

charging restrictions of this Section IV.I(2), whether or not such activities are affected by this Final Judgment; and further provided that, in the event that the Antitrust Division seeks to have the Court find Northrop in contempt or impose civil penalties and the conduct at issue is held by the Court to be compliant with the non-discrimination provisions of this Final Judgment, the remedial costs disallowed pursuant to this Section may be charged to DoD.

(3) remedial costs are those costs, incurred by Northrop, relating directly to the administration of measures to remedy conduct of Northrop in violation of this Final Judgment, where the following conditions are met:

(a) the conduct of Northrop was not undertaken pursuant to prior written direction or approval of the Compliance Officer;

(b) the Secretary of the Air Force has taken action in accordance with Sections IV.A(2) or IV.B(2) indicating concurrence with the Compliance Officer's conclusion that Northrop has engaged in conduct in violation of this Final Judgment with respect to a United States Government Satellite Program; and

(c) said costs are incurred after the date of the Secretary of the Air Force's action.

V. Appointment of Compliance Officer

To effect the procedures set forth in this Final Judgment, the Secretary of Defense shall appoint a Compliance Officer, who shall be an employee of the United States government. The Compliance Officer shall oversee compliance by the defendants with the terms of this Final Judgment, and shall have the power and authority to oversee such compliance and such other powers as this Court deems appropriate.

A. To perform his duties and responsibilities, and subject to any legally recognized privilege, the Compliance Officer may:

(1) Investigate any complaint or representation made to him or made available to him with respect to any matter arising in relation to or connected with compliance by Northrop with this Final Judgment;

(2) interview any Northrop personnel, subject to the reasonable convenience of such personnel, without restraint or interference by Northrop;

(3) during normal business hours, inspect and copy any document in the possession, custody of Northrop;

(4) during normal business hours, obtain reasonable access to any systems or equipment to which Northrop personnel have access;

(5) during normal business hours, obtain access to and inspect any physical facility, building, or other premises to which Northrop personnel have access;

(6) require Northrop to provide compilations of documents, data, and other information to Compliance Officer in such form as the Compliance Officer may direct;

(7) solicit and accept comments from third parties;

(8) utilize DoD or other United States government staff as appropriate to assist in the execution of the Final Judgment;

(9) hire, at the cost and expense of Northrop, a third party (or third parties) to assist in the execution of this Final Judgment, which third party (or third parties) shall be solely accountable to the Compliance Officer, and shall have such duties responsibilities as determined by the Compliance Officer and that do not exceed the Compliance Officer's duties and responsibilities as set forth in the Final Judgment; provided, however, that the professional staff (including third party consultants) reporting to the Compliance Officer shall be no larger than ten (10) persons (measured by full-time equivalents), with such maximum to be expanded solely with the permission of the Secretary of the Air Force as necessary to the execution of this Final Judgment; and provided that such professional staff (including third party consultants) shall maintain the confidentiality of business sensitive or proprietary information and documents of Northrop or any other person; and

(10) advise Northrop as soon as practical of the material nature of assertions or allegations of noncompliance that the Compliance Officer intends to investigate and, within reasonable time limits set by the Compliance Officer, attempt to resolve any deficiencies in Northrop's performing its obligations under this Final Judgment.

B. Defendants shall not object to the Compliance Officer chosen by the Secretary of Defense.

C. Defendants shall use their best efforts to assist the Compliance Officer in accomplishing the procedures established in this Final Judgment. Defendants shall take no action to interfere with or to impede the Compliance Officer's accomplishment of these procedures.

D. Defendants shall furnish to the Compliance Officer a compliance report, to be submitted as directed by the Compliance Officer, but in any event no less frequently than on an annual basis or more frequently than quarterly. The compliance report shall contain an affidavit that describes the actions defendants have taken and the steps defendants have implemented to comply with the terms of this Final Judgment. The Compliance Officer may direct defendants to include in their report any other information the Compliance Officer deems useful or necessary.

E. The Compliance Officer shall report in writing on an annual basis to the Secretary of the Air Force, the General Counsel of the DoD and the Assistant Attorney General in charge of the Antitrust Division a summary of the actions the Compliance Officer has undertaken in performing his duties pursuant to this Final Judgment. Such report shall include any compliance reports submitted by defendants to the Compliance Officer pursuant to Subsection D above. If the Compliance Officer is unable to perform his duties for whatever reason the Compliance Officer shall promptly notify the above individuals. The Secretary of Defense shall then appoint another Compliance Officer. The Secretary of Defense shall have the sole discretion to replace the Compliance Officer at any time when the Secretary of Defense considers such action appropriate.

F. If the Compliance Officer has reason to believe that there has been a failure of the

defendants to comply with any term of this Final Judgment, he shall notify the Secretary of the Air Force and the General Counsel of the DoD. As soon as practical, the Compliance Officer shall inform Northrop that he has notified the Secretary of the Air Force and the general Counsel of the DoD of the failure and the material nature of the assertion or allegation of noncompliance.

VI. Compliance

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated and subject to any legally recognized privilege, from time to time duly authorized representatives of the Antitrust Division, including consultants and other persons retained by plaintiff, shall upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice of defendants be permitted:

(1) Access during defendants office hours to inspect and copy or at plaintiff's option to require defendants to provide copies of, all books, ledgers, correspondence, memoranda, accounts, records, and documents in the possession, custody, or control of defendants relating to any matters contained in this Final Judgment; and

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

B. Upon the written request of the Attorney general or of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports under oath if requested, with respect to any matter contained in the Final Judgment and the Stipulation and Order.

C. No information or documents obtained by the means provided in this Section shall be divulged by a representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material. "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules Civil Procedure," then ten (10) business days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grant jury proceeding) to which defendants are not a party.

E. When the General Counsel of the DoD has reason to believe that there has been a failure by the defendants to comply with any