall pay all direct costs and indirect overheads for the MoneyGram Business. The MoneyGram Business shall not be charged with the compensation and expenses of the independent auditor/manager.

j. First Data shall make available for use in the MoneyGram Business until divestiture of the Assets To Be Divested an amount of money needed to provide an additional 20 percent sales commission to the MoneyGram Business sales force on all MoneyGram agent renewals and MoneyGram agent recruitments above and beyond the 1995 sales commission rate for MoneyGram agent renewals and MoneyGram agent recruitments.

k. The independent auditor/manager shall serve at the cost and expense of First Data. First Data shall indemnify the independent auditor/manager against any losses or claims of any kind that might arise out of his or her involvement under this Agreement to Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the independent auditor/manager.

l. If the independent auditor/manager ceases to act or fails to act diligently, a substitute auditor/manager shall be appointed in the same manner as provided in Paragraph 3.b. of this Agreement to Hold Separate.

m. The independent auditor/manager shall have access to and be informed about all

companies who inquire about, seek or propose to buy the MoneyGram Assets. First Data may require the independent auditor/manager to sign a confidentiality agreement prohibiting the disclosure of any material confidential information gained as a result of his or her role as independent auditor/manager to anyone other than the Commission.

n. All material transactions, out of the ordinary course of business and not precluded by subparagraphs 3.a.–3.n. hereof, shall be subject to a majority vote of the management team. In case of a tie, the independent auditor/manager shall cast the deciding vote.

o. The independent auditor/manager shall report in writing to the Commission every thirty (30) days concerning the independent auditor/manager's efforts to accomplish the purposes of this Agreement to Hold Separate.

4. Should the Federal Trade Commission seek in any proceeding to compel First Data to divest itself of the MoneyGram Assets or the Western Union Assets, or to seek any other equitable relief, First Data shall not raise any objection based on the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. First Data also waives all rights to contest the validity of this Agreement.

5. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to First Data made to its General Counsel, First Data shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of First Data 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 First Data relating to compliance with this Agreement; and

b. Upon five days' notice to First Data, and without restraint or interference from it, to interview officers or employees of First Data, who may have counsel present, regarding any such matters.

6. This Agreement shall not be binding until approved by the Commission.

Attachment A

Notice of Divestiture and Requirement for Confidentiality

First Data Corporation (''First Data'') has entered into Consent Agreement and Agreement To Hold Separate with the Federal Trade Commission relating to the divestiture of the MoneyGram Business or the Western Union Business. Until after the Commission's Order becomes final and First Data's interest in either the MoneyGram Business or the Western Union Business is divested, the MoneyGram Business must be managed and maintained as a separate, ongoing business, independent of all other First Data businesses and independent of Western Union Business. All competitive information relating to the MoneyGram Business, except information received by First Data in connection with the provision of data processing services to the MoneyGram Business as described in and protected by the confidentiality provision of Paragraph V. of the Consent Order, must be retained and maintained by the persons involved in the MoneyGram Business on a confidential basis and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other First Data business, including the Western Union Business. Similarly, all such persons involved in the Western Union Business shall be prohibited from providing, discussing, exchanging, circulating or otherwise furnishing competitive information about such business to or with any person whose employment involves the MoneyGram business.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject First Data to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a proposed consent order from First Data Corporation (''First Data''), under which First Data would divest either the MoneyGram or Western Union consumer money wire transfer business.

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 days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

On June 13, 1995, First Data and First Financial Management Corporation (''First Financial'') agreed to merge in a stock swap valued at $6.7 billion. Under the proposed agreement, First Financial shareholders would receive 1.5859 shares of First Data stock for each share of First Financial.

The proposed complaint alleges that the proposed merger, if consummated, would constitute a 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 market for consumer money wire transfer services. A consumer money wire transfer is a unique method of transferring cash between two people in different geographic locations that is quick, secure and convenient to use. First Data currently provides consumer money wire transfers through its MoneyGram business. First Financial currently provides consumer money wire transfers through its subsidiary, Western Union Financial Services, Inc. These two companies are currently the only two domestic consumer money wire transfer services. No potential entrant is well-situated to overcome the high barriers to entry and deter or counteract the anticompetitive effects of the proposed merger. As a consequence, the combination of these two companies is likely to result in a monopoly and lead to anticompetitive effects such as higher prices and reduced services in the United States consumer money transfer market.

The proposed Consent Order would remedy the alleged violation by replacing the lost competition that would result from the merger of First Data and First Financial. The proposed Consent Order provides that, within twelve (12) months after the date the Order becomes final, First Data shall divest either the consumer money wire transfer assets of MoneyGram or those of Western Union. If First Data is unable to divest these assets during the allotted time period, then a trustee may be appointed to divest the Western Union assets within a (12) month period. If, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the time period for divestiture can be extended by the Commission, or, in the case of a court-appointed trustee, by the court. The Commission, however, may extend this period only two (2) times.

A Hold Separate Agreement signed by First Data provides that until the MoneyGram or Western Union consumer money wire transfer assets are divested, the MoneyGram assets will be operated independently of the Western Union assets. Under the provisions of the Order within sixty (60) days following the date this Order becomes final, and every sixty (60) days thereafter until First Data has completely divested its interest in either the MoneyGram or Western Union assets.

The Order also provides that, if First Data divests the MoneyGram assets, First Data would then be prohibited from entering into a contract with any selling agent who is under contract to provide the MoneyGram service at the time of the divestiture. However, the Order does permit First Data to enter into a contract with such an agent after the agent's contract with First Data would have expired absent the divestiture.

The Order expressly allows First Data to supply data processing services to other consumer money wire transfer suppliers, provided that it shield any First Data employee who is involved in providing First Data's consumer money wire transfer provider. This provision will allow competing consumer money wire transfer companies to use First Data's data processing service while preventing the facilitation of collusion that could occur as a result of the transfer of proprietary information from other consumer money wire transfer providers to First Data, through its role as a data processor.

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 in any way their terms.

Donald S. Clark,

Secretary.

Statement of Commissioner Christine A. Varney, Merger of First Financial Management Corp. and First Data Corp. [File No. 951–0107]

The First Financial/First Data merger represents another milestone in the fast-

paced development of electronic payment systems. While combinations such as this may have efficiency driven, pro-competitive effects, I remain concerned about increased concentration in the merchant acquirer services industry. This market is growing dramatically, and is increasingly central to back-end processing of credit card purchases. I expect that we will soon see additional acquisitions in the merchant acquirer services industry and, in that light, I have asked the Staff of the Commission to continue to monitor the competitive situation in this evolving market.

[FR Doc. 95–24759 Filed 10–4–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 951–0015]

Reuters America Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would, among other things, prohibit a New York-based distributor of fast-turnaround verbatim news transcripts from agreeing to or attempting to agree to allocate customers or divide markets with any provider of news transcripts.

DATES: Comments must be received on or before December 4, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Michael E. Antalics, Bureau of Competition, Federal Trade Commission, S–2627, 6th Street & Pennsylvania Ave., N.W., Washington, DC 20580. (202) 326–2821.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission having initiated an investigation of certain acts and practices of Reuters America Inc., hereinafter sometimes referred to as ''Proposed Respondent'', and it now appearing that Proposed Respondent is willing to enter into an Agreement containing an Order to Cease and Desist from engaging in the acts and practices being investigated,

It Is Hereby Agreed by and between the Proposed Respondent, their attorney, and counsel for the Federal Trade Commission that:

1. Proposed Respondent Reuters America Inc. (''Reuters'') is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 1700 Broadway, New York, New York 10019.

2. Proposed Respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules of Practice, the Commission may, without further notice to the Proposed Respondent, (1) issue its complaint corresponding in form and substance with the draft of the complaint and its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect as other orders. The Order may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to the attention of the Office of the General Counsel at the Proposed Respondent's addresses as stated in this agreement shall constitute service. Proposed Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or agreement may be used to vary or contradict the terms of the Order.

7. Proposed Respondent has read the draft complaint and Order contemplated hereby. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

For the purposes of this Order:

A. *Respondent* means Reuters America Inc., its subsidiaries, divisions, and groups and affiliates controlled by Reuters America Inc., its successors and assigns, and its directors, officers, employees, agents, and representatives.

B. *FNS* means Federal News Service Group, Inc/, its directors, officers, representatives, delegates, agents, employees, successors, assigns and its subsidiaries and their successors and assigns; and Federal News Service, its directors, officers, representatives, delegates, agents, employees, successors, assigns and its subsidiaries and their successors and assigns.

C. *News transcripts* mean full-text fast turnaround verbatim transcripts of government-related events that are usually but not always produced within