

ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

In the Matter of Hertz Global Holdings, Inc., File No. 101-0137

I. Introduction

The Federal Trade Commission (“Commission”) has accepted from Hertz Global Holdings, Inc. (“Hertz”), subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”), which is designed to remedy the anticompetitive effects resulting from Hertz’s proposed acquisition of Dollar Thrifty Automotive Group, Inc. (“Dollar Thrifty”). Under the terms of the Consent Agreement, Hertz will divest its Advantage Rent A Car (“Advantage”) business as well as the right to operate at 16 additional Dollar Thrifty on-airport locations at which Advantage does not yet operate to Franchise Services of North America, Inc. (“FSNA”) and Macquarie Capital USA Inc. (“Macquarie”) (collectively “FSNA/Macquarie”). Hertz will also divest 13 additional Dollar Thrifty on-airport locations to FSNA/Macquarie or another buyer, subject to the approval of the Commission, following the closing of its acquisition of Dollar Thrifty.

The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make it final.

Pursuant to an Agreement and Plan of Merger dated August 26, 2012, Hertz plans to acquire Dollar Thrifty for approximately \$2.3 billion. The Commission’s Complaint alleges that the proposed acquisition, if consummated, would violate 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, by lessening competition in the market for airport car rentals.

II. The Parties

Hertz, headquartered in Park Ridge, New Jersey, is a global supplier of automobile and equipment rentals and related products and services. The company provides car rentals to consumers at virtually every large or medium-sized commercial airport in the United States.

Dollar Thrifty is headquartered in Tulsa, Oklahoma, and supplies automobile rentals to customers throughout the United States and Canada. In the United States, Dollar Thrifty is present at most major airports, and it operates 86 company-owned airport locations.

III. The Relevant Product and Structure of the Markets

The acquisition threatens to harm competition in the airport car rental market. Airport car rentals consist of car rentals made to consumers at airport locations. Airport car rentals are a distinct relevant market because alternative modes of transportation, such as a taxis or buses, are not reasonable substitutes. Other forms of transportation do not provide the convenience,

autonomy, or cost efficiency of renting a car, and, as a practical matter, customers are unlikely to turn to these alternative forms of transportation in response to a small but significant increase in airport car rental prices. There are two categories of airport car rentals: those made to individual customers; and contracted rentals that are available only to volume purchasers, such as corporate or government customers who have pre-negotiated car rental contracts and tour operators offering vacation packages. The competitive concerns associated with the proposed transaction are similar whether the market is viewed as an overall airport car rental market, or as a narrower one excluding rentals made pursuant to pre-negotiated rates and terms.

There are four major competitors operating in the airport car rental market: Hertz, which operates the Advantage and Hertz brands; Dollar Thrifty, which operates the Dollar and Thrifty brands; Avis Budget Group, Inc., which operates the Avis and Budget brands; and Enterprise Holdings, Inc., which operates the National, Alamo, and Enterprise brands. Market shares vary by individual airport, but on a national level these four firms account for approximately 98% of all U.S. airport car rentals.

The relevant geographic markets in which to evaluate the competitive effects of the acquisition are 72 individual airport locations:

- a. Albuquerque, New Mexico (Albuquerque International Sunport Airport)
- b. Atlanta, Georgia (Hartsfield-Jackson International Airport)
- c. Austin, Texas (Austin-Bergstrom International Airport)
- d. Baltimore, Maryland (Baltimore/Washington International Thurgood Marshall Airport)
- e. Boston, Massachusetts (Logan International Airport)
- f. Burbank, California (Burbank Bob Hope Airport)
- g. Burlington, Vermont (Burlington International Airport)
- h. Charleston, South Carolina (Charleston International Airport)
- i. Charlotte, North Carolina (Charlotte Douglas International Airport)
- j. Chicago, Illinois (Chicago Midway International Airport)
- k. Chicago, Illinois (Chicago O'Hare International Airport)
- l. Cincinnati, Ohio (Cincinnati/Northern Kentucky International Airport)
- m. Cleveland, Ohio (Cleveland Hopkins International Airport)
- n. Colorado Springs, Colorado (Colorado Springs Airport)
- o. Dallas, Texas (Dallas Love Field Airport)
- p. Dallas, Texas (Dallas/Fort Worth International Airport)
- q. Detroit, Michigan (Detroit Metro Airport)
- r. Denver, Colorado (Denver International Airport)
- s. Des Moines, Iowa (Des Moines Airport)
- t. El Paso, Texas (El Paso Airport)
- u. Fort Lauderdale, Florida (Fort Lauderdale-Hollywood Airport)
- v. Fort Myers, Florida (Southwest Florida International Airport)
- w. Fort Walton Beach, Florida (Fort Walton Beach Regional Airport)
- x. Harlingen, Texas (Valley International Airport)
- y. Hartford, Connecticut (Bradley International Airport)

- z. Hilo, Hawaii (Hilo International Airport)
- aa. Honolulu, Hawaii (Honolulu International Airport)
- bb. Houston, Texas (George Bush Intercontinental Airport)
- cc. Houston, Texas (William P. Hobby Airport)
- dd. Jacksonville, Florida (Jacksonville International Airport)
- ee. Kahului, Hawaii (Kahului Airport)
- ff. Las Vegas, Nevada (McCarran International Airport)
- gg. Lihue, Hawaii (Lihue Airport)
- hh. Los Angeles, California (Los Angeles International Airport)
- ii. Louisville, Kentucky (Louisville International Airport)
- jj. Manchester, New Hampshire (Manchester-Boston Regional Airport)
- kk. Miami, Florida (Miami International Airport)
- ll. Milwaukee, Wisconsin (Milwaukee International Airport)
- mm. Minneapolis-St. Paul, Minnesota (Minneapolis-St. Paul International Airport)
- nn. Nashville, Tennessee (Nashville International Airport)
- oo. New York, New York (LaGuardia Airport)
- pp. New York, New York (John F. Kennedy International Airport)
- qq. Newark, New Jersey (Newark Liberty International Airport)
- rr. Norfolk, Virginia (Norfolk International Airport)
- ss. Oakland, California (Oakland International Airport)
- tt. Oklahoma City, Oklahoma (Will Rogers World Airport)
- uu. Omaha, Nebraska (Omaha Airport)
- vv. Los Angeles, California (Ontario International Airport)
- ww. Orange County, California (John Wayne Airport)
- xx. Orlando, Florida (Orlando International Airport)
- yy. Pensacola, Florida (Pensacola International Airport)
- zz. Phoenix, Arizona (Sky Harbor Airport)
- aaa. Pittsburgh, Pennsylvania (Pittsburgh International Airport)
- bbb. Portland, Oregon (Portland International Airport)
- ccc. Providence, Rhode Island (T.F. Green Airport)
- ddd. Raleigh-Durham, North Carolina (Raleigh-Durham International Airport)
- eee. Reno, Nevada (Reno-Tahoe International Airport)
- fff. Richmond, Virginia (Richmond International Airport)
- ggg. Sacramento, California (Sacramento International Airport)
- hhh. Salt Lake City, Utah (Salt Lake City International Airport)
- iii. San Antonio, Texas (San Antonio International Airport)
- jjj. San Diego, California (San Diego International Airport)
- kkk. Sanford, Florida (Orlando-Sanford International Airport)
- lll. San Francisco, California (San Francisco International Airport)
- mmm. San Jose, California (Norman Y. Mineta San Jose International Airport)
- nnn. Sarasota, Florida (Sarasota Bradenton International Airport)
- ooo. Seattle, Washington (Seattle-Tacoma International Airport)
- ppp. Tampa, Florida (Tampa International Airport)
- qqq. Tulsa, Oklahoma (Tulsa International Airport)

- rrr. Washington, District of Columbia (Ronald Reagan National Airport)
- sss. Washington, District of Columbia (Washington Dulles International Airport)
- ttt. West Palm Beach, Florida (Palm Beach International Airport)

IV. Entry

Neither new entry nor repositioning and expansion sufficient to deter or counteract the anticompetitive effects of the proposed acquisition is likely to occur within two years. A new entrant to the airport car rental market would face significant obstacles, as entering the airport car rental business on an efficient scale is both expensive and time-consuming. In order to compete effectively across geographic markets, a new entrant must have concession contracts in place that allow it to operate at each individual airport, establish brand identity, gain access to online travel agencies and other distribution channels, and be of a size sufficient to achieve economies of scale. Further, in order to draw customers, a new entrant would have to develop a reputation for quality and reliability, and it would take at least several years to acquire a reputation on par with the existing national firms. These entry barriers have limited existing fringe firms from expanding beyond their regional footprints and collective low single-digit market share. Accordingly, new entry would not be timely, likely, or sufficient to counteract the anticompetitive effects that would arise as a result of the acquisition.

V. Effects of the Acquisition

Hertz and Dollar Thrifty are two of four major competitors in markets for airport car rentals. By eliminating the substantial competition between Hertz and Dollar Thrifty, the proposed acquisition would cause consumers of airport car rentals to pay higher prices and experience reduced levels of service and slower innovation rates.

With only four suppliers of national significance, the markets for airport car rentals are already highly concentrated. In many instances, Hertz and Dollar Thrifty compete head-to-head for the sale of airport car rentals in each relevant market. Among other ways of competing with Dollar Thrifty, Hertz's low-priced Advantage brand is positioned similarly to Dollar Thrifty in terms of price, features, and customer service, and Hertz's incentive to continue to expand Advantage would be reduced significantly post-acquisition. The elimination of the direct current and future competition between Hertz and Dollar Thrifty would allow Hertz to increase prices, slow the pace of innovation, and/or decrease service levels. In addition, the fact that only three firms would own all of the most competitively significant brands after the proposed acquisition leads to an increased likelihood of coordination among the remaining competitors.

VI. The Consent Agreement

The proposed Consent Agreement resolves the acquisition's anticompetitive effects by requiring Hertz to divest its entire Advantage business as well as 16 additional on-airport locations to FSNA/Macquarie. This divestiture will effectively replicate the loss of current and future competition that would occur if Hertz acquires Dollar Thrifty. Also, by creating a new

independently-owned competitor with a national footprint, the Consent Agreement effectively addresses the threat of increased coordinated interaction among the remaining competitors. The Consent Agreement also requires that Hertz divest 13 additional Dollar Thrifty airport concession agreements and related assets to a Commission-approved buyer, whether FSNA/Macquarie or another acquirer, within 60 days of the closing of the acquisition. This requirement further ensures that the acquisition will not harm competition in the airport car rental market.

FSNA/Macquarie possesses the resources and capability to acquire the divested assets and replace Dollar Thrifty as an effective competitor in the affected geographic markets. FSNA has existing relationships with the major online travel agencies, has the IT infrastructure necessary to support the divested assets, and managers experienced in running a national airport car rental company. Macquarie is a global provider of banking, financial, advisory, investment and funds management services. Macquarie has committed substantial financial resources to the Advantage transaction, and it expects to provide additional growth capital as needed. FSNA/Macquarie's resources and expertise, together with the initial rental car fleet and other support terms contained in the Consent Agreement, will enable FSNA/Macquarie to compete effectively as the fourth largest rental car company in the country.

Pursuant to the Consent Agreement, FSNA/Macquarie will receive the assets necessary to replicate Advantage's airport car rental business, and this, coupled with the divestiture of the additional Dollar Thrifty airport concession agreements and related assets, remedies the unilateral and coordinated anticompetitive effects of the transaction. In addition to ensuring that employees of the businesses have the incentive to continue their employment with the acquirers, the Consent Agreement requires Hertz to provide FSNA/Macquarie with access to an initial rental car fleet and related support until FSNA/Macquarie can independently obtain its own fleet of cars. Combined, the Consent Agreement provisions ensure the benefits of competition that would otherwise have been lost through the acquisition will be maintained.

The Commission has appointed an interim monitor to oversee the divestiture of the assets after the Consent Agreement has been signed. In order to ensure that the Commission remains informed about the status of the proposed divestitures, the proposed Consent Agreement requires the parties to file periodic reports with the Commission until the divestiture is accomplished. If the Commission determines that Hertz has not fully complied with its obligations under the Decision and Order within ten days after the date the Decision and Order becomes final, the Commission may seek civil penalties to ensure that Hertz remains in compliance.

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