UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEARFIELD COMMUNICATIONS, LLC, , IMG COLLEGE, LLC and A-L TIER I LLC,

Defendants.

FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on February 14, 2019, alleging that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1, the United States and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law;

AND WHEREAS, this Final Judgment does not constitute any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, the United States and Defendants agree to be bound by the provisions of this Final Judgment pending its approval by this Court;

AND WHEREAS, the Defendants agree to undertake certain actions and to refrain from engaging in certain forms of communications and joint activities with their competitors;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter and each of the parties to this action. The allegations in the Complaint arise under Section 1 of the Sherman Act, as amended, 15 U.S.C. § 1. *See* 28 U.S.C. § 1331.

II. DEFINITIONS

As used in this Final Judgment:

A. "Advertiser" means an advertiser, sponsor, or corporate hospitality client or an agent or representative acting on behalf of an advertiser, sponsor, or corporate hospitality client.

B. "Agreement" means any agreement, understanding, pact, contract, or arrangement, formal or informal, oral or written, between two or more Persons.

C. "Bid" or "Bidding" means any offer or response to a Request for Proposal, Request for Submission, Request for Information, or any other request, either formal or informal, by a college, university, or athletic conference (including facilities owned or affiliated with such institutions) relating to a contract or other arrangement (including extensions or renewals of any existing contract or other arrangement) for the management, sale, commercialization, or other utilization of Multimedia Rights owned by the college, university, or athletic conference, or their owned or affiliated facilities.

D. "Communicate," "Communicating," and "Communication(s)" means to provide, send, discuss, circulate, exchange, request, or solicit information, whether directly or indirectly, and regardless of the means by which it is accomplished, including orally or by written or recorded means of any kind, such as electronic communications, e-mails, facsimiles, telephone communications, voicemails, text messages, audio recordings, meetings, interviews,

correspondence, exchange of written or recorded information, face-to-face meetings, or social media.

E. "Competitively Sensitive Information" means any non-public information of Defendants or any Competitor regarding the purchase or sale of Multimedia Rights, including without limitation non-public information relating to negotiating positions, tactics, or strategy, pricing or pricing strategies, Bids or Bidding Strategies, intentions to Bid or not to Bid, decisions to Bid, whether a Bid was or was not submitted, costs, revenues, profits, or margins.

F. "Competitor" means any Person (other than any Defendant) engaged in , or considering engaging in, the business of servicing, marketing, or commercializing Multimedia Rights or any Multimedia Rights contract, agreement, or opportunity. For the avoidance of doubt, colleges and universities are not "Competitors."

G. "Defendants" mean Learfield, IMG College, and A-L Tier I LLC.

H. "IMG College" means IMG College LLC headquartered in Winston-Salem, North Carolina, its successors and assigns (including but not limited to A-L Tier I LLC), and its subsidiaries, partnerships, joint ventures, and their directors, officers, managers, agents, and employees.

I. "Joint Venture" means any collaboration, formed by written or oral agreement, created by and among any Defendant and Competitor relating to the management, sale, commercialization, or other utilization of Multimedia Rights or the Bidding for Multimedia Rights.

J. "Learfield" means Learfield Communications, LLC, a Delaware limited liability company headquartered in Plano, Texas, its successors and assigns (including but not limited to

A-L Tier I LLC), and its subsidiaries, partnerships, joint ventures, and their directors, officers, managers, agents and employees.

K. "Management" means all directors, executives, and officers of a Defendant, or any other employee with management or supervisory responsibilities for a Defendant's Multimedia Rights business at or above the level of general manager at a college or university.

L. "Multimedia Rights" means the sponsorship and advertising rights of a college or university intercollegiate athletic program, including but not limited to in-venue signage, television advertising, radio advertising, print advertising, digital advertising, and social media advertising.

M. "Multi-Property Sales" means the promotion, marketing, or sales of Multimedia Rights in a package that includes more than one college, university, athletic conference, or venue.

N. "Person" means any natural person, university, athletic conference, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

III. APPLICABILITY

This Final Judgment applies to IMG College, Learfield, and A-L Tier I LLC and other Persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment is fully enforceable, including by penalty of contempt, against all of the foregoing.

IV. PROHIBITED CONDUCT

A. Defendants shall not, directly or indirectly:

1. Communicate with any Competitor concerning any Competitively Sensitive Information relating to a Bid or Bidding;

2. Agree, combine, conspire, or collude with any Competitor to participate in any joint Bid, collaborative Bid, cooperative Bid, or shared Bid;

3. Agree with any Competitor that any Defendant or any Competitor will not Bid for any Multimedia Rights contract, opportunity, or arrangement; or

4. Communicate, offer, invite, propose, encourage, facilitate, or suggest any joint Bid, collaborative Bid, cooperative Bid, or shared Bid with any Competitor.

B. The prohibitions under Paragraph IV.A apply to Defendant's Communicating or agreeing to Communicate through any third-party agent or third-party consultant at Defendants' instruction, direction, or request.

C. Without the prior written consent of the United States in its sole discretion, the Defendants shall not enter into, renew, or extend the term of any Joint Venture or conduct other business negotiations in conjunction with or on behalf of any Competitor relating to the management, sale, commercialization, or other utilization of Multimedia Rights. The Defendants may apply for prior written consent of the United States in its sole discretion for permission to conduct specified categories of collaborations or sublicensing arrangements that would not reduce the number of Competitors Bidding.

V. CONDUCT NOT PROHIBITED

A. Nothing in Section IV shall prohibit Defendants from Communicating with a college, university, athletic conference, venue, or any other Person (other than a Competitor)

seeking to contract for the management, sale, commercialization, or other utilization of such Person's own Multimedia Rights.

B. Nothing in Section IV shall prohibit Defendants from Communicating with an actual or prospective Advertiser.

C. Nothing in Section IV shall prohibit Defendants from Communicating or transacting with their employees, officers, directors, or owners, including for the avoidance of doubt, WME Entertainment Parent and its subsidiaries and Atairos.

D. Nothing in Section IV shall prohibit Defendants, after securing advice of counsel and in consultation with the Antitrust Compliance Officer appointed pursuant to Section VI *infra*, from Communicating with a Competitor concerning the formation of a Joint Venture that would be subject to the approval of the United States under Section IV(C) or a merger or acquisition, including transactions subject to the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

E. Nothing in Section IV shall prohibit Defendants from Communicating with a Competitor concerning Multi-Property Sales.

F. Nothing in Section IV shall prohibit Defendants from Communicating with a Competitor if (i) the Competitor was engaged in a Joint Venture with any Defendant as of July 1, 2018 and the Communications relate solely to the operation of the Joint Venture in which Competitor and the Defendant are engaged; or (ii) the Competitor and Defendant are engaged in a Joint Venture approved by the United States pursuant to Paragraph IV(C) including, in either case (i) or (ii), waiving or terminating any provisions of the applicable Joint Venture agreement. Defendants shall maintain copies of all written or recorded Communications of the type referenced in this Paragraph V(F) for five years or the duration of the Final Judgment, whichever

is shorter, following the date of the creation of such Communication, and Defendants shall make such documents available to the United States upon request.

G. Nothing in Section IV shall prohibit Defendant from engaging in conduct in accordance with the doctrine established in *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961), *United Mine Workers v. Pennington*, 381 U.S. 657 (1965), and their progeny.

H. The preceding Paragraphs V(A) through (G) are for the avoidance of doubt and do not create any implications as to the scope or interpretation of Section IV.

VI. REQUIRED CONDUCT

A. Within ten days of entry of this Final Judgment, each Defendant shall appoint an Antitrust Compliance Officer who is an internal employee or Officer of the Defendant, and identify to the United States the Antitrust Compliance Officer's name, business address, telephone number, and email address. Within forty-five days of a vacancy in a Defendant's Antitrust Compliance Officer position, such Defendant shall appoint a replacement, and shall identify to the United States the Antitrust Compliance Officer's name, business address, telephone number, and email address. The Defendant's initial or replacement appointment of an Antitrust Compliance Officer is subject to the approval of the United States in its sole discretion. For the avoidance of doubt, a single Person employed by one Defendant may serve as the Antitrust Compliance Officer for all Defendants.

B. The Antitrust Compliance Officer shall have, or shall retain outside counsel who has, the following minimum qualifications:

1. be an active member in good standing of the bar in any U.S. jurisdiction; and

2. at least five years' experience in legal practice, including experience with antitrust matters.

C. The Antitrust Compliance Officer shall, directly or through the employees or counsel working at the Antitrust Compliance Officer's direction:

1. within fourteen days of entry of the Final Judgment, furnish to each Defendant's Management a copy of this Final Judgment, the Competitive Impact Statement filed by the United States with the Court, and a cover letter in a form attached as Exhibit 1;

2. within fourteen days of entry of the Final Judgment, in a manner to be devised by each Defendant and approved by the United States, provide each Defendant's Management reasonable notice of the meaning and requirements of this Final Judgment;

3. annually brief each Defendant's Management on the meaning and requirements of this Final Judgment and the U.S. antitrust laws;

4. brief any Person who succeeds a Person in any position identified in Paragraph VI(C)(3), within sixty days of such succession;

5. obtain from each Person designated in Paragraph VI(C)(3) or VI(C)(4), within thirty days of that Person's receipt of the Final Judgment, a certification that the Person (i) has read and understands and agrees to

abide by the terms of this Final Judgment; (ii) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer; and (iii) understands that failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court;

6. annually communicate to each Defendant's Management that they may disclose to the Antitrust Compliance Officer, without reprisal for such disclosure, information concerning any violation or potential violation of this Final Judgment or the U.S. antitrust laws by the Defendant; and

7. maintain for five years or until expiration of the Final Judgment, whichever is shorter, a copy of all materials required to be issued under Paragraph VI(C), and furnish them to the United States within ten days if requested to do so, except documents protected under the attorney-client privilege or the attorney work-product doctrine. For all materials required to be furnished under Paragraph VI(C) which a Defendant claims are protected under the attorney-client privilege or the attorney work-product doctrine, Defendant shall furnish to the United States a privilege log.

D. Each Defendant shall:

1. upon Management or the Antitrust Compliance Officer learning of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, (i) promptly take appropriate action to investigate, and in the event of a violation, terminate or modify the activity so as to comply with this Final Judgment, (ii) maintain all

documents related to any violation or potential violation of this Final Judgment for a period of five years or the duration of this Final Judgment, whichever is shorter, and (iii) maintain, and furnish to the United States at the United States' request, a log of (a) all such documents and documents for which Defendant claims protection under the attorney-client privilege or the attorney work product doctrine, and (b) all potential and actual violations, even if no documentary evidence regarding the violations exist;

2. within thirty days of Management or the Antitrust Compliance Officer learning of any such violation or potential violation of any of the terms and conditions contained in this Final Judgment, file with the United States a statement describing in detail any violation or potential violation of any of the terms and conditions contained in this Final Judgment, which shall include a description of any Communications constituting the violation or potential violation, including the date and place of the Communication, the Persons involved, and the subject matter of the Communication;

3. establish a whistleblower protection policy, which provides that any employee may disclose, without reprisal for such disclosure, to the Antitrust Compliance Officer information concerning any violation or potential violation by the Defendant of this Final Judgment or U.S. antitrust laws;

4. have its CEO, General Counsel or Chief Legal Officer certify in writing to the United States annually on the anniversary date of the entry of this

Final Judgment that Defendant has complied with the provisions of this Final Judgment; and

5. maintain and produce to the United States upon request: (i) a list identifying all employees having received the annual antitrust briefing required under Paragraphs VI(C)(3) and VI(C)(4); and (ii) copies of all materials distributed as part of the annual antitrust briefing required under Paragraphs VI(C)(3) and V(C)(4). For all materials requested to be produced under this Paragraph VI(D)(5) for which a Defendant claims is protected under the attorney-client privilege or the attorney work-product doctrine, Defendant shall furnish to the United States a privilege log.

6. file with the United States six months, twelve months, and twenty-four months after entry of this Final Judgment a report describing in detail the steps it has taken to (a) comply with the terms of this Final Judgement and (b) implement the provisions of Section VI.

E. For the avoidance of doubt, the term "potential violation" as used in Paragraph VI(D) does not include the discussion of future conduct.

F. If a Defendant acquires a Person in the business of the management, sale, commercialization, or other utilization of Multimedia Rights after entry of this Final Judgment, this Section VI will not apply to that acquired Person and the Management of that acquired Person until 120 days after closing of the acquisition of that acquired Person.

VII. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment or of any related orders, or of determining whether the Final Judgment should be modified, and

subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other Persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

1. to access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic or hard copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters that are the subject of this Final Judgment, not protected by the attorney-client privilege or the attorney work product doctrine; 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; and

3. to obtain from Defendants written reports or responses to written interrogatories, of information not protected by the attorney-client privilege or attorney work product doctrine, under oath if requested, relating to any matters that are the subject of this Final Judgment as may be requested.

B. No information or documents obtained by the means provided in this Section VII shall be divulged by the United States to any Person other than an 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 for law enforcement purposes, or as otherwise required by law.

C. If at the time information or documents are furnished by Defendants to the United States, a Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and that Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give that Defendant ten calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VIII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

IX. ENFORCEMENT OF FINAL JUDGMENT

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including its right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar civil action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy

therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition the United States alleged was harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against Defendants, whether litigated or resolved prior to litigation, Defendants agree to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

X. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry, except that after seven years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the continuation of the Final Judgment no longer is necessary or in the public interest.

XI. NOTICE

For purposes of this Final Judgment, any notice or other communication required to be provided to the United States shall be sent to the person at the address set forth below (or such other addresses as the United States may specify in writing to Defendants):

Chief
Media, Entertainment, and Professional Services Section
U.S. Department of Justice
Antitrust Division
450 Fifth Street, NW, Suite 4000
Washington, D.C. 20530

XII. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

IT IS SO ORDERED by the Court, this 23rd day of OCT, 2020.

Court approval subject to proeedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

Emmet G. Sullivan
United States District Judge

EXHIBIT 1

[Company Letterhead]

[Name and Address of Antitrust Compliance Officer]

Re: *Prohibitions against Working with Competitors on MMR Bids*

Dear [XX]:

I provide you this notice regarding a judgment recently entered by a federal judge in Washington, DC prohibiting communicating and otherwise working with competitors when bidding on colleges and universities' multimedia rights contracts.

The judgment applies to our company and all of its employees, including you, so it is important that you understand the obligations it imposes on us. [CEO Name] has asked me to let each of you know that [s/he] expects you to take these obligations seriously and abide by them.

The judgment prohibits us from communicating with other multimedia rights firms about bidding on RFPs or other responses to colleges and universities seeking multimedia rights management services. The judgment also prevents us from jointly bidding, or seeking to bid jointly, for any multimedia rights contracts with other companies or from forming multimedia rights joint ventures. There are limited exceptions to these restrictions, which are listed in the judgment. The company will provide briefing on legitimate and illegitimate actions. You must consult with me if you have any questions on whether a particular circumstance is subject to an exception under the judgment.

A copy of the judgment is attached. Please read it carefully and familiarize yourself with its terms. The judgment, rather than the above description, is controlling. If you have any questions about the judgment or how it affects your work activities, please contact me as soon as possible.

Please sign and return the attached Employee Certification to [Defendant's Antitrust Compliance Officer] within thirty days of your receipt of this letter. Thank you for your cooperation.

Sincerely,

[Defendant's Antitrust Compliance Officer]

Employee Certification

I, _____ [name], _____ [position] at _____ [station or location] do hereby certify that I (i) have read and understand, and agree to abide by, the terms of the Final Judgment; (ii) am not aware of any violation of the Final Judgment that has not been reported to [Defendant]; and (iii) understand that my failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court.

_____

Name:

Date: