THE ECONOMIC EFFECTS OF THE PROPOSED BFGOODRICH/COLTEC MERGER

HEARINGS

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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THE ECONOMIC EFFECTS OF THE PROPOSED BFGOODRICH/COLTEC MERGER

SATURDAY, JUNE 19, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM,
South Bend, IN.

The subcommittee met, pursuant to notice, at 10 a.m., in the Century Center, Recital Room, South Bend, IN, Hon. David M. McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh and Kucinich.

Staff present: Jason L. Hopfer, deputy staff director and chief counsel; A. Lucas Messer, counsel; Gabriel Neil Rubin, clerk; and David Sadkin, minority counsel.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order. I thank you all for coming this morning. Today I'm here with the subcommittee's Ranking Member Dennis Kucinich from Cleveland to hold a hearing looking into the whole question of whether the review of BFGoodrich's merger with Coltec, Inc. was conducted correctly by the Federal Trade Commission and the Department of Defense. We are concerned about whether that review has been adequately done in terms of the merger's effect under the antitrust laws of the United States. U.S. Senator Mike Dewine of Ohio has conducted a similar investigation in the Senate, and based on some of the testimony that came before his hearing on the topic, we have serious concerns regarding the thoroughness of the FTC and the DOD's review. Hopefully, today's discussion will shed some light on these concerns. This is the first field hearing we are having. We will have a second field hearing in Cleveland, OH, in July.

Now, from the outset, I want to point out that three of the parties represented here today, BFGoodrich, AlliedSignal and Coltec, are parties to a private antitrust lawsuit. That matter is properly before Judge Alan Sharp of the U.S. District Court in the Northern District of Indiana, and we will take great care not to interfere with that proceeding. Nonetheless, we are here today to take a hard look at the competitive effects of the national security implications of the proposed merger. We'll examine the FTC and Department of Defense's review and consider the potential impact on the merger to the economies in South Bend and Cleveland.

I do expect the parties to be as candid as possible today during their testimony, even given the nature of that lawsuit. In essence, here in South Bend, we are looking to make sure that the 1,100 workers at the AlliedSignal plant and the 650 workers at the Cleveland Pneumatic Plant are given a fair chance to compete. I support free market competition, but it's essential that the actors in that competition play by the rules. If the merger would result in a market concentration that would unfairly take away the opportunity for these workers to compete, then FTC action should be taken. Now, my primary concern today is the welfare of the workers at AlliedSignal, and that's why we are asking BFGoodrich and Coltec to discuss the potential impact of their merger on those workers. We will also be asking AlliedSignal what impact, if any, their merger with Honeywell will have to the operations here in South Bend. We did receive a letter from Mr. Lawrence Bossidy indicating that the proposed merger will not impact jobs in South Bend, and today we'll further pursue that in this hearing.

Returning to the BFGoodrich/Coltec merger, my concerns fall into three broad categories. First, I'm concerned about the potential anti-competitive effects of the BFGoodrich/Coltec merger. Now, in entering the preliminary injunction, Judge Sharp concluded the merger would likely result in a U.S. monopoly that would likely lead to higher prices for landing gears. This is a significant problem, not only for South Bend and Cleveland but for the Nation as well. Healthy competition leads to lower prices, increased innovation and improved quality and safety as the industry leaders are forced to improve their product in an effort to compete in the marketplace. If the BFGoodrich/Coltec merger would result in a monopoly that unfairly forces consumers to pay higher prices, then I believe that the FTC's job is to oppose the merger and make sure that does not happen. In addition, there's a national security interest in having at least two domestic suppliers of landing gears, because we can make sure the domestic landing gear in the commercial aircraft, as well as the military aircraft, will be available at those competitive prices. There is one other manufacturer worldwide, a French company, and in testimony before Senator Dewine, DOD indicated that they didn't have an objection on that. But, frankly, I'm not convinced of wisdom of having to rely on a foreign manufacturer for our military component parts.

Second, I'm concerned about the potential adverse impact of the merger on the economies here in South Bend and in Cleveland. If, as a result of the merger, the Cleveland plant is closed down, that's 650 jobs. But we also want to examine the impact of the merger and that initial plant closing on the 1,100 jobs here in South Bend.

Third, I'm concerned about honest and open public debate. My colleague Dennis Kucinich has been active in this longer than I have and is familiar with some of the record and assertions that were made as the merger was first being contemplated. We will get to the bottom of that and make sure the record is full in that area.

One of the things that I think is going to be very important is that we look and see what are the effects of this merger on the competitive supply in this area. And I understand there are changes in the marketplace as people are integrating what used to be separate components, brakes and wheels, and along with the landing structure into one single component that is provided to the consumers. That is something we want to examine and look at. We also need to make sure that there are win-win solutions out there, and that they have been adequately examined by the parties and considered, not only for their own individual interests, but as we expect to happen in a competitive marketplace to ensure that the national interest and competition survives intact and will be possible for us to make sure that we are able to have the consumers in this country benefit from that competition. With that, I'd like to welcome our witnesses here today. Congressman Roemer will be here a little bit later. He's participating in some of the festivities here in South Bend and is excited about being able to participate, as will Mayor Luecke.

Today in our first panel, we will have representatives from BFGoodrich, Mr. Terrence Linnert; welcome. And we'll also have a representative from Allied; present general manager, Carl Montalbine. I want to thank you for flying back from Europe to be with us today. Coltec executive vice president and general counsel, Robert Tubbs; thank you for being here. And on our first panel is a professor of law at Notre Dame, Mr. Bauer, who will be talking to us about some of the antitrust implications of this.

[The prepared statement of Hon. David M. McIntosh follows:]

Statement of Chairman David McIntosh
Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs
on
"The Economic Effects of the Proposed Merger between BFGoodrich Company and Coltec Industries"
June 19, 1999

Today, I am here, with the Subcommittee's Ranking Member, Dennis Kucinich, to express our concerns over the proposed merger between BFGoodrich Company and Coltec, Inc, and to examine whether the merger violates the anti-trust laws.

Congressman Kucinich and I are conducting a bipartisan investigation of the Federal Trade Commission's ("FTC") and Department of Defense's ("DOD") review of the BFGoodrich-Coltec merger. U.S. Senator Mike Dewine of Ohio is conducting a similar investigation in the Senate. And, based on testimony provided at Senator Dewine's hearing on this topic, I have serious concerns regarding the thoroughness of the FTC's and DOD's review of this merger. Hopefully, today's discussion will shed some light on these concerns.

Today's field hearing is our Subcommittee's first attempt to examine this merger. We have a second field hearing scheduled for July 7th in Cleveland, Ohio. At that hearing, we anticipate calling representatives of the FTC and DOD to testify.

From the outset, I would point out that three of the parties represented here today -- BFGoodrich, AlliedSignal, and Coltec -- are parties to a private antitrust lawsuit. That matter is properly before Judge Allen Sharp of the U.S. District Court for the Northern District of Indiana; and, we will take care not to interfere with this proceeding.

Nonetheless, we are here today to take a hard look at the competitive and national security implications of the proposed BFGoodrich-Coltec merger. We will examine the FTC's and DOD's review of the merger and consider the potential economic impacts of the merger on the economies of South Bend, Indiana and Cleveland, Ohio. And, I expect the parties to be as candid as possible during their testimony.

In essence, we are here today to ensure that the 1,100 workers at AlliedSignal in South Bend and the 650 workers at Cleveland Pneumatic are given a fair chance to compete. I support free market competition, but you have to play by the rules. If the BFGoodrich-Coltec merger would result in a market concentration that unfairly takes away the opportunity for these workers to compete, the FTC should take action.

My primary concern today is the welfare of the workers at AlliedSignal. That is why we will be asking BFGoodrich and Coltec to discuss the potential impact of their proposed merger on the workers at AlliedSignal. But, we will also ask the AlliedSignal representative to discuss what, if any, impact the recently proposed merger of AlliedSignal and Honeywell, Inc will have on AlliedSignal's South Bend operations.

We received a letter from AlliedSignal's CEO Lawrence Bossidy indicating that the proposed AlliedSignal-Honeywell merger will not impact jobs in South Bend. Today, I will ask AlliedSignal's representative to confirm this assurance under oath.

Now, returning to the BFGoodrich-Coltec merger. my concerns fall into three broad categories:

First, I am concerned about the potential anti-competitive effects of the BFGoodrich-Coltec merger. In entering a preliminary injunction against the merger on April 30th, Judge Allen Sharp concluded that the merger might be anti-competitive. According to Judge Sharp, "the merger would likely result in a U.S. monopoly ... that would likely result in higher prices for [landing] gears."

This is a significant problem, not only for South Bend and Cleveland but also for our Nation. Healthy competition leads to lower prices, increased innovation, and improved quality of safety, as industry leaders are forced to improve in an effort to compete in the marketplace. If the BFGoodrich-Coltec merger would result in a monopoly that unfairly forces consumers to pay higher prices for landing gear, I believe the FTC should oppose the merger.

In addition, there may be a national interest in having at least two domestic suppliers of landing gear. The proposed merger of BFGoodrich and Coltec would leave the United States with only one domestic landing gear manufacturer for large commercial and military aircraft. After the merger, the only other major landing gear manufacturer in the world would be Messier-Dowty, which is owned by the French government. In testimony before Senator Dewine, the DOD indicated that it has looked at the issue and determined that it has no objection to the merger. But, I, for one, am still not convinced of the wisdom of allowing a merger that would leave us with only one major domestic manufacturer of landing gear.

Second, I am concerned about the potential adverse impact of the merger on the economies of South Bend, Indiana and Cleveland, Ohio. If as a result of its merger, BFGoodrich closes down its Cleveland Pneumatic operations, 650 jobs would most likely be lost in Cleveland. But, the result could potentially impact the South Bend community as well.

AlliedSignal's South Bend plant is an industry leader in manufacturing wheels and brakes for commercial and military aircraft. If BFGoodrich and Coltec complete this merger and, if as a result of the merger AlliedSignal is denied a fair opportunity to compete, AlliedSignal's South Bend business could be in significant danger.

AlliedSignal is the sixth largest employer in South Bend, with 1,100 employees. Most are high paying, technology driven jobs, averaging more than $18 per hour. These sort of high paying manufacturing jobs are vital to the South Bend community.

But, AlliedSignal's contributions to South Bend are not solely economic. AlliedSignal has been a leading corporate citizen in South Bend for years. That is why community leaders like Patrick M. McMahon, the Executive Director of South Bend's Project Future, are concerned about the potential impact of the merger. Today, Mr. McMahon will testify about the many ways that AlliedSignal employees serve the South Bend community.

Third, I am concerned about honest and open public debate on this issue. We have not yet received all of the documents requested from BFGoodrich. However, based on a review of the documents submitted so far, I am concerned that BFGoodrich may have given contradictory statements regarding its intentions to close its landing gear operations in Cleveland.

In public statements to the Wall Street Journal, the Cleveland Plain Dealer, and others, BFGoodrich indicated that the merger would not affect jobs in Cleveland. For example, according to BFGoodrich's November 23, 1998 press release announcing the merger, "No other Ohio-based jobs will be affected by the decision to relocate the headquarters. The company currently employs approximately 3,300 Ohioans at more than a dozen locations around the state, including major operations in Akron, Avon Lake, Brecksville, Cincinnati, Cleveland and Troy." In the same press release, BFGoodrich CEO David L. Burner noted that BFGoodrich has "a long history here in Ohio, and many ties to the region. We intend to maintain those ties in as many ways as possible, including through the more than 3,000 BFGoodrich employees who will remain in Ohio."

The clear implication of this press release is that only the headquarters jobs would be lost in Ohio. Moreover, in conversations with the staffs of both U.S. Senator Mike DeWine of Ohio and Congressman Kucinich, BFGoodrich left the same impression: only the headquarters jobs were going to be lost.

However, in confidential documents submitted to DOD, BFGoodrich tells a much different story. These documents indicate that BFGoodrich is considering far more than just moving its headquarters. In fact, it appears that BFGoodrich is actively considering closing its Cleveland Pneumatic landing gear facilities.

Please allow me to read into the record excerpts from a letter, dated February 3, 1999, addressed to DOD, and I quote:

> [BFGoodrich] has been searching for business options and alternatives (including closing and moving equipment and operations from Cleveland ...) for several years in an attempt to put the landing gear business on a more sound footing ... After struggling mightily to improve productivity at the Cleveland facility, it determined that an important component of any long-range program would include closing the facility. Several options for doing so have been considered but rejected as not being economically feasible ... This situation highlights one of the main attractions of a merger with Coltec ... With the combined volumes of the two firms, one or more options may be attractive. In particular, the combined firm might well choose to close the Cleveland plant and plating ...

This letter makes clear that: (1) BFGoodrich has been considering closing the Cleveland plant for years, and (2) the merger with Coltec offers a good opportunity to do so.

But, this is not the only document provided by BFGoodrich indicating plans to close the Cleveland facility. In another document submitted to DOD on February 1, 1999, BFGoodrich presents three options for restructuring its operations after the BFGoodrich-Coltec merger. All three options included the following phrase "Close Cleveland/Plating ... Now."

In fairness, BFGoodrich argues that no final decision has been made regarding the future of the Cleveland Pneumatic facility. Today, we will have the opportunity to explore this issue further with a BFGoodrich representative. Hopefully, we will be able to put this matter to rest.

In closing, I want to emphasize that I am not here to say "no" to this merger. At Senator Dewine's hearing, Carl Montalbine of AlliedSignal proposed a possible win-win solution. According to Mr. Montalbine, if BFGoodrich sells its landing gear facility in Cleveland to AlliedSignal, everyone could win. BFGoodrich and Coltec would complete their merger, because the sale would ensure competition in the landing gear industry. AlliedSignal would obtain the opportunity to develop landing gear systems that use its aircraft wheels and brakes. And, workers in South Bend and Cleveland could keep their jobs and continue to have the opportunity to compete in the marketplace.

Most importantly, according to Mr. Montalbine's earlier testimony, AlliedSignal is committed to long term investments that would preserve jobs in both South Bend and Cleveland. I am sure this offer will be discussed again today. To me, this looks like a common sense solution. I hope all parties will reconsider it.

As in any antitrust dispute, the issues are complex and answers never easy. But, I am here because I want to ensure that the Hoosiers who work for AlliedSignal are given a fair opportunity to compete. After all, when applied correctly, that is what antitrust laws are designed to accomplish – fair competition.

And, rest assured, if the 1,100 Hoosier workers at Allied Signal are given a fair opportunity to compete, I have no doubt they will be successful. That's just the way it is in Indiana.

With that, I would like to welcome our witnesses here today: Congressman Tim Roemer; South Bend Mayor Stephen J. Luecke; BFGoodrich Senior Vice President and General Counsel Terrence Linnert; Aircraft Landing Systems Senior Vice President and General Manager Carl R. Motalbine; Coltec Executive Vice President and General Counsel Robert J. Tubbs; Notre Dame Law Professor Joseph P. Bauer; South Bend's Project Future's Executive Director Patrick M. McMahon; and AlliedSignal employee and President of UAW local #9 Thomas Bode.

Mr. McINTOSH. With that, let me now welcome my colleague. We have worked together in this session very well in our subcommittee. He is long familiar with this issue and has been an active voice in Cleveland leadership and now is very active on our subcommittee and I appreciate you taking this Saturday morning to come over here and let me introduce you to all of my friends in Indiana, Mr. Dennis Kucinich, who is one of those hardest working Members in Congress that I've been able to work with. I appreciate you coming over. Thanks.

Mr. KUCINICH. Thank you very much, Mr. Chairman. And I certainly appreciate the work you've done, and paying attention to this issue, and your concern for the economic well being, not only to the people of Indiana, but also the people of the State of Ohio. And we in Ohio are very grateful for the attention that you pay to this. And for you scheduling the hearings, not only today in South Bend, but also in July in the city of Cleveland. So I again want to thank you for scheduling the hearing. I also want to thank my colleague Congressman Tim Roemer for inviting us into his district so we can look at this issue.

I think it's very important for Members of Congress to get into the communities we serve. And it's important for our constituents to have an opportunity to see their government at work, especially when the issue has a direct impact on the district. So, we're here in South Bend today to look at the economic effects of the proposed merger of BFGoodrich and Coltec Industries. On July 7th we're going to be in Cleveland.

The American people, especially those in South Bend and Cleveland, have a real interest in the outcome of this proposed merger. BFGoodrich and Coltec Industries are the only two significant domestic manufacturers of landing gear which is used in both military and commercial airplanes. The combination of these companies would effectively create a monopoly in the industry which would likely lead to higher prices for taxpayers and consumers, as well as the loss of hundreds of jobs.

At the time the merger was announced, BFGoodrich said they intended to relocate their headquarters from the Cleveland area, where the company has been located since it was founded in 1870 to Charlotte, NC. This move meant the loss of 170 jobs. But according to the company press release issued at the time of the announcement, "No other Ohio-based jobs will be affected by the decision to relocate the headquarters." This commitment was reiterated on November 23rd, 1998, in a letter to me from the company's CEO.

It now appears, however, that this statement was not completely correct. While the company was telling the news media, the people of Cleveland, and elected officials like myself that the merger would not result in a loss of manufacturing jobs, company officials were telling government antitrust regulators that the resulting merger would create "efficiencies" through consolidation. In fact, a document prepared by BFGoodrich and provided to government regulators gave three options for the company to consider after the merger. All three options, all three options, included closing the Cleveland Pneumatic Co. plant, which employs about 650 people. Many of these employees are my constituents and their families.

But it doesn't end there. Since the merger was announced, another 150 Goodrich employees have already been laid off in another facility in Brecksville, OH.

Now, how could the BFGoodrich executives tell public officials that the merger would not result in the loss of jobs while telling Federal regulators the opposite? Well, I tried to find out. On April 15th, 1999, I wrote a letter to BFGoodrich's CEO asking for information about whether the company intended to close the Cleveland plant. I did not receive a response. Chairman McIntosh then sent a letter on behalf of the subcommittee, of which I'm the ranking Democratic member, asking for information from the company on the effects of the proposed merger. The company's response was totally insufficient.

So today we'll be asking representatives from Goodrich and Coltec these questions in public. And, of course, our great concern is what's going to happen to jobs, when the new merged company starts to integrate its landing gear systems by manufacturing its own components.

At the same time that employees are faced with losing their incomes, Coltec will pay its top executive tens of millions of dollars in bonuses. According to a report in the Cleveland Plain Dealer, nine top Coltec executives will receive severance payments totaling nearly $55 million after the company is acquired by BFGoodrich, including a $20 million golden parachute to the CEO. Six of these executives, including the CEO, will be retained by the new company. A company spokesman told the Plain Dealer that the payments are being made because the executives will be making less money and have less responsibility after the merger. So while hundreds of hard working Clevelanders will loose their jobs, these company executives will reap millions of dollars in bonuses to retain jobs with less responsibility.

Having said that, I'd like to add, this is not just about jobs. If the merger is allowed to take place, the new company will effectively control the domestic landing gear market. Without competition, this new monopoly will be able to set its own prices. And the biggest losers will be the American taxpayers. The U.S. Government will be forced to buy landing gear for its planes from the new monopoly, hence the taxpayers will get gouged. Of course, the military could buy parts from foreign companies such as Messier-Dowty, a firm owned by the French Government, but this does not seem like a good alternative.

American consumers will also pay the price. Airplane manufacturers like Boeing may end up paying higher prices for these components. They in turn will pass these costs on to commercial airlines, who make up the difference by increasing their ticket prices. And those increases will ultimately be paid for by all of us.

So what's the answer? Well, today we're going to hear from Carl Montalbine, the vice president and general manager of the AlliedSignal facility in South Bend. And AlliedSignal, we are aware, is willing to pay Goodrich fair market value for the Cleveland plant, which would keep competition in the industry while protecting hundreds of high-paying jobs. Unfortunately, BFGoodrich rejected this offer. AlliedSignal has filed suit to stop the merger, claiming, among other things, that the resulting monopoly would violate Federal antitrust law. A Federal judge here in South Bend recently issued a temporary restraining order to halt the merger.

In issuing his order, the judge found that, "The merger would likely result in a U.S. monopoly for the sale of landing gear that would result in higher prices." And that there was, "substantial likelihood," that AlliedSignal would succeed on its antitrust claims. The judge will hold a hearing on this issue next month. So if the judge believes that the merger would likely result in a U.S. monopoly that would result in higher prices for landing gear, Mr. Chairman, why didn't the Department of Defense or the Federal Trade Commission, which both reviewed the proposed merger, object to the merger? Those are some of the questions that remain unanswered that we are certainly going to be getting into.

I look forward to hearing from our witnesses, and I again want to stress my gratitude to Mr. McIntosh for his willingness to move forward on this issue which is so important to the people of Indiana, Ohio and the United States. Thank you, Chairman.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

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Statement of Dennis J. Kucinich

Hearing on the Economic Effects of the Proposed Merger of BFGoodrich Company and Coltec Industries

June 19, 1999

Mr. Chairman, I want to thank you for scheduling this hearing this morning. I also want to thank my colleague, Congressman Tim Roemer, for inviting us to his district today to look into this issue. I think it is very important for Members of Congress to get out into the communities that we serve and for our constituents to have an opportunity to see their government at work -- especially when the issue has a direct impact on the district.

We are here in South Bend today to look into the economic effects of the proposed merger of BFGoodrich and Coltec Industries. On July 7, we are going to be in my hometown of Cleveland, Ohio, to hold a second hearing on this matter. The American people -- and especially those in South Bend and Cleveland -- have a real interest in the outcome of this proposed merger. BFGoodrich and Coltec Industries are the only two significant domestic manufacturers of landing gear, which is used in both military and commercial airplanes. The combination of these companies would effectively create a monopoly in the industry, which would likely lead to higher prices for taxpayers and consumers, as well as the loss of hundreds of jobs both here in South Bend and in Cleveland.

At the time the merger was announced, BFGoodrich said that they intended to relocate their headquarters from the Cleveland area, where the company has been located since it was founded in 1870, to Charlotte, North Carolina. This move meant the loss of 170 jobs. But according to a company press release issued at the time of the announcement, "[n]o other Ohio-based jobs will be affected by the decision to relocate the headquarters." This commitment was reiterated in a November 23, 1998, letter to me from the company's CEO.

It now appears, however, that this statement was not completely correct. While the company was telling the news media, the people of Cleveland, and elected officials like myself that the merger would not result in the loss of manufacturing jobs, company officials were telling government antitrust regulators that the resulting merger would create "efficiencies" through consolidation.

In fact, a document prepared by BFGoodrich and provided to the government regulators gave three options for the company to consider after the merger. All three options included closing the Cleveland Pneumatic Company plant, which employs about 650 people. Many of these employees are my constituents and their families. But it doesn't end there. Since the merger was announced, another 150 Goodrich employees have already been laid off from another facility in Brecksville, Ohio.

How could BFGoodrich executives tell public officials that the merger would not result in the loss of jobs while telling federal regulators the opposite? I tried to find out. On April 15, 1999, I wrote a letter to BFGoodrich's CEO asking for information about whether the company intended to close the Cleveland plant. I did not even receive the courtesy of a response. Chairman McIntosh then sent a letter on behalf of this subcommittee, on which I am the Ranking Democratic Member, asking for information from the company on the effects of the proposed merger. Unfortunately, the company's response did not provide sufficient answers. So today we will ask representatives from Goodrich and Coltec these questions, in public, and hope to get a more complete response.

It is not just the residents of Cleveland that will be affected by this merger. There are 850 employees right here in South Bend working for AlliedSignal, which manufactures wheels and brakes for Coltec landing gear systems. What is going to happen to those jobs when the new merged company starts to integrate its landing gear systems by manufacturing its own components?

At the same time that these employees are faced with losing their incomes, Coltec will pay its top executive tens of millions of dollars in bonuses. According to a report in the Cleveland *Plain Dealer*, nine top Coltec executives will receive severance payments totaling nearly $55 million after the company is acquired by BFGoodrich, including a $20 million "golden parachute" to the CEO. Six of these executives, including the CEO, will be retained by the new company. A company spokesman told the *Plain Dealer* that the payments are being made because the executives will be making less money and have less responsibility after the merger. So while hundreds of hard working Clevelanders will lose their jobs, these company executives will reap millions of dollars in bonuses to retain jobs with less responsibility.

This is not just about jobs, however. If this merger is allowed to take place, the new company will effectively control the domestic landing gear market. Without competition, this new monopoly will be able to set its own prices. And the biggest losers will be the American taxpayers. The U.S. government would be forced to buy landing gear for its planes from the new monopoly and it is the taxpayers who will get gouged. Of course, the military could buy the parts from a foreign company such as Messier-Dowty, a firm owned by the French government, but this does not seem like a good alternative.

American consumers will also pay the price. Airplane manufacturers like Boeing may end up paying higher prices for these components. They in turn will pass these costs onto the commercial airlines, who will make up the difference by increasing their ticket prices. And those increases will ultimately be paid by all of us.

What is the answer? Today we will hear from Carl Montalbine, the vice president and general manager of the AlliedSignal facility in South Bend. He will tell us that there may be a simple solution to this problem. AlliedSignal is willing to pay Goodrich fair market value for the Cleveland plant, which would keep competition in the industry while protecting hundreds of high paying jobs. Unfortunately, BFGoodrich rejected this offer.

AlliedSignal has filed suit to stop the merger, claiming, among other things, that the resulting monopoly would violate federal antitrust law. A federal judge here in South Bend recently issued a temporary restraining order to halt the merger. In issuing his order, the judge found that "the merger would likely result in a U.S. monopoly for the sale of landing gear that would result in higher prices" and that there was a "substantial likelihood" that AlliedSignal would succeed on its antitrust claims. The judge will hold a hearing on this issue next month.

So if the judge believes that "the merger would likely result in a U.S. monopoly . . . that would result in higher prices for [landing] gear," why didn't the Department of Defense or the Federal Trade Commission, which both reviewed the proposed merger, object to the merger? Those are some of the questions we will be asking today and at our next hearing in Cleveland on July 7.

Thank you, Mr. Chairman. I am looking forward to hearing from our witnesses this morning, and I yield back the balance of my time.

Mr. McINTOSH. Thank you, Representative Kucinich. Let us now turn to the witnesses, and I would ask each of you to please rise and take an oath. And let me assure you we're not singling you out for that; it is the policy of our full committee chairman, Dan Burton, that we swear in every panel we have as an oversight committee. So, if you would please affirm. Do you solemnly swear that the testimony you will give today is the truth, the whole truth, and nothing but the truth?

[Panel members respond in unison.]

Mr. McINTOSH. Thank you. Let the record show that each of the witnesses answered in the affirmative. And we will now begin this panel. And what I would ask each of you to do is summarize the written, prepared statements you've provided. We will include the entire text of your statement in the record, and it will become part of the record of this proceeding. But take about 5 minutes and summarize the key points. And I would ask you to, if you could, focus in on those that address the questions that Representative Kucinich and I brought forward in our opening statements. Let's start with Mr. Linnert from BFGoodrich, if you would share with us your testimony. The light should go on and then the yellow light will go off when you have about 30 seconds left and the end of the 5 minutes is the red light. We are not going to be that strict, but just give you a guidance in terms of how you are doing. So, Mr. Linnert, please share with us the summary of your testimony.

STATEMENTS OF TERRENCE LINNERT, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, BFGOODRICH; ROBERT TUBBS, EXECUTIVE VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY, COLTEC INDUSTRIES; CARL MONTALBINE, SENIOR VICE PRESIDENT AND GENERAL MANAGER AIRCRAFT LANDING SYSTEMS, ALLIEDSIGNAL, INC.; AND JOSEPH BAUER, PROFESSOR OF LAW, NOTRE DAME SCHOOL OF LAW

Mr. LINNERT. Thank you, Chairman McIntosh, Representative Kucinich, and good morning. It is helpful to place today's hearing in context. BFGoodrich and Coltec will merge to create a financially stronger, more diverse global competitor than either firm is today standing alone. In today's intensely competitive environment, we need to do this so that we do remain strong, healthy partners with our customers, and so that we provide a growing environment for our employees. This merger will produce savings for our customers and jobs for our employees. There's a lot at stake, in this and every other merger; jobs are created or constructed; companies move or grow; products succeed or flop overnight. Missing an expanding market or not deploying a new technology or borrowing money at the wrong time can create a dinosaur. The results for the U.S. economy, our national security, and the economic health of our workers and shareholders can be disastrous. There will always be critics of these mergers beyond the appropriate interest of the government or the courts, so be it. But those that usually carp the loudest are most afraid that they will lose a preferred position in the marketplace to new, more vigorous, more modern, and, yes, more formidable competition. And most frequently these corporate critics go out and get a deal of their own. It's ironic then that

AlliedSignal is our most vocal critic. The Allied/Honeywell merger creates a $45 billion giant that will be able to cross-sell aerospace products in ways that BFGoodrich and Coltec cannot match, because it will not have the breadth of product offerings. It is even more ironic since AlliedSignal will fire 4,500 people in connection with its merger.

While Allied's Chairman Bossidy has recently assured South Bend that no jobs will be lost due to the Honeywell merger, one needs only look back to 1995 when AlliedSignal exited its South Bend landing gear business by selling equipment and contracts, to see that Allied's concern for South Bend rises and falls as it suits Allied's corporate purposes.

Mergers in the defense and aerospace industries are a fact of life. Since the end of the cold war, U.S. defense spending has declined dramatically. This reduced spending has driven consolidation, as you noted earlier, throughout the defense industry. Other factors such as globalization, requirements of scale and scope, also drive consolidation throughout the defense and aerospace industry.

Efficiencies of design and production and the need to generate and consume large amounts of capital quickly dictate corporate and management strategies that must be judged simultaneously in both the short- and long-term.

One of the consequences of consolidation is typically the loss of some jobs. As part of Goodrich's merger with Coltec, approximately 170 headquarter's positions will relocate to North Carolina. Similarly, the AlliedSignal/Honeywell merger will result in the closing of Honeywell's headquarters in Minneapolis and a job loss of 1,000 employees. While these relocations have a human impact that we take seriously, they should not overshadow the positive consequences of this merger. The plain fact is the merger of Goodrich and Coltec will produce significant benefits for employees, customers, shareholders and our communities.

Following the merger Goodrich will employ 27,000 people worldwide; the size and diversity, financial and technological strength and global reach of our businesses will create job stability and growth opportunities for our existing work force. As a stronger worldwide competitor, we will be better positioned to compete for business abroad; a stronger, better BFGoodrich is good for our employees and our customers. Our customers are very sophisticated; they demand innovative and quality products backed by the highest level of customer service and technical support. All at a fair and competitive price. Our customers are our lifeblood. If they had objected, this merger probably would not have gone forward. They have not objected because they are satisfied that they do have sufficient options to preserve healthy competition for their business, and they recognize the merger enables us to serve them better.

Mr. Chairman, as you can see from looking at that one chart, those are the folks—some of the folks who are in the business before this merger, in the wheels and brakes, brake control systems, and landing gear. If you could just visualize that chart, and the number of players on it, I'd like now to show you the post-merger chart. You will see not much change from pre-merger to post-merger because of our consolidation and affiliation with Coltec. Looks awful similar to the pre-merger chart. Mr. Chairman, as you know, the Federal Trade Commission and Department of Defense, as you said in your remarks, like our customers, have each come to the same conclusion following lengthy and comprehensive examinations. Both agencies listened carefully to the various arguments presented by AlliedSignal and Crane; both agencies concluded the merger should be allowed to proceed without objection.

I would like to address more specifically your concern about the merger's impact on Ohio jobs. Following the merger, BFGoodrich will employ more than 3,000 people in Ohio in management, manufacturing and research positions. Our performance materials business with more than $1 billion in revenue will remain headquartered in Brecksville. We have other BFGoodrich operations throughout many locations in Ohio. And we have been adding jobs in Ohio; since January 1997, our aerospace employment is up 14 percent. We remain committed to Ohio and to our work force in Ohio. Following the merger, Goodrich will contribute more than $20 million per year in taxes in Ohio as part of its continuing presence in the State. And as our company grows, we'd hope to build on that employment base.

Much has been said about the future of our Cleveland landing gear plant. Mr. Chairman, let me be very clear about this. BFGoodrich management has made no decision about this facility or any other landing gear facility. Having said that, I must tell you that the U.S. landing gear business is 15 percent below its peak volume, and customer demand is expected to remain low for the next 10 years. In this business environment, status quo cannot prevail. One of the attractions of the Coltec merger does come from combining the volume of the two firms and achieving more efficient capacity utilization. This added volume of financial strength will allow Goodrich to modernize and update our facilities.

After the merger, we will look at our operations and determine how best to become a more efficient and lower cost producer. That may include upgrading plants, reconfiguring our production mix and, perhaps, closing facilities. But failure to make those hard decisions could cost us competitive edge, and even more jobs than if we ultimately decide to close a plant. But until the merger has closed—I want to emphasize—until it has closed, the planning cannot be done and no decisions have been taken.

Mr. Chairman, there has been a lot of talk about how our merger will affect South Bend jobs. But that's what it is, talk. If there's more to it, then I'd like hear from AlliedSignal when they plan to layoff the first worker here in South Bend. I'll bet other folks in South Bend would like to know also.

AlliedSignal's, the vast majority of their wheels and brake business is in the large aircraft aftermarket. Those aircraft are already in production and operation. AlliedSignal is certified on 13 of the 20 commercial aircraft types built by Boeing and Airbus; each of those aircraft will be in service typically for 20 or more years. AlliedSignal has an annuity in the supply of wheels and brakes on those aircraft, and nothing about our merger can or will change that.

If AlliedSignal's wheel and brake business suffers or fails, Mr. Chairman, it will be because AlliedSignal did not meet its customer expectation for quality products at competitive prices. If jobs are lost here in South Bend it will be because AlliedSignal did not run its business here well and not because of our merger.

AlliedSignal makes some claim about the need to partner on a team with the landing gear suppliers so it can compete for integrated systems or to avoid gaming of the landing gear wheel and brake interface design. No credible, independent industry expert has supported those claims. But AlliedSignal does have a partner, if it chooses, under the strategic alliance agreement with Coltec. Just this week, the Arbitration panel in New York ruled against AlliedSignal, and found that the merger does not violate that strategic alliance agreement and that adequate safeguards could be implemented to protect any proprietary or confidential information that Allied has. Therefore, their partnership going forward to make landing gear for integrated system is in existence. Moreover, Mr. Bossidy talked about his $10 billion war chest to make more acquisitions after swallowing Honeywell. If AlliedSignal really need a landing gear partner for its wheel and brake business, it could invest $200 million, a small amount, from its acquisition war chest to build a world-class landing gear facility here in South Bend, or wherever they choose.

Actions speak louder than words, Mr. Chairman. And AlliedSignal's actions tell me it prefers carping over competing. Our goals are the same, Mr. Chairman. We at Goodrich want to grow so that we can satisfy our customers, challenge, reward and retain our employees, and provide financial returns for our investors. We can only achieve those goals by providing innovative, quality, least-cost products to our customers consistently and timely. By becoming a stronger competitor, we help the economy and the work force.

Mr. Chairman, let me tell you what we are committed to. We're committed to growing jobs and marketplace position; we're committed to sustaining a vigorous U.S. national defense position; we're committed to involving workers, shareholders, customers, management and government decisionmakers in our future business growth plans; and we are committed to building and designing the best price and best performing products for this market, or any other marketplace. We challenge AlliedSignal, Crane, Honeywell or anyone else to come and beat us fair and square in the marketplace. Thank you, Mr. Chairman.

[The prepared statement of Mr. Linnert follows:]

TESTIMONY OF
TERRENCE G. LINNERT
ON BEHALF OF
THE BFGOODRICH COMPANY

I am delighted to have the opportunity to appear before the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs to discuss the economic effects of the merger between BFGoodrich and Coltec.

I understand from your letter to BFGoodrich that the committee is specifically interested in BFGoodrich's plans for its Cleveland landing gear facility. I will address that issue more fully in my remarks; at the outset, and as we have stated previously, the Cleveland Pneumatic Company is a core business and it is not for sale. BFGoodrich has made no plans with respect to any specific facility that makes up that business or the Menasco business, and will not do so until the merger has been consummated.

It is important to place today's hearing in context. Multibillion dollar mergers have become an almost daily occurrence. As this Subcommittee has no doubt heard before, technology and globalization fuel this consolidation. In addition, in the defense and aerospace industries, the end of the Cold War drives much of the consolidation. Defense spending reductions and the consolidation at the apex of the defense supply chain have placed ever greater demands on the component supplier community to become more efficient while at the same time increasing the risks of business. BFGoodrich is not here to complain about the difficulty of competing. Rather, BFGoodrich believes that the market forces of competition will determine the winners and the losers in these changing and challenging times.

Mergers are an inevitable part of the restructuring of our industrial base. From the standpoint of competition policy, this is not a bad thing -- most mergers are procompetitive or competitively neutral. Rigorous review by the regulatory agencies -- here, the Department of Defense and the Federal Trade Commission -- provide important reassurance that those mergers that may hurt competition do not go unchallenged. The BFGoodrich/Coltec merger has successfully undergone a review by both the Department of Defense and the Federal Trade Commission. I can assure the Subcommittee that the review process was both rigorous and comprehensive. We welcome any inquiry the Subcommittee may have regarding the thoroughness of the work of the reviewing agencies.

It is also a fact that mergers and consolidations may dislocate people and can result in the consolidation or relocation of some jobs. While that is not always the case, clearly the demands of a global and technologically advanced society require greater productivity and efficiency. At BFGoodrich, we approach this part of the merger business very carefully. Our work force is important to us and we recognize the contributions our employees make to our success. We are committed to providing opportunities to our employee community to grow within our organization. We do not approach layoffs or plant closings with zeal or happiness. When such actions are needed for the greater good, we take them reluctantly and only after due deliberation. It is, therefore, ironic that interest in the BFGoodrich/Coltec merger was fueled by Allied Signal's spurious and false allegation that, in conjunction with the merger, BFGoodrich would close its Cleveland plant and eliminate 650 jobs. Allied Signal announced just two weeks ago its planned $15 billion merger with Honeywell. As part of that merger, Allied Signal plans to fire 4500 people to help it "realize the efficiencies" of its merger. While the citizens of South Bend apparently will be spared any job losses due to the Honeywell merger, the citizens of Minneapolis will not fare so well. We welcome any inquiry the Subcommittee may have regarding BFGoodrich's views on the important public policy issues associated with mergers and jobs.

I have organized my written testimony in three sections: 1) the merger review process; 2) the competitive implications of the merger; and 3) the effect of the merger on U.S. jobs.

THE MERGER REVIEW PROCESS

BFGoodrich and Coltec agreed to merge in late November, 1998, and submitted the required H-S-R notifications in early December. Shortly thereafter, representatives of BFGoodrich met with representatives of the Department of Defense to discuss the proposed merger. Between December 1998 and March 1999, representatives of the parties to the merger met and spoke with representatives of the Department of Defense regularly. The parties provided extensive information about their businesses to the Department of Defense in response to a detailed questionnaire from the Department. The parties responded fully and completely to every question posed by the Department of Defense.

We understand that representatives of Crane and Allied Signal met with officials of the Department of Defense in multiple efforts to derail the merger. While we do not know the details of their arguments, we believe they raised many of the same competition concerns that have been presented in other forums. The Department of Defense carefully considered the arguments presented by all concerned; from time to time, we were asked by the Department of Defense to provide information responsive to Crane and Allied Signal complaints, and we did. On March 15, 1999, the Department of Defense notified the FTC and BFGoodrich that "the Department will not object to the proposed acquisition of Coltec Industries by BFGoodrich."[1]

The FTC's Bureau of Competition conducted its own review parallel to that of the Department of Defense. While the Bureau of Competition conducted its investigation, Allied Signal initiated private antitrust litigation here in Indiana. With BFGoodrich's

[1] Letter 3/15/99 from Jacques S. Gansler, Under Secretary of Defense, to Terrence G. Linnert

consent, Allied Signal provided to the Bureau of Competition selected material it had obtained from BFGoodrich in discovery in the private lawsuit. BFGoodrich, at the request of the Bureau of Competition staff, provided the staff all of the discovery materials, including thousands of documents and pages of deposition testimony. The staff attorneys at the FTC diligently reviewed the material, evaluated the potential for anticompetitive effects, and concluded there were none.

Allied Signal and Crane were not satisfied with this outcome and insisted on meetings with the FTC commissioners. We are informed that Allied Signal and Crane met with each commissioner and used evidence obtained in discovery in the private litigation in their effort to persuade the FTC to intervene. Not one commissioner concluded that the merger ought to be challenged. On April 26, 1999, the FTC advised BFGoodrich and Coltec that it had closed its investigation without taking any action.[2]

Over a five month period, two federal agencies, each charged with considering the competitive implications of mergers, have reviewed the BFGoodrich/Coltec merger and both have concluded that no further action was warranted. This is strong evidence that the merger will not have anticompetitive effects, particularly given the vigorous antitrust enforcement we have seen in this same time frame (Lockheed-Martin/Northrop; General Dynamics/Newport News; Litton Industries/Newport News).

THE COMPETITIVE IMPLICATIONS OF THE MERGER

The merger of BFGoodrich and Coltec is procompetitive. As a result of consolidation among aircraft manufacturers and a declining number of new aircraft program starts, business opportunities for landing gear structure manufacturers have diminished. The total number of aircraft produced declined from more than 900 per year in the early 1990's to a low of 416 in 1996. While production has picked up since 1996, it is not expected to exceed about 800 aircraft per year over the foreseeable future.

The merged BFGoodrich/Coltec is likely to be better able to serve its customers in this environment. Significant cost savings are likely to result from the merger. These cost savings will enable BFGoodrich to offer savings to its customers, invest in more efficient equipment, and invest in additional landing gear projects.

BFGoodrich presently competes with Messier-Dowty, a French firm, for landing gear. At Airbus, Messier-Dowty has won all the procurements in which BFGoodrich has competed. The merger will place BFGoodrich in a stronger position to compete for Airbus business.

[2] April 26, 1999 letter from Richard G. Parker, Senior Deputy Director, Bureau of Competition, FTC, to Terrence G. Linnert

Allied Signal contends that the merger will put BFGoodrich in a near monopoly position with regard to sales of landing gear. Nothing could be further from the truth. Our business is global and we compete with suppliers from around the world for business here and abroad. The following are among the landing gear manufacturers capable of providing main landing gear for large commercial aircraft: BFG/Coltec; Messier-Dowty (a French firm); SHL (a subsidiary of Israeli Industries, which provides the landing gear for the Boeing 717); Heroux (a Canadian firm which provides landing gear for the C17); and Hydro-Mash (a Russian company). Several other firms presently manufacture nose gear for commercial aircraft and could increase capacity to supply main landing gear for large commercial aircraft. These companies include Liebherr, APPH, Sumitomo, and Castle Precision. Thus, after the merger, BFGoodrich would face competition from at least 8 firms that presently manufacture main and/or nose gear for commercial aircraft. These firms, and two others (EDE and Cessna) provide landing gear for regional, business and military aircraft. Indeed, Boeing has expressly advised BFGoodrich that Boeing will be looking to Messier-Dowty as a landing gear supplier for large commercial aircraft.

For several reasons, BFGoodrich cannot, and will not be able to, dictate terms to any aircraft manufacturer, or to unilaterally raise prices or to design landing gear in a way that disadvantages competitors' wheels and brakes and components. Whether the customer is Boeing or the Department of Defense or any other airframe manufacturer, the customer owns the data rights to the landing gear and to the interface between the landing gear and other system components. Indeed, on new programs, Boeing requires potential landing gear suppliers to jointly prepare the design of new landing gear at no cost to Boeing. Boeing then selects various suppliers to compete to produce the components and subsystems. If Boeing believes a supplier is not responsive or competitive, it can and will select another manufacturer. Moreover, many of the smaller landing gear components can be subcontracted. (BFGoodrich presently subcontracts 90% of its landing gear components.)

BFGoodrich and Allied Signal compete in the wheel and brake business, but nothing about this merger will enable BFGoodrich to discriminate against Allied Signal's wheel and brake business. As noted above, the airframe manufacturer owns the data rights, and the wheel and brake manufacturer can obtain the necessary interface information from the airframe manufacturer. Airframe manufacturers actively promote multiple sources of wheels and brakes because it drives down the total, lifetime cost of aircraft.

BFGoodrich competes with AlliedSignal, Aircraft Braking Systems Company ("ABSC"), Dunlop and Messier-Bugatti in the global wheel and brake business. The merger will not affect the number of competitors for that business. Significantly, ABSC and Dunlop have substantial positions in the wheel and brake business even though neither has a landing gear operation or an alliance with a landing gear manufacturer.

AlliedSignal has claimed that the merger of BFGoodrich and Coltec will foreclose AlliedSignal from the wheel and brake business and cost jobs here in South Bend. This claim is nothing but a scare tactic. For significant financial and customer relations reasons, aircraft manufacturers always retain complete authority to, and do, select the wheel and brake suppliers that will be included in new airplane platforms. Strong, effective competition in the wheel and brake business does not depend on owning or being allied with a landing gear operation. This is shown by the fact that ABSC, AlliedSignal and BFG all have significant wheel and brake positions on Airbus platforms even though Messier-Dowty is the primary landing gear supplier for Airbus, and its affiliate, Messier-Bugatti also supplies wheels and brakes.

Wheel and brake suppliers earn a large percentage of their revenue in the aftermarket; that is, in the supply of replacement wheel and brake components over the life of an aircraft. For this reason, wheel and brake suppliers compete vigorously to be designated by the aircraft manufacturer. The wheel and brake supplier often provides its wheels and brakes for the original equipment aircraft free of charge, and often pays an aircraft manufacturer substantial "certification" fees to compensate the manufacturer for the costs of certifying the wheel and brake system when the aircraft design is approved by regulatory authorities.

A wheel and brake manufacturer is not precluded from sales in the aftermarket if it does not supply the original wheels and brakes to the aircraft manufacturer. A wheel and brake manufacturer can obtain a "second source certification" from the FAA. Aircraft manufacturers actively encourage the development of different sources for replacement wheels and brakes because it provides the aircraft manufacturer with another option for its customers, promotes competition, and ultimately drives down the cost of aircraft maintenance operation for airlines. Airlines increasingly insist on at least two wheel and brake suppliers for an aircraft type and also have supported efforts to develop a second source at the request of individual wheel and brake suppliers. The most recent example of "second source certification" is Boeing's announcement in April 1999 that it had qualified Messier-Bugatti as a second wheel and brake supplier on the Boeing 767-300 aircraft. Both AlliedSignal and BFGoodrich have also qualified wheels and brakes for aftermarket sales on aircraft for which they were not initially qualified by the aircraft manufacturer.

Airlines and other end-users insist on dual suppliers for wheels and brakes so they can reduce operating costs by having competition for aftermarket sales. Consequently, all Airbus commercial aircraft are produced with at least two qualified sources for wheels and brakes. All but one or two Boeing commercial aircraft are produced with two qualified sources for wheels and brakes. Given the financial incentives for the airframe manufacturer and the requirements of their airline customers, there is no reason to expect Boeing or Airbus to launch any new aircraft platform that does not have dual sources for wheels and brakes.

If this merger were likely to have anticompetitive effects, our customers would have objected. They have not. Our relationships with our customers are so important that, had they objected, we probably would not have gone forward with the merger. Indeed, prior to announcing the merger, my CEO, the President of BFG Aerospace and the CEO of Coltec met with the President and COO of Boeing and we were advised that Boeing did not oppose the merger. We have also been told by Lockheed Martin and Bombardier that neither opposed the merger. As far as we know, no aircraft manufacturer has opposed this merger.

I appear before the Subcommittee confident that this merger is good for competition and good for our customers. Those customers and the federal agencies charged with enforcing competition policy have agreed. I am confident that history will bear out those judgments.

THE EFFECT OF THE MERGER ON U.S. JOBS

Following the merger, BFGoodrich will employ 27,000 people worldwide. The size and diversity, financial and technological strength and global reach of our businesses will create job stability and growth opportunities for our existing work force. The benefits and efficiencies in this merger, perhaps unlike others, are not centralized on employee reductions and layoffs. Rather, it is our hope that the merger will be a source of job growth as we realize the benefits of being more competitive both domestically and overseas.

As part of the merger, approximately 170 headquarters positions will relocate from Ohio to North Carolina. This sort of headquarters consolidation and relocation is typical of mergers. There will be 4,500 jobs lost as a result of the Allied Signal/Honeywell merger, including 1,000 due to Honeywell's relocation from Minnesota to New Jersey.

I would like to address more specifically the Chair's concern about the merger's impact on Ohio jobs. In February, 1999, in response to an inquiry from the Department of Defense, BFGoodrich provided a preliminary, internal study that presented possible options for restructuring the landing gear business. Although each of the options presented by the study contemplated closing the Cleveland plant, BFGoodrich told the Department of Defense that "its views concerning reconfiguration are necessarily tentative" because it did not have cost information regarding any Coltec facilities.[3]

Let me be very clear about the future of our Cleveland landing gear plant: BFGoodrich management has made no decision about the future of this facility. Having said that, I must tell you that the U.S. landing gear business is 15% below its peak volume, and customer demand is expected to remain low for the next 10 years. In this business environment, status quo cannot prevail.

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[3] February 3, 1999 letter to Kathy Brown, Senior Attorney, Office of General Counsel, Dept. of Defense from Tom D. Smith. There is absolutely no truth to allegations that BFGoodrich told the Department of Defense or the FTC that it would close the Cleveland plant.

After the merger, we will look at all of our operations and determine how best to become a more efficient and lower-cost producer. This may include upgrading plants, reconfiguring our production mix and, perhaps, closing facilities. The failure to make these hard decisions could cost us our competitive edge and even more jobs than if we ultimately decide to close a plant. Until the merger has closed, however, we do not have access to the information we need to make an intelligent decision and, as a consequence, no decisions have been taken.

I promise you this -- we will include all of our stakeholders in the process. We have already received a very appropriate and much appreciated invitation from Governor Taft of Ohio to consult with his office as we go forward in our planning and we have assured him that we will do so. Likewise, we will talk to the unions, other state, local and federal government officials as well as other interested groups to help us make the most informed and sound decision possible.

Whatever decision is reached regarding any of our facilities, BFGoodrich remains committed to Ohio. Following the merger, BFGoodrich will employ more than 3,000 people in Ohio in management, manufacturing and research positions. Our Performance Materials business, with more than $1 billion in revenue, will remain headquartered in Brecksville. Other BFGoodrich operations in Ohio are located in Akron, Avon Lake, Chagrin Falls, Cleveland, Cincinnati, Columbus, Dayton, Elyria, Green, Troy, Twinsburg and Uniontown.

We have been adding jobs in Ohio -- since January 1997 we have added 200 jobs to our aerospace work force in Ohio and aerospace employment is up 14%. We remain committed to Ohio and to our work force in Ohio. Following the merger, BFGoodrich will contribute more than $20 million per year in taxes to Ohio as part of its continuing presence in the State.

I would also like to address AlliedSignal's contention that the BFGoodrich/Coltec merger will adversely affect jobs at AlliedSignal's plant in South Bend. There is no basis in fact for this claim. First, as discussed above, there is no reason to expect that aircraft manufacturers or airlines will depart from the current practice of certifying more than one source of wheels and brakes for new aircraft platforms. Nor is there any evidence that the landing gear supplier directs or controls the selection of the wheel and brake supplier. The evidence all shows to the contrary. On at least two occasions, AlliedSignal teamed with Menasco and submitted bids to Bombardier to supply a fully integrated landing system, which included Menasco landing gear and AlliedSignal wheels and brakes. In both cases, Bombardier did not accept the "system" bid and, instead, designated Menasco (the landing gear supplier) as integrator and <u>directed</u> Menasco to use someone besides its teaming partner to supply wheels and brakes. Similarly, BFGoodrich bid a system to Ayres, a regional/business aircraft manufacturer. After a competitive bid, Ayres selected BFGoodrich's proposal, which included BFGoodrich landing gear and wheels and brakes, and Hydro-Aire brake controls. Ayres, however, directed BFGoodrich to use ABSC wheels and brakes.

Moreover, BFGoodrich will work with AlliedSignal on future "system" bids in accordance with the Strategic Alliance Agreement ("SAA") between AlliedSignal and Menasco. BFGoodrich will take all steps to comply with the SAA and to protect "confidential" information of AlliedSignal so that, if AlliedSignal chooses, it will continue to enjoy the full benefits of the SAA postmerger. AlliedSignal's "concerns" about its proprietary information are unreasonable; mechanisms such as "firewalls" and physical separation of individuals and business units are commonplace in the aerospace industry to deal with situations such as this and BFGoodrich and AlliedSignal are both parties to such agreements.

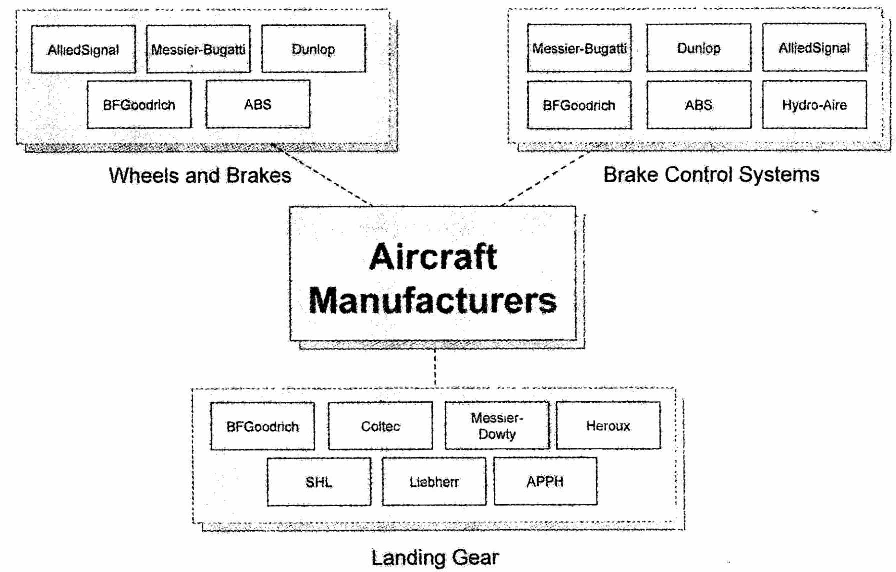
Wholly apart from future aircraft platforms, the merger will have no effect on AlliedSignal's ability to supply wheels and brakes to existing programs. As noted above, wheel and brake manufacturers make significant up-front certification payments to aircraft manufacturers, and often "give away" the original equipment wheels and brakes because so much of the revenue in wheels and brakes is in the aftermarket. Large commercial aircraft typically remain in service for 20 years or more. Thus, the aftermarket provides a lengthy and predictable stream of business that enables wheel and brake suppliers to forecast with greater predictability than many other aerospace suppliers the demand for their products. AlliedSignal currently supplies wheels and brakes on approximately 20 commercial aircraft, including the following:

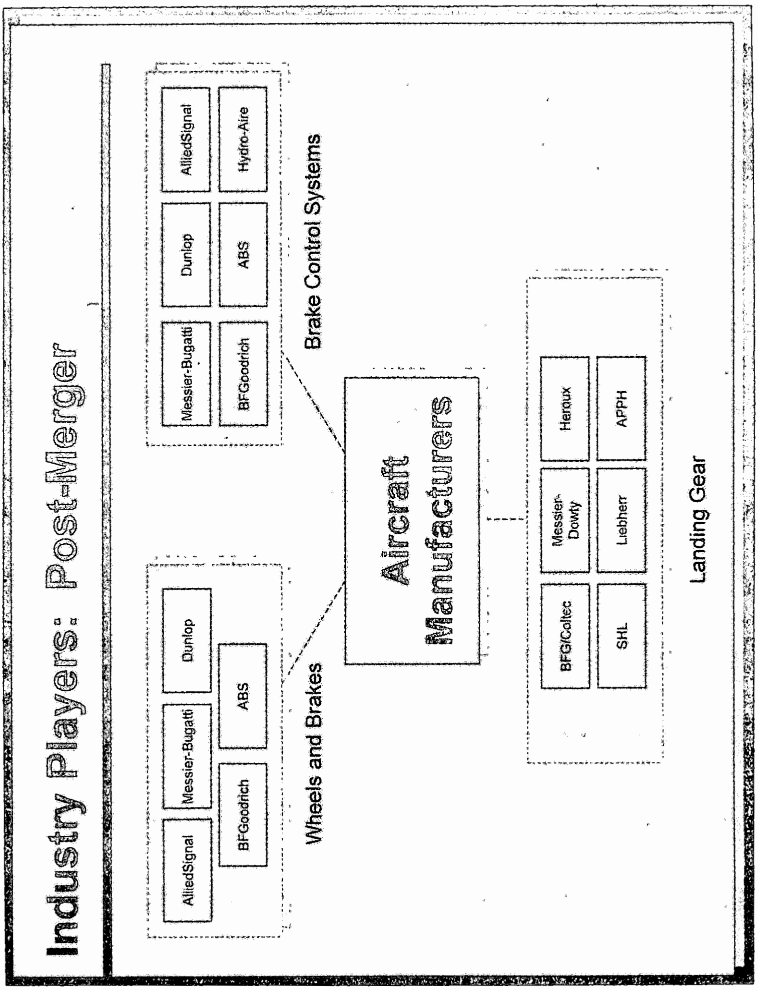
Airbus A300	Boeing 707
Airbus A310	Boeing 717
Airbus A319/A320	Boeing 727
Airbus A330/A340	Boeing 737
Canadair CL-44	Boeing 747
Ilyushin IL-96M	Boeing 767
Tupolev TU 204-200	Boeing 777
BAC 1-11	Boeing DC-8
Dornier 328	Boeing MD-11
	Boeing MD-80

Without even taking the military market or new commercial aircraft types into account, these existing programs provide a predictable base of business that will be unaffected by the BFGoodrich/Coltec merger, and that should provide job security and stability here in South Bend. Both Boeing and Airbus recently released projections for the sale of new aircraft, and new aircraft types over the next decade. While those forecasts differ, both aircraft manufacturers project substantial overall growth in the size of the commercial aircraft fleet. This bodes well for well-run wheel and brake manufacturers here like AlliedSignal and BFGoodrich. The merger with Coltec will not affect the overall growth of the fleet and the growth of demand for replacement wheels and brakes.

Our goals are the same as those of the Subcommittee. We at BFGoodrich want to grow so that we can satisfy our customers, challenge, reward and retain our employees, and provide financial returns for our stockholders. We can only achieve these goals by providing innovative, quality, least-cost products to our customers consistently and timely. By becoming a stronger competitor, we help the economy and the work force in Ohio and in the other states in which we have operations.

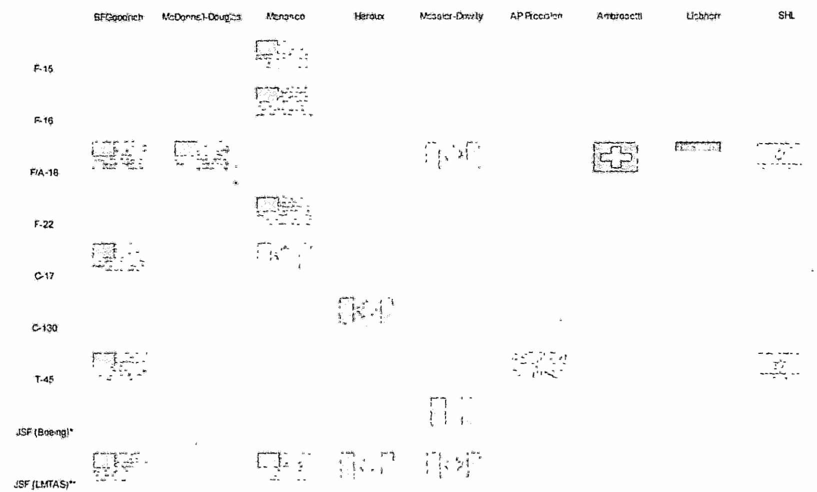
Industry Players: Pre-Merger





Industry Players: Post-Merger
AlliedSignal
Messier-Bugatti
Dunlop
BFGoodrich
ABS
Wheels and Brakes
Messier-Bugatti
Dunlop
AlliedSignal
BFGoodrich
ABS
Hydro-Aire
Brake Control Systems
Aircraft Manufacturers
BFG/Coltec
Messier-Dowty
Heroux
SHL
Liebherr
APPH
Landing Gear

Multi-National Military Landing Gear Suppliers



Sources: Dep't of Defense Rep't to Congress on US Landing Gear Manufacturers (1997) and Industry Sources. * Indicates that Program is Currently Being Bid for the Engineering, Manufacturing, and Development Phase of the Joint Strike Fighter; ** Indicates Parties Expected to Receive Requests for Proposal from Lockheed-Martin for the EMD Phase of the Joint Strike Fighter Competition

Wheel and Brake Suppliers for Military Aircraft

	AlliedSignal	ABS	BFGoodrich	Messier-Bugatti	BFG-MB JV	Dunlop
F-15	✓	✓				
F-16			✓			
F/A-18	✓					
F-22	✓					
C-17	✓					
C-130		✓				
T-45			✓			
X-33	✓					
JSF (Boeing)*		✓				
JSF (LMTAS)*	✓					

AlliedSignal Supplies Wheels and Brakes to 6 of 10 Military Aircraft Programs

* Indicates Wheel and Brake Supplier on the Concept Development Phase of the Joint Strike Fighter Competition Neither Boeing nor Lockheed-Martin has selected a wheel and brake supplier for the EMD phase of the competition

Wheel and Brake Suppliers for Large Commercial Aircraft

	AlliedSignal	ABS	BFGoodrich	Messier-Bugatti	BFG-MB JV	Dunlop
Boeing 747-400			✓			
Boeing 777	✓		✓			
Boeing 737	✓		✓			
Boeing 717	✓					
Boeing 757-300			✓			✓
Boeing 767-300	✓			✓		
Boeing 767-400	✓		✓			
Boeing MD-11	✓					
Boeing 737-500	✓		✓			
Airbus A321		✓			✓	
Airbus A319	✓		✓	✓		
Airbus A320	✓	✓	✓	✓		
Airbus A340-500/600	✓				✓	✓

AlliedSignal Supplies Wheels and Brakes to 10 of 13 Large Commercial Aircraft Programs

Mr. McINTOSH. Thank you, Mr. Linnert. You have raised several good points that we will get to in the question and answer period.

Let me turn to our second witness for this panel; Mr. Carl Montalbine, who is with AlliedSignal. Mr. Montalbine, feel free to summarize your testimony and focus in on the issues. You are welcome to also respond to Mr. Linnert's testimony.

Mr. MONTALBINE. Thank you. Thank you very much, Chairman McIntosh, Ranking Member Kucinich, and the rest of the committee. It is a privilege to appear before you. I am Carl Montalbine, vice president and general manager of Aircraft Landing Systems, a business unit of AlliedSignal that's located right here in South Bend. AlliedSignal's Aircraft Landing Systems Division sells wheels, brakes, brake control, and integrated landing systems for commercial and military aircraft and employs approximately 1,000 people here in South Bend. I have submitted written testimony and would like to take 5 minutes to discuss that testimony.

At the outset, I'd like to emphasize three points: One, the BFGoodrich/Coltec merger will have serious anti-competitive consequences. Two, AlliedSignal is not alone in concluding that the BFGoodrich merger is anti-competitive. Airlines, wheels and brakes manufacturers, and even U.S. military personnel at Hill Air Force Base concur. Three, the anti-competitive effects can be avoided by BFGoodrich selling its Cleveland pneumatics landing gear business to Allied. This sale would ensure vigorous competition for landing systems. It would allow AlliedSignal to maintain a strong presence and relationship with the South Bend community. And AlliedSignal commits it will keep jobs in Cleveland and in South Bend. We'll keep those jobs there for the long-term, not just for 2 years.

We have a solid working relationship with our local UAW, and we will continue that relationship by assuming the UAW contract at the Cleveland plant. To understand the negative effects of the merger, I have a diagram similar to the BFGoodrich one, that illustrates how the merger will affect the industry structure.

Goodrich, Coltec and Messier control approximately 99 percent of the large, commercial landing gear market. They are the only three companies in the world with the capabilities to design, manufacture, and test landing gear for commercial aircraft. Today, two of these three landing gear companies, Goodrich and Messier, have their own wheels and brakes operations. That leaves a third company, Coltec, as the only viable gear part—landing gear partner for AlliedSignal. One of the important things that I would like to interject here and to note is that when we talk about the supply of landing gear, it's one thing to talk about who can manufacture landing gear, and as Mr. Linnert's chart showed, there were more than just BFGoodrich, Coltec, and Messier, there are a lot of what I call "mom-and-pop" shops, "build-to-print" organizations; the Liebberr, Aerotech—Liebberr, Heroux, SHL, a number of others, that are not capable of designing the actual original equipment. In fact, if you look at a list of the 21 military programs that compromise 80 of the 90 percent of the U.S. military landing gear designed in this country over the last 30 years, none of it has been manufactured—none of it has been designed by any of those companies. They have all been designed, originally designed, by either BFGoodrich, the

Cleveland facility, before it was even purchased by BFGoodrich, Coltec, Menasco, or Messier-Dowty.

After the merger, if we were to look at the post-merger world, Goodrich and Messier will have access to the landing gear needed to compete. And Messier is owned by a French firm, which is controlled by the French Government. Right now, we are teamed with our strategic alliance partner Menasco on the Joint Strike Fighter Program. That program is going to be awarded on the basis of a system contract. A letter from Lockheed-Martin, Mr. Art Price, on April 29th, clearly indicated it's their intent to award the system. If you look in the post-merger world, who would AlliedSignal possibly team with to be able to offer a complete landing system? It couldn't be BFGoodrich on the left, as they have their own wheel and brake operations, and it couldn't be Messier-Dowty on the right, they also have their own wheel and brake operation.

With that background, let me emphasize three points. The first point I want to emphasize is that AlliedSignal will be harmed by this merger by Goodrich vertically foreclosing or gaining Allied and raising Allied prices for landing gear. Landing gear is similar to the Windows 95 operating system; the wheels and brakes is like the browser. The browser, or wheel and brake companies, must get technical information from the operating system. BFGoodrich/Coltec will control the landing gear information necessary for Allied to understand the interface and to compete. Based on Allied's experience, BFGoodrich will have every incentive to gain the information provided to Allied. And later, if I have some time, there are a number of examples that I'd like to cite showing how this has happened already. Prices will go up. BFG will also control supply of landing gear that Allied needs to compete with BFG as a landing systems integrator. Allied has purchased landing gear on projects such as the Joint Strike Fighter. BFGoodrich, who would compete against Allied on the Joint Strike Fighter, will have no incentive to sell landing gear to Allied at fair prices, if at all.

A side point that I'd like to address is that I've heard BFGoodrich say that there is no such thing as a integrated landing systems market. This is false. I've come back, as you know, recently from the Paris Air Show, and at Paris they put out this "Daily Show News." It's published by "Aviation Week," and comes out on a daily basis. And in that—and I'd be happy to make that available to the committee—there's an article——

Mr. McIntosh. I'd suggest, seeing no objection, we will make that part of the record, because I would like to see that.

[The information referred to follows:]

On the Record with

DOMINIQUE PARIS, CHAIRMAN AND CEO, MESSIER-DOWTY INTERNATIONAL

Messier-Dowty Claims the Gear Crowr

When it comes to landing gears, Messier-Dowty claims to be the world's Number One.

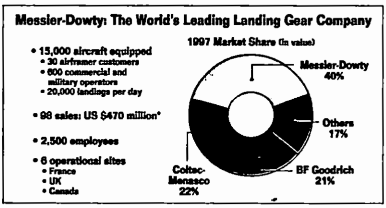
"We are the only company devoted to landing gear systems, from small business jets to helicopters to the largest airliners," chairman and CEO Dominique Paris told *Show News*. "And we are the only company in the world able to design and produce fully integrated landing gear systems ready to fit to the aircraft."

Just to top off the list of firsts, Paris added that Messier-Dowty is one of the few equipment manufacturers with a strong customer and manufacturing base in both Europe and North America, making it a global company. Indeed, Messier-Dowty is registered as a British company, though headquartered in France, and has manufacturing facilities in both those countries as well as Canada.

Messier-Dowty's CEO Paris.

Messier-Dowty was formed just four years ago as a joint venture between Snecma of France and TI Group of the UK; then, just a year ago, Snecma bought it outright. This year it will have sales of $500 million including spares, with another $200 million of revenues from overhauls.

"We are still the same company in terms of capability and product, but now we are in a more stable situation for the long term," Paris said. "With Snecma we are part of a group that is 100% aerospace. This is something our customers should appreciate as the long term investment of our parent in aerospace is unquestionable."



Messier-Dowty is the only supplier of landing gear to Airbus, and the backlog of that product line should ensure it a stable base of business during the next downturn in airline purchasing. With the next few years secure, Paris has turned his eye to growth opportunities over the next decade on Airbus, as well as Boeing.

Given that new landing gears are required only for new models of aircraft, Paris admitted the opportunities are few.

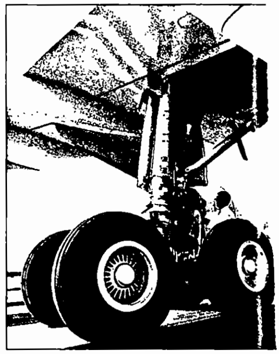
"However, we are very much involved in pre-development work at both Boeing and Airbus," Paris said. On regional airliners both Embraer and Bombardier have asked for proposals by the end of the year for their 70-90 passenger aircraft, and the proposed Airbus A400M military transport is also taking some attention. "Any new program—this is our target," said Paris.

In Europe, Paris believes Messier-Dowty has a distinct advantage over rivals BFGoodrich/Coltec in that unlike Boeing, Airbus has delegated responsibility for design, manufacturing and product support to systems suppliers. That means Messier-Dowty has far more experience in these areas, even as Boeing begins to look in that direction. "This should be a big advantage to us," predicted Paris.

In North America Messier-Dowty has been far more successful with Boeing Military than with Boeing Commercial, where its sole victory was as a partner with Menasco on part of the 777 landing gear.

"We are probably the biggest single supplier of landing gear to Boeing Military," noted Paris. Programs include the F/A-18 C/D and E/F, Harrier, Goshawkóand now the JSF.

To support customers and provide one point of contact for complete landing gear systems, Messier-Dowty is joint owner of Messier Services with sister company Messier-Bugatti, which concentrates on wheels and brakes. "Messier Services gives us a worldwide product support capability. Providing such services is very important to remaining in the market," Paris said. **—John Morris**



Landing gear for the A330 is but one by Messier-Dowt

Messier-Dowty to Land, Messier-Bugatti to Stop

While Messier-Dowty specializes in landing gear, sister company Messier-Bugatti (also owned 100% by Snecma) concentrates on wheels—and on how to stop them.

Here at Le Bourget, the $321 million-sales Messier-Bugatti is showing its latest technological developments, including the all-electric braking system for the Airbus A340-500/600. An earlier all-electric system found its first application on the A319/320/321.

Other Messier-Bugatti equipment chosen for the A340-500/600 includes a new-generation, high-pressure hydraulic pump, eight shipsets per aircraft of landing gear uplocks, and the thrust reverser control system developed by the companyís Hispano-Suiza Aerostructures unit.

More than 120 airlines around the world use Messier-Bugattiís carbon brakes, leading the company to claim world leadership in this segment with a 26% market share. Its brakes have now racked up more than 41 million landings as a Messier-Bugatti-equipped aircraft hits the brakes every five seconds.

Mr. MONTALBINE. There's an article from Dominique Paris, who is the chief executive officer of Messier-Dowty. A very interesting article in it. The whole article is about the future of the landing gear industry moving to integrated landing systems, and how, with their wheel and brake company, they're capable of supplying landing gear systems. And even indicate in here that Airbus has delegated the responsibility for the design manufacturing and product support to Messier-Dowty, so they make the choice on wheels and brakes. And even Boeing begins to look in this direction. All this is quoted here in the article. I would be happy to make it available.

There's also another interesting notion about—my notion about this notional market. If it's such a notional market, how come BFGoodrich has already quoted and had been awarded systems contracts in the past? The Fairchild Dornier 728 Program, they're in the process of competing on the Embraer 170 and 190. In fact, there are 12 programs right now, either pending or in early stages of production, that are, and have been awarded, as landing systems. The Joint Strike Fighter coming up; A3XX, Bombardier 100–8, Bombardier 90, a new 90-seat passenger airplane that Bombardier intends to build; the Embraer 170, Embraer 190, Fairchild 728, the Canadair RJ, the Boeing 717, the AS 400 and LAPD, which is Boeing's large aircraft preliminary design answer to the Airbus A3XX, all intend to be let as landing systems.

Second point I'd like to emphasize is, that numerous parties who know landing systems recognize these anti-competitive effects. Airlines, who are the customers for wheels and brakes, oppose the merger. SAS, AirTran, Northwest, American, Air New Zealand, and others, have all indicated anti-competitive concerns. Significantly, not a single airline supports the merger as procompetitive. Again, not a single airline supports this merger. Besides Allied, the only other two major independent wheel and brake manufacturers in the world also oppose the merger. ABSC based in Acron, OH, oppose the merger. And I urge the committee to review the sworn affidavit of Mr. Ron Welsh, president of ABSC, which is attached to my written testimony. Again, not a single, major independent wheel and brake manufacturer has provided sworn testimony that the BFGoodrich merger is procompetitive.

The third and final point I want to emphasize is, that all these anti-competitive problems can be avoided. According to published reports, BFGoodrich and Coltec will consolidate their landing gear facilities, and they will close the Cleveland business. BFG has said that Allied has not put forward an offer. And this is false. AlliedSignal has privately and publicly offered to buy the Cleveland business at a fair price. And I reaffirm that offer today.

BFG has also said that no final decision has been made on closing Cleveland. If that is true, I call in BFGoodrich to give AlliedSignal the opportunity to buy the Cleveland business whenever a final decision is made. There is, however, one problem with BFG selling Cleveland to Allied. If AlliedSignal purchases the Cleveland business, or even a portion of it, BFG will have a competitor in the United States. No more monopoly, no more monopoly profits. The fact that BFGoodrich would prefer to close Cleveland rather than sell Cleveland to AlliedSignal only confirms the high value BFG places on being a monopolist in landing gear.

BFGoodrich would prefer to spend money to mothball a business rather than receive money from Allied.

I want to emphasize that AlliedSignal has a long-term commitment to this community. We have been a significant employer and strong community leader in South Bend since our company was established in 1924 as the Bendix Corp. We have invested substantial money here in South Bend, especially in terms of research and development, and we want to maintain that relationship.

In short, Mr. Chairman, under Allied's proposal, everybody wins. Jobs are preserved in Cleveland and South Bend; the U.S. military will have two suppliers of landing gear; and BFG gets to close its merger with Coltec.

Thank you for your time. I would like to thank Congressman Roemer, who I know isn't here, also, who has been a long-time supporter of Allied and our aircraft landing systems business here in South Bend.

[The prepared statement of Mr. Montalbine follows:]

WRITTEN TESTIMONY OF CARL R. MONTALBINE

I would like to thank chairman McIntosh, ranking member Kucinich, and the subcommittee for giving me the opportunity to speak today. I would also like to thank Congressman Roemer for his support.

I am Carl Montalbine, vice president and general manager of Aircraft Landing Systems, a business unit of AlliedSignal located in South Bend, Indiana. AlliedSignal's Aircraft Landing Systems division sells wheels and brakes, brake control systems, and integrated landing systems for commercial and U.S. military aircraft and employs approximately 1400 people at its South Bend facility. I am the senior executive for the entire AlliedSignal Aircraft Landing Systems business unit in South Bend and have ultimate responsibility for the profit and loss statement of the business unit.

Overview

B.F. Goodrich ("Goodrich") and Coltec have announced a merger that will result in a single U.S. landing gear manufacturer (and one of only 2 worldwide). A federal court in Indiana has preliminary enjoined the merger based on a finding that "the merger would likely result in a U.S. monopoly for the sale of landing gear that would result in higher prices for such gears," and the Ohio Attorney General is also investigating the transaction. Moreover, according to published reports, Goodrich may close its landing gear operations in Cleveland after the merger.

There is a simple solution to the anti-competitive effects of the Goodrich-Coltec merger. AlliedSignal has stated on more than one occasion that it is willing to purchase the Cleveland landing gear business – that is slated to be closed after the merger anyway – from Goodrich. AlliedSignal has further stated that it would invest significantly to modernize those operations so as to not only maintain, but increase, competition in the United States landing gear market. Moreover, AlliedSignal has publicly stated that it has every intention of maintaining the high-paying union jobs at the Cleveland landing gear business if it is sold to AlliedSignal.

Personal Background

My background is in engineering. I have a Bachelor of Science degree in aeronautical engineering from the University of Cincinnati and a Masters degree in mechanical systems and applied mechanics from the Polytechnic Institute of New York. Before coming to AlliedSignal, I was in charge of systems engineering on the Northrop B-2 bomber. I was specifically hired by AlliedSignal to bring my expertise in systems integration to the company to help work on future bids for landing gear systems integration. At AlliedSignal, prior to holding my current position, I was director of engineering at AlliedSignal and manager of landing systems at AlliedSignal. Through these various positions, I have experience providing integrated landing systems, designing and manufacturing wheels and brakes, designing and manufacturing brake control systems, and, before AlliedSignal sold its landing gear business to Coltec in 1995, designing and manufacturing landing gear.

AlliedSignal's Opposition to the Goodrich-Coltec Merger

As I already indicated, AlliedSignal opposes the merger and there is ongoing litigation with respect to this merger. Because of a protective order in the litigation, I personally have not reviewed the numerous documents produced by Goodrich, Coltec, and third parties during the course of the case. Nor have I had the opportunity to review the deposition testimony of various Goodrich, Coltec, and third party witnesses. My testimony therefore reflects what I know of the public statements that have been made with respect to the merger and AlliedSignal's experience and knowledge with respect to the landing gear, wheels and brakes, and integrated landing systems businesses.

At the outset, it should be noted that AlliedSignal generally does not oppose mergers. AlliedSignal itself has been – and will continue to be – a company that seeks out merger opportunities to improve its competitiveness in the markets in which it competes. AlliedSignal almost never opposes mergers among its suppliers, customers, and competitors. Nor does AlliedSignal oppose the combination of Goodrich's and Coltec's aerospace businesses unrelated to landing gear systems, even though AlliedSignal competes with Goodrich and Coltec in these other aerospace lines of business. If AlliedSignal's opposition simply represented the complaints of a "whining competitor" – as Goodrich and Coltec have suggested – then AlliedSignal would have challenged many aspects of the merger – which it has not.

Instead, AlliedSignal's opposition to the merger has focused on the particular anticompetitive effects of the combination of Goodrich's and Coltec's landing gear businesses. There are only three companies in the world today capable of designing, developing, and manufacturing landing gear for large commercial aircraft, larger regional jets, and U.S. military aircraft: Goodrich, Coltec, and a French company, Messier-Dowty. Goodrich and Coltec are the only two domestic suppliers. AlliedSignal believes that the merger of these two companies' landing gear operations – which would create a worldwide duopoly and a domestic monopoly – will have particularly adverse effects upon competition, not only in terms of sales of landing gear, but also in terms of sales of wheels and brakes (which must interface with the landing gear) and integrated landing systems (which requires access to a supply of landing gear).

Other Wheel and Brake Suppliers Agree With AlliedSignal

AlliedSignal is not alone in this view. There are five prominent wheels and brakes suppliers in the world: AlliedSignal, Aircraft Braking Systems (ABS), Dunlop, Goodrich, and Messier-Bugatti. Two of these companies – Goodrich and Messier-Bugatti – are affiliated with the two remaining landing gear companies. The other three companies oppose this merger:

- ABS submitted an affidavit in the litigation stating that the "post-merger Goodrich entity can be expected to exert leverage by its landing gear market concentration to benefit its Goodrich wheel and brake business" and that the merger will "lessen competition in the integrated landing system, landing gear, and wheel and brake markets." Tab A.

- Similarly, Dunlop submitted an affidavit in the litigation stating that the merger will lessen competition in these markets. Tab B.

In short, every wheel and brake supplier not affiliated to one of the two remaining landing gear suppliers recognizes the anticompetitive effects of the merger.

Defense Department Personnel Who Know Landing Gear Agree That The Proposed Merger is Anticompetitive

After the merger, the Defense Department will have only one **domestic** supplier of aircraft landing systems for its fighter, bomber, attack, and cargo aircraft. Although the Defense Department has not formally come out in favor of or opposition to the merger (wrongly, in my opinion), key procurement personnel within the Defense Department at Hill Air Force Base -- the base responsible for landing gear sustainment on Air Force aircraft -- have expressed their opposition to the merger. John Hamlen, for example, notes that several discussions have occurred at Hill Air Force Base among personnel in which concerns have been raised about the merger. Tab C. Frank Zuech similarly notes that these concerns have revolved around the merger limiting the Air Force's sources of landing gear and wheels and brakes and the possibility for higher prices. Tab D. And John King wrote a memo in January 1999 outlining the Hill Air Force Base landing gear engineering group's collective concerns with the merger, noting that the merger could "adversely affect technical data availability, product support, and technical capability for future designs," that Goodrich after the merger would be like a "non-regulated monopoly," that Goodrich could "leverage their control of the gear into control of wheels, brakes, and brake controls," and that Air Force personnel "simply don't want to put all of our eggs in one basket." Tab E.

Airlines Agree With AlliedSignal

Significantly, airlines – including major U.S. carriers – also agree with these Defense Department personnel and AlliedSignal. Ed Doty of Scandinavian Airlines, who is involved in wheel and brake issues for eight different major airlines through the Star Alliance, believes that aftermarket wheel and brakes prices will rise and that Goodrich could leverage its control over landing gear to obtain sole source positions on future aircraft programs, adversely affecting airlines. Tab F. AirTran similarly believes that the merger will result in higher landing gear prices, that "Boeing will pass any additional cost of landing gear resulting from the merger on to customers," and that the merger will have a "negative impact on our ability to purchase wheels and brakes at a competitive price." Tab G. I also am told that personnel from United Airlines and Northwest Airlines have testified, but, because of the protective order, I have not seen their testimony. I am not aware of a single airline that has come out in favor of the merger.

Background on Landing Systems

An aircraft landing system consists of three key components: (1) the landing gear structure (or "landing gear"), which absorbs the shock of an aircraft's landing; (2) the wheels and brakes (which are typically sold as a package and apply the friction to slow the aircraft upon landing); and (3) the brake control system, which allows the pilot to operate and control the rest of the landing system.

AlliedSignal Aircraft Landing Systems's primary business focus among these three components is selling wheels and brakes. AlliedSignal Aircraft Landing Systems has designed, developed, and manufactured wheels and brakes for numerous commercial and military aircraft. On the military side, AlliedSignal makes the wheels and brakes for the F-22, F-18 E/F, and F-15 fighter and attack aircraft, the C-17 cargo transport aircraft, and the B-2 bomber. On the commercial side, AlliedSignal sells wheels and brakes for numerous Boeing and Airbus commercial aircraft, including the Boeing 717, Boeing 777, Boeing 767, Boeing 737, Airbus 330/340, and Airbus 319/320. AlliedSignal also has provided the wheels and brakes for the X-33, the prototype vehicle for the next generation Space Shuttle. In addition to this wheels and brakes business, AlliedSignal has a smaller brake control systems business and is providing brake controls for the F-22 fighter.

Prior to 1995, AlliedSignal also had a niche landing gear business, primarily focused on designing and manufacturing the smaller landing gear used in U.S. military aircraft. AlliedSignal, for example, designed and manufactured the F-18 E/F landing gear. In 1995, AlliedSignal sold its landing gear business to Coltec and therefore today does not compete with Coltec and Goodrich in the sale of landing gear. The reason for this sale was the need to compete for integrated landing systems, a subject to which I turn next.

Systems Integration

The design and development of the interfaces between the three key landing gear components is often referred to as "systems integration." The task of integrating the landing system can be performed by either the airframe manufacturer or by an outside systems integrator. Systems integration typically involves performing the up-front engineering work required to define the requirements for the landing gear system itself, including the structure, wheels and brakes, and brake control system.

Historically, the airframe manufacturer -- *i.e.*, Boeing, Lockheed-Martin, Bombardier, Northrop Grumman -- performed the landing gear systems integration function themselves. Increasingly today, airframe manufacturers look to outside systems integrators to perform the systems integration on landing gear systems for new aircraft. Integrated systems bids are now the standard procedure for aircraft procured by the U.S. military as well as several major aircraft manufacturers. The reason is that outsourcing systems integration can lower costs and improve overall system design.

Several years ago, AlliedSignal recognized this trend toward outsourcing systems integration and realized that in order to compete for future aircraft landing system programs, the company would need to be a systems integrator. To compete as a systems integrator, AlliedSignal would need access to landing gear (so as to have landing gear to integrate with the rest of the landing gear system). In particular, AlliedSignal needed access to landing gear from a company that could design and manufacture landing gear for larger aircraft such as Boeing and Airbus aircraft. AlliedSignal had two choices. It could undertake the massive investment in equipment and resources needed to upgrade its small landing gear operations and enter the business of supplying landing gear for larger aircraft. That did not make economic sense. Or it could acquire or ally itself with such a landing gear supplier. As I have noted, there were only three companies that had the ability to design and manufacture landing gear for such aircraft: the two merging parties, Goodrich and Coltec, and a French company, Messier-Dowty. Goodrich and Messier each had their own wheels and brakes business units that compete with AlliedSignal and therefore would have little incentive to cooperate with AlliedSignal. Hence, AlliedSignal turned to Coltec.

In 1995, AlliedSignal and Coltec entered into a Strategic Alliance Agreement to compete for the sale of integrated landing systems. As part of this Strategic Alliance, Coltec insisted that AlliedSignal sell its small landing gear business to it, so that Coltec would not be partnered with a competitor in the landing gear business. AlliedSignal agreed to this sale as part of an overall transaction that would provide the company access to landing gear for the sale of integrated landing systems. Under the Strategic Alliance Agreement with Coltec, AlliedSignal has submitted joint bids with Coltec for integrated landing systems on the Canadair Regional Jet, the Bombardier Dash 8-400, the Joint Strike Fighter, and the X-33 project (the next generation Space Shuttle). The joint bids for the Joint Strike Fighter and X-33 were accepted and AlliedSignal and Coltec are currently working together on these projects, with AlliedSignal providing the wheels and brakes and overall systems integration, and Coltec providing the landing gear.

It is my understanding that BFG and Coltec now argue there is no market for integrated landing systems. Their own conduct belies this argument. Coltec teamed with AlliedSignal under the Strategic Alliance specifically to sell integrated landing systems. Coltec and AlliedSignal today continue to work on integrated landing systems bids for future programs. BFG meanwhile has been as active as any company in bidding on programs involving systems integration. The reality is that there are numerous integrated systems bid upcoming or in the planning stages including the Joint Strike Fighter, Embraer 170, Embraer 190, the next generation Space Shuttle, the Lockheed-Martin Aerocraft, the Bombardier 90 seat regional jet, the Airbus A3XX, the Boeing New Small Aircraft, and the Boeing Large Aircraft Product Development. Not only is there a integrated systems market, but the vast majority of upcoming aircraft programs will likely involve integrated systems.

Industry Structure After The Merger

Tab H gives an overview of how the merger will affect industry structure. Today, two of three landing gear companies, Goodrich and Messier, have their own wheels and brakes operations. That leaves the third company, Coltec, as the only viable partner for AlliedSignal. AlliedSignal's experience is that if Coltec is not willing to cooperate with AlliedSignal on a particular program, AlliedSignal has no other viable partner with which to team in order to be a systems integrator for future wide-body, narrow-body, large regional jet, and U.S. military programs. After the merger, Coltec will no longer exist, meaning that AlliedSignal would no longer be able to purchase landing gear on reasonable terms and conditions in order to compete as a systems integrator. While prior to the merger, four companies -- Goodrich, Messier, Coltec, and AlliedSignal -- could compete to supply integrated landing systems, after the merger only Goodrich and Messier would have access to the landing gear needed to compete. The merger not only would harm AlliedSignal as a buyer of landing gear and a competitor in the integrated landing systems market, it will harm competition for landing gear and integrated landing systems generally.

The Goodrich-Coltec Merger Will Greatly Diminish Landing Gear Competition

It is my understanding that Goodrich and Coltec have suggested that the merger will not reduce landing gear competition because there are supposedly numerous other potential landing gear suppliers. That simply is not true. Developing landing gear for future aircraft requires specialized equipment and skills that only Goodrich, Coltec, and Messier-Dowty have.

To supply a newly designed landing gear for future aircraft models, a company must be able to design, test and manufacture landing gear structures.

Designing Landing Gear

To design a landing gear, a company must have expertise in such areas as the load and stress placed upon a landing gear when an aircraft lands. Specialized analytical approaches are used in designing landing gear to account for these issues that involve interpreting the results from proprietary software. The ability to interpret and understand the results of this analysis requires considerable know-how that is a function of the experience of the personnel involved. The difficulty of this analysis significantly increases for larger landing gear and for landing gear used in the specialized circumstances of U.S. military aircraft.

Testing Landing Gear

Suppliers of new landing gear also must have the capability to perform drop tests, structural tests, and fatigue tests. Testing requires not only access to specialized equipment, but also personnel experienced in interpreting test results.

Manufacturing Landing Gear

Finally, suppliers of new landing gear must have the equipment to manufacture landing gear. Manufacturing landing gear requires large, specialized machine tools that are used to machine forgings. While some machining can be outsourced, only Goodrich, Coltec, and Messier-Dowty have the equipment to perform certain necessary machining to produce landing gear for larger aircraft, particularly wide-body aircraft.

Build-to-Print Shops Do Not Have All These Capabilities

While only Goodrich, Coltec, and Messier-Dowty have these design, testing, and machining capabilities, it is my understanding that Goodrich and Coltec point to the existence of other "mom and pop" operations as evidence of other competition. There are "build to print" companies that have the capability (to varying degrees) to manufacture landing gear for aircraft up to a certain size, but none are credible competitors to undertake the entire task of designing, testing, and qualifying new landing gear on future aircraft models of these types. Not only do these companies not have these capabilities today, it would be very difficult for current "build-to-print" shops to develop these capabilities. As I have noted, AlliedSignal itself considered developing these capabilities before entering into the Strategic Alliance in 1995. AlliedSignal determined that it would cost about $150 million to do so and that it would take years to develop the engineering skills and reputation necessary to obtain an adequate return on the investment. For that reason, AlliedSignal decided it was not viable to upgrade from being a small landing gear provider to a company that could provide landing gear on larger aircraft. Because AlliedSignal already had engineers with designing and testing skills and know-how for U.S. military aircraft, AlliedSignal in 1995 was better positioned to become a major landing gear supplier (such as Messier-Dowty, Coltec, and Goodrich) than are build-to-print shops that operate today.

Difficulty of Entry

It is my understanding that Goodrich and Coltec also have suggested that entry into the landing gear business is not difficult. That is wrong. As I just discussed, AlliedSignal contemplated upgrading its operations a few years ago and found that it was not possible on any reasonable economic basis. There are several reasons. There is a long lead time to acquire the necessary equipment and the equipment is very expensive. A company also would have to develop a team of engineers with sufficient know-how and experience to design, test, and manufacture the landing gear. It should be emphasized that it is not just a matter of hiring a few engineers, but rather a team of engineers with skills in design, structural analysis, and testing along with specific knowledge of chip cutting, plating, heat treating, and assembly. A potential entrant also would have to obtain proprietary design materials. Finally, a company would have to develop a reputation as a credible supplier of landing gear for new aircraft.

Harm to Competition in the Wheels and Brakes Market

After the merger, the two remaining landing gear suppliers -- Goodrich and Messier -- will each have their own wheels and brakes business units. Each company will have an incentive to design landing gear and distort the bidding process in a way that favors its own wheels and brakes operations. The result will be harm to competition and harm to AlliedSignal and other wheels and brakes suppliers.

How Wheels and Brakes Are Sold

The sale of wheels and brakes to airline operators -- *i.e.*, airline passenger companies and companies such as Federal Express and UPS -- involves large up-front investments that are recouped over the life of the aircraft. These up-front investments come basically in two forms. ***First,*** in order to become "certified" as a wheel and brake supplier for a particular aircraft (a prerequisite for being able to sell wheels and brakes), a wheel and brake supplier typically will offer to invest significant amounts in designing and developing wheels and brakes for a new aircraft model along with perhaps making direct payments to the airframe manufacturer. This up-front investment will usually involve millions of dollars. *Second,* once certified, a wheel and brake supplier often will have to provide up-front inducements to airline operators (typically, free wheels and brakes on the initial aircraft sale plus some additional free spares) in order to persuade them to use the company's wheels and brakes. Again, these inducements will usually involve providing millions of dollars in free equipment.

To recover these investments, a wheel and brake supplier expects to sell replacement wheels and brakes over the life of the aircraft. (After a certain number of landings, an aircraft's wheels and brakes must be overhauled and a wheel and brake supplier provides the replacement equipment.) A wheel and brake supplier usually will enter into a long-term agreement with an airline operator to provide wheels and brakes replacements for some period of time (such as ten years) in exchange for the up-front investment in free equipment. AlliedSignal recoups its up-front investments with sales of replacement wheels and brakes over the life of the aircraft.

Potential Disadvantages That Can Be Imposed on Competitors

Obviously, the more a company must invest initially in designing wheels and brakes for a new aircraft model and becoming certified, the less likely it is a company will be cost competitive or find it attractive to invest in a particular aircraft program. Therefore, a company that can raise a competitor wheel and brake supplier's initial costs can achieve a competitive advantage.

It also is important to be one of the wheel and brake suppliers initially certified for an aircraft model. Once major airline operators have chosen a particular wheel and brake supplier for their initial purchases of a particular aircraft model, it is unusual for the airline operator to switch to another supplier because of the high costs of retrofitting an existing fleet. As a result, if a wheel and brake supplier is not initially certified, it will find a dwindling pool of potential customers available to which wheels and brakes can be sold to offset the initial up-front investment in the program. Hence, if a wheel and brake supplier can delay the certification of a competitor wheel and brake supplier, it will obtain a competitive advantage.

Finally, with a sufficiently attractive offer, an airframe manufacturer may be willing to "sole source" wheels and brakes for a particular aircraft, meaning only one wheel and brake supplier will be allowed to sell wheels and brakes for a particular aircraft model. Hence, it is conceivable that a company that has leverage with respect to landing gear can offer not to charge monopoly prices for landing gear in exchange for a sole source position as a wheels and brakes supplier. Because the airframe manufacturer itself pays directly for landing gear while airline operators pay for wheels and brakes in the aftermarket, an airframe manufacturer may find such an offer attractive.

Landing Gear Design Process

The Goodrich-Coltec merger will give Goodrich the opportunity to exploit its dominance over the landing gear marketplace to favor its own wheels and brakes operation. In particular, Goodrich can exploit its control over the landing gear design process. The landing gear usually is the first component designed. Once the landing gear is designed, the brake control system and then the wheels and brakes are designed to fit the specifications and interfaces created by the landing gear design. In order to work properly, an aircraft's wheels and brakes must have a proper interface with the landing gear.

Obtaining timely information about the proposed landing gear design and its interface with wheels and brakes is crucial to being a cost-effective producer of wheels and brakes. Early knowledge of technical factors such as the load sizes of a landing gear, the torque take out, and other general information about the materials, weight, and type of wheel and brakes desired can avoid the unnecessary costs that might result from developing wheels and brakes based on incomplete information or from having to rush to complete the design work because the information was not received in a timely fashion.

"Gaming" The Design Process

There is little doubt that the landing gear design process can be used to impose higher costs upon wheels and brakes suppliers not affiliated with the landing gear suppliers. As an example of such potential "gaming," a landing gear systems integrator might announce restrictions for a wheel and brake design that seemingly pose costly technical challenges without informing other parties that other aspects of the design will compensate for the restrictions. A wheels and brakes designer without complete information in that situation might invest in unnecessary and costly research to meet the challenge. The landing gear also can be designed in ways that favor the landing gear company's own wheel and brakes division. For example, the vibrations of a wheel and brake must accommodate or fit the frequency of the vibration of landing gear structure when an aircraft lands. A landing gear designer can tune the frequency of the landing gear so as to disadvantage a competitor's wheels and brakes. Similarly, a landing gear designer can change the way in which an axle is mounted or the spacing of a bearing so as to disadvantage a competitor's off-the-shelf products. Or the landing gear designer may tune the landing gear specifically to compensate for the oscillations of its own wheels and brakes, while forcing other wheels and brakes competitors to modify the oscillations of their own wheels and brakes to meet the landing gear design.

Gaming Has Already Happened

It is my understanding that Goodrich and Coltec have argued that such gaming is not possible. But AlliedSignal itself already has experienced such gaming. The French firm Messier -- which consists of Messier-Dowty (which supplies landing gear) and Messier-Bugatti (which supplies wheels and brakes) -- supplies virtually all landing gear components and systems for Airbus. Messier-Dowty obviously has an incentive to promote and favor inclusion of Messier-Bugatti's wheels and brakes on Airbus programs. AlliedSignal has faced significant hurdles getting certified as a wheels and brake supplier on Airbus airplanes for such reasons. For example, AlliedSignal has been trying for months to obtain more information from Messier-Dowty on the upcoming A340-600 landing gear design, but Messier-Dowty has refused to provide it. (The attached Tab I is an AlliedSignal letter complaining about this problem.) On earlier versions of the A340, Messier designed the landing gear in ways that disfavored AlliedSignal's wheel and brakes and gave AlliedSignal the wrong specifications for the interface between its brake control system and the wheels and brakes, causing substantial problems that resulted in AlliedSignal incurring additional costs. And on the A319-320, several airlines requested that AlliedSignal's wheels and brakes be certified and AlliedSignal signed contracts with the airlines to deliver wheels and brakes on future aircraft (after being told by Airbus that AlliedSignal would be certified). After signing these contracts, Airbus then moved very slowly in certifying AlliedSignal's wheels and brakes in order to protect Messier-Dowty's position. AlliedSignal has suffered hundreds of thousands of dollars of financial penalties under these contracts because it was not certified in a timely fashion.

After the merger, Goodrich will be the primary (if not only) supplier of landing gear to U.S. airframe manufacturers. With the reduction in landing gear competition, AlliedSignal expects to see the same type of gaming with future aircraft development programs that it has experienced at Airbus with Messier. Moreover, AlliedSignal also expects that Goodrich will try to leverage its dominance over landing gear into sole source positions on future aircraft programs.

Harm to Airline Operators

Such behavior will not only harm AlliedSignal but also airline operators. By driving up competitors' costs and either obtaining sole source positions or delaying certification of competitors, Goodrich will able to reduce customer choice, raise wheels and brakes prices, and reduce the amount competitors are willing to offer airline operators to attract business. These results are harmful to airline operators. In addition, AlliedSignal invests millions of dollars each year in research and development of wheels and brakes. As a result, AlliedSignal competes not only in terms of price, but also quality, innovation, and service. If the merger results in AlliedSignal being excluded from future competitions or having its costs artificially raised, the result will not only be higher prices for wheels and brakes, but also reduced quality, innovation, and service. The merger also may make it difficult to justify maintaining current levels of research and development spending or to expand or even retain the personnel now used to provide systems bids and perform research and development.

Lockheed Martin Joint Strike Fighter Bid

When the Defense Department originally reviewed the Goodrich-Coltec merger, it was unclear whether Lockheed Martin's Joint Strike Fighter bid would be an integrated systems bid. Now, it is clear that it will be. This only confirms the significance of integrated landing systems.

Sale of Goodrich's Landing Gear Business to AlliedSignal Would Solve The Problem

As I noted at the outset, I believe there is an easy resolution to the competitive problems posed by the merger. AlliedSignal has offered to buy Goodrich's landing gear business (the former Cleveland Pneumatic Company). If AlliedSignal acquires Goodrich's landing gear business, it will invest in the company and aggressively compete for new business in the landing gear market. Such an acquisition would preserve competition in the marketplace and preserve any job losses that might occur due to any consolidation of Coltec's and Goodrich's operations. I therefore believe the sale of Goodrich's landing gear operations to AlliedSignal is a reasonable pro-competitive resolution of this dispute that would still allow the rest of the Goodrich-Coltec merger to go forward.

Conclusion

I believe the evidence will be compelling that the Goodrich-Coltec merger is anticompetitive. A federal judge has already decided that such a conclusion can be reached. Other wheels and brake suppliers, Defense Department personnel, and airlines agree that the merger is anticompetitive. By contrast, while some companies have apparently decided not to get involved and therefore have chosen not to oppose the merger, I am not aware of any supplier, customer, or competitor of Goodrich and Coltec that has actually stated its support for the merger.

Thank you again for giving me the time today to present testimony on this important subject.

Mr. MCINTOSH. Thank you, Mr. Montalbine. Let me turn now to Mr. Tubbs, who is with Coltec. Please again share with us the summary of your testimony.

Mr. TUBBS. Thank you. Mr. Chairman and Mr. Kucinich, good morning. Let me begin by saying that not one job at AlliedSignal's wheel and brake facility in South Bend is at stake today. Not one. The real story today is about AlliedSignal's competitiveness in the world marketplace and how that impacts jobs in cities where AlliedSignal has plants, like South Bend.

This is not about the Coltec Industries/BFGoodrich merger; two companies that have a legacy for creating jobs. Much of what Allied has said in opposition to this merger has been a smoke screen. Now's the time to step up and put real facts on the table. AlliedSignal controls its own destiny here in Indiana, and elsewhere; just as AlliedSignal controlled its fate when it got out of the landing gear business 5 years ago. AlliedSignal also controlled its own fate when it recently lost the wheels and brake business on two very important airplanes. The sole source position on the Boeing 767 and on the Bombardier CRJ–700. AlliedSignal lost because they weren't competitive.

AlliedSignal is in a strong position to stay in the wheels and brake business for many years, providing that it competes effectively. Coltec/BFGoodrich merger does not diminish their ability to compete at all.

The aircraft wheel and brake industry is booming. You know, our great President Ronald Reagan once said that, "A government program is as close to eternal life as we will ever see." I might add, that the aircraft wheel and brake business runs a very close second. Wheels and brakes are like razor blades; they wear out after a limited amount of time and need to be replaced. A modern jet airliner or military jet has a usage lifespan of at least 40 years, and will require many, many replacement wheels and brakes, that amounts to an annuity for a plant such as AlliedSignal's wheel and brake business here in South Bend. The annuity guarantees jobs.

Allied has shown a fear of competition in wheels and brakes, and a distaste for landing gear. One wonders whether they're not using our merger to excuse their failures to compete.

Just this week it was reported at the Paris Air Show that industry insiders question whether AlliedSignal Aerospace may well sell off its wheel and brake business following a wider reorganization planned over the next 3 months. Of course, it won't be the first time that AlliedSignal has used an excuse to shut down plants and displace workers. Just ask the union members of UAW local 1010 in Bridgeport, CT, about how forthcoming Allied was when they shut the Lycoming Engine Facility in 1994, shortly after acquiring it from Textron and promising to bring commercial work in to preserve 1,200 jobs, preserve 1,200 jobs.

These hearings do have to do with jobs. That being the case, let's look at the effect of the Coltec/BFG merger on jobs here in Indiana. Let's start with the facts. When I look at the wheel and brake business today, I see some interesting facts. AlliedSignal is specified as a wheel and brake supplier on 9 of 13 Boeing commercial aircraft and on 4 of the 7 Airbus airliners. AlliedSignal is specified on 6 of 11 military aircraft. Congressman, there is the annuity. So long as planes fly and so long as Allied produces and sells wheels and brakes at competitive prices to airlines, it will have the opportunity to provide jobs for the citizens of South Bend, IN. Somebody must ask the common sense question about how jobs will be lost when Allied is already specified on 9 existing aircraft platforms and has the opportunity to compete to be added by the airlines to the other 12 existing platforms. It's that eternal life thing again.

Of course, Allied will tell you that it's afraid of the future because it claims it could be locked out of future aircraft platforms. Let's talk about that concept for a moment. The idea of a technically superior, integrated system is a fiction. No credible engineer has ever testified any technical benefit, including the increased safety of an airplane, will result from designing wheels and brakes at the same time as a hydraulic landing gear structure. Nobody who knows the industry will dispute the fact that airlines specify what wheels and brakes they want on the planes they fly.

Allied has testified that every Airbus airplane that flies has an integrated landing gear system. All that's just more smoke and mirrors from AlliedSignal. A powerful French landing gear company, Messier-Dowty, makes all of the landing gear for Airbus aircraft. Messier-Dowty also owns the wheel and brake company. But it can't exclusively package its landing gear with its wheels and brakes. The airlines won't let them. At least three, and generally four, wheel and brake manufacturers, including AlliedSignal, supply wheels and brakes to fit Airbus airplanes. AlliedSignal wheels and brakes are on all of the Airbus wide-body aircraft. Things are similar at the Boeing company; they buy a dressed gear.

Let me tell you something about Coltec and competition. Coltec has been making landing gear since World War II; we were always known as a good small gear manufacturer, just as Allied once was. We could make nose gear, but BFGoodrich made the big gear. We saw military programs going away, and we wanted that chance to compete in the growing commercial marketplace. In the late 1980's, Boeing announced a dramatic, new wide-body airplane, the 777. We went after the landing gear on the 777. We worked with Boeing's landing gear engineers on the 777 design, despite the fact that we had never done a landing gear of that size or of that complexity. We bid the gear to Boeing in competition with Goodrich and others, and we won.

Then we had to figure out how to go and make it and where to make it. We built additions to our facilities. We invested over $40 million in equipment, and by the time the first 777 rolled off the assembly line in 1994, it had Coltec's landing gear supporting it. How did we do it? We took a risk, we had ingenuity, we were willing to invest and to compete. That's the American free enterprise way. That creates jobs.

During this same timeframe AlliedSignal, unlike Coltec, decided it wouldn't grow its military landing gear business to compete for commercial programs, and decided instead to exit the landing gear business. Yes, Congressman, South Bend had the capability to build landing gear. Except it didn't have—AlliedSignal didn't have the faith in its South Bend operations to take the same risks that Coltec did on the 777. In 1995, Allied, after trying for 2 years to pedal the business to the British company, Dowty, sold its military landing gear business to Coltec. AlliedSignal didn't require that we take the South Bend work force, all they sold us were their existing contracts and some equipment in bad need of repair. Well, we've upgraded that equipment in our Texas facility and we make a very fine landing gear. There's a theme from this story: Success and jobs come to those who compete, invest and innovate. This committee, which has a focus on allowing the free enterprise system to work, needs to ask the common sense question: Why AlliedSignal, soon to be part of a $45 billion behemoth, which is 10 times larger than we will be, can't or won't compete? That's the key question facing this panel today. The questions that truly control the fate of jobs in South Bend. Thank you.

[The prepared statement of Mr. Tubbs follows:]

**TESTIMONY OF ROBERT J. TUBBS,
EXECUTIVE VICE PRESIDENT, GENERAL COUNSEL AND
SECRETARY OF COLTEC INDUSTRIES, INC.
TO
THE SUBCOMMITTEE ON
NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES
AND REGULATORY AFFAIRS
ON JUNE 19, 1999**

Mr. Chairman, Members, good morning. Much has been said in the press, before a similar Senate Committee hearing and in the courts regarding the BFGoodrich/Coltec Industries merger. Much of what has been said in opposition to this merger has been half-truths and misstatements. I want to thank you for the opportunity to be here today and to put real facts on the table.

Mr. Chairman, given your stated concern about the effect this merger will have on jobs in South Bend, Indiana, the most important fact is that nothing BFGoodrich and Coltec do today will threaten jobs in Indiana. Allied Signal controls its own destiny here and elsewhere, just as AlliedSignal controlled its fate when it quit the landing gear business five years ago. AlliedSignal also controlled its fate when it recently lost its status as sole source wheels and brakes supplier on the Boeing 767 because airline customers did not think it was competitive.

My testimony will show that AlliedSignal is in a strong position to prosper in the wheels and brakes business for many years. My testimony will also show that the wheels and brakes business is intensely competitive and that AlliedSignal (and others) will lose business if it does not compete vigorously and provide price competitive, high quality products. This has nothing to do with Colter, BFGoodrich or any other landing gear supplier. Let me explain why.

In order for an airplane to land there are four basic devices which come into play. The landing gear structure itself is a hydraulic cylinder not unlike the shock absorber on your car. The wheels and brakes are installed at the bottom on the hydraulic cylinder. They take the initial impact of the plane as it touches down on the runway and then help slow it down. The third major component is the brake control system, which makes sure that pressure is applied evenly to all the brakes on the plane to keep it straight on the runway after landing. The final component is the proximity sensor, which provides indications to the pilot that the landing gear and brake systems are properly configured and provides an indication when the aircraft is firmly on the runway.

Coltec only makes landing gear structures. Coltec does not make wheels and brakes, brake control systems or proximity sensors. BFGoodrich makes wheels and brakes and landing gear structures, but it has never sold a major brake control system. The Crane Company, a plaintiff in the pending litigation here in South Bend, controls over 75% of the sales of brake control systems and proximity sensors. Finally, Allied Signal makes wheels and brakes. They used to make landing gear, but they sold that business and we'll talk about that later.

When a new airplane is being designed, the airframe manufacturer -- that's Boeing, Lockheed and Bombardier for example -- working in conjunction with a company like Coltec, designs the landing gear structure. It is an integral part of the airplane and its design is governed by the design of the airplane. All you have to do is look at the difference between the main landing gear on a Boeing 747 and the main landing gear on a Boeing 777 to understand how important it is to the airplane's design.

The four engines hanging below the wings on a 747 are much smaller than the two massive engines that power a 777. The height of 777 landing gear consequently is much taller because it needs to provide more clearance so the engines won't scrape along the runway. Brake control systems and proximity sensors are also designed by their manufacturers working in close cooperation with Boeing, Lockheed and the other airframe manufacturers. If an airframe manufacturer is satisfied with a landing gear structure, a brake control system or a proximity sensor, the airframe manufacturer makes the decision to buy and install those components on its airplanes.

Wheels and brakes present a very different story. Wheels and brakes are like razor blades -- they wear out after a limited amount of time and need to be replaced. Wheels and brakes are a major cost element in the operation of an airplane and that cost is the responsibility of the airline who flies the airplane. When an airline orders a 737, a 767, a 777, it tells Boeing which wheels and brakes it wants on the airplane.

Let's ask a common sense question here. Would any airline give up its right to make sure that it had the best wheels and brakes both in terms of performance and price? The answer is simply no. Look at what just happened recently with the Boeing 767. Allied Signal was originally the sole source wheel and brake supplier on the 767. Allied Signal apparently was not competitive, and a number of airlines complained to Boeing. As a result, Boeing certified the French company Messier Bugatti as a second source to supply wheels and brakes on the 767. Jobs may have been lost in South Bend because Allied Signal didn't satisfy its airline customers with a competitive wheel and brake system on the 767. That had nothing to do with the Coltec/BFG merger.

An airplane design like a 777 or a 747 or an F18 is referred to as a platform. When an airplane is made, it generally flies for at least 40 years. In fact, Allied Signal has testified that the B52 may have a design life of over 100 years. So long as you are specified on a platform you have the opportunity to compete, and let me underline the word compete, because that's what American industry does, for the wheels and brakes on each airplane produced to the platform design. Every time an airplane lands, it wears down its wheels and brakes, and Allied Signal has the chance to compete to replace the wheels and brakes on that particular airplane when they were out.

When I look at the wheel and brake business today I see some interesting facts. Allied Signal is specified as a wheel and brake supplier on 9 of 13 Boeing commercial platforms and on 4 of the 7 Airbus platforms, including all of Airbus' wide-body aircraft. Allied Signal is specified on 6 of 11 military platforms. Congressmen, I would call that an annuity. So long as planes fly and so long as Allied produces and sells wheels and brakes at competitive prices, it will have the opportunity to provide jobs for the citizens of South Bend, Indiana. Nobody has explained why this is not true. Somebody must ask the common sense question about how jobs will be lost when Allied is already specified on 19 existing platforms and has the opportunity to compete to be added to the other 12 existing platforms.

Of course, Allied will tell you that it is afraid of the future because it claims it could be locked out of future platforms. Let's talk about that concept for a moment. The idea of a technically superior "integrated system" is a fiction. No credible engineer has ever testified that safety of an airplane, control of an airplane, flight characteristics of an airplane or any other technical benefit will result from designing wheels and brakes at the same time as the hydraulic landing gear structure. An airframe manufacturer might ask a landing gear company like Coltec or a wheel and brake company like Allied to provide a "packaged system". But be assured that they tell the packager what they want in the package, and that is determined partially by the airplane maker and partially by the airline that flies it.

Allied has testified that every Airbus airplane that flies has an integrated landing gear system. Messier-Dowty, a powerful, worldwide landing gear company located in France, makes the landing gear. Messier-Dowty also owns a wheel and brake company, but it can't get an exclusive package for its landing gear and wheels and brakes. The airlines won't let them. At least three and generally four wheel and brake manufacturers supply wheels and brakes to match up with landing gear structures on Airbus airplanes.

The Boeing Company buys what is called a "dressed gear". This simply means that Boeing provides wheels and brakes to a company like Coltec to install on the landing gear. We also add to it or "dress it" with all its hydraulic and electrical connections and, in the case of a 777, roll it out of our Everett, Washington facility across Boeing's runway and right into their 777 manufacturing complex. Sometimes we dress the gear with Allied Signal wheels and brakes, sometimes with BFGoodrich wheels and brakes, sometimes with Dunlop and sometimes with ABS. We don't choose wheels and brakes; the airlines do.

The airframe manufacturers have additional incentives to certify multiple wheel and brake manufacturers. The airframe manufacturers receive payments called certification fees that range between $5 and $10 million per platform from each wheel and brake manufacturer that seeks certification. This more than defrays Boeing's cost of obtaining FAA certification for a wheel and brake design. In fact, it helps defray the airframe manufacturer's cost in designing the airplane. The wheel and brake manufacturers also provide the first set of wheels and brakes to an airplane for free. They don't cost Boeing a dime. It's just like buying a razor and having two free blades in the package. It's time for a common sense question. Why would Boeing give up these economic incentives by allowing a landing gear manufacturer to specify which wheels and brakes to use? It wouldn't.

Allied Signal's fears about the future are not supported by the market realities. Jobs in South Bend are not going to be affected by this merger. Jobs in South Bend do depend on Allied Signal continuing to make a first-class wheel and brake system and delivering it to the customer at a competitive price. Let me point out, however, that recently Coltec teamed with Allied Signal to bid to Bombardier for the CRJ 700. Bombardier didn't like the Allied Signal proposal and told Coltec to use ABS as the brake and wheel supplier. Competition isn't easy and there was a loss of job potential here in South Bend because Allied Signal didn't have a competitive wheel and brake package for the CRJ 700. That had nothing to do with the BFG/Coltec merger.

Let me tell you something about Coltec. Coltec, through its Menasco landing Gear Division, has been making landing gear since World War II. It was always known as a good, "small gear" manufacturer. We could make nose gear, but BFGoodrich made the big gear. We saw military programs going away with the cutbacks in defense spending and we wanted a chance to compete in the growing commercial market. In the late 80's Boeing announced a dramatic new wide-body airplane -- the 777. We went after the landing gear on the 777. We worked with Boeing's landing gear engineers on the 777 design, despite the fact that we had never done a landing gear of that size or of that complexity. We bid the gear to Boeing in competition with BFGoodrich and others and we won. Then we had to figure out how to make it and where to make it. We built additions to our facilities, we invested over $40 million in equipment and, by the time the first 777 rolled off the assembly line in 1994, it had Coltec's Menasco landing gear supporting it. How did we do it? We took a risk; we had ingenuity; we were willing to compete.

During this same time frame, Allied Signal confronted similar choices for its military landing gear business. Unlike Coltec, however, Allied decided it wouldn't grow its military landing gear business to compete for commercial programs and decided, instead, to exit the landing gear business. This was a business that was located right here in South Bend, Indiana. Yes, Congressmen, South Bend had the capability to build landing gear, except Allied Signal didn't have the faith in its South Bend workers to take the same risk that Coltec did on the 777. In 1995 Allied sold its military landing gear business to Coltec. Allied Signal didn't require that we take its South Bend workforce; all they sold us was their existing contracts and some equipment badly in need of repair. We have upgraded that equipment in our Texas facility and we make a very fine landing gear.

There is a theme from this story -- success comes to those who compete and innovate. Allied has shown a distaste for the risks of competition in landing gear and it has expressed its fear of competition in wheels and brakes. One wonders whether they are using our merger to excuse their failures to compete. Of course it won't be the first time that Allied Signal has used an excuse to shut down a plant and displace workers. Just ask the union members of Local 1010 of the UAW in Bridgeport, Connecticut about how forthcoming Allied was when they shut the Lycoming Engine Facility in 1994 shortly after acquiring it from Textron and promising to bring commercial work in to help preserve 1,200 jobs.

Let me close by suggesting a new line of inquiry for this committee as part of its charter on national economic growth. Perhaps the best question to ask is why are Allied Signal and the Crane Company opposed to these mergers and opposed to the growth that will result from having a financially stronger entity which can draw on the best practices of two fine industrial companies? The answer is obvious. Both Crane and Allied Signal wanted to buy Coltec. Crane Company started back in 1995 and couldn't get its act together. Crane sued Coltec earlier this year trying to get another bite at the apple, but its case was thrown out both by the US District Court and the US Court of Appeals for the 2nd Circuit. Allied Signal tried twice in 1997 to purchase Coltec. They code named it with the very secret title "Project Collect." That's right, they were going to collect us. Those efforts failed. Of course, Allied also attempted to buy BFGoodrich in late 1997 and early 1998 under the code name "Project Beef." I doubt that Allied Signal would have been so supportive of the South Bend plant if it had acquired the wheel and brake business at BFGoodrich's Troy, Ohio plant. We know that Allied Signal is not afraid to slash jobs. They've announced cutbacks of at least 4,500 employees as a result of their proposed Honeywell merger; they cut 1,200 jobs in Connecticut in 1994. Our merger will bring good to workers in Beloit, Wisconsin; Quincy, Illinois; Palmyra, New York; Paragould, Arkansas; West Hartford, Connecticut; Cleveland, Ohio; Tullahoma, Tennessee; Peabody, Massachusetts, all towns where either Coltec or BFGoodrich have manufacturing facilities. Allied Signal and Crane oppose this merger for one simple reason: If they can't have something they don't want anyone else to have it either.

Allied Signal and Crane have wrapped themselves in the flag, claiming they are going to protect consumers. Let me close by reading a June 2nd letter to President Clinton signed by 240 leading independent economists in the United States, including economists from Ohio University, Case Western, Indiana University and Ohio State.

> "Dear President Clinton:
>
> ...The current state of heightened antitrust activism seems to suggest that anti-competitive business practices abound. Headline grabbing cases against Microsoft, Intel, Cisco Systems, Visa and Mastercard, along with the flurry of merger investigations now underway, would appear to demonstrate the need for a vigorously enforced antitrust policy that will create checks and balances to eliminate consumer harm.
>
> However, consumers did not ask for these antitrust actions -- rival business firms did. Consumers of high technology have enjoyed falling prices, expanding outputs and a breathtaking array of new products and

innovations. High technology markets are among the most dynamic and competitive in the world, and it is a tribute to open markets and entrepreneurial genius that American firms lead in so many of these industries. But, these same developments place heavy pressures on rival businesses, which must keep pace or lose their competitive races. Rivals can legitimately respond by improving their own products or by lowering prices. Increasingly, however, some firms have sought to handicap their rivals' races by turning to government for protection.

Where antitrust authorities respond to these protectionist demands, the workings of markets are short-circuited. Antitrust protectionism means that market decisions about how to compete for consumers' favor are displaced by bureaucratic and political decisions. More of the energies of firms are directed to politics, less to production and innovation. Successful innovators are penalized, scale economies are lost, and competition is thwarted, not enhanced. Instead of preventing prices from rising, antitrust protectionism keeps prices from falling.

Many of these cases are based on speculation about some vaguely specified consumer harm in some unspecified future, and many of the proposed interventions will weaken successful U.S. firms and impede their competitiveness abroad...."

This committee needs to ask the common sense question why a dominant firm like Crane, and a powerhouse like Allied, soon to be part of a $46 billion behemoth, believe they can't or won't compete. It's time to let the BFGoodrich/Coltec merger move forward so that workers in many towns in the United States can have the benefit of being part of a large, stable, growing company.

Mr. MCINTOSH. Thank you, Mr. Tubbs. Let me turn now to the final witness on this panel, Professor Joseph Bauer, who is a professor of antitrust law here at Notre Dame University. Professor Bauer, please share with us the summary of your testimony.

Mr. BAUER. Congressman McIntosh, Congressman Kucinich, it is a privilege to be able to share my views with the subcommittee regarding the proposed merger between BFGoodrich and Coltec. Let me first give a little background of my professional experience and on my relationship to this transaction. I am a 1969 graduate of the Harvard Law School, and I then worked for 3 years in the antitrust litigation department of a large New York City law firm. I have been on the faculty of Notre Dame Law School since 1973, and have taught Antitrust at least once each year since then for a total of over 30 times. I have written four books and probably a dozen law review articles in the antitrust field. And finally, I spent a summer working in the Washington, DC, headquarters of the Federal Trade Commission as a staff attorney and consultant doing work in the conglomerate merger enforcement area.

Let me now both make a disclosure about my relationship to this litigation and a disclaimer about my role here. I was retained by AlliedSignal through their law firm Kirkland & Ellis to work as a consultant on the antitrust issues and particularly the issues raised by section seven of the Clayton Act. But having said that, as a consultant, I want you to know that I am sincerely and genuinely concerned about this merger, and I firmly believe that this merger is bad for competition, and bad for consumers.

But having said that, I want to state as a disclaimer, that some of the views that I am going to share with you this morning are my own views and do not necessarily reflect the views of AlliedSignal.

Now, as I proceed, let me say a little bit about the relevant industry and the positions of the parties in the industry, although the charts that were here this morning have described them well and so I can skip over them.

Mr. MCINTOSH. Well, let me interrupt, Mr. Bauer, because I think your testimony is going to be very valuable for this. What I would suggest you do is put your full written testimony in the record. But one of things I am going to want to get to in the question and answer, and maybe you can elaborate on this, those charts depicted two very different views of what the market was. Which, as we know, is critical in the question of antitrust. Perhaps you would take a few minutes and just comment on them and the differences in—and why they're relevant.

Mr. BAUER. I'd be glad to, Congressman. It is interesting, as the chart on the right, which is the one provided by AlliedSignal, has fewer players, of course, than the chart on the left. The problem of the chart on the left is that it is not to scale. For example, if one looks on the chart on the left in the landing gear industry, my testimony will reflect that in the market—the worldwide market for commercial wide-bodied landing gear structures, BFGoodrich, which is there, accounts for 33 percent of the market; Coltec accounts for 30 percent of the market; and, Messier-Dowty accounts for 34 percent of the market. That's a quick addition, of three firms with close to 99 percent of the market. The other three firms, or the other four firms, are in the market, but that chart is nowhere near to scale. If they were—they would be like little pebbles on that chart rather than equal size partners. The proposition that I'm going to assert this morning, I'll be glad to elaborate Congressman——

Mr. MCINTOSH. Is it true or is there a similar breakdown in the wheels and brakes and in the brake control systems?

Mr. BAUER. I don't have the comparable numbers here, but it is equally true that in the wheels and brakes industry that is not to scale. But the impact of the merger—I mean, there are several different impacts of the merger. One will be that as a result of the merger, when one looks at the domestic side of the industry, the landing gear industry, BFGoodrich and Coltec will be close to 100 percent of the domestic supply of that market, and with Messier-Dowty, there will be a duopoly, again, accounting for close to 100 percent of the worldwide portion of that market.

The chart on the right, Congressman, displays the difficulty that in offering an integrated landing system; that is, the combination of wheels and brakes, landing gear and, to a lesser extent, the brake controls, a wheel and brake manufacturer, no matter how many there are out there, must have a partner of a firm that designs, manufactures, and provides, is willing to sell, landing gears. And it is at that level that AlliedSignal will have no opportunity to have a purchaser, or alternatively, BFGoodrich, as a merged firm, might be selling to AlliedSignal, but would have the opportunity to charge disadvantageous prices. And backing up, at the design portion of the market, Goodrich will be in a position, either to design landing gears so that they don't properly interface with AlliedSignal's wheels and brakes, or alternatively, will withhold information so that in designing its wheels and brakes, AlliedSignal will have a time disadvantage. So, the fact is, that even though there may be numerous competitors in the wheels and brakes portion of the market, it is at the landing gear part that that chart is grossly deceptive.

Mr. MCINTOSH. And I'm going to just interrupt you and keep asking you questions.

Mr. BAUER. Certainly.

Mr. MCINTOSH. If you don't mind, because I think your testimony will be important to help us understand the testimony of the other panelists. Is it essentially two separate markets that we are thinking about here, or need to think about; one, essentially the initial sale, does that tend to be integrated? And then the—I think someone referred to it as the aftermarket, the replacement wheels and brakes, are those separate markets? Should it be looked at as one? And do the percentages hold up across both of those in terms of the number of competitors?

Mr. BAUER. I'm not an expert in the industry, and perhaps that's a question to direct to others. But in a sense there are two portions of three overlapping industries. The two portions are you—you've identified, Congressman, is the OEM market, the original equipment market, and then the replacement market. There are then markets for landing gears; there are markets for wheels and brakes; and there are markets for the system taken as an entirety, which is the direction in which the industry is heading. As Mr.

Montalbine referred, it is increasingly becoming common that a single firm, an integrator, will take over the role of airframe manufacturer such as Boeing, and become engaged at a much earlier stage in designing the various components and designing the interface of those components so that they operate together. But, as to say, I should really defer on the industry side to others on this panel.

Mr. MCINTOSH. OK. Let me let you proceed, and I'll come back to Mr. Linnert because I do want to address that question, because I think there are two different views of the world there and we need to sort out what those are and figure them out.

Mr. BAUER. I wanted to say two things this morning; one is to be descriptive about the merger and then I know this committee is concerned about the role that the Federal Trade Commission played, and so I would like to address the standards the Federal Trade Commission applies in examining mergers, and my view of how this merger lines up with those standards.

But first, of the merger has, both, horizontal and vertical impact. And just to state them briefly, if one looks at the chart on the right, excuse me, in the landing gear industry, at present we have two major domestic competitors, BFGoodrich and Coltec. And they are competing with one another. And I think something that every person in this room will agree on is the value of competition to the American free enterprise system. Competition is designed to advance a number of goals. It's designed to give higher quality. It's designed to promote lower prices. It's designed to enhance innovation. And all of those indirectly is what gives rise to jobs. Jobs exist when strong companies produce good products at low prices and there's a desire for those products. So competition is what the Sherman Act and the Clayton Act are all about. And one looks at the landing gear industry, which as I say, has two domestic players. After the merger, it won't. There will be a single firm. So whatever competition previously existed between Coltec/Menasco on the one hand and Goodrich on the other will disappear. It is a merger to monopoly. And there is no other way to characterize that. And we know why we are concerned about monopoly. Because monopolists don't have to compete in the same way that competitors do. So that's one component of this merger.

The other component of the merger is the vertical part, and that is that firms buy from and sell to others. And AlliedSignal, in order to be able to compete as an integrator, in order to compete successfully in the wheels and brakes industry, needs a reliable, good supplier of landing gears. It entered in 1995 into a strategic alliance with Coltec when it sold its landing gear business to Coltec, that was a 10-year strategic alliance that's been discussed briefly this morning. But, as a result of this merger, AlliedSignal will either not have a source of landing gears, or alternatively, its source of its landing gears will be its own competitor, and there are many problems that can flow from that.

In the interest of time, let me go on to the next part of my testimony, and that is to talk briefly about the Federal Trade Commission guidelines. The Federal Trade Commission and the Department of Justice have established, promulgated merger guidelines. The first version of them was promulgated in 1968, but we're presently concerned with the guidelines that were promulgated in 1992—excuse me, 1982, as amended. What those guidelines do is, after defining the relevant product and geographic markets in which the merging firms operate, construct some numerical indicators, which are called the Herfindahl-Hirschmann Index [HHI]. And HHI is designed to obtain a more sophisticated interpretation of the significance of the market shares of the merging companies, and of the extent of concentration, both before and after the proposed merger, in the affected industries. And what the HHI—excuse me. What the guidelines do is have three different categories of HHI numbers, low, medium and high. As you would expect, the low numbers are those which are presumptively lawful, the middle category are those which are presumptively problematic, and the third category is one wherein it says, "Markets are highly concentrated and the guidelines themselves, say, "These mergers are deemed likely to, 'raise significant competitive concerns.'"

Those problematic numbers are where the post-merger HHI exceeds 1,800, and where the merger produces an increase in the HHI of over 100. OK? The HHI can range from a low of 1 up to a high of 10,000. But where the post-merger HHI exceeds 1,800 and an increase of over 100 points, this is the kind of merger where the Department of Justice and the FTC is both likely to challenge the merger, and where the merger challenge is appropriate.

And just using those numbers then, look at what's happened here. In the commercial wide-body landing gear market, the premerger HHI is 3,230, the post-merger HHI would be 5,272, for a net change in the HHI of 2,042. So, the numbers here, post-merger HHI is close to 3 times what the guidelines say is problematic. The increase is 20 times what the guidelines say is going to be problematic.

Now, the guidelines establish certain kinds of defenses that the Commission might look at. And I will be very brief, in light of the shortness of time. Those three defenses are that one of the firms may be a failing firm. It's clearly not present here. The second is that there are low barriers to entry. This is an industry which has enormous barriers to entry: capital barriers; technological barriers; specialized manufacturing equipment barriers; time line barriers; need for product certification barriers; so, this is not a low-barrier entry firm. And, finally, efficiencies. The only efficiency I've heard here is that as a result of the merger, BFGoodrich and Coltec may be able to close the Cleveland plant, not only costing 650 jobs, but eliminating competition. In my view, that's not an efficiency. And so, if I look at the high HHI numbers, if I look at the potential defenses, and they're not there, I find this merger very, very problematic, even within the FTC's own guidelines. And at that point I'll pause and, once again, thank the committee for its attention.

[The prepared statement of Mr. Bauer follows:]

STATEMENT BY PROF. JOSEPH P. BAUER

REGARDING BFGOODRICH/COLTEC MERGER

BEFORE HOUSE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,

NATURAL RESOURCES AND REGULATORY AFFAIRS

COMMITTEE ON GOVERNMENT REFORM

JUNE 19, 1999

It is a privilege to be able to share my views with this Subcommittee regarding the proposed merger between BFGoodrich and Coltec. Let me first give a little background on my professional experience and on my relationship to this transaction.

I am a 1969 graduate of the Harvard Law School. I then worked for three years in the antitrust litigation department of the New York City law firm of Kaye, Scholer, Fierman, Hays & Handler. I have been on the faculty of Notre Dame Law School since 1973, and have taught antitrust at least once each year since then, for a total of over thirty times. I have been, since 1980, the co-author, with the late Earl Kintner, who was a former chairman of the Federal Trade Commission, of the multi-volume treatise entitled <u>Federal Antitrust Law</u>, and am myself the author of four of the volumes in that series. In addition, I have written approximately a dozen law journal articles in the antitrust field, and have lectured and consulted extensively in the antitrust area. Finally, I should add that in the summer of 1978, during an enforcement atmosphere which was quite different from that which prevails today, I worked as a staff attorney/consultant to the F.T.C. in the Washington, DC, headquarters, on a project designed to expand the Commission's merger enforcement role, and particularly with respect to challenges to conglomerate mergers.[1]

Now a word about my involvement with this proposed merger. If this merger between BFGoodrich and Coltec is consummated, it would have serious effects not only on competition and on consumers -- a matter I will discuss shortly -- but also on AlliedSignal, its employees and on the communities in which they work, including South Bend, my home town. About four months ago, I was contacted by attorneys in the Washington, DC, office of Kirkland & Ellis, which law firm is representing AlliedSignal. At that time, AlliedSignal was, among other avenues, presenting evidence regarding the merger to the Federal Trade Commission and also contemplating commencing a lawsuit to seek to enjoin it. The attorneys at Kirkland & Ellis asked if, given my antitrust experience generally and my experience with the Clayton Act, I would be willing to act as a consultant on this matter. I gladly accepted, since this assignment represents the combination of two qualities: it allows me to be involved in a dispute raising interesting and important antitrust issues, while it also allows me to be on the side of the case in which I genuinely -- and I would almost say passionately -- believe. While I have served as a consultant, I want to emphasize that my testimony to this Subcommittee reflects my own

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[1] That project resulted in a published law journal article: Bauer, Challenging Conglomerate Mergers Under Section 7 of the Clayton Act: Today's Law and Tomorrow's Legislation, 58 BOSTON UNIV. L. REVIEW 199-245 (1978).

views, and they are not necessarily the views of AlliedSignal. As I will now begin to describe, I sincerely believe that this merger would be bad for competition and bad for consumers. Therefore, speaking only personally, I am deeply troubled that the Federal Trade Commission has chosen not to challenge it and that it may be allowed to proceed.

Let me begin by describing briefly the relevant industry and the position of the parties in that industry. I will then discuss the anti-competitive effects that would result by allowing two of the major firms in this industry -- BFGoodrich and Coltec -- to merge, and which support my conclusion that this merger would violate Section 7 of the Clayton Act. I will analyze this from three perspectives: an analytical/ theoretical approach; a brief consideration of some of the major Supreme Court cases dealing with Section 7; and then a comparison of this transaction to the Department of Justice/FTC Merger Guidelines.

The proposed merger between BFGoodrich and Coltec involves two large firms engaged in a number of different industries. But, the competitive issues resulting from the merger which I would like to address arise with respect to aircraft landing systems. Landing systems consist of three key components: (1) landing gear structures -- the landing strut and its adjacent elements -- which absorb the shock of the landing; (2) wheels and brakes; and (3) the brake control system. These systems and their components are used in both civilian and military aircraft. They are selected and purchased both by major airframe manufacturers such as Boeing, Airbus, Bombardier and Embraer, and by the US military and the companies which design and manufacture military aircraft. These three components must be integrated in order to work properly.

In the United States, there are only two major manufacturers of landing gear structures -- BFGoodrich, which has its major manufacturing facilities for this product in Cleveland, Ohio, and Tulluhoma, Tennessee, and Coltec (through its Menasco Aerospace division), which has its manufacturing facility in Dallas, Texas, and Ontario, Canada. In the rest of the world, there is only one other major manufacturer of landing gear structures -- a French firm, Messier-Dowty. There are in fact a number of other smaller manufacturers of landing gear structures, but their products are used principally for smaller aircraft. On a worldwide basis, BFGoodrich accounts for 33.7% of the market for commercial wide-body landing gear structures, Coltec for 30.3% and Messier-Dowty for 34.3%. Furthermore, there are numerous factors that raise serious questions as to the extent to which Messier-Dowty, which is owned by the French government, is a full competitor for landing structures in the United States: its long-standing relationship as a supplier to Airbus; the fact that the US military has been unwilling to purchase from non-American suppliers for a number of projects; and the additional fact that Messier and BFGoodrich are already involved in several cooperative arrangements or joint ventures, which lessens the competition between them. Therefore, focusing solely on American suppliers of landing gears, the combined market share of the two merging companies would result in a single firm having a virtual monopoly position.

There are also two major American manufacturers of aircraft brakes and wheels -- BFGoodrich and AlliedSignal. The French firm, Messier/Bugatti, is also a major manufacturer of aircraft wheels and brakes, although the same concerns I just noted about viewing this company as an equal competitor for landing structures would apply here.

Historically, in the course of designing new aircraft, some aircraft manufacturers have initially specified the source of each component, including the landing gear structures and the brakes and wheels. Even here, however, the aircraft manufacturer receives extensive input from landing gear design firms early in the aircraft design process. More recently, the trend has been towards outsourcing, ie, determining the interface of the elements of the landing system into a unified whole, with an outside "integrator" (AlliedSignal is one of the firms seeking to compete for that role) harmonizing and then selecting the specifications and manufacturer of each component. In order to be a successful competitor in the markets for either landing gear structures or aircraft brakes and wheels, or to be able to act as an integrator, it is essential for the manufacturer that the other elements in the "package" be compatible and available from other manufacturers.

As things presently stand, with Coltec (the manufacturer of landing structures) as an entity which is independent of BFGoodrich, AlliedSignal (the manufacturer of wheels and brakes) has a partner for the design of landing systems. Each firm may buy from or sell to the other, and they can either act as a team or compete individually in designing and marketing integrated landing systems to aircraft manufacturers. Indeed, in 1995, these two firms entered into a Strategic Alliance, whereby they would share confidential information and otherwise cooperate to preserve competition in these markets.

Things will change radically if BFGoodrich merges with Coltec. First, to state the obvious, the "horizontal" impact will be that there will then be only one major manufacturer of landing structures in the United States. There will also be several important "vertical" impacts from the merger. When AlliedSignal purchases landing structures, it will no longer be purchasing from an independent Coltec, but from a firm which is its own competitor in the wheel and brake portion of the industry. As a monopolist of landing structures, BFGoodrich will be in a position to disfavor AlliedSignal's wheels and brakes, for example by designing new landing structures that do not interface with AlliedSignal's wheels and brakes, or by delaying release of information on the designs and interface, thereby making it more difficult for AlliedSignal to design compatible wheels and brakes; BFGoodrich will also be able to charge supracompetitive prices to AlliedSignal for those landing structures on which AlliedSignal seeks to perform the role of systems integrator; or BFGoodrich could simply refuse to sell to AlliedSignal at all. Furthermore, in its own position as a designer and seller of integrated landing systems, BFGoodrich will have an even stronger motivation and ability to design them in ways which favor its own wheels and brakes. Finally, when BFGoodrich and Coltec act as systems integrators -- in which capacity they would be purchasing brake control systems to be used in combination with their landing structure business -- the combined BFGoodrich/Coltec will be able to exercise monopsony power.

In short, the potential impact of this merger on competition in the landing system market is devastating. First looking at the horizontal aspect of this merger – which combines the only two major American manufacturers of landing structures — one can not avoid the obvious conclusion that this transaction is effectively a "merger to monopoly." The important benefits to purchasers of landing structures which presently flow from the competition that now exists between BFGoodrich and Coltec — including lower prices, greater innovation, product diversity and better service — will all be lost if they are merged into a single entity.

The vertical aspect of the merger -- the combination of BFGoodrich's position as a manufacturer of wheels and brakes and Coltec's position as the only other American manufacturer of landing structures -- is equally problematic. The competitive concern with respect to mergers that have vertical effects is that each party to the transaction will favor the other in making sales or purchases, thereby foreclosing competitors of those parties from competing on the merits, on the basis of price or quality. In this particular case, this transaction will harm competitors like AlliedSignal, since BFGoodrich is likely to favor its own affiliates in designing landing systems and in making purchases and sales. And, this harm to competitors – which in the long run could even result in their demise, and in the short run will diminish their capacity to be innovative or competitive — will harm consumers as well.

It is important to note that this merger will have harmful effects on the indirect as well as on the direct consumers of these products. In the first instance, the consumers include aircraft manufacturers like Boeing and Lockheed, as well as airlines and the U.S. Department of Defense, which will have to pay more both for aircraft and for replacement parts, including wheels and brakes, if the combined BFGoodrich and Coltec enjoy the benefits of their monopoly position in the landing systems market. And finally, the affected parties will include all Americans, both because we will have to pay more in airfares, and because our taxes will increase to pay the added costs the Pentagon will incur.

I would next like to address some of the caselaw in this area. What all of the cases – both the older and the more recent – reveal is that with respect to a horizontal merger, the primary concern is the extent to which the competition which formerly prevailed between the parties will be eliminated.[2] Predictions about this adverse impact on competition will be made principally based on the market shares of those firms and on the degree of concentration of the major firms in the market.[3] The principal concern about a merger with vertical effects is its impact on competitors of the merging firms, and the extent to which they will be foreclosed from making sales or purchases after the transaction is consummated; once again, the market share of the firms and the availability of other sources (again, measured in large part by the degree of concentration in the upstream and downstream markets) will be the primary measure of the likelihood of an adverse impact on competition.[4]

While the Supreme Court has, over the past twenty-five years, raised somewhat the standards for a successful challenge of a proposed merger or acquisition,[5] the federal courts have continued to strike down mergers when the transaction threatened the requisite adverse effect on competition.[6] Although a detailed analysis of the caselaw is beyond the

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[2] See, e.g., United States v. Continental Can Co., 378 U.S. 441 (1964); United States v. Philadelphia Nat'l Bank, 374 U.S. 321 (1963); Brown Shoe Co. v. United States, 370 U.S. 294 (1962).

[3] These same concerns are reflected in the Department of Justice/FTC Guidelines and their use of the Herfindahl-Hirschmann Index, discussed below.

[4] See, e.g., Ford Motor Co. v. United States, 405 U.S. 562 (1972); Brown Shoe Co. v. United States, 370 U.S. 294 (1962).

[5] See, e.g., Cargill, Inc. v. Monfort Of Col., 479 U.S. 104 (1986); United States v. General Dynamics Corp., 415 U.S. 486 (1974).

[6] See, e.g., Community Publishers, Inc. v. DR Partners, 139 F.3d 1180 (8th Cir. 1998); Hospital Corp. of Am., 807 F.2d 1381 (7th Cir. 1986); FTC v. Warner Communications, Inc., 742 F.2d 1156 (9th Cir. 1984) (joint venture); FTC v. Staples, Inc., 970 F. Supp. 1066 (D. D.C. 1997).

scope of this statement, suffice it to say that both the qualitative and quantitative indicia which I have described above clearly bring this transaction within the range of those which precedent indicates should be deemed violative of Section 7 of the Clayton Act.

Another perspective for evaluating this transaction is to analyze it under the Department of Justice/FTC Merger Guidelines. These Guidelines, which are intended to inform the business and financial communities about the likelihood of governmental challenges to potential mergers, first require the identification of the relevant geographic and product markets in which the firms operate. Then, relying on the Herfindahl-Hirschmann Index to obtain a more sophisticated interpretation of the significance of the market shares of the merging firms and the extent of concentration -- both before and after the proposed merger -- in the affected industry, the Guidelines set forth three categories.

In the first, in which the market is unconcentrated, the Guidelines create a "safe harbor" of legality, since the Enforcement Agencies view these mergers as "unlikely to have adverse competitive effects and [therefore] ordinarily require no further analysis."[7] The second, or intermediate, category involves mergers in moderately concentrated markets. Therefore, here the decision whether the Agencies should proceed also requires determining the extent to which concentration would be significantly increased as a result of the merger; the Guidelines state, however, that a not insignificant increase in concentration "potentially raise[s] significant competitive concerns."[8] Finally, the third

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[7] These mergers involve transactions in which the post-merger HHI is below 1000. Guidelines, § 1.51(a).

[8] These mergers involve transactions in which the post-merger HHI is between 1000 and 1800; the Agencies then look to whether the increase in the HHI would be more or less than 100 points.

category involves mergers in which the markets are "highly concentrated;" here, unless the increase in concentration is insignificant, the Guidelines state that these mergers are deemed likely to "raise significant competitive concerns."

The Guidelines properly make the analysis subject to more than just numerical considerations. Barriers to entry, possible efficiencies and the possibility that one of the parties to the merger is a "failing firm" may all be taken into consideration.[9] But, the Guidelines indicate that "where the post-merger HHI exceeds 1800, it will be presumed that mergers producing an increase in the HHI of more than 100 points are likely to create or enhance market power or facilitate its exercise."[10] It is in those cases that a challenge to the merger by the Department of Justice or the FTC is both likely and appropriate.

Now, let me analyze the BFGoodrich/Coltec merger in the light of these factors. The HHI numbers here are off-the-chart. They confirm mathematically exactly what one's intuition would suggest, when the two largest American manufacturers of a product agree to combine into a single firm. In the market for commercial, wide-body landing gear, the pre-merger HHI is 3230, and the post-merger HHI would be 5272, for a net change of the HHI of 2042.[11] The market shares, and pre- and post-merger concentration numbers, firmly establish the likelihood of an adverse effect on competition.

Guidelines, § 1.51(b).

[9] Guidelines, §§ 3-5.

[10] Guidelines, § 1.51(c).

[11] While not quite so high, the numbers for military landing gears are also far beyond the limits in which challenges are indicated as probable. Here, the pre-merger HHI is 3157, and the post-merger HHI will be 4372, for a net change of 1214.

Then, what about the possible counterbalancing factors? Obviously this is not a failing firm situation. And, the barriers to entry are enormous. Among the substantial obstacles to entry, making it highly unlikely that a new firm would emerge to challenge the merged BFGoodrich/Coltec, are capital barriers, technological and engineering barriers, specialized manufacturing equipment barriers, time lag barriers, and need for certification of product barriers. It is instructive that recent decades have experienced only exit from, and no entry into, this market. So, the only possible remaining explanation within the Guidelines for failing to challenge this transaction would be the existence of significant efficiencies after the merger takes place. Yet, any efficiencies from the merger are vague and speculative.[12] Perhaps one such alleged "efficiency" is that BFGoodrich might shut down its facility in Cleveland, and therefore might have certain scale benefits by operating only a single plant for the manufacture of landing structures. But, there are at least two difficulties with viewing this move, which incidentally would result in the loss of hundreds of jobs, as an alleged benefit from the merger.[13] First, BFGoodrich has made several recent public representations that this step is still only under discussion. Second, and more important, if the plant closing in fact takes place anyway, it illustrates that the asserted

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[12] The Guidelines state that "[e]fficiency claims will not be considered if they are vague or speculative or otherwise cannot be verified by reasonable means." Guidelines, § 4.

[13] Even if the closing of the Cleveland plant, and the consequent loss of hundreds of jobs, is viewed as an "efficiency," this is not the kind of "benefit" which BFGoodrich could not obtain by itself, rather than through the merger with Coltec. Yet, the Guidelines state that "[t]he Agency will consider only those efficiencies likely to be accomplished in the absence of either the proposed merger or another means having comparable anticompetitive effects." Id.

"efficiency" is instead a restriction on output, and so is really a mask for the benefits flowing to a monopolist from the elimination of competition.[14]

In summary, in my own, personal view, it is hard to understand why the FTC, after its review of this record, declined to file a complaint attacking the merger. It is my view that given the strong likelihood of serious anti-competitive effects which will occur if this transaction is permitted, and the fact that this merger clearly falls within the presumptively unlawful category in the Merger Guidelines, it was one which surely should have resulted in a challenge.

It is important to add, however, that under the Hart-Scott-Rodino Pre-Merger Notification procedure, the Enforcement Agencies do not give their affirmative approval to proposed mergers, but only indicate that they will not challenge them.[15] Therefore, the Commission's decision should not have any effect on AlliedSignal's and Crane's lawsuit, presently pending in the US District Court for the Northern District of Indiana.

Let me add one footnote, however, speculating about the Commission's decision not to file its own complaint. One possible explanation is that the Commission, knowing that both AlliedSignal and Crane had already initiated litigation attacking the merger and thus that the transaction would be adequately scrutinized because of this challenge by two large

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[14] Therefore, it is particularly surprising that the FTC gave any regard to these claims, since the Guidelines state that "[e]fficiencies almost never justify a merger to monopoly or near-monopoly." Id.

[15] The Commission's "no-action" letter, sent to BFGoodrich on April 26, expressly states that "[t]his action is not to be construed as a determination that a violation [of Section 7 of the Clayton Act or Section 5 of the F.T.C. Act] may not have occurred."

private litigants, decided to use its limited enforcement resources in other areas.[16] It may be an appropriate role for this Subcommittee to use the Commission's decision in this case, as a vehicle to consider both the adequacy of the Commission's resources and its use of its prosecutorial discretion.

[16] However, tThe numbers would suggest that the Commission's decision not to challenge this merger is not solely the result of resource limitations. Drawing on the Commission's own data, in 1997, there were 3702 Hart-Scott Rodino filings, and the Commission took enforcement actions in only 27 of those cases. (.73%). In 1998, the comparable numbers are 4643 filings, and 33 enforcement actions (.71%).

Mr. McINTOSH. Thank you, Professor Bauer, and we will get back to that. Because I think you've raised really the crux of the question in what we are looking at. I understand that Representative Roemer is here, and that he wanted to join us and make a statement, before he moved on to his next scheduled event. So, before we get to the question and answer period, let me invite him to come forward.

Mr. KUCINICH. Mr. Chairman, after Mr. Roemer speaks, then we will have a chance to ask questions.

Mr. McINTOSH. Yes, I think that's very important. I guess we are getting hand signals he'll be in in a couple seconds. Let me start by essentially asking a question related to this marketplace. And I'll ask you, Mr. Montalbine, what percentage of the product manufactured here in South Bend comes from original equipment orders, and what percentage is the aftermarket?

Mr. MONTALBINE. Approximately 70 percent are aftermarket and the balance of the OEM up front manufacturer.

Mr. TUBBS. Let me just add a point, though, and maybe ask Carl about that. On those 30 percent on the OEM, isn't—you give those away to the airframe manufacturers, don't you? They're given away for free?

Mr. MONTALBINE. For the most part.

Mr. TUBBS. So the real money comes from the aftermarket. So the job protection is really funded by the aftermarket, isn't that right?

Mr. MONTALBINE. It's part of the story. If you don't get on new programs, there is no aftermarket. There are 12 new programs coming down the line, all asking for landing systems. If I am precluded from getting on those programs in the post-merger world, because I have no landing gear partner, then no sense in having an engineering department, won't be engineering new products. That would affect about 350 people. While it's true that airplanes last for 25, 30 years and for all of the programs we are on, we will be making spare parts. That will dwindle down very rapidly over time. So, if that is what Mr. Tubbs described as the perfect exit to business strategy for ALS, and that's how we would exit the business. No sense in investing on new programs, we'll just ride out annuity, as he put it, and we'll close the doors and turn the lights out when we run out of business.

Mr. McINTOSH. So, if you were to do that 5 years from now, what would the work force look like to you?

Mr. MONTALBINE. Probably half. Half of what it is today.

Mr. TUBBS. But on the 767, which they were the sole source on, Messier-Bugatti just came in and got certified. So, you can always be certified on a platform after the initial production. So, it's not that you can't compete, Messier-Bugatti did and took them out of the sole source position.

Mr. McINTOSH. So, the annuity is not a perfect annuity in the aftermarket, but you're saying there's also opportunities to compete.

Mr. TUBBS. It's only affected by competition.

Mr. McINTOSH. Right.

Mr. MONTALBINE. Congressman, in the history of the wheel and brake industry, that is an extremely rare event. That did happen.

Messier-Dowty spent $25 million to get certified on that program. To be one of two suppliers for OEM equipment. They then had to go out into the aftermarket and compete, OK, at the airlines so they could put their wheels and brakes on instead of ours. That program is 3 years old. They have zero percent market share. They have not won one award. It is an up-hill battle. It is virtually impossible. And coming on a program very late in the game and not being there up front, most of the market share's gone. A good example, on the A3–3340, as Mr. Tubbs indicated, AlliedSignal is on that program, an Airbus program, as the third supplier. We came on the program late. We have about a 12 percent market share, and is not much opportunity for us to expand that market share over time. So if you're not there up front, when that new airplane is rolled on the 777, history says that it is going to be extremely hard for you to capture any significant market share to justify the amount of investment that you have to make to get on.

Mr. MCINTOSH. And let me ask one other question of Mr. Montalbine to understand the dynamics here. What percentage of the product do you make in South Bend? Where does that go to be assembled with the landing gear? Of the 30 percent that is new equipment, where does that go? Is that into the Cleveland plant exclusively with your alliance or——

Mr. MONTALBINE. Some of it does. It depends on the program. On the 777, we send it to Menasco up in Seattle. They put it on landing gear, and then they wheel that assembled landing gear over to be installed on the airplane. The C–17, we send it to BFGoodrich; they put it on, the landing gear, up in Cleveland. Most of it, though, goes directly to, right now, if it's not a system, goes directly to the OEM, like Boeing or Airbus.

Mr. MCINTOSH. And while we are waiting for Mr. Roemer, let me ask another——

Mr. HOPFER. He is here.

Mr. MCINTOSH. Is He? Oh, OK. Great. Tim, come forward, please. You need no introduction for this audience. But, for the record, joining us will be Representative Tim Roemer, who is the Congressman from this area. And let me invite you to give a statement, and you're welcome to stay and join us for the question and answers. I know you, like me, probably have a schedule to keep. But feel free to join us in that. And for the next 5 minutes, I'm going to turn over the chair to Mr. Kucinich, and I'll take a personal break. But, Tim, thank you for joining us.

STATEMENT OF HON. TIM ROEMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. ROEMER. Thank you, David. Thank you very much. First of all, I want to thank you, Mr. Chairman, for holding the hearing and welcome you to South Bend. Mr. Kucinich, a good friend of mine from the neighboring State of Ohio, we're also delighted to have you here. I'm coming from our Ethnic Festival, parade and festivities, and I know you are in parades and festivals all the time, Mr. Kucinich, and we would hope that you and Mr. McIntosh, and our distinguished panelists, after your hot and heavy testimony here today, would go down and get a little hot food and cold drink and enjoy the food and the folks and wonderful South Bend, and get some of our wonderful hospitality. So, welcome to the community.

Mr. KUCINICH. Thank you very much, Mr. Roemer. And as you know, the principles which I announced at the Washington Press Club before I was officially sworn in as a Member of Congress, or just after having been sworn in as a Member of Congress, were Polka, bowling and kielbasa, so this being in South Bend during an ethnic festival just fits right in my program.

Mr. ROEMER. Well, don't show me up in any bowling now, Dennis.

Mr. KUCINICH. I won't do that.

Mr. ROEMER. It's against the rules to beat the hometown Congressman in any competition.

Mr. KUCINICH. Well, it's so good to have you here, and we look forward to your testimony.

Mr. ROEMER. Thank you. Well, let me, first off ask unanimous consent to revise and extend my remarks.

Mr. KUCINICH. You have it.

Mr. ROEMER. And let me also ask unanimous consent to enter into the record some letters, particularly letters from Governor O'Bannon's office, letters from the Attorney General, and supporting statements from my work with the FTC, a letter that I wrote back on March 5th, 1999 to Chairman Pitofsky at the FTC, stating my concerns about the harmful effects of this merger.

Mr. KUCINICH. Without objection.

[The information referred to follows:]

TIM ROEMER
THIRD DISTRICT, INDIANA

COMMITTEE ON EDUCATION AND THE WORKFORCE

COMMITTEE ON SCIENCE

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CALL TOLL FREE
1-800-439-3518

March 5, 1999

The Honorable Robert Pitofsky
Chairman
Federal Trade Commission
6th and Pennsylvania Avenue
Washington, D.C. 20000

Dear Chairman Pitofsky,

I am writing to express my concern about certain aspects of the proposed merger between B.F. Goodrich and Coltec Industries. I want to make it clear that I am not advocating either the approval or disapproval of this merger. I simply want to call my concerns to your attention and ask that the FTC give them every consideration as part of its regular review process.

I represent the Third Congressional District of Indiana. One of the largest employers in my District is AlliedSignal's Aircraft Landing Systems Division, which employs more than 850 workers. I understand from AlliedSignal that B.F. Goodrich and Coltec are the two largest U.S. manufacturers of aircraft landing gear. They currently compete against each other for landing gear sales. B.F. Goodrich and AlliedSignal sell wheels and brakes for aircraft. Because a wheel and brake manufacturer works with a landing gear manufacturer, AlliedSignal often works with Coltec, and AlliedSignal and Coltec together compete against B.F. Goodrich.

I am very concerned that if B.F. Goodrich acquires Coltec, it could effectively eliminate competition between U.S. landing gear manufacturers. In particular, AlliedSignal would no longer have the opportunity to work with Coltec to compete with B.F. Goodrich. The anticompetitive effects of this proposed merger appear significant not only for AlliedSignal, but also for aircraft manufacturers, airlines, wheel and brake manufacturers and consumers.

I understand that the FTC has issued a "Second Request" to B.F. Goodrich and Coltec for additional information on the proposed merger. I have also been informed that there are aircraft purchasers and manufacturers who have serious concerns about the proposed merger. In view of this, I would urge the FTC to carefully examine all the facts and evidence concerning this proposed merger. If it would be appropriate, I would appreciate receiving a briefing or written response on this matter. Thank you very much for your consideration of this request.

Sincerely,

Tim Roemer
Member of Congress

TR:mbn

OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204-2797

FRANK O'BANNON
GOVERNOR

June 17, 1999

The Honorable Tim Roemer
2352 Rayburn House Office Building
Washington DC 20515-1403

RE: Allied-Signal, Inc.

Dear Congressman Roemer:

On behalf of the State of Indiana, we welcome the opportunity to join with other governmental and private sector representatives to express grave concerns about the legality of the proposed merger between BF Goodrich Company and Coltec Industries, Inc. and its likely adverse economic impact on Allied-Signal, Inc. and the surrounding community.

The State of Indiana has been a long time supporter of Allied-Signal, Inc. in recognition of its valuable contributions to the Hoosier economy. This support has helped Allied-Signal to add more than three-hundred manufacturing jobs since 1996 in conjunction with three major expansions of its existing facilities during the 1990's. The South Bend facility employs over one thousand of our citizens and contributes $75,000,000 in payroll to the local and state economies.

During this period of expansion the State has provided more than $1,500,000 in direct economic aid through Department of Commerce training grants.

Recently, the State, through the Attorney General, sought to intervene in Allied-Signal's federal antitrust lawsuit against BF Goodrich and Coltec pending in the U.S. District Court for the Northern District of Indiana.

The State's antitrust concern is that the proposed merger -- by combining the only two U.S. manufacturers of landing gear that are designed for large commercial and military aircraft, leaving only one other such manufacturer in the entire world -- could greatly increase market power and create a virtual monopoly in several relevant markets. The State's appellate brief, filed with the federal appeals court in Chicago, evaluates the proposed merger under the Horizontal Merger Guidelines of the National Association of Attorneys General (NAAG); the anticompetitive effects of the proposed merger on consumers and on the economy of Indiana; and the fact that neither Coltec nor BF Goodrich has been willing to provide most of the pertinent documentation relating to the proposed merger. Many of the documents have been filed under seal and have not been made available to state officials.

Similar concerns over this merger have been expressed by Ohio public officials including US Senators Mike DeWine, George V. Voinovich, and US Representative Dennis J. Kucinich. These individuals join South Bend Mayor Steven Luecke, Common Council President Sean Coleman, and your office in seeking to block this merger.

The State of Indiana stands ready to work with local, federal and state officials to protect Hoosier jobs and companies, as well as national interests. Thank you for your assistance on this important matter.

Sincerely,

Frank O'Bannon

Frank O'Bannon
Governor

Joseph E. Kernan
Lieutenant Governor

Jeffrey Modisett
Attorney General

AlliedSignal

AlliedSignal Inc.
P.O. Box 3000
Morristown, NJ 07962-2496

Larry Bossidy
Chairman and
Chief Executive Officer

June 8, 1999

Congressman Tim J. Roemer
Room 2352
Rayburn House Office Building
Independence Avenue and South Capitol Street, SW
Washington, DC 20515

Dear Congressman Roemer:

As you know, on Monday AlliedSignal announced a merger with Honeywell Inc. Questions were raised by reporters concerning the impact of the merger on AlliedSignal jobs in South Bend and Mishawaka. An AlliedSignal spokesman erroneously stated that no determination has been made whether AlliedSignal's operations in South Bend and Mishawaka would be affected by the merger. I can state unequivocally that no jobs will be lost at these operations as a result of the merger. For clarity, this includes AlliedSignal's Aircraft Landing Systems and Engine Systems and Accessories businesses located in South Bend and our Target Systems business located in Mishawaka.

I also want to confirm that the Honeywell merger will not, in any way, involve any assets used in the manufacture or sales of landing gear or wheels and brakes, which are the subject matter of our suit in South Bend.

Please do not hesitate to call me if you have any questions concerning this matter.

Sincerely,

LABossidy

Lawrence A. Bossidy

Mr. ROEMER. I appreciate that. Mr. Chairman and Mr. Kucinich, again, we're delighted to have you here. My job as a U.S. Congressman is to look out for our jobs here in this community. And I take that fundamental job extremely seriously. And I want to make sure that when I have hundreds of people employed in my district with a company that has been here since 1927, a company that has an annual payroll of $75 million into this community, a company that gets involved in this community with alternative schools, a company that gets involved in United Way, a company that is a conscientious and committed company to this community, that employs a lot of people, that shows our community how labor and management can get along and work together, I want to make sure that these jobs stay in this community. That is a fundamental responsibility for me as a U.S. Congressman, to represent their jobs. So that's foremost my responsibility here today. It is also to work with this distinguished committee, to get their help, not just today for a hearing, not just next week or next month, but a commitment from them to continue to work to help us look at the ramifications of this potential merger. And to help us study it and understand it from a national security perspective, from an anti-competitiveness perspective, from a general merger perspective, and the impact on other companies in the United States that may produce wheels and brakes, and landing gear, and airline manufacturers; and to better help us analyze and assess the impact of this on our security and competitiveness, and, most of all, on our people here in South Bend.

Now, I want to assure my workers, because I look out in the audience and I see some of the hard workers, people that depend on paychecks, people that support their families and their children, and it's a tough environment out there, as you and I talk about all the time, Dennis, that to support a family these days, and to make sure that you are getting enough time with your family these days, to raise your kids in the right way, as we're on the verge of Father's Day tomorrow; to make sure our union and our UAW workers and our management, to make sure that they are not scared or frightened or overwhelmed when a committee comes to town and says there might be some possible job losses. As you all know, I've been working very closely with AlliedSignal for many months now to challenge this proposal. I have been assured by AlliedSignal that even if this merger goes through, it will not—it will not—result in any immediate job losses in South Bend.

And let me repeat that for the hard working people in this community, I have been assured by AlliedSignal that neither this merger nor Allied's proposed merger with Honeywell will result in any immediate job losses in South Bend. So we're here to look at the consequences of this, to try to assure our employees that we're looking out for their best interest and not to scare them; and to try to find some ways that, through this committee, and through our Attorney General and Governor's Office, and other interested people, that we can try to make sure that the best interests of the community and the company and the country are looked out for.

Now, AlliedSignal and I go back a long way. We've worked together on many important projects. To equip the defense and aircraft industry with wheels and brakes including the F–15 Eagle, the F–16 Falcon, the F–22 Raptor, the B–2 Bomber, the G–17 Globe Master Transport and the F–18 Hornet. And we can be really proud, really proud of what our workers did out there at AlliedSignal that helped contribute to the success of our brave men and women overseas, primarily through the Air Force, and this equipment that we make in South Bend that gained us the principal victory against ethnic cleansing. So I am very proud of the contribution that AlliedSignal has made and the employees make in our community, to our national defense, the better schools, and to contribute toward helping people across the community, with good, high-paying jobs.

Let me just go over very briefly some of the history of my involvement in this. I wrote a letter to the Federal Trade Commission on March 5th, 1999, expressing my serious concern about this proposal. A copy of my letter to the FTC and an article from the Wall Street Journal, including my comments, are attached. I also expressed my concerns in a direct phone call about this matter with the FTC. I encouraged them to look at all—to look at all—aspects of this merger, including some of the aspects brought up by our articulate panelists here today. I don't want to go on too much longer, other than to restate, and which Mr. Kucinich has graciously agreed to include in the record as well, an article and a letter that I received from AlliedSignal's chairman, when I wrote to him and I inquired to him about the Honeywell/Allied merger, Larry Bossidy, the chairman and CEO of AlliedSignal, was very fast in getting back to me. And he stated, unequivocally, that no jobs will be lost at these operations as a result of this new proposed merger. And I am pleased to include a copy of this letter to the press, to Mr. Kucinich, to Mr. McIntosh, our chairman, to make sure that this is part of the record here today. Again, we've got a lot of excellent testimony from people that are in law, like, Professor Bauer, who has given us a very good insight into this. We have distinguished panelists that will be looking at this, and have a great deal of knowledge about it. We have our distinguished members of the committee here that will take this information for the record back to Washington and followup on what they've learned. And we hope to work with everybody and anybody across the spectrum to make sure that our jobs in South Bend, IN, are protected; that we look out for the concerns about competitiveness; that we look out for concerns about depending on maybe one supplier across the ocean in France for some vital equipment that I just read off about F–16's and F–15's and F–22's and Globe Master Transporters and so forth. It gets into very seriously dangerous grounds when we can only rely on one supplier who is overseas, and I think that this committee needs to take a very, very careful and in-depth look at that.

So, I want to again thank you for taking the time out of your busy Saturdays to come into your South Bend, IN. I'm sorry you missed the parade, that you didn't have a chance to walk up and down the streets and meet some of the great people here in South Bend. Some of them which work at AlliedSignal, and told me on my way in here to "Fight for our jobs," and that's exactly what I'm going to do. And I again appreciate your help and your participation, Governor O'Bannon's participation, our Attorney General, who

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has been helpful in the injunction, and his participation; and everybody and anybody who will continue to work with us, management, our labor union, UAW, hard-working people that make some of the best things in the world here in South Bend, IN. And with that, I'm going to probably shortly excuse myself and go grab some of this great food at the ethnic festival. And I hope you guys get out there and spend a little money in our local economy, David and Dennis. With that, again, thank you for the unanimous consent agreement to include my testimony in there. I know we've got the distinguished Mayor Luecke, coming up here to testify as well, too. He is doing a wonderful job for our community. And he just walked in the parade with me as well, too. And I think he's still dripping wet, sweating a little bit. He sweats more than I do. So, you might want to put him out on the panel because he may have to take a shower before he gets up here.

[The prepared statement of Hon. Tim Roemer follows:]

STATEMENT BY THE HONORABLE TIM ROEMER, M.C., BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, JUNE 10, 1999

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE. I APPRECIATE THE OPPORTUNITY TO TESTIFY THIS MORNING TO EXPRESS MY CONCERNS ABOUT THE PROPOSED MERGER OF B.F. GOODRICH AND COLTEC INDUSTRIES, AND THE POTENTIAL IMPACT THIS MERGER COULD HAVE ON THE ALLIEDSIGNAL OPERATIONS HERE IN SOUTH BEND.

AS YOU MAY KNOW, I HAVE BEEN WORKING VERY CLOSELY WITH ALLIEDSIGNAL FOR MANY MONTHS NOW TO CHALLENGE THIS PROPOSAL. I HAVE BEEN ASSURED BY ALLIEDSIGNAL THAT EVEN IF THIS MERGER GOES THROUGH, IT WILL <u>NOT</u> RESULT IN ANY IMMEDIATE JOB LOSSES HERE IN SOUTH BEND.

LET ME REPEAT THAT. I HAVE BEEN ASSURED BY ALLIEDSIGNAL THAT NEITHER THIS MERGER, NOR ALLIED'S PROPOSED MERGER WITH HONEYWELL, WILL RESULT IN ANY IMMEDIATE JOB LOSSES IN SOUTH BEND.

IT WOULD BE UNFAIR TO THE HARD-WORKING EMPLOYEES AND FAMILIES AT ALLIEDSIGNAL TO SUGGEST OTHERWISE. YOU CAN BE SURE THAT I WILL CONTINUE MY EFFORTS TO WORK CLOSELY WITH ALLIEDSIGNAL, GOVERNOR FRANK O'BANNON'S OFFICE AND THIS COMMITTEE TO PREVENT ANY SUCH JOB LOSSES FROM OCCURRING, WHETHER THIS MERGER GOES THROUGH OR NOT.

AT THE SAME TIME, I AM CONCERNED ABOUT OTHER POTENTIAL LONG-TERM IMPLICATIONS OF THE B.F. GOODRICH/ COLTEC MERGER, PARTICULARLY AS THEY RELATE TO NATIONAL SECURITY AND ANTI-COMPETITIVENESS. I AM PLEASED THAT THIS SUBCOMMITTEE HAS DECIDED TO TAKE A LOOK AT THIS SITUATION, AND WELCOME ALL ASSISTANCE YOU MAY BE ABLE TO PROVIDE IN ADDRESSING THESE CONCERNS.

BY WAY OF BACKGROUND, LET ME POINT OUT THAT ALLIEDSIGNAL HAS DEEP ROOTS IN THE SOUTH BEND COMMUNITY. ALLIED HAS BEEN MAKING AIRCRAFT WHEELS AND BRAKES HERE SINCE 1927. OVER THE YEARS, THE COMPANY HAS ASSEMBLED ONE OF THE MOST HIGHLY SKILLED AND DEDICATED WORK FORCES IN THE WORLD.

ALLIEDSIGNAL HAS AN ANNUAL PAYROLL IN EXCESS OF $75 MILLION, AND IS THE SIXTH LARGEST EMPLOYER IN SOUTH BEND. BOTH THE COMPANY AND ITS WORKERS ARE SOLID CITIZENS WHO MAKE MANY CONTRIBUTIONS TO OUR COMMUNITY.

I AM ESPECIALLY PROUD OF THE WORKING RELATIONSHIP I HAVE HAD WITH BOTH MANAGEMENT AND LABOR AT ALLIED SIGNAL OVER THE YEARS. WE HAVE WORKED TOGETHER ON MANY PROJECTS TO EQUIP DEFENSE AIRCRAFT WITH ALLIEDSIGNAL WHEELS AND BRAKES, INCLUDING THE F-15 EAGLE, F-16 FALCON, F-22 RAPTOR, B-2 BOMBER, C-17 GLOBEMASTER TRANSPORT AND THE F-18 HORNET.

JUST A FEW YEARS AGO, WHEN ALLIED WAS EXPERIENCING A MAJOR PROBLEM WITH COUNTERFEIT BRAKES PRODUCED IN CHINA, WE WORKED TOGETHER TO ENSURE THAT ALL FOREIGN AIRCRAFT WHICH ENTER THE U.S. HAVE BRAKES THAT MEET FAA CERTIFICATION STANDARDS. I HAVE ALSO SUPPORTED ALLIED'S EFFORTS TO ENSURE FAIR AND EQUITABLE COMPETITION WITH FOREIGN COMPANIES WHICH RECEIVE GOVERNMENT SUBSIDIES.

LAST MARCH, I WAS ADVISED BY ALLIEDSIGNAL THAT THE COMPANY WAS FACING YET ANOTHER THREAT TO FAIR COMPETITION--NOT FROM A FOREIGN COUNTRY THIS TIME, BUT FROM THE PROPOSED MERGER OF B.F. GOODRICH AND COLTEC INDUSTRIES.

AS YOU KNOW, B.F. GOODRICH AND COLTEC ARE THE TWO LARGEST MANUFACTURERS OF AIRCRAFT LANDING GEAR IN THE U.S. THEY CURRENTLY COMPETE AGAINST EACH OTHER FOR LANDING GEAR SALES. B.F. GOODRICH AND ALLIEDSIGNAL SELL WHEELS AND BRAKES FOR AIRCRAFT. BECAUSE A WHEEL AND BRAKE MANUFACTURER WORKS WITH A LANDING GEAR

MANUFACTURER, ALLIEDSIGNAL OFTEN WORKS TOGETHER WITH COLTEC TO COMPETE AGAINST B.F. GOODRICH.

ALLIEDSIGNAL ADVISED ME THAT IF B.F. GOODRICH ACQUIRES COLTEC, IT WOULD PUT ALLIED AT A COMPETITIVE DISADVANTAGE, AND COULD EFFECTIVELY ELIMINATE COMPETITION BETWEEN U.S. LANDING GEAR MANUFACTURERS OVER TIME. THAT IS BECAUSE ALLIED WOULD NO LONGER HAVE THE OPPORTUNITY TO WORK WITH COLTEC TO COMPETE AGAINST B.F. GOODRICH.

THE ANTICOMPETITIVE EFFECTS OF THIS PROPOSED MERGER ARE VERY TROUBLING TO ME. THEY APPEAR SIGNIFICANT NOT ONLY FOR ALLIEDSIGNAL, BUT ALSO FOR AIRCRAFT MANUFACTURERS, AIRLINES, WHEEL AND BRAKE MANUFACTURERS, CONSUMERS AND OUR NATIONAL SECURITY INTERESTS.

ACCORDINGLY, I WROTE A LETTER TO THE FEDERAL TRADE COMMISSION ON MARCH 5, 1999, EXPRESSING MY SERIOUS CONCERN ABOUT THIS PROPOSAL. A COPY OF MY LETTER TO THE FTC AND AN ARTICLE FROM THE WALL STREET JOURNAL ARE ATTACHED. I ALSO EXPRESSED MY CONCERNS ABOUT THIS MATTER BY TELEPHONE WITH THE FTC.

I WAS ASSURED BY THE FTC THAT THEY WOULD CAREFULLY EXAMINE ALL THE FACTS AND EVIDENCE CONCERNING THIS PROPOSAL, INCLUDING THE THREATS TO FAIR COMPETITION AND NATIONAL SECURITY. THE FTC ALSO AGREED TO MY REQUEST TO CONSULT DIRECTLY WITH ALLIEDSIGNAL, TO MAKE SURE THEIR CONCERNS WOULD BE TAKEN INTO CONSIDERATION BEFORE A FINAL RULING WAS ISSUED.

WHILE I WAS WORKING WITH THE FTC TO ASSURE THIS PROPOSAL RECEIVED A FULL AND FAIR REVIEW, GOVERNOR O'BANNON ALSO WEIGHED IN ON ALLIEDSIGNAL'S BEHALF. ATTORNEY GENERAL JEFF MODISETT ISSUED AN INJUNCTION TO BLOCK THE MERGER OF B.F. GOODRICH AND COLTEC. THE GOVERNOR'S OFFICE ALSO SOUGHT TO JOIN THE ANTITRUST LAWSUIT FILED BY ALLIEDSIGNAL AGAINST THIS MERGER.

ATTACHED IS A COPY OF A LETTER FROM GOVERNOR O'BANNON WHICH DESCRIBES THE STATE'S EFFORTS TO OPPOSE THE MERGER IN MORE DETAIL.

JUST LAST WEEK, WE LEARNED THAT ALLIEDSIGNAL HAS PROPOSED TO ACQUIRE HONEYWELL. I IMMEDIATELY CONTACTED ALLIEDSIGNAL TO DETERMINE THE POTENTIAL IMPACT OF THIS MERGER ON LOCAL JOBS HERE IN SOUTH BEND AND MISHAWAKA.

I WAS PLEASED TO RECEIVE AN IMMEDIATE RESPONSE FROM LARRY BOSSIDY, CHAIRMAN AND CEO OF ALLIEDSIGNAL, IN WHICH HE STATED "UNEQUIVOCALLY THAT NO JOBS WILL BE LOST AT THESE OPERATIONS AS A RESULT OF THE MERGER." I AM PLEASED TO INCLUDE A COPY OF CHAIRMAN BOSSIDY'S LETTER FOR THE RECORD.

IT IS MY HOPE THAT THE HONEYWELL MERGER MAY ACTUALLY LEAD TO THE CREATION OF NEW JOBS HERE IF AND WHEN IT IS APPROVED.

IN CONCLUSION, I WANT TO OFFER MY ASSURANCES THAT I WILL CONTINUE TO WORK WITH THIS SUBCOMMITTEE, GOVERNOR O'BANNON'S OFFICE, MAYOR STEVE LUECKE OF SOUTH BEND, CHAIRMAN BOSSIDY, CARL MONTALBINE, TOM BODE, SHEILA RADLOFF, LARRY BANGHART AND THE MANY OTHER FINE PEOPLE ASSOCIATED WITH ALLIEDSIGNAL TO PROTECT JOBS HERE IN OUR COMMUNITY.

CLEARLY, THIS IS A PERIOD OF CHANGE FOR THE COMPANY. WE NEED TO MAKE SURE THAT THESE CHANGES ARE POSITIVE, AND THAT ALLIEDSIGNAL CONTINUES TO BE A GOOD EMPLOYER AND A GOOD NEIGHBOR FOR MANY MORE YEARS TO COME. THANK YOU.

B.F. Goodrich, Coltec Deal Is Having Trouble Landing

HEARD ON THE STREET 4/14/99 C1

By Paul M. Sherer
Staff Reporter of The Wall Street Journal

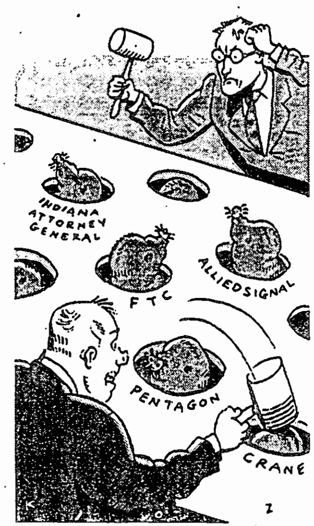
To understand why the merger of B.F. Goodrich and Coltec Industries hasn't closed after five months, think of the arcade game Whack-A-Mole.

Each time Coltec General Counsel Robert J. Tubbs tries to complete the $1.3 billion deal, he says, he hammers down one mole – multiple lawsuits, investigations by two federal agencies, or intervention from congressmen and senators—and another obstacle pops up to thwart the merger.

Those trying to quash the transaction are AlliedSignal and Crane, competitors and suppliers for aircraft-landing gear. Both firms say the merger would leave a near-monopoly in landing-gear systems for large commercial and defense aircraft in the U.S.

Coltec of Charlotte, N.C., and Goodrich of Richfield, Ohio, dispute that contention. Yet a combined firm would have a majority market share in landing gear for U.S. defense aircraft. The two firms also are the sole suppliers of complete landing-gear systems for Boeing's large commercial aircraft.

Despite the opposition, the Defense Department cleared the deal last month. So traders believed approval by the Federal Trade Commission was nearly certain. Instead, the FTC, in a surprise move, then launched a new evaluation and demanded dozens of additional boxes of



Martin Kozlowski

documents from Coltec and Goodrich. An FTC decision is expected soon.

Meanwhile, Coltec and Goodrich are fighting a lawsuit filed by AlliedSignal in an Indiana federal court after defeating another suit by Crane, filed in a New York federal court, attempting to block the deal. A prominent U.S. senator is investigating whether the firms have played down the job cuts planned after the merger.

All this over a deal that isn't considered huge by the standards of today's mega-deals, in an industry drawing far less attention than the Internet or telecommunications. Still, the landing-gear business is lucrative. It is a lot like the razor business – sell a razor for nearly nothing; make money from the replacement blades. Once a company gets its landing gear installed on a plane, it gets continuing revenue from replacements that can last the 40-year lifespan of a jetliner.

Amid the rapid industrial consolidation in the U.S., the Goodrich-Coltec saga provides a peek into how the government scrutinizes a transaction for potential antitrust concerns. The nasty political fight makes the outcome of the Goodrich-Coltec merger ticklish to handicap. But the betting on Wall Street is that the FTC is likely to follow the lead of the Pentagon and approve the deal.

One thing is clear: AlliedSignal's chairman and chief executive, Lawrence A. Bossidy, is no stranger to merger mudwrestling. He fought a protracted legal and political battle last year in his attempted $9.8 billion hostile takeover of AMP. But Tyco International stole away the target with an $11.3 billion white-knight bid.

In February, Mr. Bossidy called John W. Guffey Jr., Coltec's chairman and CEO; offered to buy Coltec's Menasco landing-gear business; and, according to a spokesman for Mr. Bossidy, said he expected Mr. Guffey to uphold the contract that AlliedSignal had signed with Menasco in 1995.

In any event, Mr. Guffey refused to sell the business. About two weeks later, AlliedSignal filed suit in an Indiana federal court, charging both violation of contract (with Menasco) and violation of federal antitrust law. For the case, AlliedSignal has subpoenaed most major airlines flying in the U.S., along with Boeing, the major customer of landing gear, according to people familiar with the matter. Coltec and Goodrich say the suit is without merit; the case is pending.

With the approval of the Pentagon, the FTC staff by March had decided to recommend approval of the merger, according to people familiar with the situation. Then AlliedSignal and Crane urged the FTC to request all of the documents filed in the Indiana lawsuit, which it did. The staff reviewed the documents during Easter weekend, and again decided to recommend approval.

But the FTC commissioners agreed to allow the companies to come in and present their cases in person. Those meetings took place last week and this week, and will continue at least through today.

Even after the FTC's staff recommends approval of a merger, it isn't unusual for FTC commissioners to listen to complaints from vocal third parties attempting to block a deal. For example, FTC commissioners are hearing feedback from booksellers opposed to the proposed acquisition by Barnes & Noble of the nation's largest book distributor, Ingram Book Group.

At the same time, AlliedSignal and

Please Turn to Page C2, Column 3

TAPEWATCH

- **February business inventories**, to be released at 8:30 a.m. EDT, are seen rising 0.3% next to January's 0.1% rise.

For continually updated global business and investing news, see The Wall Street Journal Interactive Edition at **http://wsj.com**

Merger of Landing-Gear Firms B.F. Goodrich And Coltec Is Getting Pounded in Midflight

HEARD ON THE STREET

Continued From Page C1

Crane have attempted to raise doubts about the deal among members of Congress and encouraged them to contact the FTC and Pentagon with their concerns. They also have sought to raise concerns about job losses from the merger.

The office of U.S. Senator Mike DeWine, head of the antitrust subcommittee of the Senate judiciary committee, is investigating whether Goodrich and Coltec gave contradictory information to different government officials. The companies announced in a news release that just 170 jobs would be cut in Mr. DeWine's home state of Ohio, an assurance the firms repeated to the senator.

Now, the Republican senator's office is investigating whether the firms told the Pentagon and FTC that they might shut a facility in Cleveland, costing 1,000 jobs, people familiar with the situation say. The possible discrepancy was brought to the senator's attention by AlliedSignal and Crane, according to an individual with knowledge of the matter.

"I can categorically state to you that there is no Coltec document that states that at all," Coltec's Mr. Tubbs said. "I can't speak to what Goodrich documents say. We certainly talked about overall synergies with both [government agencies], but I don't think we ever talked about a specific landing-gear plant. We haven't done that detailed an analysis yet."

A Goodrich spokesman declined to comment.

A week ago, AlliedSignal and Crane filed a motion to unseal documents in the Indiana suit. "The defendants have misused the protective order in this case to conceal information that is damaging to their case but that does not constitute trade secrets or other confidential commercial information," the motion says.

Crane had also asked Connecticut Senators Joseph Lieberman and Christopher Dodd to write to the Pentagon urging it to carefully consider its decision. However, after investigating the matter, the offices of the two Democratic senators decided to remain neutral; they noted that both Crane and Coltec have interests in Connecticut, according to people familiar with the situation. Separately, Democratic Rep. Tim Roemer of Indiana wrote to the FTC urging that the agency give the merger serious scrutiny.

In March, Indiana state Attorney General Jeffrey A. Modisett sought to join the antitrust suit filed by AlliedSignal. His filing asserted that the merger would do everything from hurt air safety to raise the price of airline tickets. The judge rejected his motion to join the case.

What do shareholders of Goodrich and Coltec have to say about all this? They both voted to approve the merger Friday.

—John R. Wilke contributed to this article.

Long and Winding Road

Key points in the five-month merger saga of B.F. Goodrich and Coltec Industries:

- **Nov. '98:** Merger is announced
- **Dec. '98:** Crane sues to block merger
- **Jan. '99:** Crane lawsuit dismissed
- **Jan. '99:** FTC deepens antitrust review
- **Feb. '99:** AlliedSignal sues to block merger
- **March '99:** Pentagon clears merger
- **April '99:** FTC continues review

* * *

BURST BUBBLE? Influential—and usually bullish—Internet analyst Keith Benjamin of BancBoston Robertson Stephens sounded a sour note about his favorite sector at an online-trading forum.

Mr. Benjamin said he expected Internet stocks to fall 20% to 40% in the next two months after the first-quarter earnings buzz subsides—and market-moving "day traders" face a dearth of stock news to trade on. He said the pattern has held true for the past eight quarters.

In addition, Mr. Benjamin predicted that Wall Street titan Goldman Sachs could buy an online-trading company—possibly E*Trade Group—after it goes public. "If I were Goldman, I would buy somebody after I go public," he mused. Both companies declined to comment.

—Rebecca Buckman

Mr. MCINTOSH. Thank you, Mr. Roemer, for joining us today and we appreciate your remarks. Let me now focus back in on some of these questions. And in order to make sure we've got time for the other panel, we've got about 25 minutes or so with you all. Thank you. I appreciate you joining us. And so, I may end up cutting to the chase on some of them. It's not intended to cut you off, but it's to make sure we get a lot of ground covered.

Mr. Linnert, you had started to raise a point when we were talking about the market, and, maybe, Jason, if you could put those two charts back up there. Let me ask you, essentially do you disagree with the characterization of that; perhaps, if you look at the large airlines or airplanes, that the marketplace is more like that description there than the other, and in terms of large supplies and large players. But let me let you make your point as well.

Mr. LINNERT. Thanks. Yes, I do disagree. Let me first note that Professor Bauer's antitrust expertise certainly exceeds mine. So, I'm going to comment on that in a minute. I would also like to note that Professor Bauer is an attorney of record in this matter, and has helped enable Allied to develop its case, but his name is on the pleadings. What I think something——

Mr. KUCINICH. I think the Professor disclosed his——

Mr. LINNERT. That he was a consultant. I just wanted to point out he was also an attorney-of-record in the matter.

What I would like to do is comment, that article that Carl put into the record earlier that came from the Paris Air Show, there's a nice graph there where what it shows in terms of landing gear, that Messier-Dowty has 40 percent of the worldwide market; Goodrich has 21 percent; Coltec 22 percent; and "others" 17 percent. So, there is a vibrant other group of landing gear manufacturers depending what market you're in.

Mr. MCINTOSH. That's when you defined it as including all airplanes?

Mr. LINNERT. Yes.

Mr. MCINTOSH. And the "other" numbers are when you define sort of the large, commercial or military aircraft?

Mr. LINNERT. Yes, and that's a good point. I think, the way I think of this is, there's a lot of markets to consider here. But there's—let's say there's basically large, commercial, regional, business and military. And that chart that I mentioned that's in that air show article talks about that totality, so there's 17 percent of that market is made up with other landing gear manufacturers. But to just to help with the——

Mr. MCINTOSH. What do you mean—I'm sorry.

Mr. LINNERT. Sure.

Mr. MCINTOSH. Of those different subcomponents, which are the most significant, either in terms of revenue or profits, for your companies; is it the military? Is it the larger commercial? Is it the smaller regional aircraft?

Mr. LINNERT. You're talking to a non-expert, but one thing I do know is, it is not military. I believe it's the large commercial market.

Mr. MCINTOSH. Large, commercial. Is that in your experience, too, Mr. Tubbs?

Mr. TUBBS. Yeah.

Mr. MCINTOSH. OK.

Mr. LINNERT. The one point I do want to make, on large commercial, there are a couple other players beside Goodrich, Coltec, and Messier-Dowty. SHL, who Carl referred to, is an Israeli company; they do provide the landing gear for the Boeing 717. And Heroux, which he also mentioned, is a Canadian firm. They provide landing gear for the C–17. So there are some others with capabilities.

Mr. MCINTOSH. Do those tend to be sole source, are they multisource?

Mr. LINNERT. Usually with the way a landing gear platform works, somebody is picked as the landing gear provider for that particular platform; it's the wheel and brakes that the airlines do want dual or multiple sources, because that's the wear out, the higher wear out pieces. And I just wanted to finish up on something Professor Bauer said. As I said, he's an antitrust expert and I'm not. I would just like to point out to the committee something I said in my comments earlier. All of the points that Professor Bauer raised, I feel confident were raised at the FTC in a 5-month process, and at the DOD in a 4-month process. And the reason I feel confident is because AlliedSignal and Crane participated in that process. May be a little bit unusual, but they participated. So the staff had a thorough opportunity to, not only look at those arguments, they requested more documents from us. And in the end, to show the end of that, Allied did and Crane had audiences with each of the FTC Commissioners, is our understanding; private audiences for that last little explanation or concerns. And again, as you all know, the FTC and the DOD came out favorably for the merger. So I just wanted to—while I can't debate the antitrust——

Mr. MCINTOSH. Let everybody know the next phase of this will be for us to sit down in a staff level with the FTC attorneys. A significant part of what we're doing is making sure that as they made that decision they considered the correct factors. Let me ask a couple more questions real quickly about the marketplace so we can gain an understanding of that. What percentage currently, and I guess anticipated future contracts, are likely to be integrated where you need to have those alliances versus, I don't know what the other term of it is, but the more traditional one that an airline would pick a different supplier.

Mr. LINNERT. And just to help with it, so I'm answering the question correctly, you're asking the question of how many new programs, forget all the existing ones, how many new programs would be bid where the landing gear, the wheels and brake, brake controls and all these things put together.

Mr. MCINTOSH. That's the important part. Give us the existing one, too, so we get an idea of how they fit into context. Is there a shift in the marketplace that's occurring, or——

Mr. LINNERT. In the existing market, there is a very, very, low percentage of systems that are asked for and have been asked for on an integrated basis. Certainly, large, commercial. More so in the regional and business. But if you look forward in time, we believe, Goodrich believes, it will continue to be a low percentage going forward, particularly in the large, commercial markets. And Carl did make a good point before. He said, "Well," he said, "some of these other firms that Terry had up on that chart, they don't have the ability to design these larger landing gears." Boeing helps design the landing gear and owns the data rights to the design, so that's why they can pick among different landing gear manufacturers to build something for them. They own the data rights. It's not something that is proprietary to us.

Mr. MCINTOSH. OK. And, Mr. Montalbine, the article you told us about indicates that the French firm Messier thinks—has a different prediction than Mr. Linnert about the future; they think it's for the large, commercial ones they will be more integrated.

Mr. MONTALBINE. Yeah, their view of the world is significantly different, more in line with our view of the world.

Mr. MCINTOSH. And that's yours as well.

Mr. MONTALBINE. That's correct.

Mr. MCINTOSH. OK.

Mr. MONTALBINE. And that is why back in 1995—if I could correct this one point, Mr. Chairman. In 1995, when we sold our landing gear business, as Mr. Tubbs indicated, that's true; but it's a half truth. We sold it on the condition in exchange for a strategic alliance agreement with Menasco so that we could gain access to large, commercial landing gear capability. We had a very small, military business that was over capacity in 1993/94, timeframe; made no sense to invest in it any further. Menasco, being alone, as we were interested in also teaming with a wheel and brake supplier, because they saw the trend toward systems integration. So that is the other side of the story. We willingly sold it, but in exchange for the alliance agreement.

Mr. MCINTOSH. And was Menasco at that time owned by Coltec?

Mr. MONTALBINE. Yes, this is the parent company.

Mr. MCINTOSH. So you got that from the parent. Let me get one quick question, then I'll let Mr. Kucinich have a series of questions. But speaking of that strategic alliance and the background that we heard about earlier; the decision on that portion of the dispute, that Arbitrator said Coltec needed to affirm they would continue that in the merged company. I guess to Mr. Tubbs and Mr. Linnert, are you both prepared to say that will be the decision of the company?

Mr. TUBBS. Absolutely.

Mr. LINNERT. Absolutely. In fact, it's a condition of the merger agreement that all contracts are honored. We have said, since before the litigation was filed, we have told AlliedSignal in personal meetings that we not only would live up to and honor the agreement, we would be willing to entertain whatever additional safeguards they thought might make sense to protect their proprietary information, whether it was firewalls, whatever.

Mr. MCINTOSH. Does the agreement obligate you on these—I forget what the number was—but these additional platforms that are going to be bid on in the future?

Mr. LINNERT. Yes.

Mr. TUBBS. Yes.

Mr. LINNERT. Let me just put—to help put that in perspective. That agreement has about 5½ or 6 years left on it. So, when Allied exited the landing gear business, Carl is right, they entered into the strategic alliance agreement. Well, it was for a term certain. They have no protection in terms of a partner after that period of time. What they were concerned about is not having a partner now. What the Arbitration panel essentially said is, "You have your partner, the contract will be honored."

Mr. MCINTOSH. But, as Mr. Bauer is pointing out, that partner will also be their chief competitor.

Mr. TUBBS. But what the Arbitration panel said was, "And we'll work with you to develop safeguards so that there is a firewall between the data. So that you can go ahead." In fact, there are some programs that are going on right now where Allied is working with other wheel and brake manufacturers to design wheels and brakes for new airplanes. So they're sharing in that.

Mr. MCINTOSH. So, in order to live up to that, you anticipate some of the new business you acquire having a significant part of it outsourced to Allied in order to live up to that?

Mr. TUBBS. We don't make wheels and brakes, so we can't outsource——

Mr. MCINTOSH. But BFGoodrich does.

Mr. LINNERT. We make wheels and brakes. The way the agreement works is if a customer says, Please bid an integrated system to us, you know, all four parts together; what the agreement says is, we will team our landing gear with their wheel and brakes, not ours. And we will put in an integrated system bid. Now, our wheel and brakes are completely separate, firewall. If they want to bid as a component, that's a whole separate matter. But we will honor the agreement. So they have their partner.

Mr. MCINTOSH. Let me turn the question time to Mr. Kucinich for any questions he might have.

Mr. KUCINICH. Thank you, Mr. Chairman. To Mr. Linnert, did I hear you say that the Department of Defense and FTC supported the merger? Did you say that?

Mr. LINNERT. The letter from the Department of Defense, I understand, was their standard letter which permits mergers to go ahead, which they said to the FTC, "We do not object to this merger." The FTC's letter to us, which said we could go ahead with the merger, was their standard letter out of their procedures manual. So, yes.

Mr. BAUER. Can I followup on that, Congressman?

Mr. MCINTOSH. Sure.

Mr. KUCINICH. Yeah, go ahead.

Mr. BAUER. The procedures of, both, the Department of Defense and the Federal Trade Commission—and I should focus particularly on the Federal Trade Commission under the Hart-Scott Rodino legislation, in the premerger notification portion of that, do not require the enforcement agencies, whether it be FTC or the Antitrust Division, or here where there's national security implications, the Department of Defense, affirmatively to approve the merger; it's a decision not to challenge the merger, but says nothing about the impact that that might have on private litigants as, in fact, is prevailing in the Federal District court here in South Bend.

Mr. KUCINICH. I just wanted to—Mr. Chairman, thank you. I just wanted to clarify that, Mr. Linnert, so that we keep the record clear on that point.

Mr. LINNERT. And I could—maybe I could help——

Mr. KUCINICH. I—you now, I just wanted to establish——

Mr. LINNERT. OK.

Mr. KUCINICH [continuing]. What the record is. The record does not state that they support it. It states, rather, they don't object to it.

Mr. LINNERT. Right. I'll read from the Department of Defense letter——

Mr. KUCINICH. We can continue. I'm going to continue with my questions.

Mr. MCINTOSH. We will put those letters in.

Mr. KUCINICH. We will put that in the record. That will be fine. I appreciate having that in the record. Thank you.

[The information referred to follows:]

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-3010

ACQUISITION AND TECHNOLOGY

15 MAR 1999

Terrence G. Linnert
Senior Vice President and General Counsel
BFGoodrich Company
4020 Kinross Lakes Parkway
Richfield, OH 44286-9368

RECEIVED
MAR 18 1999
T. LINNERT

Dear Mr. Linnert:

The Department of Defense is advising the Federal Trade Commission today that the Department will not object to the proposed acquisition of Coltec Industries by BFGoodrich. The Department is concerned, however, about possible anticompetitive effects on Department of Defense programs should there be any future collaboration between BFGoodrich and the other principal manufacturer of landing gears, Messier-Dowty.

The Department of Defense is aware, for instance, of the joint venture agreement between BFGoodrich and Messier-Bugatti for wheels and brakes on the Airbus aircraft A-330/340 and A-321. That agreement in its current form will not adversely affect competition involving this Department. The Department would be concerned, however, if this agreement were extended to include other aircraft and that extension could affect competition for military programs. The Department would also be concerned if BFGoodrich and Messier-Dowty collaborated in areas that have been the subject of this merger review.

Consequently, the Department of Defense requests that BFGoodrich neither extend the current joint venture agreement with Messier-Bugatti nor enter into any new collaborative arrangements with either Messier-Dowty or Messier-Bugatti without first informing the Department of Defense in writing so that it can assess the potential implications of such collaboration on competition for military programs.

I would appreciate it if you would advise me in writing of your agreement with this request.

Sincerely,

JSGansler

Jacques S. Gansler

cc: Tommy D. Smith, Esq.
Ann B. Malester, Esq.

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

RECEIVED

MAY 03 1999

Bureau of Competition

T. LINNERT

April 26, 1999

Terrence G. Linnert
Senior Vice-President and General Counsel
The B.F. Goodrich Company
4020 Kinross Lakes Parkway
Richfield, Ohio 44286-9638

Re: The B.F. Goodrich Company/Coltec Industries Inc.
FTC File No. 991-0093

Dear Mr. Linnert:

The Federal Trade Commission's Bureau of Competition has been conducting a nonpublic investigation to determine whether the acquisition of Coltec Industries Inc. by The B.F. Goodrich Company may violate Section 7 of the Clayton Act or Section 5 of the Federal Trade Commission Act.

Upon further review of this matter, it now appears that no further action is warranted by the Commission at this time. Accordingly, pursuant to authority delegated by the Commission, 49 Fed. Reg. 6171 (1984), the investigation has been closed. This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Sincerely yours,

Richard G. Parker
Senior Deputy Director

cc: Tom D. Smith, Esq.
Jones, Day Reavis & Pogue
Metropolitan Square
1450 G Street, N.W.
Washington, D.C. 20005-2088

Mr. KUCINICH. Now, to Mr. Tubbs. When did Coltec decide that it wanted to be a business partner with BFGoodrich; that they wanted to merge with BFGoodrich?

Mr. TUBBS. Our first—the first meeting of the two, Mr. Chairman, was, I believe, October 14th of last year. It was October of last year.

Mr. KUCINICH. Were there meetings on a staff level prior to that?

Mr. TUBBS. No.

Mr. KUCINICH. Were there meetings between attorneys prior to that?

Mr. TUBBS. No.

Mr. KUCINICH. Was there any contact of any kind between officers or representatives of BFGoodrich and Coltec prior to the meeting of the CEO's, or the chairman?

Mr. TUBBS. I don't know where you're going, but let me——

Mr. KUCINICH. I'm asking a question. That's where I'm going.

Mr. TUBBS. Not on that merger. We—we had a business relationship with Goodrich on other things, and, of course, there were meetings about that. But the first time the merger ever came up between those two companies was at dinner on October 14, 1998.

Mr. KUCINICH. It was at dinner. All right. And who was at that dinner?

Mr. TUBBS. Mr. Guffey, the Coltec chairman, and Mr. Burner, the BFGoodrich chairman.

Mr. KUCINICH. So, was there anyone else at that meeting?

Mr. TUBBS. No.

Mr. KUCINICH. So you don't have any knowledge really of what was discussed at that meeting.

Mr. TUBBS. Only what was told to me, sir.

Mr. KUCINICH. OK. And what is your official position with the company?

Mr. TUBBS. I'm general counsel of the company.

Mr. KUCINICH. Was there, to your knowledge, at any time any discussions between Coltec and BFGoodrich as to what would be the competitive position—of how the competitive position of Coltec would be enhanced in such a merger?

Mr. TUBBS. There were many discussions in-house about how good this merger was for us, and what it meant for all our facilities and all our locations throughout the United States; there were a lot of discussions about that. I mean, that's what you have to do to convince the board of directors that it is a good merger.

Mr. KUCINICH. In those discussions, was it ever stated that there would be a competitive advantage for Coltec if it merged with BFGoodrich?

Mr. TUBBS. Sure.

Mr. KUCINICH. And in that was it ever discussed that in such a competitive advantage that you would be able to effectively displace AlliedSignal in a key area in the marketplace?

Mr. TUBBS. Not to my knowledge. We had our agreement with AlliedSignal.

Mr. KUCINICH. So you had no discussion about competition with anyone, is that what you're saying?

Mr. TUBBS. No. I'm not saying that. You asked me whether we had talked about displacing AlliedSignal. And I don't know that

that's true. But certainly in our discussions we recognized that we were going to have to go through an antitrust review process; that there was a merger—there was an overlap—a product overlap that was going to have to be looked at. We certainly knew that. I mean, we're attorneys; we asked advice; we went to see our customers about that to ask if they had a problem with it. We did those things, yes.

Mr. KUCINICH. So, but yes or no, I mean, did you ever have any discussions about the competitive advantage which Coltec/BFGoodrich would have as opposed to AlliedSignal?

Mr. TUBBS. Not as opposed to AlliedSignal. We had it as the competitive effects of the merger were discussed.

Mr. KUCINICH. Did you ever have any discussions about the monopoly position which Coltec and BFGoodrich would have if the merger went through?

Mr. TUBBS. Well, first of all, it's not a monopoly position. So, no, we did not discuss a monopoly position.

Mr. KUCINICH. Did you discuss marketplace dominance?

Mr. TUBBS. We did not discuss marketplace dominance. I mean, we talked about——

Mr. KUCINICH. Why would you merge, if you didn't discuss the marketplace?

Mr. TUBBS. Pardon?

Mr. KUCINICH. Why would you have a merger if you didn't discuss marketplace dominance?

Mr. TUBBS. We talked about the synergies; the good that would come to Coltec as a result of merging with BFGoodrich. That's not marketplace dominance.

Mr. KUCINICH. Mr. Linnert, when was the first time that the discussion of a merger with Coltec took place?

Mr. LINNERT. My understanding is exactly the same; it was a dinner meeting of the two CEO's. And it was mid-October.

Mr. KUCINICH. Are there memos about the result of that dinner meeting available?

Mr. LINNERT. I don't have one. I was not at the meeting.

Mr. KUCINICH. Were you—did anyone have a discussion with you about that meeting?

Mr. LINNERT. Yes. Mr. Burner reported that they had a dinner meeting and that we should get—the next step was to get together as companies and have a discussion.

Mr. KUCINICH. And was there any discussion about the content of that meeting?

Mr. LINNERT. No. Not specifically. Not to me.

Mr. KUCINICH. Was there any discussion with you and any officers, other officers of BFGoodrich, as to how this merger would enable you to achieve a dominance in a particular sector of this industry?

Mr. LINNERT. No, not with me personally. There was—one of the hopes for from the merger was that we would be a better competitor with Messier-Dowty for Airbus business, so-called crack Fortress Europe, as we refer to it. Try to get more business on a global basis.

Mr. KUCINICH. Was there ever any discussions or any meetings or planning sessions where the—where the impact of this merger on a competitive position of AlliedSignal was discussed?

Mr. LINNERT. Not to my knowledge, no.

Mr. KUCINICH. Was AlliedSignal ever discussed in any of these meetings?

Mr. LINNERT. The one place I remember AlliedSignal's name coming up was in connection with the strategic alliance agreement, and that we would have to honor that agreement going forward.

Mr. KUCINICH. Did you—was it ever in your planning at any time to achieve a dominance of the marketplace with regard to an advantage over one—any competitor?

Mr. LINNERT. No. What we wanted to do was become a stronger competitor, particularly in the large, commercial markets where we have had very little success in winning Airbus programs. Airbus, obviously, the counterpart of Boeing. So we wanted to be able to compete for Airbus programs. We also, on the military side, since there were less programs coming along, we wanted to be able to have the resources necessary from a military side to look at the new programs. They had a better military presence than we do.

Mr. KUCINICH. So, to your knowledge, there were no discussions, no documentation, no possibility that any direction was taken toward achieving a monopoly in landing gears?

Mr. LINNERT. No, sir, in the discussions I remember we were to become a stronger competitor; and the one I clearly recall is try to win or secure some Airbus business going forward.

Mr. KUCINICH. I have one final question, if I may, Mr. Chairman, of Mr. Montalbine. In looking at some of the documents that have been provided to this committee, thanks to the work of Mr. McIntosh. I have come across some of the assessments that BFGoodrich has made about the facility in the city of Cleveland, Cleveland Pneumatic. And in looking at those assessments, BFGoodrich has put a rather low priority on keeping that particular facility. Three different levels of analysis indicated they would not do so, indicating the condition of the plant, the personnel, perhaps the cost of the personnel, perhaps the union status of the facility, and the long-term viability of that facility, all were not to the advantage of the corporation. How then, since you're in a profit-making business, I presume, could you presume that you would, in fact, be able to operate such a facility and not be in the same condition that BFGoodrich found itself in with this document—which I think we already have in the record, Mr. Chairman—which states that its equipment, the people and the expansion capability are all undesirable, according to this document? Could you respond to that?

Mr. MONTALBINE. Congressman, those are the assessments of internal people at BFGoodrich, and I can't speak to why they came up with those assessments.

Mr. KUCINICH. But why would you be able to make a go of it there and they can't?

Mr. MONTALBINE. We intend, right now in the post-merger world we would have no landing gear business, so we would have no alternative but to invest in the facilities, invest in the training of the people. AlliedSignal has a history of acquisition in the past where we've been able to upgrade the culture in these organizations through the training programs that we have.

Mr. KUCINICH. So, you're saying you would want to do that to keep a position in the marketplace.

Mr. MONTALBINE. Absolutely. And we would make that investment in the people, plant and equipment and be an available competitor.

Mr. KUCINICH. Is it your feeling that the reason why BFGoodrich wouldn't want to sell that to you is to stop you from having a position in the marketplace?

Mr. MONTALBINE. Absolutely. We are the primary competitors on the wheel and brake side. And, as Mr. Tubbs pointed out, that's where the money is. And given the fact that the entire industry's moving toward landing systems, it would be very easy for them to foreclose us from that market.

Mr. KUCINICH. Do you have any information, however, to present to this committee or any information that is available that would suggest that BFGoodrich and Coltec specifically are trying to exclude AlliedSignal from this business, or, in doing so, have taken a competitive position to the direct disadvantage of AlliedSignal?

Mr. MONTALBINE. Other than the experiences we've had when Menasco, in our existing strategic alliance, we don't feel they——

[Discussion off the record.]

Mr. MONTALBINE. I guess I'm being counseled to be careful with the lawsuit.

Mr. KUCINICH. OK. Why don't we just stop there.

Mr. MONTALBINE. OK.

Mr. KUCINICH. Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Kucinich. Let me ask both Mr. Tubbs and Mr. Linnert, have the documents that you've submitted to the committee, do they cover all of the documents relating to that October dinner? From the company?

Mr. LINNERT. The documents we submitted were in response to the subpoena. And if that was discussed at the dinner, yes, those documents would have been disclosed. But I don't know that there is any documents.

Mr. TUBBS. The only document that I know would be the proxy that we issued to—our joint proxy that we issued to our shareholders to approve the deal. Of course, that was fully disclosed in that SEC document.

Mr. MCINTOSH. There weren't internal documents saying, this is the dinner, we're now getting together, back and forth?

Mr. TUBBS. No.

Mr. MCINTOSH. All that communication was done orally?

Mr. TUBBS. Well, it was in Ohio at Youngstown. And the reason for the meeting was because the parties had been, at lower levels, had been talking about doing a joint venture in landing gear overhaul. And both the chairmen had finally found out about it, they didn't like—they didn't think it made much sense. So they were meeting to say, does this make sense? And at that meeting, Mr. Burner suggested to Mr. Guffey, maybe what does makes sense is to merge the two companies. I mean, that's what happened at that meeting. It was not a, you know, charts and dog and pony show kind of meeting.

Mr. LINNERT. Mr. McIntosh, let me——

Mr. MCINTOSH. But following after that meeting, have you all submitted to the committee all the documents that went from that meeting forward to the submission for a merger with the FTC?

Mr. LINNERT. Mr. McIntosh, we submitted documents to the committee in response to the—there was a letter from the committee and then a subpoena. We had prepared documents in response to the letter, and I believe we have provided those. The subpoena had a different timeframe. I think it was the same documents, but it was just a different timeframe. So it may be that there's some more to come, because the subpoena, a cover letter said we supply what we had available. We did. And then if there's more to come, we will submit those.

Mr. TUBBS. We will be happy to work with the staff to make sure they have that.

Mr. LINNERT. We have complied the best we can.

Mr. MCINTOSH. Good. We will make sure. And I've asked you to go back and do a review if there were any other things that, perhaps, fell out of the letter request but pertain to that meeting or pertain to the benefits that Representative Kucinich was referring to. Make sure we've got those documents as well.

Let me ask you, Mr. Linnert, to refer to a document dated January 8th, which you made available to the committee yesterday, I think, in response to the subpoena. And it's a document entitled, "To Jack Carmola and Roger White from Mr. Ernie Schaub." To make sure I understand who the players are. Mr. Schaub, is he with BFGoodrich?

Mr. LINNERT. Yes, sir. He is a group vice president, if I've got his title right, in the aerospace business of BFGoodrich.

Mr. MCINTOSH. And, Mr. Carmola?

Mr. LINNERT. Mr. Carmola would be in charge of our landing gear business. I don't know his exact title.

Mr. MCINTOSH. OK. And Mr. Wright? Mr. Wright, Roger?

Mr. LINNERT. Mr. Wright is an employee of Coltec. Again, I just don't know his exact title.

Mr. TUBBS. He's the head of our landing gear business.

Mr. MCINTOSH. OK. So it is written from the head—your VP for the aerospace to the two heads of the—respectively of the two companies of the landing gear business. And, "The following is a summary of our meeting and discussions of January 6th." He then goes on to talk about, "In an ideal word, we would have production facilities that are union free, cost effective, flexible and efficient in their layout, and as self-contained as possible. We would subcontract all parts or processes for which we are non-competitive or that are not part of our core competency." Has that been—does this memo reflect, essentially, the policies that the company, when merged, would follow?

Mr. LINNERT. I don't believe so, no. I believe this is just what the memo says, it—folks got together to talk about the existing facilities and it was just a discussion among themselves. And it never went to aerospace management in the form of Marshall Larson. I didn't see it myself until it was handed to me when I came in here today. But I know and I have to be careful about the litigation also, but Marshall Larson has never been apprised of any studies or any discussion with respect to the future of the landing gear facilities. Because, again, any work that has been done is very preliminary. We're not allowed to share operating data.

Mr. MCINTOSH. Well, let me ask this: What percentage of the production, either currently or post-merger, would be outsourced?

Mr. TUBBS. In building a landing gear, 65 percent of our landing gear is subcontracted. And I think——

Mr. LINNERT. It's over 90 percent for us.

Mr. TUBBS. Ninety on their case. So, you send a part out to a very qualified supplier and ask him to make it; you bring it back, you might put it together. So, a lot is outsourced.

Mr. MCINTOSH. So, for very sound business reasons, I assume.

Mr. TUBBS. Sure.

Mr. MCINTOSH. Now, what does—do those parts include the wheels and the brakes, or are there other things?

Mr. LINNERT. No. Bob was talking about it's the landing gear assembly itself.

Mr. TUBBS. The hydraulic cylinder.

Mr. LINNERT. Yeah, the wheel and brakes are a separate item. But on the landing gear, he can speak for Coltec, but in our case it's more than 90 percent of that work is subcontracted out. The parts.

Mr. MCINTOSH. Now, for an integrated contract, is that true there as well, that the parts are subcontracted? When you have an integrated contract to supply landing gear wheels and brakes?

Mr. LINNERT. Well, look, it certainly would remain true for the landing gear piece, because that's how it would be made. I am not as familiar in wheel and brakes how much work is done in-house versus outside. Carl may know.

Mr. TUBBS. But let's go back to, I think where your question is, on—if you say that there's a whole four things or five things that you use to land an airplane, sometimes we will put those together in the case, as Carl described it, in Everett, WA, for the 777; the wheels and brakes are shipped in, tires are shipped in. I don't know if the brake control systems are. But, and then our structures. And we have people there who put them together. We wheel them across the runway, right into Boeing's facility. Sometimes we do that at our Oakville facility. I think on 737 that's where we combine them is in Oakville. So, sometimes those are. But we always do it to what Boeing tells us to do. It's their specification that says use an Allied wheel and brake, use a BFGoodrich wheel and brake. We don't choose that. We're told do that.

Mr. MCINTOSH. Is that true of the subcontracting on the landing gear part?

Mr. TUBBS. No. They have to approve who our subcontractors are. This is a highly regulated industry. The FAA looks at everything. So everything is documented. All your processes have to be controlled. So, before you run out, they have to be an approved subcontractor, but they don't tell you to use them.

Mr. MCINTOSH. Generally, the ultimate consumer of the product, the airline manufacturer, or aircraft manufacturer, also reserves the right to approve the contracting out?

Mr. TUBBS. I think so.

Mr. MCINTOSH. OK. It would make sense to me if they would.

Mr. LINNERT. I can try to answer it one way, is, again I've only been with Goodrich a year and a half, but my understanding is, you do what Boeing tells you to do or Airbus, or Bombardier, because they're your customer. And if you're not going to satisfy them, you won't be there for very long. So I think they do control.

Mr. MCINTOSH. And does BFGoodrich ever subcontract or transfer the manufacture or production for aircraft parts to companies that are located in a foreign country?

Mr. LINNERT. I believe we do, because what I said last week to Senator Dewine's committee is take military landing gear; there's people who make military landing gear and beneath them there's all these subcomponent suppliers, and there's more than 25 of those, so they have to be in multiple countries.

Mr. TUBBS. And I know that we do, because we own a facility in Poland; we bought a facility in Poland to do that so the F–16 and many parts of the F–16 are made at Krosn.

Mr. MCINTOSH. But those are in your facility.

Mr. TUBBS. We own it.

Mr. MCINTOSH. But then would you also subcontract out to another company in Poland?

Mr. TUBBS. We could, I mean. Part of that, Mr. McIntosh, depends on—you know, you're trying to bid—build value in a landing gear, especially a military landing gear, so you can sell it to the allies, so you have to have local content on that kind of aircraft. So you're always balancing, especially on the military side, when you are trying to do a NATO program, with local content.

Mr. MCINTOSH. So, the combined company would plan to use that option in the future, to outsource to some foreign——

Mr. LINNERT. I believe we would look at the best practices of both companies of how we do things and hopefully learn from each other. And if that included subcontracting, yes. In addition, I think, as the air—as the aircraft manufacturer goes through cycles, clearly, you have to ramp up and down for cycles, and I think outsourcing is one of the things you use to help meet the higher volume part of the cycle.

Mr. MCINTOSH. OK. Are there any plans to take parts that are currently manufactured by companies here in the United States and perhaps for valid cost reasons subcontract them out to manufacturers located overseas?

Mr. LINNERT. Not to my knowledge. But let me answer a question that was asked me by your staff. The question was asked, "Do you use—do you obtain subcomponents for military landing gear from anyone in China or Russia?" That was a question—OK, maybe that wasn't a question that was asked of me. I can answer that.

Mr. MCINTOSH. It was one I was going to ask. Yeah, go ahead and provide the answer to that.

Mr. LINNERT. My understanding, the answer to that one is no.

Mr. MCINTOSH. No. Are there any plans to do that in the future? Specifically with one of your planes, the Dornier 728?

Mr. LINNERT. To go to China or Russia? I don't know, honestly.

Mr. MCINTOSH. OK. And I think that's a civilian aircraft. Would you find that out for us?

Mr. LINNERT. Sure.

Mr. McINTOSH. We will hold the record open from this hearing.

Mr. LINNERT. I'll speak with him and get the exact question.

Mr. McINTOSH. We'd hold the record, if it's unanimous consent, for 10 days and put that into the record. And also, let me ask you unanimous consent to put this document that we were talking about in the record. Mr. Kucinich will be interested to note, once again, on this document the close of the Texas, Cleveland and plating, approximately 866,000 square feet, eliminate 700 hourly positions, 300 salaried positions and relocate 200 people.

[The information referred to follows:]

BF

The BFGoodrich Company
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Richfield, Ohio 44286-9368
Tel: (330) 659-7735
Fax: (330) 659-7737

Terrence G. Linnert
Senior Vice President
and General Counsel

June 30, 1999

The Honorable David McIntosh
Chairman
Subcommittee on National Economic
Growth, Natural Resources and Regulatory Affairs
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative McIntosh:

We appreciate this opportunity to respond to two questions that you raised concerning the production of aircraft parts relating to our commercial landing gear business.

Question: Does BFGoodrich ever subcontract for the manufacture of commercial or business landing gear components to companies that are located in foreign countries? If you do, what programs and what countries?

Answer: Yes. BFGoodrich conducts business in a global marketplace. In this competitive environment, our company, like other in the aerospace industry and throughout the American business community in general, constantly looks to work with suppliers that help us meet customer requirements and demand. We currently work with a few companies in China to manufacture some landing gear parts that we supply to Boeing (for 747 and 737 aircraft) and for the Gulfstream G5. We also subcontract some work to a company in Russia (landing gear parts for Boeing 737 and 747), Singapore (landing gear parts for Ayers LM200 and Gulfstream G5), and Taiwan (landing gear parts for Boeing 747). The work relating to the Boeing programs, which began as early as 1992, was placed in China at the recommendation of Boeing.

Question: Are there any plans to take landing gear components that are currently manufactured by companies in the United States and subcontract them to manufacturers located overseas?

Answer: We expect that the vast majority of the work that we subcontract will remain with companies located in the United States. However, as we continue to expand globally, as with most other companies, we will continue to look for opportunities to involve companies in emerging markets to reduce production costs and improve delivery

The Honorable David McIntosh
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performance. An example of one such opportunity concerning landing gear components is the Fairchild-Dornier 728 program. The landing gear component program is now in the preliminary design phase and we will in the coming months finish preliminary drawings and send bid packages out to potential foreign and domestic forging subcontractors.

Hopefully the information supplied in this letter addresses the questions of the Subcommittee. As always, if you have any questions or need additional information please do not hesitate to contact me at (330) 659-7716.

Sincerely,

Terry Linnert

Terrence G. Linnert

BFGOODRICH RESTRICTED

January 8, 1999

To: Jack Carmola
Roger Wright

Re: *Meeting Notes—January 6, 1999*

The following is a summary of our meeting and discussions of January 6, 1999.

We started our meeting w.th a review of each facility in terms of the process and capabilities, the floor space, utilization, labor relations climate, number of employees and any issues. A summary of both the Menasco and BFGoodrich facilities is attached. As part of this review, we "rated" the plants as shown below. The rating is an overall rating and is obviously very subjective. We will use plant visits next week to help confirm or change the ratings. Oakville was rated the best facility with Cleveland and Dallas rated the worst overall. Tullahoma, Krosno and the Cleveland Plating facility were rated better than average.

We stated that we create value, or bring added value, to our customer through specialized machining and processing, and the assembly and integration of landing gear components. In an ideal world we would like to have production facilities that are union free, cost effective, flexible and efficient in their layouts and as self-contained as possible. We would sub-contract all parts or processes for which we are non-competitive or that are not part of our core competency.

As a result of our discussion about facilities, we thought that the following actions should occur if we are to meet as many of our ideal world objectives as we can:

1. Close Texas, Cleveland and Plating (approximately 866,000 square feet)
   - Eliminates 700 hourly positions (assume $50,000/year @ 6 months severance pay) Cost would be: $17,500,000
   - Eliminates 300 salary positions (assume $60,000/year @ 9 months severance pay) Cost would be: $13,500,000
   - Relocates 200 people (assume $50,000/relocation) Cost would be: $10,000,000
   - Total dollar impact $41,000,000
   - Total people impact: eliminates 1000 positions here
2. Combine Everett facilities
   - Do all Boeing assembly; enhance engineering and purchasing
   - Adds 20 people (part of those relocated above)

PLAINTIFF'S EXHIBIT
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Meeting Notes of January 6, 1999
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3. Close Burlington Service facility and combine with Miami
   - No impact here
4. Expand Oakville by approximately 75,000 square feet
   - [redacted]
   - Expansion costs w/ machinery $20,000,000
   - Adds 100 people (mostly hourly)
5. Expand Tullahoma by approximately 100,000 square feet
   - [redacted]
   - Add processing & HT Expansion $15,000,000
   - Adds 50 people (almost all hourly)
6. Build a Greenfield plant of approximately 300,000 square feet
   - [redacted]
   - New plant and equipment $100,000,000
   - Includes Plating & HT
   - Adds 300 people (non-union, new hires)
7. Expand Krosno by approximately 25,000 square feet
   - Produce DHC-8, 728, Boeing Sub-assemblies and components
   - Expansion includes Plating and HT $10,000,000
   - Adds 30 people (all hourly)

- Total one-time costs $186,000,000

- On-going savings
  - 400 people (assume $80,000/year pay) $32,000,000 annually
  - Going from 700 to 500 in hourly
  - Going from 500 to 300 in salary

- Items not included in above:
  - Environmental clean-up costs
  - Equipment and facility write-offs
  - IS needs
  - Vacated property management costs
  - Building destruction or demolition costs
  + Saving associated with Greenfield site labor costs
  + Procurement benefits
  + Savings associated with not operating three facilities

<u>Actions for Jack and Roger</u>:

- See if the workload distribution (of programs) that we devised is approximately correct so that we have a balanced workload by facility.

- Have the Engineering heads look at the capacity and capabilities of their respective drop test and fatigue facilities.

- Other considerations: Ernie is to check and see if we could combine Menasco Flight Controls, W&B BCS and Motion's hydro-mechanical businesses into one division of approximately $40 M in revenue.

Ernie

Ernie Schaub

KEY PEOPLE BY FUNCTIONS

Function	BFGoodrich	Menasco
Engineering	[redacted]	[redacted]
Sales/Marketing	[redacted]	[redacted]
Operations	[redacted]	[redacted]
HR	[redacted]	
Finance	[redacted]	[redacted]
Other		[redacted] ▪ [redacted] ▪ [redacted]

We should each make it a point to meet the above individuals and get to know something about them during our tours.

FACILITIES

	Oakville	Burlington	Texas	Krosnov	Everett	Cleveland	Tullahoma	Plating	Everett
Floorspace	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Mfg. Only	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Office	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
People (H)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
(S)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Objectives
No Union
Cost Effective
Efficient Layout
Self-contained

Value Added
Specialized Machining and Processing
Assembly & Integration of Components

Plants Ranked By "Best" (10=Best)

Oakville	10
Tullahoma	7
Krosnov	6
Plating	6
Texas	3
Cleveland	3

Mr. KUCINICH. I am, Mr. Chairman, glad you wanted that submitted in the record. May I for a second here?

Mr. MCINTOSH. Yes.

Mr. KUCINICH. This document—thank you, Mr. Chairman. I consider this document instructive for a number of reasons. It's been BFGoodrich's contention all along that nothing's final, these are just planning discussions. However, it's been consistent in all their planning discussions to direct the closing of the Cleveland facility. Because of the number of people in my district who happen to be affected by this, I'd just like to have the privilege of asking this question. In a number of internal communications that I've reviewed with respect to BFGoodrich, there is a—seems to be a consistent interest in facilities that are, "union free." What do you mean by that? What does that mean?

Mr. LINNERT. I don't know what that means, because that is not the policy of BFGoodrich.

Mr. KUCINICH. What do you think that means? Why would that be in a——

Mr. LINNERT. I do not know.

Mr. KUCINICH [continuing]. Communication?

Mr. LINNERT. As I said a minute ago, Representative Kucinich, that is not the policy of BFGoodrich.

Mr. KUCINICH. Is this document from BFGoodrich?

Mr. MCINTOSH. It is. It was one of the ones they submitted.

Mr. KUCINICH. Could I ask the gentleman to look at it.

Mr. LINNERT. Is this the one you gave them? OK. I have it.

Mr. KUCINICH. Have you looked at that?

Mr. LINNERT. I was handed it before this hearing started, yes.

Mr. KUCINICH. Who is Mr. Ernie Schuab?

Mr. LINNERT. He is the group vice president—one of the four group vice presidents in our aerospace business.

Mr. KUCINICH. He works for BFGoodrich?

Mr. LINNERT. Yes.

Mr. KUCINICH. Who's Mr. Jack Carmola?

Mr. MCINTOSH. Oh, we established that. He is with BFGoodrich, also. And Mr. Wright's with Menasco with Coltec.

Mr. KUCINICH. So you're saying that, despite the fact that you have a memo here, which is from BFGoodrich, that relates to having production facilities that are union free, you're saying that's not your policy?

Mr. LINNERT. Yes.

Mr. KUCINICH. Would you also say that your interest in merging with Coltec has nothing to do with the fact that Coltec's located in a right-to-work State?

Mr. LINNERT. That is correct. It has nothing to do with that.

Mr. KUCINICH. So, the fact that there is a memo here, a company memo, that assesses this stage before a merger and it mentions that the facilities would be union free. And not only once, I think it's mentioned several times throughout the BFGoodrich's documents. And that you would go to a—move to a right-to-work State and out of a unionized environment, you're saying that that's not your policy?

Mr. LINNERT. That is not our policy. That is exactly what I'm saying.

Mr. KUCINICH. But it's becoming your policy.

Mr. LINNERT. No, sir, it is not.

Mr. KUCINICH. I see. Thank you for your answers.

Mr. MCINTOSH. Thank you. I have one last question for the panel, and undoubtedly we'll need to ask you all to join us at our field hearing in Cleveland because there is some more information we'll be getting, but Mr. Montalbine, Mr. Roemer referred to a letter from your CEO about the merger between AlliedSignal and Honeywell. For the record, and under oath, do you know any reason that would preclude AlliedSignal from following through with that promise not to reduce the work force here in South Bend as a result of that merger?

Mr. MONTALBINE. I know of no reason that that would be the case. There really are no synergies in the area of landing gear, wheel and brake, or brake control with Honeywell; they simply do not make those products, and I see no conflict there with regard to jobs in South Bend. It's not the indication.

Mr. MCINTOSH. On the other hand, you said that you felt if you had to adopt a strategy of simply servicing the aftermarket, that in 5 years the work force might need to be diminished by about half.

Mr. MONTALBINE. Approximately, yes, I said that.

Mr. MCINTOSH. Are you comfortable that with the continuation of the strategic alliance agreement with Coltec for an additional, approximately, 5 years, that that can be forestalled during that period?

Mr. MONTALBINE. If the alliance agreement existed as it does today, where we have complete trust that our proprietary information was not going to be compromised, yes, that would be forestalled, we'd be able to compete in the 12 or so programs that are coming down the line. But the proposal that's been made is that, simply put, that I trust a competitor with very sensitive information. I have not been convinced that it is possible to put firewalls in place and that those firewalls won't inadvertently be sometimes taken advantage of.

Mr. MCINTOSH. So given that, if the merger is allowed to go forward, and the court case is resolved in that way, and the requirement for Coltec is to continue to live up to that agreement, what would be AlliedSignal's strategic plan at that point?

Mr. MONTALBINE. We'd have no choice but to live up to the agreement that we've had, and make the best of it.

Mr. MCINTOSH. By "make the best of it," would you anticipate participating in bidding on those 13?

Mr. MONTALBINE. I think it would be difficult for us to participate as we've planned in those programs. Again, we would be subject to information that we had to rely on was accurate from a competitor; there are numerous opportunities to gain the system, slow us down, inadvertently leave key information, you know, out of drawings and interface documents. It's been done today. It's done today. It's done today by Messier.

Mr. LINNERT. Mr. McIntosh——

Mr. MONTALBINE. So, I quite frankly, would be——

Mr. MCINTOSH. Let me ask one other question.

Mr. LINNERT. No, let me respond to that one for you. I resent that. What he is saying is that BFGoodrich and Coltec will not live up to that agreement, and that I take affront that anyone says that we are going to game a system or take advantage of proprietary data. The Arbitration panel will stay in place. If there's a problem down the road, we will be back to that Arbitration panel. But they have said, this agreement can work and they'll help us make it work.

Mr. MCINTOSH. I see. Mr. Montalbine.

Mr. MONTALBINE. Let's address, you know, what's been proposed here only addresses strategic alliance agreement, not the antitrust issue, which is the other side of the story here. And, in addition, in the area where a systems bid is proposed, you know, the strategic alliance agreement, I would have to live with; but how about if a systems bid was not the case? BFGoodrich would have an 18-month head start—because that's how long a landing gear is designed in advance to wheels and brakes—they would have an 18-month head start on the design, and they would have an opportunity to tailor that design for their equipment. By the time we saw it, we would be out of the game, it would be impossible for us to recover. And that's what happens today.

Mr. MCINTOSH. Let me ask this: If there is a systems bid, that's determined by aircraft manufacturer.

Mr. MONTALBINE. That's correct.

Mr. MCINTOSH. And if they did ask for that, would you, under that strategic alliance, be competing with another part of the BF–Coltec—BFGoodrich/Coltec merged company?

Mr. MONTALBINE. If the strategic alliance agreement was followed, they would have to use our wheels and brakes exclusively.

Mr. MCINTOSH. So, in the resulting marketplace for landing gears to the extent there are systems bids requested by the aircraft manufacturers for the two-thirds of the business—and that obviously changes as you have contracts that compete for each other—BFGoodrich would need to use you for the wheels and brakes component; they couldn't use a different manufacturer or build it themselves in a completely integrated system.

Mr. MONTALBINE. They can compete—if an integrated system is requested, they can try to compete on a component basis only, BFGoodrich wheels and brakes. They would have to use Goodrich—the Goodrich landing gear business would have to use our wheels and brakes for the system. The wheels and brakes Goodrich provides would have to be on a component basis.

Mr. MCINTOSH. OK. Again, I think we will continue to explore these in the next subcommittee hearing. We've decided to keep the record open for an additional 10 days. We will have questions for each of you we may be asking as a result of digesting the material today. Also let me invite you, if there is some additional thoughts that come to you after we finish this, we'll also accept those. If you end up referring to somebody else, we will give them an opportunity to comment as well. So, but we'll—this is an on-going process and we'll have another public forum in a few weeks in Cleveland to continue with those. So, thank you all for coming. It has been enormously helpful to me.

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Mr. KUCINICH. I just want to ask you, before the hearing's concluded, will we—is the committee going to call witnesses from BFGoodrich and Allied again?

Mr. MCINTOSH. I believe it will be necessary to do that.

Mr. KUCINICH. Yeah, I think it will be.

Mr. MCINTOSH. Yeah. And BFGoodrich, Allied and Coltec.

Mr. KUCINICH. Just so that they're advised right now, if you would.

Mr. MCINTOSH. Yes, I believe we will need to do it. Your testimony today has been enormously helpful in framing the issues on the marketplace and the back and forth. It's gotten some very important facts out on the table, such as what is the consequence here in South Bend if AlliedSignal is indeed forced out of the business and just has to rely on the aftermarket. I think that's a very tragic consequence for the employees here.

So, we'll continue that. Thank you for coming. I appreciate it. Particularly in giving up a Saturday to be here. It has allowed us to be able to do our job in Washington, but continue with this subcommittee work. The next one, by the way, will be scheduled, for July 7th. And so if you could mark your calendars for that, I won't ask you to give up another weekend day. So, thank you and we will move on to the next panel.

Mr. LINNERT. Thank you, Mr. Chairman.

Mr. MCINTOSH. Let me call forward now the second panel. Mayor Luecke of South Bend, Patrick McMahon, who is the executive director of South Bend's Project Future, and Thomas Bode, who is the AlliedSignal employee—works for AlliedSignal and president of the United Autoworkers there, local No. 9. If you all would please come forward. Thank you. Thank you, in addition, for waiting, Mayor Luecke, to do this; I appreciate you, on a busy day here in your city, coming forward and participating in this. And welcome to our subcommittee.

Mayor LUECKE. Thank you.

Mr. MCINTOSH. Let me ask each of you—and as I explained in the first panel, please don't take it personally, but we have a policy that Chairman Burton has put into place, it is a long-standing policy with our committee, of swearing in all our witnesses. So if I could ask each of you to please rise, and do you solemnly swear that the testimony you will give today is the truth, the whole truth and nothing but the truth?

[Witnesses sworn.]

Mr. MCINTOSH. Let the record show that each of the witnesses answered in the affirmative. What we're going to do again is take all of the prepared remarks and the materials you've given us, and put them into the record. I'll now ask each of you to spend about 5 minutes summarizing that testimony. And then if there are questions that Representative Kucinich or I have, we will ask them after that.

Mayor Luecke, thank you for coming today and let me ask you to lead off this panel with your testimony.

STATEMENTS OF STEPHEN LUECKE, MAYOR, SOUTH BEND, IN; PATRICK MCMAHON, EXECUTIVE DIRECTOR, PROJECT FUTURE; AND THOMAS BODE, PRESIDENT, UNITED AUTOWORKERS LOCAL NO. 9

Mayor LUECKE. Thank you, Mr. Chairman, Mr. Kucinich, welcome to South Bend, home of the perfect day. And home of the world-famed ethnic festival. I echo Congressman Roemer's invitation to you, after you're done here to come and enjoy some great food and friendship with the people of South Bend.

As mayor of the city, I appreciate your focus on this issue of the merger of BFGoodrich and Coltec Industries, and I thank you for the opportunity to express my concerns on the impact that such a merger could have on AlliedSignal and on the South Bend economy. I've been mayor of South Bend since 1997. Prior to that, I served as a city council member for 9 years; I certainly do not have the expertise of members of the first panel or of members of this panel, but where my expertise does lie is in knowing the importance of having good jobs in the city of South Bend, and AlliedSignal certainly provides good jobs to our citizens. Those jobs are important, both for the families that are supported by those jobs, for local economy, because those employees buy goods here and also for the local economy because AlliedSignal buys goods locally and regionally as they produce their products.

I want to say that certainly good jobs are also important in our community because when we have a good economy it helps to reduce crime and it certainly helps to provide opportunity and hope for young people that are entering the work force that they will be able to support themselves and support their families as they choose a positive path, rather than a negative one.

Just for all these reasons that the city of South Bend has focused its economic development efforts on trying to attract and maintain manufacturing, light industrial, warehousing and distribution jobs in our community, we have focused in that area, rather than the service sector, as a means to provide, again, good jobs for our people in the community. I would tell you that we have worked hard with AlliedSignal to build their business here in South Bend; we have provided some government incentives to them, both tax abatements for an on-going hundred million dollar expansion of business that they are in the process of doing; we are also working to expand our urban enterprise zone to include AlliedSignal so that they can continue to be competitive in the marketplace, both nationally and internationally. We certainly appreciate their annual payroll of over $75 million. They bring many things to this community. In addition to the business and the jobs, AlliedSignal has been a good corporate citizen for our community and has worked hard in contributing to a variety of different efforts. And I would point in particular to their assistance with our DARE program, they have worked in partnership with our Fire Department, the Center For the Homeless and a project at Hamilton School, among other things. So that they are not just a good corporate citizen, but also a good citizen in terms of working in the community, in a variety of ways, to make South Bend a great place to call home. As I say, we have worked hard with them, over the years, so that the ripple effect of their investments continues to impact positively in this community.

I want to thank—Congressman Roemer has been very instrumental in working with AlliedSignal to bring jobs to this community. The Governor's office, our State Representatives, certainly the local council members also. I will actually defer mostly to Mr. McMahon to talk more about the specifics of impact on the local economy. But again, thank you for your attention to this matter. We are certainly dedicated to working hard with AlliedSignal to keep them and their jobs in this community, to continue providing the effect that they have. Looking forward to continue to working with your subcommittee in any manner that we can to support this effort with the Governor's office, with Congressman Roemer, the Attorney General of our State, as well as our local State legislators. So, thank you and welcome to South Bend.

[The prepared statement of Mayor Luecke follows:]

CITY OF SOUTH BEND
STEPHEN J. LUECKE, MAYOR
OFFICE OF THE MAYOR

Statement of Stephen J. Luecke,
Mayor of South Bend, Indiana
Before the House Subcommittee on
National Economic Growth - June 19, 1999

Good morning, Mr. Chairman and members of the Subcommittee. Welcome to South Bend. As Mayor of this city, I appreciate your focus on the proposed merger of B.F. Goodrich and Coltec Industries. Thank you for the opportunity to express my concerns about the potential impact this merger could have on AlliedSignal and the South Bend economy.

I have been the Mayor of South Bend since January of 1997. Prior to becoming Mayor, I served on the City Council for nine years. I have also worked as a carpenter, owned a small business, and served as a project manager for South Bend Heritage Foundation developing neighborhoods. I make my home in South Bend with my wife Peg and our four children. It is in this context that I testify before this sub-committee today, and attempt to articulate to you that the economic future of AlliedSignal is important to this community.

As Mayor, I am deeply concerned about the economic and social stability of our community. Economic development is a top priority for my administration, and I have worked through community partnerships to achieve significant economic progress for the City of South Bend. I recently announced an Existing Business First Initiative which will focus on keeping existing jobs

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in the community and will work with existing businesses to create new job opportunities. The availability of good paying jobs in a community is important to families supported by those jobs, to the local economy as those hard-earned dollars are spent, to reducing crime, and to providing opportunity and hope for young people who are entering the workforce - choosing a positive path rather than a negative one. The City of South Bend has focused its economic development efforts on manufacturing, light industry, warehousing and distribution as an important base for the local economy. The jobs at AlliedSignal have been a key part of that base, especially as we, like other cities, have seen a shift to "service" jobs in the educational, banking, technological and medical sectors.

AlliedSignal is one of the few remaining large manufacturing companies in our community. It is overall the sixth largest employer in the City of South Bend and one of the top two manufacturing employers. The company has been in the area for more than 80 years, previously operating as The Bendix Corporation, which was one of the earliest core businesses in our City. Today AlliedSignal's annual payroll is over $75M. I am aware that the company has made significant investments in their local facilities in recent years, including the current $100M expansion. I have worked diligently as both Councilmember and Mayor to support the viability of these operations through public incentives such as tax abatements and expansion of the Urban Enterprise Zone. I greatly appreciate the efforts of Congressman Roemer, the Governor and our local State legislators who have worked with AlliedSignal to bring contracts and jobs to South Bend and to remain competitive in a changing world economy. AlliedSignal is an important corporate citizen. Companies like AlliedSignal which provide high paying manufacturing jobs are absolutely vital to the economic health of our community. While some of South Bend's employers, like its excellent institutions of higher learning, may be more well known, without manufacturers like AlliedSignal that provide the other types of employment opportunities, many of South Bend's citizens would never be able to share in economic prosperity. In addition, AlliedSignal's contribution to our City's tax base (both directly and through its employees) is substantial.

The economic impact of a company the size of AlliedSignal goes far beyond the direct benefit of employing hundreds of people and paying millions of dollars in taxes. It also produces a "ripple" effect on the entire economy by purchasing goods and services from other local companies. While this effect is difficult to quantify, its impact is great. I know that AlliedSignal as a company spends millions of dollars with local businesses, while its employees also spend millions as individuals. As Mayor, I understand the integral role of local manufacturers to regional suppliers. As a former small business owner in this area, I know how vital it is to have a customer base that holds good paying jobs like those AlliedSignal provides. In addition to AlliedSignal's tremendous economic contributions to the City of South Bend, the company and its employees have made exemplary civil and social contributions. For example, AlliedSignal has partnered with the South Bend Fire Department, the Center for the Homeless, and Hamilton School in various civic projects which have benefitted the City of South Bend. In addition, AlliedSignal's employees are among our finest citizens, working with local charities, fraternal organizations, development projects, and fulfilling other vital civic responsibilities. In sum, AlliedSignal has been and is a very good neighbor and contributor to our community. If AlliedSignal were to suffer economic harm, I am confident that the City of South Bend would also suffer greatly.

I believe that AlliedSignal needs to be economically competitive in order to sustain its contribution to our community. I pledge to continue working with Congressman Roemer, the

Governor's Office, the Indiana Attorney General, our local State legislators and this subcommittee to encourage any effort which would sustain that economic viability. Thank you for the opportunity to present these comments today.

Mr. McINTOSH. Thank you, Mayor. I appreciate that. And you've made it very clear that the community here really has a lot at stake in the outcome of this, and it's something we want to make sure works for the future of South Bend. And I appreciate your attention to this, and the good work. The staff has kept me abreast of exactly how concerned you've been about this. Thank you.

Mayor LUECKE. Thank you.

Mr. McINTOSH. Mr. McMahon, thank you for coming and share with us, as the Mayor said, you fill in the broad—or the details on that broad perspective of how good the corporate citizen they are.

Mr. McMAHON. Mr. McIntosh, Mr. Kucinich, thank you very much for this opportunity. I am the executive director of Project Future. We are an Economic Development organization that's community-based; have been in business since 1982. During those 17 years, we've brought hundreds of millions of dollars of investment into the community; a good deal of it is manufacturing based, not unlike what we have with AlliedSignal.

We are involved in entrepreneurship activities in supporting the development of new business; we're in the business of moving forward with strong programs in the community, to reinforce work force development and skill levels across the community, that aid in increasing the quality of life of the wages earned by our citizens. And so, I believe over these 17 years we've developed a fair amount of expertise in taking a look at what the impacts of businesses such as AlliedSignal's had on our overall community and on our economy. If I could elaborate on that. I have provided you with some testimony that talks about the investments that Allied has made here specifically in recent years; the Mayor touched on that. Let me say that the U.S. Government provides us with some excellent tools to take a look at the ripple effect of businesses in our community, and what the direct and indirect impacts are of different business units. You know that the total employment of the South Bend operations for AlliedSignal is about 1,500. And that you know that the total payroll in this community is about $75 million. If you specifically take a look at the aircraft landing area, we would estimate that its share of the local payroll is about $45 million. Through modeling we can take a look at the impact of purchased services in the area. We understand that the aircraft division purchases approximately $22 million in services from Indiana-based suppliers alone. Of the 599 Indiana suppliers that currently serve this division, 415 are located in St. Joseph County. If we apply some percentages to that, it would appear to us that roughly $15 million of the $22 million of Indiana purchases occur in this immediate area.

The direct impact of the landing systems on our community is roughly 942 jobs, $45 million in payroll and about $15 million in purchase services. That's a huge impact when you add it together. We talk locally about Notre Dame football and things that happen at the University. The $60 million stadium impact over a 2- or 3-year period is repeated every year by the Allied division based on the economic impact into the community; it has great significance here.

Of the 942 jobs, as we take a look at how that level of job impacts a community, we would suggest that there is another 830 indirect jobs that really bring the impact of that division to our community to roughly 1,770 individuals.

From an income multiplier standpoint, we look at $45 million in payroll and we would suggest that the indirect income loss would add another $24 million, which would bring it roughly to about a $70 million impact from payroll in the community. These are very, very significant.

Last, let me say that, we spend a great deal of time focusing our efforts on developing highly skilled work force and well-paying jobs in the community. The significance of the AlliedSignal presence here in this division is huge in that regard. The average payroll for employees at AlliedSignal is 35 percent above the rest of the manufacturing base in this community. And is about 80 percent above the average payroll in the community for all jobs across St. Joseph County. This is a huge impact and reflects a very major employer in the community. Not only from the standpoint of employees, purchase services, but also from the economic ripple effect.

Also, as you know, in addition to the 942 individuals that are based here, there's another 500 that are associated with this division that are spread out throughout the country; and, if you look at our adjacent States from a purchase/service standpoint, in addition to the $22 million that is spent in Indiana, there is another $52 million that's spread across Illinois, Michigan and Ohio.

So, we appreciate Allied as a very significant employer, and we look at this particular division as having a huge impact on the community.

[The prepared statement of Mr. McMahon follows:]

Statement of Patrick M. McMahon,
Executive Director of Project Future

Good morning, members of the Committee. I welcome you to South Bend and St. Joseph County, Indiana. I am the Executive Director of Project Future, a non-profit economic development organization founded in 1982 by leaders from the business, government, labor and education sectors of this community. Each of these groups is represented on our Board of Trustees. Project Future is located in Suite 310 of the Commerce Center in South Bend, Indiana.

In my role as Executive Director, I direct its activities in order that Project Future act as a catalyst between community and prospective businesses to enhance the economic environment of South Bend, Mishawaka, and St. Joseph County, Indiana. In the past 17 years, Project Future has played a role in attracting and sustaining more than $1 billion in business capital investments in St. Joseph County. Project Future conducts marketing communications on international, national, regional, and local levels in order to increase awareness of the St. Joseph County area and generate inquiries from prospective businesses. It also provides potential business prospects with the detailed information they seek to make informed site selection decisions.

Through our Small Business Development Center, Project Future assists start-up and small businesses by providing entrepreneurs with counseling and information referrals. The Center has developed a strong network of support, including the Services Corps of Retired Executives and the Collegiate Management Assistance Program through the business departments of the colleges and universities in this area. Through a variety of other established councils and organizations, Project Future also ensures that programs are facilitated to prepare the citizens of St. Joseph County to be "ready for school ready for work, ready for life." The many vital links that have been built between business and education include school-to-work transition programs and a joint task force to address the education/child care needs of the community.

AlliedSignal has been a leading corporate citizen in South Bend for many years. It is a major manufacturer that employs well over 1,000 individuals, with an annual payroll of over $75M. It manufactures a number of different products, including many items that are used in building aircraft landing gear, wheels, brakes, and other types of assemblies for aircraft. AlliedSignal has made a large commitment to its operation in this area in recent years, including three major expansions of its existing facilities within the last decade. As a result of these expansions, more than 300 new jobs have been added at AlliedSignal since 1996.

AlliedSignal continues to build on its long-standing commitment to South Bend. As of this moment, AlliedSignal is in the middle of a $100M capital expansion project that extends over five years. The overall level of investment, both in money and in other corporate resources, that AlliedSignal has devoted to its operations in this community would be difficult, if not impossible, to replicate if Project Future were to attempt at this time to generate such investment from attracting new businesses. If any serious economic harm were to be experienced by AlliedSignal, I have no doubt that the business community of St. Joseph County would suffer significantly.

AlliedSignal plays an important role in the community, not only in economic terms, but also in helping to organize civic and volunteer projects, making charitable contributions, and participating on local boards of directors for many non-profit organizations. The organizations in which AlliedSignal participates include Project Future and many of its related programs. From my perspective, it is not hyperbole to say that if serious harm were to befall AlliedSignal from reduced competition in its related markets, the quality of life in St. Joseph County, Mishawaka and South Bend would be severely and adversely affected.

VULNERABLE EMPLOYMENT AT AIRCRAFT LANDING SYSTEMS UNIT ALLIEDSIGNAL SOUTH BEND OPERATION

AN ASSESSMENT OF ECONOMIC IMPACT ON ST. JOSEPH COUNTY

Supplemental Information to Statement of Patrick M. McMahon
Executive Director, Project Future

(1) **Basic Economic Statistics and estimation procedures**

Total employment of South Bend operations, aircraft landing systems, and engine systems (1999): Source: Chamber of Commerce of St. Joseph County: 1,562

Payroll of South Bend operations, aircraft landing systems and engine systems:
Source: AlliedSignal: $75,500,000

Employment (1999) of aircraft landing systems unit: Source: Allied Signal: 942

Estimate payroll for aircraft landing systems unit:

($75.5 million/1,562 employees) = $48,335 payroll per employee
($48,335 payroll per employee)(942 employees) = $45,500,000

Estimate local (St. Joseph County) purchases made by the aircraft landing systems unit:

The unit purchases $22,196,000 from Indiana-based suppliers, and 415 out of 599 suppliers are located in St. Joseph County. Source: AlliedSignal
Since 69.3% of suppliers are in St. Joseph County, assume that 69.3% of the $22,196,000 is made within St. Joseph County, that is $15,382,000

Direct economic impact summary, aircraft landing systems unit:

942 jobs
$45,500,000 payroll
$15,382,000 local purchases

Contrast these dollar statistics with the following: The University of Notre Dame football stadium expansion of $41.5 million occurred over about 21 months from 1995 to 1997, an average of $23.7 million per year. **The AlliedSignal aircraft landing systems unit is about three times the impact of the stadium expansion, and occurs year after year, and is not a one-time event.**

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(2) **Estimation of Multiplier Effects**

Income and employment multiplier effects for the aircraft parts industry for St. Joseph County are obtained from estimates prepared by **the US Department of Commerce, Bureau of Economic Analysis, "RIMS II Multipliers"**. The multiplier effects measure the producer and consumer re-spending effects in the community as a result of an independent gain or loss of activity of a component of the economy. **For our case, the multiplier effects measure: (1) the impacts upon St. Joseph County suppliers of goods and services as a consequence potential loss of sales to AlliedSignal; (2) the impacts upon retail and other service businesses as a result of reduced employment at AlliedSignal: and (3) the subsequent re-spending impacts in the County,** from (1) and (2), e.g. AlliedSignal purchases less trucking services, and trucking operations reduce their level of operations, and so on.

Multipliers can be expressed in terms of employment or income.

Employment Multiplier: (Direct Employment Loss, 942)(Multiplier 1.8815) = 1,772

Direct Employment Loss	942
+ Indirect Employment Loss	830
Total Employment Loss	1,772

Income Multiplier: (Direct Payroll Loss, $45.5 million)(Multiplier 1.5422) = $ 70.2 million.

Direct Income Loss	$45.5 million
+ Indirect Income Loss	$24.7 million
Total Income Loss	$70.2 million

Total economic impact summary:

JOBS: The 942 jobs at AlliedSignal have a substantial impact upon the St. Joseph County economy. There is almost one additional job (.88) related to supporting this primary job, either as a good or service provider, or retail/service industry job that would also be vulnerable. **Some 1,772 jobs in St. Joseph County depend upon the continued viability of the Aircraft Landing Systems Unit.**

INCOME: About $45.5 million is earned at the Aircraft Landing Systems Unit. **Every dollar of income earned at the Unit generates another 50 cents of income elsewhere in the community in related manufacturing, service or retail businesses.**

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(3) **Other Considerations**

- Average payroll per employee at AlliedSignal is $48,335. Average payroll per employee for the third quarter of 1998 for manufacturing and all employees for St. Joseph County is $35,880 and $26,780. (estimated from data on average weekly earnings, Indiana Workforce Development). **The average payroll per employee at AlliedSignal is 35% above the manufacturing average for the County, and 80% above the average for all employees.** The loss is associated with high paying, skilled jobs.

- In addition to Indiana, the aircraft landing systems group also has an **impact on suppliers** in the adjacent states of Michigan, Ohio, and Illinois. According to AlliedSignal, the following amounts were spent in these states during 1998:

Indiana	$22,196 million
Illinois, Michigan, Ohio	$52,739 million

- The aircraft landing systems unit has 942 people based in South Bend. However, **another 500 are associated with the unit**, are located in other parts of the country, and report to South Bend. These jobs would also be vulnerable, and are not included in the economic impact assessments.

Mr. McINTOSH. Thank you. I appreciate that. That helps enormously to put in perspective the dire consequences of making sure that this decision was made correctly in the government agencies that approved the merger. So, it's important to look at exactly what that impact is on real people's lives, and I appreciate you for quantifying that for me.

Let me turn now to our final witness on the panel, Mr. Thomas Bode. I appreciate very much you coming and representing the perspective directly of those workers and what it will mean in their lives. So, welcome to our subcommittee, and please share with us a summary of your testimony today.

Mr. BODE. Thank you very much, Chairman McIntosh, Ranking Member Kucinich, rest of the committee, and Congressman Roemer for his participation, though I believe he's gone. It's a privilege to appear before you this morning. It's not morning anymore. I'm Tom Bode, president of local 9 UAW here in South Bend. I was elected to my second term to the presidency earlier this month. I've been affiliated with AlliedSignal and then Bendix local 9 for 33 years.

Since 1993, I served as committeeman, vice president and president of local 9. In addition, I serve on the credentials committee of the UAW International in its Aerospace Advisory Council. I'm vice president of the four State AlliedSignal UAW Council. One of our primary responsibilities on this council is to negotiate AlliedSignal's master agreement for more than 7,500 retirees and 944 active employees. As the president of local 9, my job was to represent the interest of our 2,700 members, active and retired, in every aspect of the UAW's affairs; including labor negotiations, collective bargaining issues, work conditions, wages and benefits, community involvement and political action. I served as the link and strategic business partner between labor and management on the aircraft landing systems leadership team.

Besides competitive benefits and pay, AlliedSignal [ALS], leads the way in labor management relations. In the last several years, ALS has been living a unique partnership. An aggressive and changing aerospace industry inspired ALS and our UAW work force to rethink our business and manufacturing processes. With the productivity at near capacity, and the demand increasing, we had to work smarter and more efficiently. This meant changing the culture and layout of a 75-year-old company. Approximately 45 percent of our total employee population are members of UAW local 9, which was chartered in 1935. Clearly, we had legacy issues and we had to address them. At the same time, we had an established mind set in the salaried work force. By creating a true partnership, we have been able to develop business and manufacturing efficiencies never before experienced in the history of this well-established company. This is a type of work force we have in place; aggressive, responsive and willing to change to ensure the continued growth and success of our wheel and brake business. We are currently positioned to be a strong competitor in a free and open market.

If the Goodrich/Coltec merger is approved, it will have a devastating effect on aircraft landing systems and its employees; that merger would severely impact our ability to be a supplier to, both, original equipment manufacturers and the airlines. This merger would virtually eliminate a fair and open market. There's a trend in the industry that indicates the aircraft manufacturer looking toward the procurement of landing systems to reduce their cost of new aircraft, integrated landing systems require gears, wheels, brakes and brake control. If we're missing any one of these components, we can't provide the landing system.

This purchasing trend is very common now in the regional aircraft market. We have evidence to show that this is a trend in large commercial air transport as well. In recent years, ALS has increased jobs, in part because of the growing business and new projects that ALS obtained through its innovative efforts. If the BFG/Coltec merger goes through ALS will not be on new projects and jobs will be lost.

The Goodrich/Coltec merger would have a significant impact on ALS business. The greatest concern is over the next 5 to 10 years; if we cannot provide an integrated landing systems, airlines will not choose us. If we're not on the original equipment, we are virtually eliminated from aftermarket business. With the lack of new projects, our jobs and our future jobs will be severely jeopardized. The end result is that our customer base would shrink for any substantial questions about the long-term viability of our wheel and brake business.

ALS is not the only business in the community that would feel the impact of a reduction in work; there are more than 500 local suppliers who depend upon ALS for their business. Since January 1st, ALS has spent more than $33 million in the community. These dollars represent both revenue to our suppliers and contributions to local non-profit organizations. AlliedSignal is the sixth largest employer in this community. The Goodrich/Coltec merger, if allowed to proceed, will have a lasting negative effect on this business and ultimately the community.

Thank you to the committee for allowing me to speak before you today on this important matter. I would also like to thank, again, Congressman Roemer for being a long-time friend, supporter of local 9 AlliedSignal in our community.

[The prepared statement of Mr. Bode follows:]

WRITTEN TESTIMONY OF TOM BODE

Thank you very much Chairman McIntosh, Ranking Member Kucinich, the rest of the committee and Congressman Roemer. It is a privilege to appear before you.

I am Tom Bode, president of UAW Local 9 in South Bend. I was elected to my second term as President earlier this month.

I've been affiliated with AlliedSignal (Bendix) and Local 9 for 33 years. Since 1993, I've served as committeeman, vice president and president for Local 9. In addition, I serve on the Credentials Committee of UAW International and its Aerospace Advisory Council. I am Vice President of the 4-state AlliedSignal UAW council; one of our primary responsibilities on this council is to negotiate AlliedSignal's Master Agreement for more than 7500 retirees and 944 active employees.

As the President of Local 9, my job is to represent the interests of our 2700 members – active and retired - in every aspect of the UAW's affairs, including labor negotiations, collective bargaining issues, work conditions, wages and benefits, community involvement, and political action. I serve as the link and strategic business partner between labor and management on the Aircraft Landing Systems' leadership team.

COMPANY – UNION PARTNERSHIP

Beside competitive benefits and pay, AlliedSignal – ALS - leads the way in labor-management relations. In the last several years, ALS has been living a unique partnership. An aggressive and changing aerospace industry inspired ALS and our UAW workforce to rethink our business and manufacturing processes. With productivity at near capacity and the demand increasing, we had to work smarter and more efficiently. This meant changing the culture and layout of a 75-year old company.

Approximately 45 percent of our total employee population are members of UAW Local 9, which was chartered in 1935. Clearly, we had legacy issues we had to address. At the same time, we had an established mindset in the salaried workforce. By creating a partnership, we have been able to develop business and manufacturing efficiencies never before experienced in the history of this well established company.

That is the type of workforce we have in place – aggressive, responsive and willing to change to ensure the continued growth and success of our wheel and brake business. We are currently positioned to be a strong competitor in a free and open market.

IMPACT ON THE FACILITY

If the Goodrich-Coltec merger is approved, it will have a devastating effect on Aircraft Landing Systems and its employees. That merger would severely impact our ability to be a supplier to both original equipment manufacturers and the airlines. This merger would virtually eliminate a fair and open market.

There is a trend in the industry that indicates aircraft manufacturers are looking toward the procurement of landing systems to reduce their cost of new aircraft. Integrated landing systems require gear, wheels, brakes, and a brake control. If we're missing any one of those components, we can't provide a landing system.

This purchasing trend is very common now in the regional aircraft market. We have evidence to show that it is the trend in large commercial air transport as well.

IN recent years, ALS has increased jobs – in part because of the growing business and new projects that ALS obtained through its innovative efforts. If the BFG-Coltec merger goes through, ALS will not be on new projects and jobs will be lost.

The Goodrich-Coltec merger would have a significant impact on ALS' business. The greatest concern is over the next 5-10 years. If we cannot provide an integrated landing system, airlines will not choose us. If we are not on the original equipment, we are virtually eliminated from the aftermarket business. With a lack of new projects, our jobs – and future jobs – will be severely jeopardized.

The end result is that our customer base would shrink creating substantial questions about the long-term viability of our wheel and brake business.

Mr. McINTOSH. Thank you, Mr. Bode. And I'll confirm with you that he's a good friend in Washington, as well. He talks quite a bit to his colleagues about the importance of this. Let me just ask a general question. We heard in the first panel some different scenarios about how the future might play out. But one of them that was disturbing to me was that AlliedSignal, although they continue manufacturing for the aftermarket for some time that if that was the only part of their business, they would essentially be reducing their work force here to about 500 in 5 years. And that seems to be the crux of what is going, can they compete in the new purchases for those landing gears, which as Mr. Bode and several people in the earlier panel said many in the industry seem to think is the direction this is heading. That sort of 5 years down to 500 number, that has tremendous consequences. And I wanted to just get your feedback on what that would mean for the community, what that would mean for the workers at the plant.

Mayor LUECKE. Mr. Chairman, thank you. I don't pretend to be an expert in terms of what may or may not happen in terms of the proposed merger, but we certainly would be concerned about the loss of jobs at AlliedSignal. AlliedSignal are good-paying jobs in the community, as has already been mentioned; they're high-skill jobs; they're the type of jobs that we want our young people to be able to look forward to moving into at some point. It certainly would mean a loss of purchasing power in the community. And that would impact the housing market. It would impact sales of retail items, and certainly would impact contributions to charities and volunteer activities, also. So, clearly, we want to do all that we can to make sure that those jobs can continue in this community.

Mr. McINTOSH. Mr. McMahon, the data you provided, would that put in danger, substantially, a significant portion of the economy that you outlined that was dependent on the AlliedSignal?

Mr. McMAHON. From a job standpoint, it's roughly half. And so to the extent that it correlates, it would roughly affect those other numbers perhaps by half also. I don't know where the different business sections fall into subsets with any of those categories. But to drop the work force by half would be a very significant impact and could potentially affect half of those other numbers. We would hope that Allied would aggressively find a way to deal with that. And aggressively find a way to substitute or reinforce or recreate activities within their framework so that they could be competitive on all sides of this.

Mr. McINTOSH. What they indicated in their testimony they would like to do is step into that competition for the whole integrated system. And be able to expand, rather than contract as a result. Mr. Bode, any final comments from you?

Mr. BODE. Well, in respect to decline of 500 jobs, I can echo what the rest of the committee has said. It would impact everyone in the community; no one more directly than the UAW membership. A true contradiction, we're at a time where we have grown successfully 25 percent in the last 4 years, and people are continuing to return to AlliedSignal after being laid off for sometimes in excess of 10 years; they expect to come back to this place. It is the best place to work. It shows a commitment from those people to come back.

I think it's been stated over and over today, that if you're not on that original integrated system, you can't play catch-up, and you can't get on, and you can't gain enough in the aftermarket to sustain that. There's been mention before that the money is in the aftermarket, and that's true. But if you're not on the integrated system, you're not on the aftermarket.

And one other point, maybe selfishly, but a point nonetheless, is that I have a number of people that are gainfully employed, producing that equipment that we may give away early on in the marketplace, but they manufacture that material just the same, and they get paid well for doing it. So if that goes away and so do those wages and those jobs. It's critical.

Mr. McINTOSH. Thank you. Mr. Kucinich, do you have anything?

Mr. KUCINICH. Yes. First of all, in any community which our committee does work, we certainly recognize the importance of the civic leadership, the business leadership and the representatives of working people. And having been a mayor of a city, I understand, Mr. Mayor, how crucial it is to make sure that the major businesses in your community and the corporate partners are going to be safe and secure. And Congressman McIntosh and I have proceeded with this review in the spirit of trying to make sure there is some job security provided in this State as well as Ohio. And having worked closely with the business community in the city of Cleveland, any time there's a potential adverse impact to the community, we certainly are going to get information, all the information we can, which is what this whole endeavor has been about.

Now, to Mr. Bode, actually my involvement in this came through being contacted by Region Two of the UAW, Warren Davis, who sends his regards. And he noted that the 650 jobs—including Pneumatic, were on the line. Now Chairman McIntosh, in starting this probe, has been able to get control of some documents, which I think start to spell out what some of the underlying currents are here. And in this one document that's dated January 8th, 1999, in talking about closing the Texas, Cleveland and plating plants, eliminating 700 hourly positions, at 6 months' severance pay. The hourly positions they're talking about—this is what it says here in the document, assumes $50,000 a year. And it talks about eliminating 300 salary positions, assuming at $60,000 a year. And in this document, it—as I pointed out in the questioning of Mr. Linnert, it speaks of having production facilities which are union free. One of the things that occurred to me is that in consolidating work in North Carolina, it would be going to a place that was nonunion. In fact, in this document it talks about building a plant, adding 300 people, nonunion, new hires.

There is a relationship between the stability of a community having solid, good-paying jobs, and the long-term viability of the community. We found that out in Cleveland, you know, in changes in the steel industry, for example. And so, you know, I can well understand the concerns that your Congressman has expressed, Congressman Roemer, to make sure these jobs are solid. And the concerns that Mr. McIntosh has, the same reason. And to assure all of you, who have kindly agreed to give your views this morning, that we are going to pursue this in every way possible, in working with Senator Dewine, in working with other Members of Congress, and in tracking down every bit of details so we can see what we can do about protecting these good-paying jobs and keeping the communities healthy, and also protecting interests of the American taxpayers. Because, as Congressman McIntosh has stated earlier, anywhere there's a monopoly, especially in a defense-related industry, that has to—it's inevitable that that will result in higher prices for—what the government pays for these goods and services. It's inevitable. And having been on many reviews and our committee, as we've done in Government Oversight, on the purchasing practices, on spending practices of the Department of Defense, we have to be extremely careful to make sure that the American public is always getting the best possible purchase. And the way that we assure that is through competition. Which is why we are proving, throughout this whole discussion of merger, Mr. Chairman, we have seen how competition can be of benefit. And I'm very grateful to have a chance to visit this fine community and to work with you on this. And I can tell you that this information that we've gathered today has been helpful and will be instructive as we prepare for the hearings in Cleveland. So thanks for all of you. And thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Kucinich, for coming over and joining us. And welcome to Indiana today. With that, that closes out this field hearing. And again, thanks to everybody, and all of you on this panel for participating. The committee is adjourned.

[Whereupon, at 1 p.m., the subcommittee was adjourned.]

THE ECONOMIC EFFECTS OF THE PROPOSED BFGOODRICH/COLTEC MERGER

WEDNESDAY, JULY 7, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM,
Cleveland, OH.

The subcommittee met, pursuant to notice, at 10 a.m., in the Cleveland City Council Community Room, City Hall, Cleveland, OH, Hon. David McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh and Kucinich.

Also present: Representative Tubbs Jones.

Staff present: Luke Messer, counsel; Gabriel Neil Rubin, clerk; and David Sadkin, minority counsel.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order.

I would like to at this point recognize our host, Mr. Jay Westbrook, who is the president of the Cleveland City Council and the person who arranged for us to be in this lovely room.

Jay, thank you very much.

Mr. WESTBROOK. To Congressman McIntosh and our two Congress people, Dennis Kucinich and Stephanie Tubbs Jones and to our outstanding Senator, Senator Michael DeWine; the city council is very honored to host this extremely important hearing today. Congressman, we are extremely appreciative of your time commitment. We know that you have an important engagement later this afternoon, which even highlights more your commitment in being here.

Ed Rybka, the councilman of the 12th ward, where this plant is located, Cleveland Pneumatic, now BFGoodrich, has had a great history in Cleveland. Cleveland has had a great history and one which we are striving hard to regain as an industrial center and one where we think we are making great strides.

But to this panel, I have to say that we cannot do this all alone and we are extremely appreciative of your interest in the impact upon the community that this proposed merger could have.

We know that we are in a period in our economy, some would say a boom, but with every boom, we certainly do not want that to be a bust for this community. And through your deliberations here today, through our hosting of this meeting, we hope that we can find the proper guarantees to our community that whatever actions are taken will not result in harm, but will result in the continued ability of this community to host a great plant for the manufacturing of aeronautical equipment.

So Congressman, we appreciate having you here today. Our facilities are at your disposal. Our staff is committed to making this a success and we again are deeply appreciative of your commitment here today. Thank you.

Mr. McINTOSH. Thank you very much and thank you for making this wonderful facility available to us.

We are here today as a subcommittee to express our concerns over the proposed merger between BFGoodrich and Coltec, Inc., and to examine whether that violates the Nation's antitrust laws.

I want to say at the outset that this is our second hearing, this issue first came to my attention when Representative Kucinich started talking with me about the problems and the concerns he has about the merger over 2 months ago. And I am pleased to have our colleague join us in the panel, Stephanie Tubbs Jones—in fact, let me ask unanimous consent that she join us as a member of this subcommittee with full privileges today as our special guest, without objection, so ordered.

Our first hearing was June 19 in South Bend, where the AlliedSignal plant could be affected by the consequences of this merger. And earlier in the month, your Senator, Mike DeWine, who is going to be testifying later today, conducted a parallel hearing in the Senate, which first brought many of the documents and the testimony forward that we have used in this review in our oversight investigation.

I still have very serious concerns regarding the thoroughness of the Federal Trade Commission and the Department of Defense's review of this merger, and I am hopeful today that our discussion will shed further light on those concerns.

As I mentioned in our June 19th hearing, I am well aware that the three parties represented today—BFGoodrich, AlliedSignal and Coltec—are also parties to a private antitrust lawsuit. That matter is properly before Judge Allen Sharp of the U.S. District Court in the Northern District of Indiana and we will be careful not to interfere in this proceeding with that judicial process.

Nonetheless, there have been some very significant developments in the case since we held our field hearing on June 19th. Dennis was kind enough to come over to South Bend for that first hearing.

On June 23rd, the U.S. Court of Appeals for the Seventh Circuit upheld Judge Sharp's motion granting a preliminary injunction in this matter. And on June 28th, Judge Sharp issued an order indicating that trial in the matter will go forward on July 12th. So we will ask the parties here today to make sure that we do not interfere with that judicial proceeding, but also be as candid as possible in the matters before us.

In essence, we are here to ensure that the 1,100 workers at the AlliedSignal plant in South Bend and the 650 workers in the Cleveland Pneumatic Plant are given a fair chance to compete. I support free market competition, but you have to play by the rules to ensure that everyone benefits from that. If the merger would result in a market concentration that unfairly takes away the opportunities for these workers to compete, then the Federal Trade Commission should take action.

After the testimony at our June 19th hearing, I would say there are still three areas in which we have some very significant concerns.

The first is about the potential anti-competitive effects of the merger. Now in entering a preliminary injunction, Judge Sharp concluded that the merger might be anti-competitive. As he said, "the merger would likely result in a United States monopoly . . . that would likely result in higher prices for [landing] gears."

At our first hearing, Professor Bauer, who is also testifying again today, spoke about the important pro-competitive goals that result from our Federal antitrust laws. Healthy competition leads to lower prices, increased innovation, and improved quality of safety, as industry leaders are forced to improve in an effort to compete in the marketplace.

However, Professor Bauer also testified that he is concerned this merger could result in a monopoly that would force, in an unfair way, consumers to pay higher prices for landing gears. Now using the FTC's own system of analysis, he indicated that their index that grades mergers would grade this merger about 20 times higher than what the guidelines say are the threshold for raising significant competitive concerns. We will be asking Professor Bauer later today to further elaborate on that analysis.

There are also some concerns that we have to look at nationally. One concern is that the concentration here in the United States leads to there being only two suppliers worldwide, the other one being a company owned by the French Government. As Senator DeWine brought forward in his hearing, that could lead to some very significant concerns for us in national defense and for our domestic market.

The second concern that I have got is the potential adverse impact on the local economies. Now as a result of this merger, if we lose 650 jobs here in Cleveland and jobs over in South Bend, that has a truly negative impact on the local economies in those cities. And I want to make sure, frankly, that that does not happen.

The third concern is about open and honest public debate. We have had some questions that have been raised there and this committee will look into all of those to find out exactly what the truth is and what will be happening as this merger moves forward.

Now in closing, I want to emphasize I am not an automatic no to a merger. At Senator DeWine's hearing, AlliedSignal proposed what I think would be a win-win solution, where they could purchase BFGoodrich's Cleveland facility. If this sale occurs, everyone seems to win. BFGoodrich and Coltec could complete their merger, as they would like to do and receive the benefits of that new joint operation. AlliedSignal could continue to have an opportunity to compete and the workers here in the Cleveland plant could continue on their jobs to produce excellent products.

Most importantly, according to AlliedSignal's earlier testimony, they are committed to long-term investments that would preserve jobs both in South Bend and in Cleveland.

I am sure this offer will be discussed again here today. To me, it looks like a common sense solution. I would hope the parties would be able to consider that.

With that, let me again say welcome to our guests; Senator DeWine, who will be our first witness, and Congresswoman Tubbs Jones, who will be with us here on the panel; BFGoodrich's senior vice president and general counsel, Terrence Linnert; AlliedSignal deputy general counsel, Nancy Loeb; Coltec executive vice president and general counsel, Robert Tubbs; Notre Dame Professor Bauer and the assistant director of the UAW region 2, Mr. Richard Vadovski.

We are hoping later, if the mayor is able to, he will also try to come by and testify at this hearing.

With that, Dennis, let me turn to you, if you have got an opening statement and then we can proceed with our witnesses.

[The prepared statement of Hon. David M. McIntosh follows:]

Statement of Chairman David McIntosh
Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs
on
"The Economic Effects of the Proposed Merger between BFGoodrich Company and Coltec Industries"
July 7, 1999

Today, I am here, with the Subcommittee's Ranking Member Dennis Kucinich to express our concerns over the proposed merger between BFGoodrich Company and Coltec, Inc, and to examine whether the merger violates federal antitrust laws.

Today's field hearing is our Subcommittee's second public review of this merger. We held an earlier field hearing on June 19, 1999 in South Bend, Indiana.

For nearly two months, Congressman Kucinich and I have been conducting a bipartisan investigation of the Federal Trade Commission's ("FTC") and Department of Defense's ("DOD") review of the BFGoodrich-Coltec merger. U.S. Senator Mike DeWine, who will be testifying later today, has been conducting a parallel investigation in the Senate.

Based on documents reviewed and testimony provided at our June 19th hearing as well as Senator DeWine's June 10th hearing on this topic, I continue to have serious concerns regarding the thoroughness of the FTC's and DOD's review of this merger. Hopefully, today's discussion will shed further light on these concerns.

As I mentioned in our June 19th hearing, I am well aware that three of the parties represented here today -- BFGoodrich, AlliedSignal, and Coltec -- are parties to a private antitrust lawsuit. That matter is properly before Judge Allen Sharp of the U.S. District Court for the Northern District of Indiana; and, we are being careful not to interfere with this proceeding.

Nonetheless, there have been some very significant developments in this case since we held our June 19th hearing. On June 23rd, the U.S. Court of Appeals for the 7th Circuit upheld Judge Sharp's granting of a preliminary injunction in this matter. And, on June 28th, Judge Sharp issued an order indicating that the trial on this matter will commence on July 12th. We will ask the parties here today to comment on these developments. I expect the parties to be as candid as possible during their testimony.

In essence, we are here today to ensure that the 1,100 workers at AlliedSignal in South Bend and the 650 workers at Cleveland Pneumatic are given a fair chance to compete. I support free market competition, but you have to play by the rules. If the BFGoodrich-Coltec merger would result in a market concentration that unfairly takes away the opportunity for these workers to compete, the FTC should take action.

After the testimony in our June 19th hearing, I continue to have three broad concerns regarding the merger.

First, I am concerned about the potential anti-competitive effects of the BFGoodrich-Coltec merger. In entering a preliminary injunction against the merger on April 30th, Judge Allen Sharp concluded that the merger might be anti-competitive. According to Judge Sharp, "the merger would likely result in a U.S. monopoly ... that would likely result in higher prices for [landing] gears."

At our first hearing, Professor Joseph Bauer, who will also be testifying today, spoke about the important pro-competitive goals that result from our Federal antitrust laws. Healthy competition leads to lower prices, increased innovation, and improved quality of safety, as industry leaders are forced to improve in an effort to compete in the marketplace.

However, Professor Bauer also testified that the BFGoodrich-Coltec merger would result in a monopoly that could unfairly force consumers to pay higher prices for landing gear. According to Professor Bauer, under the FTC's own guidelines, the BFGoodrich-Coltec merger should have set off significant alarm signals. Using the FTC's own system of analysis, the merger results in index figures that are 20 times what the guidelines say would "raise significant competitive concerns." We will ask Professor Bauer to elaborate on this analysis during today's hearing.

In addition, there may be a national interest in having at least two domestic suppliers of landing gear. The proposed merger of BFGoodrich and Coltec would leave the United States with only one domestic landing gear manufacturer for large commercial and military aircraft. After the merger, the only other major landing gear manufacturer in the world would be Messier-Dowty, which is owned by the French government. In testimony before Senator DeWine, DOD indicated that it looked at the issue and determined that it has no objection to the merger. But, I, for one, am still not convinced of the wisdom of allowing a merger that would leave us with only one major domestic manufacturer of landing gear.

Second, I am concerned about the potential adverse impact of the merger on the economies of South Bend, Indiana and Cleveland, Ohio. If as a result of its merger, BFGoodrich closes down its Cleveland Pneumatic operations, 650 jobs would most likely be lost in Cleveland. But, the result could be potentially devastating for the South Bend community as well. At our June 19th hearing, community leaders testified that the merger could result in the loss of 500-600 jobs in South Bend. And, these job losses could cost the South Bend community tens of millions of dollars.

Third, I am concerned about honest and open public debate on this issue. Based on a review of documents submitted to the Subcommittee, I am concerned that BFGoodrich may have given contradictory statements regarding its intentions to close its landing gear operations in Cleveland.

In public statements to the Wall Street Journal, the Cleveland Plain Dealer, and others, BFGoodrich indicated that the merger would not affect jobs in Cleveland. For example, according to BFGoodrich's November 23, 1998 press release announcing the merger, "No other Ohio-based jobs will be affected by the decision to relocate the headquarters.

The company currently employs approximately 3,300 Ohioans at more than a dozen locations around the state, including major operations in Akron, Avon Lake, Brecksville, Cincinnati, Cleveland and Troy." In the same press release, BFGoodrich CEO David L. Burner noted that BFGoodrich has "a long history here in Ohio, and many ties to the region. We intend to maintain those ties in as many ways as possible, including through the more than 3,000 BFGoodrich employees who will remain in Ohio."

The clear implication of this press release is that only the headquarters jobs would be lost in Ohio. Moreover, Senator DeWine and Congressman Kucinich will both testify today that BFGoodrich gave them the same impression -- only the headquarters jobs were going to be lost.

However, BFGoodrich's internal documents tell a much different story. These documents indicate that BFGoodrich is considering far more than just moving its headquarters. In fact, it appears that BFGoodrich is actively considering closing its Cleveland Pneumatic landing gear facilities.

For example, in an internal memo dated January 8th, 1999 from Ernie Schaub, one of four Vice Presidents in the Aerospace business for BFGoodrich, to the heads of the landing gear business for both BFGoodrich and Coltec, BFGoodrich states: "As a result of our discussion about facilities, we thought the following actions should occur if we are to meet as many of our ideal world objectives as we can ... Close Texas, Cleveland and Plating."

Moreover, in a document submitted to DOD on February 1, 1999, BFGoodrich presents three options for restructuring its operations after the BFGoodrich-Coltec merger. All three options included the following phrase "Close Cleveland/Plating ... Now."

The documents submitted to the Subcommittee by BFGoodrich make two points very clear: (1) BFGoodrich has been considering closing the Cleveland plant for years, and (2) the merger with Coltec offers a good opportunity to do so.

In fairness, BFGoodrich has testified that no final decision has been made regarding the future of the Cleveland Pneumatic facility. Unfortunately, BFGoodrich's public statements simply aren't consistent with statements in its internal documents. Today, we will have the opportunity to explore these statements further with a BFGoodrich representative. Hopefully, we will resolve this conflict.

In closing, I want to emphasize that we are not here to say "no" to this merger. At Senator DeWine's hearing and at our Subcommittee's June 19th hearing, AlliedSignal proposed a possible win-win solution. AlliedSignal has offered to purchase BFGoodrich's Cleveland facilities. If this sale occurs, everyone could win. BFGoodrich and Coltec would complete their merger because the sale would ensure competition in the landing gear industry. AlliedSignal would obtain the opportunity to develop landing gear systems that use its aircraft wheels and brakes. And, workers in South Bend and Cleveland could keep their jobs and continue to have the opportunity to compete in the marketplace.

Most importantly, according to AlliedSignal's earlier testimony, AlliedSignal is committed to long term investments that would preserve jobs in both South Bend and Cleveland. I am sure this offer will be discussed again today. To me, this looks like a common sense solution, I hope all parties will reconsider it.

With that, I would like to welcome our witnesses here today: U.S. Senator, Mike DeWine (R-OH), local Congresswoman Stephanie Tubbs Jones (D-OH), BFGoodrich Senior Vice President and General Counsel Terrence Linnert; Allied Signal Deputy General Counsel Nancy Loeb; Coltec Executive Vice President and General Counsel Robert J. Tubbs; Notre Dame Law Professor Joseph P. Bauer; the Assistant Director of UAW Region 2 Richard Vadovski, and Cleveland City Council Member Jay Westbrook.

Mr. KUCINICH. I do. As the ranking Democrat on this Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, I want to thank Chairman McIntosh for scheduling this hearing this morning. I would also like to thank Senator DeWine and Congresswoman Stephanie Tubbs Jones for joining us today as well as to thank city council president, Jay Westbrook, as well as the councilman representing the District, Mr. Ed Rybka, and the people of Cleveland for inviting us to hold a hearing on the economic effects of the proposed merger between BFGoodrich and Coltec Industries.

I think it is very important for Members of Congress to get into the communities that we serve and for our constituents to have an opportunity to see their government at work, especially when an issue such as this has a direct impact on our district and our city. That is why we are here this morning, to hear firsthand from those who have a stake in this—from elected officials, company executives and the union that represents the people that will be most affected by the merger, the 650 people at the Cleveland Pneumatic Co. whose jobs would be placed in jeopardy if this merger goes through.

At the time the merger was announced, BFGoodrich said they intended to relocate their headquarters from northeast Ohio, where the company has been located since it was founded in 1870, to Charlotte, NC. This move meant the loss of 170 jobs. But, according to a company press release issued at the time of the announcement, "no other Ohio-based jobs would be affected by the decision to relocate the headquarters." That is a direct quote.

This commitment was reiterated in a November 23, 1998 letter to me from the company's CEO. But while the company was telling the news media, the people of Cleveland and elected officials such as Senator DeWine and myself that the merger would not result in the loss of manufacturing jobs, company officials were busy crunching numbers and telling government antitrust regulators that the company was considering three post-merger options. All options included the closing of the Cleveland facility.

Why Cleveland? There is one person that could answer that question definitively. Chairman McIntosh and I asked BFGoodrich CEO David Burner to testify today before this subcommittee and to answer our questions under oath and on the record. Mr. Burner has refused our invitation.

But what we do know is that according to the company's own documents, closing Cleveland was part of a strategy to meet the company's "ideal world objectives", which included "no union."

At the same time that these unionized employees are faced with losing their incomes, BFGoodrich and Coltec will pay their top executives tens of millions of dollars in bonuses. According to a report in the Cleveland Plain Dealer, nine top Coltec executives will receive severance payments totaling nearly $55 million after the company is acquired by BFGoodrich, including a $20 million golden parachute to the CEO. Six of these executives, including the CEO, will be retained by the new company. A company spokesman told the Plain Dealer that the payments are being made because the executives will be making less money and have less responsibility after the merger.

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So, while hundreds of hard-working Clevelanders will lose their jobs, these company executives will reap millions of dollars in bonuses to retain jobs with less responsibility. Maybe that is why those executives decided to change the merged company's name from BFGoodrich to Inrich—or should I say "enrich."

Well, there is still hope. A Federal judge in Indiana has entered a temporary restraining order to halt the merger. In issuing his order, the judge found that the merger would likely result in a U.S. monopoly for the sale of landing gear that would result in higher prices. And there is a substantial likelihood that AlliedSignal would succeed on its antitrust claims. This ruling was recently upheld on appeal.

But even if this merger is allowed to go through, BFGoodrich could still decide to keep the Cleveland landing gear plant open. And if BFGoodrich is that anxious to get out of Cleveland, they could sell the facility to a company that wants to be here. AlliedSignal has offered to buy the landing gear facility from BFGoodrich and to upgrade the facility and honor the existing union contracts.

So I urge BFGoodrich to do the right thing, keep these jobs in Cleveland.

Thanks again, Mr. Chairman, and again, I appreciate your vigorous concern about this, because as all of you should know, the chairman is here despite the fact that he has got a very important day in his career at Heddon, IN this afternoon, and I certainly appreciate your good faith in being here.

Thank you.

Mr. MCINTOSH. Thank you for your leadership on this, Dennis. You have, on behalf of the subcommittee and even before, been a vigorous leader in finding out exactly what is going on here. So I truly appreciate that.

Congresswoman Jones, would you like to make any statement at this point?

Ms. TUBBS JONES. I have a written statement and I am not going to try and review the entire statement. I would just like to briefly thank the chairman, Mr. McIntosh, my colleague Congressman Kucinich, Jay Westbrook and everyone here appearing, as well as Senator DeWine.

I am particularly interested in seeing that no merger would impact jobs or economic development here in the city of Cleveland. I have had an opportunity to meet with representatives of BFGoodrich, Coltec and I said to them, as I say this morning, I am a former summer employee of the Cleveland Pneumatic Tool, I worked there two summers in the plant pulling and removing document specification at that plant.

But it is more important than the fact that I was a summer student working there, that the jobs in Cleveland remain, and economic development and economic revitalization remain in the city of Cleveland and in the 11th Congressional District.

I am pleased to have an opportunity to participate and I plan to be here most of the morning. And thank you again, gentlemen, for giving me an opportunity to be a part of a subcommittee that I am not really a part of. So I am going to enjoy it.

Mr. MCINTOSH. Welcome, we hope you do enjoy working with us. Thank you.

And I would ask unanimous consent that the Congresswoman's entire statement be included in the record at this point.

[The prepared statement of Hon. Stephanie Tubbs Jones follows:]

COMMITTEE ON BANKING AND FINANCIAL SERVICES
SUBCOMMITTEES:
CAPITAL MARKETS, SECURITIES AND GOVERNMENT SPONSORED ENTERPRISES
HOUSING AND COMMUNITY DEVELOPMENT
COMMITTEE ON SMALL BUSINESS
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Statement of Congresswoman Stephanie Tubbs Jones

Hearing on the Economic Effects of the Proposed Merger of BFGoodrich Company and Coltec Industries

July 7, 1999

Mr. Chairman, my name is Stephanie Tubbs Jones, and I represent the 11th Congressional District in which the Cleveland Pneumatic Plant is located. I am pleased to appear before this esteemed body to discuss a topic of extreme importance to me, my constituents, the citizens of the Greater Cleveland Metropolitan area, and the American people. I want to thank you for scheduling this hearing in which we examine the economic effects of the proposed merger of BFGoodrich and Coltec Industries upon the Citizens of Greater Cleveland, and the potential effects of the proposed merger upon the American taxpayers and our national security.

As you are aware, BFGoodrich And Coltec Industries are the only two dominant domestic manufacturers of landing gear used in both our military and commercial airplanes. The merger of these companies would effectively create a monopoly in the landing gear industry, which could potentially lead to higher prices for taxpayers, the loss of approximately 650 jobs in Cleveland --and the resulting estimated loss of $25 million in pay roll to Greater Clevelanders, and an estimated $500,000 in tax revenue to the Greater Cleveland Area. Additionally, the proposed merger of these companies could potentially force the U.S. military to rely upon foreign companies for military materials.

I am concerned that the proposed merger between these two dominant domestic manufacturers of landing gear would result in a virtual U.S. monopoly in the industry from which the ultimate losers are the American consumers and taxpayers who will be forced to pay monopolistic prices. Among commercial manufacturers such as Boeing, these manufacturers will be forced to pay monopolistic prices for these landing components, which will in turned be passed to commercial airlines and consequently to consumers. With respect to taxpayers, the American taxpayer will be hit hard because the U.S. government would either be forced to buy landing gear for its military planes from a monopoly or be confined to an unenviable and potentially dangerous position of being dependent upon a foreign company for military parts.

Indeed, Greater Clevelander's and all of the American people have a special interest in this proposed merger.

We have received from BFGoodrich representatives what we believe to be conflicting statements: On the one hand, BF Goodrich representatives alleged that "none of these other Ohio-based jobs will be affected by the relocation ... and the Cleveland plant's operations and their employees will continue to contribute significant amount of tax revenue to their local communities and to the state after the merger is complete" [November 23, 1998 letter to Congressman Kuncinich]; and at the same time BF Goodrich submitted documents to federal regulators in which BFGoodrich provided three proposed options, all of which included the immediate closing the Cleveland Pneumatic Plant.

BFGoodrich representatives stated to me in a June 30, 1999 letter, that BFGoodrich "has made no decision about the future of [the Cleveland facilities]", however, BFGoodrich stated that they had "considered closing the Cleveland plant because its performance was failing [their] standards, but each time, the Company concluded that it could not afford to do so." Why did BFGoodrich repeatedly consider closing the Cleveland plant? What were the factors considered in determining that BFGoodrich could not afford to close the Cleveland Plant? When were the instances in which BFGoodrich considered closing the Cleveland plant? When was the last instance in which BFGoodrich considered closing the Cleveland plant? What performance standards are the Cleveland plant failing to meet? What has BFGoodrich proposed to alleviate the Cleveland plant's failure to meet performance standards?

BFGoodrich has also stated that it has invested some $30 million dollars in the Cleveland plant since 1993. Since BFGoodrich has invested nearly $30 million in the Cleveland plant, how does the Cleveland plant currently rate with respect to meeting performance standards? How does the Cleveland plant rate as compared to BFGoodrich's other facilities, and the facilities owned by Coltec?

Representatives from BFGoodrich have also indicated that if the proposed merger were completed, there would be a 6 to 8 month period in which BFGoodrich/Coltec would complete a "fair and open study", evaluating all of its facilities. BFGoodrich representatives have also stated that an additional period of 18 to 24 months would be needed to consolidate and/or alter any facility. Thus, if the proposed merger were completed, at least 2 years would past before the process of consolidation, and the possible closing of any plant would begin. Additionally, representatives from BFGoodrich have further indicated that all stakeholders --including employees of the Cleveland Pneumatic facility, other interested groups and public officials such as Governor Taft and myself --were welcome to help BF Goodrich make the "most informed and sound decision possible" in deciding upon the future of the Cleveland facilities.

Mr. Chairman, thank you for the opportunity to appear before this committee. I want to reiterate my opposition to any merger which would result in the loss of jobs and a decrease in tax revenue to the City of Cleveland. I look forward to having a candid and open discussion from our witnesses today, and await an opportunity to further serve the citizens of the 11th Congressional District and our Nation.

Mr. MCINTOSH. Let us turn now to our first witness, Ohio's esteemed Senator who has, as I mentioned in my testimony, been very active on this issue and held his own hearing in the Senate on the antitrust implications of it.

You need no introduction today, Senator, but thank you very much for joining us in this proceeding.

STATEMENT OF HON. MIKE DEWINE, A U.S. SENATOR FROM THE STATE OF OHIO

Senator DEWINE. Mr. Chairman, thank you very much. Chairman McIntosh, we appreciate very much you holding this field hearing today in Cleveland. It is very important to Cleveland, very important to the State of Ohio, and as I will indicate later on in my testimony, I think it is also very important to our national defense.

Congressman Dennis Kucinich has been a real leader in this. I appreciate having the opportunity to testify in front of him today, along with Congressman Stephanie Tubbs Jones, who I know is also very, very interested and concerned about this issue.

As you know, and as you have pointed out, Mr. Chairman, last month, you and Congressman Kucinich testified before the Antitrust, Business Rights and Competition Subcommittee in the U.S. Senate, which I chair. And you testified on the competitive implications of the proposed Goodrich/Coltec merger. I believe, Mr. Chairman, that that particular Senate hearing afforded the Senate a good opportunity to consider this issue. I am certainly glad to see that the House is doing the same today in what is now your second hearing.

Mr. Chairman, what brings us here today is not good news for the people of the State of Ohio, nor for Cleveland. As we all know, the proposed merger of BFGoodrich and Coltec has raised some very troubling questions about the future of Goodrich's landing gear facility and the fate of the hundreds of dedicated Ohioans who work there—650 families will be affected by this action. Mr. Chairman, my office and I have had numerous meetings, as you know, and discussions with Goodrich executives in an attempt to try to shed some light on this very disturbing issue. My interest, which I am sure is shared by my Ohio colleagues, is to see this facility remain a strong, competitive player in the landing gear industry. We all hope that the Cleveland plant stays open.

But I have to confess that I am very concerned for the future of this facility. Based on the evidence that I have seen, it appears that Goodrich is planning to close the plant. That would be a significant loss to the Cleveland community and, of course, a great hardship for the plant's workers and for their families.

The impact of this proposed merger between Goodrich and Coltec goes far beyond its effect on Cleveland. The merger itself poses significant competition and national security issues. The Antitrust Subcommittee hearing I held last month confirmed that the merger would leave the U.S. military with only one major domestic supplier for landing gear, and that supplier would be, of course, the merged Goodrich/Coltec. The only other provider would be Messier, a company owned by the French Government. So we would be left, Mr. Chairman, with only one domestic supplier.

This creation of a domestic monopoly is obviously a matter of great concern, both for competitive and national security reasons. Despite the very serious issues raised by the proposed merger, the Defense Department was either unwilling or unable to explain to our subcommittee how it had analyzed the deal. Even more troubling is the fact that the Department of Defense was unable to offer a satisfactory explanation of how it had come to the conclusion that the merger was in the best interest of our national defense.

Now Mr. Chairman, members of the committee, I specifically asked David Oliver, the Principal Under Secretary of Defense for Acquisition and Technology, the following question: "What is the advantage, though, of this merger? What does the Defense Department pick up by this merger? How are we better off?" That was my question.

Mr. Oliver responded by saying—and these are his precise words: "I am not sure—we did not look at that." Let me read it again—"I am not sure—we did not look at that."

Not long after that, I asked Mr. Oliver to clarify if, and this was my question: "is it better to have two competitors than three." Mr. Oliver responded to my question: "Absolutely not," but later said, "We did not look at that specific problem."

I find the testimony of Mr. Oliver to be inexplicable; it makes absolutely no sense to me at all. Mr. Chairman, members of the committee, I continue to be very troubled by the lack of candor offered by the Defense Department. To date, I do not know why the Defense Department supports this merger and why it is, in their opinion, in our national security and fiscal interest to have only one domestic supplier of landing gear. Mr. Chairman, I plan to followup next week with a meeting with a representative from the Pentagon when I will again ask these questions and hopefully get some answers. As I said at the hearing last month, the workers at the Cleveland landing gear facility deserve the truth, their families deserve the truth. And I hope we can get closer to the truth at today's hearing.

Let me conclude, again, Mr. Chairman, by congratulating you for your leadership on this very important issue. I also applaud Representative Kucinich, and Representative Tubbs Jones for their efforts on behalf of the people of Cleveland, the workers and their families involved.

Mr. Chairman, as it stands now, this merger looks bad for Cleveland, bad for our national security, bad for the workers. I know that we are all going to keep working to address the very significant concerns that are raised by the Goodrich/Coltec merger and I look at this hearing as being a very constructive effort and a constructive step as we all work together in this regard.

The questions that remain are very, very troubling. They concern the future of workers, they concern the future of families and they concern, Mr. Chairman, our national defense. Again, I congratulate you and thank you for giving me the opportunity to testify in front of the subcommittee.

[The prepared statement of Hon. Mike DeWine follows:]

U.S. Senator Mike DeWine (R-OH)
Statement on Proposed B.F. Goodrich/Coltec Merger
Hearing: House Subcommittee on Economic Growth, Natural Resources and Regulatory Affairs
July 7, 1999

Good morning. I'd like to thank you, Chairman McIntosh, for inviting me to your field hearing this morning. I appreciate the opportunity to be here along with my Ohio colleagues, Representatives Dennis Kucinich, and Stephanie Tubbs-Jones, to testify on this important topic before the House Subcommittee on Economic Growth, Natural Resources and Regulatory Affairs.

As you know, Mr. Chairman, you and Congressman Kucinich testified last month before the Senate Antitrust, Business Rights and Competition Subcommittee – which I chair – on the competitive implications of the proposed Goodrich/Coltec merger. I believe that hearing afforded the Senate a good opportunity to consider this issue, and I am glad to see that the House is doing the same.

What brings us here today is not good news for the people of Cleveland, Ohio. As we all know, the proposed merger of BF Goodrich and Coltec has raised some very troubling questions about the future of Goodrich's landing gear facility, and the fate of the hundreds of dedicated Ohioans who work there. My office and I have had numerous meetings and discussions with Goodrich executives in an attempt to try to shed some light on this very disturbing issue. My interest, which I am sure is shared by my Ohio colleagues, is to see this facility remain a strong, competitive player in the landing gear industry. I certainly hope the Cleveland plant stays open.

I have to confess, however, that I am very concerned for the future of this facility. Based on the evidence I have seen, it appears that Goodrich is planning to close the plant. That would be a significant loss to the Cleveland community, and of course, a great hardship for the plant's workers and their families.

The impact of this proposed merger between Goodrich and Coltec goes far beyond its effect on Cleveland. The merger itself poses significant competition and national security issues. The Senate Antitrust Subcommittee hearing I held last month confirmed that the merger would leave the U.S. military with only one major domestic supplier for landing gear -- that supplier would be the merged Goodrich/Coltec. The only other major provider would be Messier, a company owned by the French government.

This creation of a domestic monopoly is obviously a matter of great concern, both for competitive and national security reasons. Despite the very serious issues raised by the proposed merger, the Defense Department was either unwilling or unable to explain to the Senate Subcommittee how it had analyzed the deal. Even more troubling is the fact that the Department of Defense was unable to offer a satisfactory explanation of how it had come to the conclusion that the merger was in the best interests of the national defense.

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I specifically asked David Oliver, the Principal Under Secretary of Defense for Acquisition and Technology, the following: "What is the advantage, though, of this merger? What does the Defense Department pick up by this merger? How are you better off?"

Mr. Oliver responded by saying, and these are his words here – "I am not sure – we did not look at that, of what we pick up."

Not long after that, I asked Mr. Oliver to clarify if "it is better to have two competitors than three." Mr. Oliver said "absolutely not" but later said that, "...we did not look at that specific problem."

I continue to be very troubled by the lack of candor offered by the Defense Department. To date, I do not know why the Defense Department supports this merger, and why it's in our national security and fiscal interests to have only one domestic supplier of landing gear. I plan to follow up with a representative from the Pentagon when Congress comes back into session next week. As I said at the hearing last month, the workers at the Cleveland landing gear facility deserve the truth. I hope we can get closer to the truth at today's hearing.

Let me conclude by again congratulating you, Mr. Chairman, for your leadership on this issue. I also applaud Representative Kucinich and Representative Tubbs-Jones for their efforts on behalf of the people of Cleveland. As it stands now, this merger looks bad for Cleveland, and bad for the national security of the United States. I know that we are all going to keep working to address the very significant concerns that are raised by the Goodrich/Coltec merger.

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Mr. MCINTOSH. Thank you very much, Senator. It is an honor to have you join us today.

You have raised some very disturbing points that hopefully we will be able to address in this subcommittee as well. I wonder what exactly they are doing over at the Department of Defense if they are not addressing the real thrust of the question about whether this merger will be good or bad for us in national security terms. And I appreciate your leadership in getting to the bottom of that.

Thank you very much.

Senator DEWINE. Thank you.

Mr. KUCINICH. I would like to add to Senator DeWine, I think you put your finger on one of the crucial questions of these hearings and the hearings that you have had as well, and that is: Just what is the Department of Defense doing about this merger? Have national security interests really been taken into account or has this merger simply been rubber stamped because it is some predetermined set of circumstances? And I know that is what we are concerned about and I appreciate the fact that you have been pursuing this and the Chair and I have had some discussions about this as well.

Thank you.

Senator DEWINE. Mr. Chairman, if I just could, and Congressman Kucinich, respond to your statement.

What was particularly troubling about our hearing is that we had a number of these questions when we went into the hearing, about national security. Unfortunately, when we came out of the hearing, we had more questions. The representative from the Defense Department simply had no answers. And when we pinned him down on specific questions, "did you take this into consideration, how are we better off as a country with one less competitor, with only one domestic supplier, why is that better for the United States," the answer was well, we did not consider that.

Mr. MCINTOSH. That is amazing. I can see how reasonable people might disagree on something like that, but you would at least expect them to have thought it through.

Senator DEWINE. It was just very, very troubling testimony and we are going to stay on this and we are not going to let up until we get better answers.

Mr. KUCINICH. Thank you.

Mr. MCINTOSH. Thank you very much, Senator.

Let me now call our next panel and we will get right to the thrust of this matter. Mr. Linnert, Mr. Tubbs, Ms. Loeb and Professor Bauer, please come forward.

As I mentioned to you all, all of you except Ms. Loeb had joined us in Indianapolis, so you are familiar with the process in the committee, but we have a standing rule from the full committee that we swear in all of our witnesses. So do not take it as any reflection on you, but I would ask you to please stay standing and take the following oath.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you. Let the record show that each of the witnesses answered in the affirmative.

What we will do now is ask each of you, for about 5 minutes, to summarize your testimony. I would ask unanimous consent at this point that all written remarks that you would like and have prepared, be included in the record. Feel free to summarize it. Frankly, as the day goes on, if you want to interject after all the witnesses, we will get into a fairly open flowing dialog. The purpose will be to get the arguments and the evidence out on the table for us.

So I will start from my left to right, your right to left, and start with Mr. Linnert, who is with BFGoodrich Co. Summarize your testimony for us, Mr. Linnert, and especially any new information that you have from the hearing that we had a few weeks ago.

STATEMENTS OF TERRENCE LINNERT, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, BFGOODRICH CO.; ROBERT TUBBS, EXECUTIVE VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY, COLTEC INDUSTRIES, INC.; NANCY LOEB, DEPUTY GENERAL COUNSEL, ALLIEDSIGNAL, INC.; AND JOSEPH BAUER, PROFESSOR OF LAW, NOTRE DAME SCHOOL OF LAW

Mr. LINNERT. Thank you, Chairman McIntosh, Congressman Kucinich, Congresswoman Tubbs Jones.

It is helpful to place today's hearing in context. BFGoodrich and Coltec will merge to create a financially stronger, more diverse, global competitor than either firm is standing alone today. In today's intensely competitive environment, we need to do this so that we remain strong, healthy partners with our customers, and so that we provide a growing environment for our employees. This merger will produce savings for our customers and jobs for our employees.

There is a lot at stake in this and every other merger. Jobs are created or constructed, companies move or grow, products succeed or flop overnight. Missing an expanding market or not deploying a new technology or borrowing money at the wrong time could create a dinosaur. The results for the U.S. economy or national security and the economic health of our workers and shareholders can be disastrous.

There will always be critics of these mergers, beyond the appropriate interest of the government or the courts. So be it. But those who usually carp the loudest are most afraid that they will lose a preferred position in the marketplace to new, more vigorous, more modern and yes, more formidable competition. And most frequently, these corporate critics go out and get a deal of their own. It is ironic then that AlliedSignal is our most vocal critic. The Allied/Honeywell merger creates a $45 billion giant that will be able to cross-sell aerospace products in ways that BFGoodrich and Coltec cannot match, because we will not have the breadth of product offerings that they do. It is even more ironic since AlliedSignal will fire 4,500 people in connection with its merger. While Allied's Chairman Bossidy has recently assured South Bend that no jobs will be lost due to the Honeywell merger, one need only look back to 1995 when AlliedSignal exited its South Bend landing gear business by selling equipment and contracts, to see that Allied's concern for South Bend rises and falls as it suits Allied's purposes.

Mergers in the defense and aerospace industries are a fact of life. Since the end of the cold war, U.S. defense spending has declined dramatically. This reduced spending has driven consolidation through that defense industry. Other factors, such as globalization and requirements of scale and scope also drive consolidation through both the defense and aerospace industries.

Efficiencies of design and production needed to generate and consume large amounts of capital quickly dictate corporate strategies that must be judged simultaneously, in both the short and long term.

One of the consequences of consolidation is typically the loss of some jobs. As part of BFGoodrich's merger with Coltec, approximately 170 headquarters positions will relocate to North Carolina. Similarly, the AlliedSignal/Honeywell merger will result in the closing of Honeywell's headquarters in Minneapolis. While these relocations have a human impact that we take seriously, they should not overshadow the positive consequences of this merger. The plain fact is the merger of Goodrich and Coltec will produce significant benefits for employees, customers and shareholders.

Following the merger, Goodrich will employ 27,000 people worldwide. The size and diversity, financial and technological strength and global reach of our businesses will create job stability and growth opportunities for our existing work force. As a stronger worldwide competitor, we will be better positioned to compete for business abroad. A stronger, better Goodrich is good for all our stakeholders.

Our customers are very sophisticated. They demand innovative and quality products backed by the highest levels of customer service and technical support, all at a fair and competitive price. Those customers are our life blood. If they had objected to this merger, it probably would not have gone forward. They have not objected because they are satisfied that they do have sufficient options to preserve healthy competition for their business and they recognize the merger enables us to serve them better.

The Federal Trade Commission and the Department of Defense, like our customers, have each come to the same conclusion following lengthy and comprehensive examinations. Both agencies listened carefully to the arguments presented by AlliedSignal and Crane Industries and both agencies concluded the merger should be allowed to proceed without objection. I would like to emphasize that those examinations took place over a 4 and 5 month period respectively.

I would like to address more specifically the Chair's concern about the merger's impact on Ohio jobs. In early 1999, Goodrich did prepare a preliminary internal study that presented possible options for restructuring the landing gear business following the merger. This preliminary study was a tentative initial look at a combined Goodrich/Coltec landing gear business. Since the merger had not been consummated, the study does not reflect Coltec costs or other competitively sensitive information. This makes the study incomplete and therefore, it has not been presented to Goodrich senior management. The study was not prepared for the Department of Defense, it was provided to the Department in response to their request for any reconfiguration study. We clearly cautioned the Department of Defense against relying on the study, stating that, "Its views concerning reconfiguration are necessarily tentative," because it did not have cost information regarding any Coltec facilities.

I want to be very clear about the future of our Cleveland landing gear plant. While each option presented in that preliminary study contemplated closing the Cleveland plant, BFGoodrich senior management has made absolutely no decision about the future of this facility. Having said that, I will tell you that U.S. landing gear business is 15 percent below its peak volume and customer demand is expected to remain low for the next 10 years. In this business environment, we will consider all our options, because status quo cannot prevail.

BFGoodrich has been frank with its employees, has been frank with you, both in private discussions and public testimony. We will not shrink from our obligation to all of our stakeholders, employees, shareholders, customers and suppliers, to run our businesses effectively and efficiently as we can. In this regard and consistent with our culture of partnering with our employees, we have consistently shared with all landing gear associates and UAW officials our view that the competitiveness of the Cleveland facilities must be improved.

It is no secret that we have in the past considered closing the Cleveland plant because its performance did not meet our standards. However, the facilities that Goodrich acquired in 1993 were in poor repair. Many pieces of equipment were inoperable, engineering tools were outdated and prospects for the future of that facility were bleak. Each time the status of that Cleveland plant was reviewed, however, the company concluded it was not wise to close it. Instead, Goodrich invested nearly $30 million in its Cleveland landing gear facility since 1993. This includes investment in buildings, equipment, business information systems and engineering tools. After a nearly $30 million investment, the prospects for Cleveland have improved greatly. We have not achieved these gains alone, but have had the cooperation of our employees and UAW officials.

While we have made much progress in our competitive business, more remains to be done. In this regard, we have been encouraged by ongoing discussions with union officials about ways to make those operations more competitive. After the merger, we will look at all of our operations and determine how best to become a more efficient and lower cost producer. This may include upgrading plants, reconfiguring our production mix, and perhaps closing facilities. The failure to make those hard decisions could cost us our competitive edge and even more jobs than if we ultimately decide to close a plant.

Until the merger is closed, however, we do not have access to the information we need to make an intelligent decision, and as a consequence, no decisions have been taken.

I promise you this—we will include all of our stakeholders in the process. We have already received a much appreciated invitation from Governor Taft, to consult with his office as we go forward in our planning and we have assured him that we will do so. Likewise, we will talk to the unions, other State, local and Federal Government officials as well as other interested groups, to help us make the most informed and sound decision possible.

Whatever decision is reached regarding any of our facilities, Goodrich remains committed to Ohio. Following the merger, Goodrich will employ more than 3,000 people in Ohio in management, manufacturing and research positions. Our performance materials business, with more than $1 billion in revenue, will remain headquartered in Brecksville. Other BFGoodrich operations in Ohio are located in Akron, Avon Lake, Chagrin Falls, Cleveland, Cincinnati, Columbus, Dayton, Elyria, Green, Troy, Twinsburg and Uniontown.

We have been adding jobs in Ohio. Since January 1997, we have added 200 jobs to our aerospace work force here in Ohio. Our aerospace employment is up 14 percent. We remain committed to Ohio and to our work force in Ohio. Indeed, just this year, BFGoodrich invested approximately $20 million to buy a new business right here in northeastern Ohio. Following the merger, BFGoodrich will contribute more than $20 million per year in taxes to Ohio as part of its continuing presence in this State. This does not even take into account, Coltec's operations in Ohio, including a business in Congressman Kucinich's district.

The bottom line is this—Goodrich has roots in Ohio. Even though our headquarters will be moving, BFGoodrich will continue to have a strong and growing presence in this State.

When we were in South Bend, Congressman Kucinich asked some questions about BFGoodrich's views toward unions. BFGoodrich has a long history of positive labor relations. BFGoodrich operates both union and non-union facilities. We count union facilities among our most productive and efficient. Indeed, three of the landing gear facilities operated by BFGoodrich and Coltec are union facilities.

I would also like to address briefly AlliedSignal's contention that the BFGoodrich/Coltec merger will adversely affect jobs at AlliedSignal's plant in South Bend. For months now, we have heard dire predictions from Allied that a Goodrich/Coltec merger would cost 1,000 South Bend jobs. We have been saying all along this was just a scare tactic. Our view was confirmed at your hearing in South Bend. Congressman Roemer, who represents South Bend, testified at your hearing that Allied's Chairman Bossidy had promised that the BFGoodrich/Coltec merger would have no immediate impact on jobs in South Bend. Mr. Montalbine, who runs the South Bend business for Mr. Bossidy, confirmed this.

The vast majority of AlliedSignal's sales of wheels and brakes are in the large aircraft after-market. These aircraft are already in production and operation. AlliedSignal is already certified on 13 of the 20 commercial aircraft types built by Boeing and Airbus. Each of those aircraft will see service typically for 20 or more years. AlliedSignal has an annuity in the supply of wheels and brakes on those aircraft and nothing about our merger can or will affect that. If AlliedSignal's wheel and brake business suffers or fails, Mr. Chairman, it will be because AlliedSignal did not meet their customer expectations for quality products at competitive prices. If jobs are lost in South Bend, it will be because Allied did not run its business well and not because of our merger.

AlliedSignal makes claims about the need to partner or team with the landing gear suppliers so they can compete for integrated systems or to avoid gaming of the landing gear/wheel and brake interface design. No credible independent industry expert has supported those claims. In fact, AlliedSignal does have a partner if it chooses under the strategic alliance agreement with Coltec. Just last month, resolving a claim that AlliedSignal had filed, an arbitration panel in New York ruled that the merger does not violate the strategic alliance agreement, and that adequate safeguards could be implemented to protect any proprietary or competitively sensitive data. Therefore, Allied has their landing gear partner going forward.

Moreover, Mr. Bossidy boasts about a $10 billion war chest to make more acquisitions, but if they really need a landing gear partner, they could invest $200 million from their acquisition war chest to build a world class landing gear facility in South Bend or anywhere else. Actions speak louder than words.

Our goals are the same, Mr. Chairman. We at BFGoodrich want to grow so that we can satisfy our customers, challenge, reward and retain our employees and provide financial returns for our shareholders. We can only achieve those goals by providing innovative, quality, least-cost products to our customers consistently and timely. By becoming a stronger competitor, we help the economy and our work force.

Let me tell you what BFGoodrich is committed to. We are committed to growing jobs and marketplace position. We are committed to sustaining a vigorous U.S. national defense position. We are committed to involving workers, shareholders, customers, management and government decisionmakers in our future business growth plans. And we are committed to building and designing the best priced and best performing products for this or any other marketplace. We challenge AlliedSignal, Crane, Honeywell or anyone else to beat us fair and square in that marketplace.

Thank you for the opportunity.

[The prepared statement of Mr. Linnert follows:]

TESTIMONY OF TERRENCE G. LINNERT
ON BEHALF OF
THE BFGOODRICH COMPANY
JULY 7, 1999

I am delighted to have the opportunity to appear again before the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs to discuss the economic effects of the merger between BFGoodrich and Coltec.

I understand from your letter to BFGoodrich that the committee is specifically interested in BFGoodrich's plans for its Cleveland landing gear facility. I will address that issue more fully in my remarks, but, at the outset, I want to state clearly that the Cleveland Pneumatic Company is a core business and it is not for sale. Perhaps of greater interest for those attending today's hearing, no decision has been made with respect to any specific facility that makes up either BFGoodrich or Menasco's landing gear business, and no decision will be made until well after the merger has been consummated. That is true for Cleveland and Texas and each other landing gear facility.

It is important to place today's hearing in context. Multibillion dollar mergers have become an almost daily occurrence. As this Subcommittee has no doubt heard before, technology and globalization fuel this consolidation. In addition, in the defense and aerospace industries, the end of the Cold War drives much of the consolidation. Defense spending reductions and the consolidation at the top of the defense supply chain have placed ever greater demands on the component supplier community to become more efficient while at the same time increasing the risks of business. BFGoodrich is not here to complain about the difficulty of competing. Indeed, BFGoodrich believes that the market forces of competition will determine the winners and the losers in these changing and challenging times, and it welcomes the opportunity to compete.

Mergers are an inevitable part of the restructuring of our industrial base. From the standpoint of competition policy, this is not a bad thing -- most mergers are procompetitive or competitively neutral. Rigorous review by the regulatory agencies -- here, the Department of Defense and the Federal Trade Commission -- provide important reassurance that those mergers that may hurt competition do not go unchallenged. The BFGoodrich/Coltec merger has successfully undergone a review by both the Department of Defense and the Federal Trade Commission. I can assure the Subcommittee that the review process was both rigorous and comprehensive. We welcome any inquiry the Subcommittee may have regarding the thoroughness of the work of the reviewing agencies.

It is also a fact that mergers and consolidations may dislocate people and can result in the consolidation or relocation of some jobs. While that is not always the case, clearly the demands of a global and technologically advanced society require greater productivity and efficiency. At BFGoodrich, we approach this part of the merger business very carefully. Our work force is important to us and we recognize the contributions our employees make to our success. We are committed to providing opportunities to our employee community to grow within our organization. We do not approach layoffs or plant closings with relish or happiness. When such actions are needed for the greater good, we take them reluctantly and only after due deliberation. It is, therefore, ironic that interest in the BFGoodrich/Coltec merger was fueled by Allied Signal's spurious and false allegation that, in conjunction with the merger, BFGoodrich would close its Cleveland plant and eliminate 650 jobs. Just four weeks ago, when Allied Signal announced its planned $15 billion merger with Honeywell, it also announced plans to fire 4500 people to help it "realize the efficiencies" of its merger. We are confident those 4500 workers will not appreciate those efficiencies, and yet, that may be the price of progress and competitiveness in a global economy. We welcome any inquiry the Subcommittee may have regarding BFGoodrich's views on the important public policy issues associated with mergers and jobs, and the difference in the way BFGoodrich and Allied Signal approach layoffs.

I have organized my written testimony in three sections: 1) the effect of the merger on U.S. jobs; 2) the merger review process; and 3) the competitive implications of the merger.

THE EFFECT OF THE MERGER ON U.S. JOBS

Following the merger, BFGoodrich will employ 27,000 people worldwide with aspirations to grow. The size and diversity, financial and technological strength and global reach of our businesses will create job stability and growth opportunities for our existing work force. The merger will strengthen Coltec's balance sheet, which will permit it to invest in and grow its businesses. This will mean more jobs. The benefits and efficiencies in this merger, perhaps unlike others, are not centralized on employee reductions and layoffs. Rather, it is our hope that the merger will be a source of job growth as we realize the benefits of being more competitive, financially stronger and better able to innovate.

As part of the merger, approximately 170 headquarters positions will relocate from Ohio to North Carolina. This sort of headquarters consolidation and relocation is typical of mergers. There will be 4,500 jobs lost as a result of the Allied Signal/Honeywell merger, including 1,000 due to Honeywell's relocation from Minnesota to New Jersey.

I would like to address more specifically the Chair's concern about the merger's impact on Ohio jobs. In February, 1999, BFGoodrich prepared a preliminary, internal study that presented possible options for restructuring the landing gear business following the merger. This preliminary study was a tentative, initial look at a combined BFGoodrich/Coltec landing gear business. Since the merger had not been consummated, the study does not reflect Coltec cost or other competitively sensitive information. This makes the study incomplete and, therefore, it has never been presented to BFGoodrich management.

The study was not prepared for the Department of Defense, but it was provided to the Department in response to the Department's request for any reconfiguration study. BFGoodrich clearly cautioned the Department of Defense against relying on the study, stating that "its views concerning reconfiguration are necessarily tentative" because it did not have cost information regarding any Coltec facilities.[1]

I want to be very clear about the future of our Cleveland landing gear plant: While each option presented in the preliminary study contemplated closing the Cleveland plant, BFGoodrich management has made absolutely no decision about the future of this facility. Having said that, I must tell you that the U.S. landing gear business is 15% below its peak volume, and customer demand is expected to remain low for the next 10 years. In this business environment, we will consider all of our options because status quo cannot prevail.

BFGoodrich has been frank with its employees, and it has been frank with you, both in private discussions and in public testimony. We will not shrink from our obligation to all of our stakeholders – employees, shareholders, customers and suppliers – to run our business as effectively and efficiently as we can. In this regard, and consistent with our culture of partnering with our employees, we have consistently shared with all Landing Gear Associates and UAW officials our view that the competitiveness of the Cleveland facilities must be improved. It is no secret that we have, in the past, considered closing the Cleveland plant because its performance was failing our standards. The facilities BFGoodrich acquired in 1993 were in poor repair, many pieces of equipment were inoperable, engineering tools were outdated and prospects for the future were bleak. Each time the status of the Cleveland plant was reviewed, however, the Company concluded that it could not afford to close it. Instead, BFGoodrich invested nearly $30 million in its Cleveland landing gear facilities since 1993. This includes investment in buildings, equipment, business information systems and engineering tools. After a nearly $30 million investment, the prospects for Cleveland have improved greatly. We have not achieved these gains alone, but have had the cooperation of our employees and UAW officials. While we have made much progress, in our competitive business, more remains to be done. In this regard, we have been encouraged by the ongoing discussions with Union officials about ways to make these operations even more competitive.

After the merger, we will look at all of our operations and determine how best to become a more efficient and lower-cost producer. This may include upgrading plants, reconfiguring our production mix and, perhaps, closing facilities. The failure to make

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[1] February 3, 1999 letter to Kathy Brown, Senior Attorney, Office of General Counsel, Dept. of Defense from Tom D. Smith. There is absolutely no truth to allegations that BFGoodrich told the Department of Defense or the FTC that it would close the Cleveland plant.

these hard decisions could cost us our competitive edge and even more jobs than if we ultimately decide to close a plant. Until the merger has closed, however, we do not have access to the information we need to make an intelligent decision and, as a consequence, no decisions have been taken.

I promise you this -- we will include all of our stakeholders in the process. We have already received a very appropriate and much appreciated invitation from Governor Taft to consult with his office as we go forward in our planning and we have assured him that we will do so. Likewise, we will talk to the unions, other state, local and federal government officials as well as other interested groups to help us make the most informed and sound decision possible.

Whatever decision is reached regarding any of our facilities, BFGoodrich remains committed to Ohio. Following the merger, BFGoodrich will employ more than 3,000 people in Ohio in management, manufacturing and research positions. Our Performance Materials business, with more than $1 billion in revenue, will remain headquartered in Brecksville. Other BFGoodrich operations in Ohio are located in Akron, Avon Lake, Chagrin Falls, Cleveland, Cincinnati, Columbus, Dayton, Elyria, Green, Troy, Twinsburg and Uniontown.

We have been adding jobs in Ohio -- since January 1997 we have added 200 jobs to our aerospace work force in Ohio and aerospace employment is up 14%. We remain committed to Ohio and to our work force in Ohio. Indeed, just this year, BFGoodrich invested approximately $20 million to buy a new business in northeastern Ohio. Following the merger, BFGoodrich will contribute more than $20 million per year in taxes to Ohio as part of its continuing presence in the State. This does not even take into account Coltec's operations in Ohio, including a business in Congressman Kucinich's district.

The bottom line is this. BFGoodrich has its roots in Ohio. Even though our headquarters will be moving, BFGoodrich will continue to have a strong, and likely growing presence in the state.

When we were in South Bend, Congressman Kucinich asked some questions about BFGoodrich's views toward unions. BFGoodrich has a long history of positive labor relations. BFGoodrich operates both union and non-union facilities. We count union facilities among our most productive and efficient. Indeed, three of the landing gear facilities operated by BFGoodrich and Coltec are union facilities.

I would also like to address briefly AlliedSignal's contention that the BFGoodrich/Coltec merger will adversely affect jobs at AlliedSignal's plant in South Bend. For months, now, we have heard dire predictions from AlliedSignal that a BFGoodrich/Coltec merger would cost 1000 South Bend jobs. We have been saying all along that this was just a scare tactic. Our view was confirmed at your hearing in South Bend. Congressman Roemer, who represents South Bend, testified at your hearing that Allied's Chairman

Bossidy had promised that this merger would not cost jobs in South Bend. Mr. Montalbine, who runs the South Bend business for Mr. Bossidy, confirmed this. Hopefully, we can put that red herring to rest once and for all.

THE MERGER REVIEW PROCESS

BFGoodrich and Coltec agreed to merge in late November, 1998, and submitted the required H-S-R notifications in early December. Shortly thereafter, representatives of BFGoodrich met with representatives of the Department of Defense to discuss the proposed merger. Between December 1998 and March 1999, representatives of the parties to the merger met and spoke with representatives of the Department of Defense regularly. The parties provided extensive information about their businesses to the Department of Defense in response to a detailed questionnaire from the Department. The parties responded fully and completely to every question posed by the Department of Defense.

We understand that representatives of Crane and Allied Signal met with officials of the Department of Defense in multiple efforts to derail the merger. While we do not know the details of their arguments, we believe they raised many of the same competition concerns that have been presented in other forums. The Department of Defense carefully considered the arguments presented by all concerned; from time to time, we were asked by the Department of Defense to provide information responsive to Crane and Allied Signal complaints, and we did. On March 15, 1999, the Department of Defense notified the FTC and BFGoodrich that "the Department will not object to the proposed acquisition of Coltec Industries by BFGoodrich."[2]

The FTC's Bureau of Competition conducted its own review parallel to that of the Department of Defense. While the Bureau of Competition conducted its investigation, Allied Signal initiated private antitrust litigation here in Indiana. With BFGoodrich's consent, Allied Signal provided to the Bureau of Competition selected material it had obtained from BFGoodrich in discovery in the private lawsuit. BFGoodrich, at the request of the Bureau of Competition staff, provided the staff all of the discovery materials, including thousands of documents and pages of deposition testimony. The staff attorneys at the FTC diligently reviewed the material, evaluated the potential for anticompetitive effects, and concluded there were none.

Allied Signal and Crane were not satisfied with this outcome and insisted on meetings with the FTC commissioners. We are informed that Allied Signal and Crane met with each commissioner and used evidence obtained in discovery in the private litigation in their effort to persuade the FTC to intervene. Not one commissioner concluded that the

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2 Letter 3/15/99 from Jacques S. Gansler, Under Secretary of Defense, to Terrence G. Linnert

merger ought to be challenged. On April 26, 1999, the FTC advised BFGoodrich and Coltec that it had closed its investigation without taking any action.[3]

Over a five month period, two federal agencies, each charged with considering the competitive implications of mergers, have reviewed the BFGoodrich/Coltec merger and both have concluded that no further action was warranted. This is strong evidence that the merger will not have anticompetitive effects, particularly given the vigorous antitrust enforcement we have seen in this same time frame (Lockheed-Martin/Northrop; General Dynamics/Newport News; Litton Industries/Newport News).

THE COMPETITIVE IMPLICATIONS OF THE MERGER

The merger of BFGoodrich and Coltec is procompetitive. As a result of consolidation among aircraft manufacturers and a declining number of new aircraft program starts, business opportunities for landing gear structure manufacturers have diminished. The total number of aircraft produced declined from more than 900 per year in the early 1990's to a low of 416 in 1996. While production has picked up since 1996, it is not expected to exceed about 800 aircraft per year over the foreseeable future.

The merged BFGoodrich/Coltec is likely to be better able to serve its customers in this environment. Significant cost savings are likely to result from the merger. These cost savings will enable BFGoodrich to offer savings to its customers, invest in more efficient equipment, and invest in additional landing gear projects.

BFGoodrich presently competes with Messier-Dowty, a French firm, for landing gear. At Airbus, Messier-Dowty has won all the procurements in which BFGoodrich has competed. The merger will place BFGoodrich in a stronger position to compete for Airbus business.

Allied Signal contends that the merger will put BFGoodrich in a near monopoly position with regard to sales of landing gear. Nothing could be further from the truth. Our business is global and we compete with suppliers from around the world for business here and abroad. The following are among the landing gear manufacturers capable of providing main landing gear for large commercial aircraft: BFG/Coltec; Messier-Dowty (a French firm); SHL (a subsidiary of Israeli Industries, which provides the landing gear for the Boeing 717); Heroux (a Canadian firm which provides landing gear for the C17); and Hydro-Mash (a Russian company). Several other firms presently manufacture nose gear for commercial aircraft and could increase capacity to supply main landing gear for large commercial aircraft. These companies include Liebherr, APPH, Sumitomo, and Castle Precision. Thus, after the merger, BFGoodrich would face competition from at least 8 firms that presently manufacture main and/or nose gear for commercial aircraft.

[3] April 26, 1999 letter from Richard G. Parker, Senior Deputy Director, Bureau of Competition, FTC, to Terrence G. Linnert

These firms, and two others (EDE and Cessna) provide landing gear for regional, business and military aircraft. Indeed, Boeing has expressly advised BFGoodrich that Boeing will be looking to Messier-Dowty as a landing gear supplier for large commercial aircraft.

This merger will not leave the U.S. military with a single U.S. supplier and a single foreign supplier. Military landing gear today are procured from :

- Messier-Dowty (Canada, UK, France)
- Heroux (Canada)
- Castle Precision (US)
- APPH (UK and US)
- SHL/IAI (Israel)
- BFGoodrich (US)
- Coltec/Menasco (US and Canada)

For several additional reasons, BFGoodrich cannot, and will not be able to, dictate terms to any aircraft manufacturer, or to unilaterally raise prices or to design landing gear in a way that disadvantages competitors' wheels and brakes and components. Whether the customer is Boeing or the Department of Defense or any other airframe manufacturer, the customer owns the data rights to the landing gear and to the interface between the landing gear and other system components. Indeed, on new programs, Boeing requires potential landing gear suppliers to jointly prepare the design of new landing gear at no cost to Boeing. Boeing then selects various suppliers to compete to produce the components and subsystems. If Boeing believes a supplier is not responsive or competitive, it can and will select another manufacturer. Moreover, many of the smaller landing gear components can be subcontracted (BFGoodrich presently subcontracts 90% of its landing gear components).

BFGoodrich competes with AlliedSignal, Aircraft Braking Systems Company ("ABSC"), Dunlop and Messier-Bugatti in the global wheel and brake business. The merger will not affect the number of competitors for that business. Moreover, nothing about this merger will enable BFGoodrich to discriminate against Allied Signal's (or any other firm's) wheel and brake business. As noted above, the airframe manufacturer owns the data rights, and the wheel and brake manufacturer can obtain the necessary interface information from the airframe manufacturer. Thus, ABSC and Dunlop have substantial positions in the wheel and brake business even though neither has a landing gear operation or an alliance with a landing gear manufacturer. Indeed, ABSC, AlliedSignal and BFG all have significant wheel and brake positions on Airbus platforms even though Messier-Dowty supplies the landing gear supplier, and its affiliate, Messier-Bugatti, is a wheel and brake supplier.

Nor is there any evidence that the landing gear supplier directs or controls the selection of the wheel and brake supplier. The evidence all shows to the contrary. On at least two occasions, AlliedSignal teamed with Menasco and submitted bids to Bombardier to supply a fully integrated landing system, which included Menasco landing gear and AlliedSignal wheels and brakes. In both cases, Bombardier did not accept the "system" bid and, instead, designated Menasco (the landing gear supplier) as integrator and directed Menasco to use someone besides its teaming partner to supply wheels and brakes. Similarly, BFGoodrich bid a system to Ayres, a regional/business aircraft manufacturer. After a competitive bid, Ayres selected BFGoodrich's proposal, which included BFGoodrich landing gear and wheels and brakes, and Hydro-Aire brake controls. Ayres, however, directed BFGoodrich to use ABSC wheels and brakes.

Moreover, BFGoodrich will work with AlliedSignal on future "system" bids in accordance with the Strategic Alliance Agreement ("SAA") between AlliedSignal and Menasco. BFGoodrich will take all steps to comply with the SAA and to protect "confidential" information of AlliedSignal so that, if AlliedSignal chooses, it will continue to enjoy the full benefits of the SAA postmerger. AlliedSignal's "concerns" about its proprietary information are unreasonable; mechanisms such as "fire walls" and physical separation of individuals and business units are commonplace in the aerospace industry to deal with situations such as this and BFGoodrich and AlliedSignal are both parties to such agreements. Indeed, the arbitration panel has already ruled that such protections are adequate and the merger will not violate the SAA.

Airlines and other end-users insist on dual suppliers for wheels and brakes so they can reduce operating costs by having competition for after-market sales. Consequently, all Airbus commercial aircraft are produced with at least two qualified sources for wheels and brakes. All but one or two Boeing commercial aircraft are produced with two qualified sources for wheels and brakes. Since wheel and brake suppliers earn a large percentage of their revenue in the supply of replacement wheel and brake components over the life of an aircraft, they compete vigorously to be designated by the aircraft manufacturer. The wheel and brake supplier often provides its wheels and brakes for the original equipment aircraft free of charge, and often pays an aircraft manufacturer substantial "certification" fees to compensate the manufacturer for the costs of certifying the wheel and brake system when the aircraft design is approved by regulatory authorities. Given the financial incentives for the airframe manufacturer and the requirements of their airline customers, there is no reason to expect Boeing or Airbus to launch any new aircraft platform that does not have dual sources for wheels and brakes.

Wholly apart from future aircraft platforms, the merger will have no effect on AlliedSignal's ability to supply wheels and brakes to existing programs. As noted above, wheel and brake manufacturers make significant up-front certification payments to aircraft manufacturers, and often "give away" the original equipment wheels and brakes because so much of the revenue in wheels and brakes is in the aftermarket. Large commercial aircraft typically remain in service for 20 years or more. Thus, the aftermarket provides a lengthy and predictable stream of business that enables wheel and brake suppliers to forecast with greater predictability than many other aerospace suppliers the demand for their products. AlliedSignal currently supplies wheels and brakes on approximately 20 commercial aircraft, including the following:

Airbus A300	Boeing 707
Airbus A310	Boeing 717
Airbus A319/A320	Boeing 727
Airbus A330/A340	Boeing 737
Canadair CL-44	Boeing 747
Ilyushin IL-96M	Boeing 767
Tupolev TU 204-200	Boeing 777
BAC 1-11	Boeing DC-8
Dornier 328	Boeing MD-11
	Boeing MD-80

Without even taking the military market or new commercial aircraft types into account, these existing programs provide a predictable base of business that will be unaffected by the BFGoodrich/Coltec merger.

A wheel and brake manufacturer is not precluded from replacement sales if it does not supply the original wheels and brakes to the aircraft manufacturer. A wheel and brake manufacturer can obtain a "second source certification from the FAA. Airlines have supported efforts to develop a second source at the request of individual wheel and brake suppliers. The most recent example of "second source certification" is Boeing's announcement in April 1999 that it had qualified Messier-Bugatti as a second wheel and brake supplier on the Boeing 767-300 aircraft. Both AlliedSignal and BFGoodrich have also qualified wheels and brakes for aftermarket sales on aircraft for which they were not initially qualified by the aircraft manufacturer.

CONCLUSION

Our customers have not objected to this merger. If this merger were likely to have anticompetitive effects, they would have objected. Our relationships with our customers are so important that, had they objected, we probably would not have gone forward with the merger. Indeed, prior to announcing the merger, my CEO, the President of BFG Aerospace and the CEO of Coltec met with the President and COO of Boeing and we were advised that Boeing did not oppose the merger. We have also been told by Lockheed Martin and Bombardier that neither opposed the merger. As far as we know, no aircraft manufacturer has opposed this merger. The only opponents to the merger are our competitors. It is a well-settled principle of antitrust and economics that competitor complaints reflect a fear of more effective competition – and that may explain why Allied Signal has been so zealous in its crusade – it is afraid of competition.

I appear before the Subcommittee confident that this merger is good for competition and good for our customers. Those customers and the federal agencies charged with enforcing competition policy have agreed. I am confident that history will bear out those judgments.

Our goals are the same as those of the Subcommittee. We at BFGoodrich want to grow so that we can satisfy our customers, challenge, reward and retain our employees, and provide financial returns for our stockholders. We can only achieve these goals by providing innovative, quality, least-cost products to our customers consistently and timely. By becoming a stronger competitor, we help the economy and the work force in Ohio and in the other states in which we have operations.

Mr. MCINTOSH. Thank you for your testimony.

On one point before we move on, my recollection of the testimony at that field hearing was not completely as you characterized it. While the immediate impacts were not that great, when you looked out 5 years, I remember Allied saying that it'd be about 500 jobs, because they would not be expecting to be entering into new businesses.

Mr. TUBBS. Chairman McIntosh, we never got to really talk to Carl Montalbine about that statement, but I would like to challenge that statement about how 500 jobs were going to be lost when he is on 13 of 19 commercial programs going forward and he is going to be—you have got airplanes that are going to fly for 40 to 70 years. He might have said that there was no growth in his market, but I do not know how he is going to lose jobs.

Mr. MCINTOSH. Let us turn now to Ms. Loeb and perhaps she will address that in her testimony. Our next witness will be Nancy Loeb, who is the deputy general counsel of AlliedSignal.

Ms. LOEB. Thank you very much, Congressman McIntosh, Congressman Kucinich and Congresswoman Tubbs Jones. It is a privilege to appear before you here in Cleveland, and I would like to thank the subcommittee for inviting me to participate in the public debate of this important issue.

I am Nancy Loeb, I am the deputy general counsel of AlliedSignal, which manufacturers and sells aircraft wheels and brakes on landing systems through its aircraft landing systems business in South Bend, IN. I have submitted written testimony and I would like to take just a few minutes to discuss that testimony. At the outset, I would like to emphasize three points.

No. 1, the BFGoodrich/Coltec merger will have serious anti-competitive consequences, including foreclosing AlliedSignal from landing gear and landing gear data necessary for AlliedSignal to compete.

No. 2, AlliedSignal is not alone in concluding that the BFGoodrich merger is anti-competitive. Aero Line and other wheels and brake manufacturers concur.

No. 3, the anti-competitive effect can be avoided by BFGoodrich selling its Cleveland Pneumatics landing gear business or even a portion of that business to AlliedSignal. This sale would ensure vigorous competition for landing systems. In the event that BFG sells the CPC business or a portion of that business to AlliedSignal, AlliedSignal commits it will keep jobs in Cleveland and it will grow that business. We will, of course, assume the UAW contract of the Cleveland plant.

Let me briefly talk about the industry and this merger. Today, Goodrich, Coltec and the French company Messier, control approximately 99 percent of the large commercial landing gear market. They are also the only three companies in the world with the capabilities to design, manufacture and test landing gear for commercial aircraft. Thus, this BFG/Coltec merger is a merger to a U.S. monopoly or a merger to a worldwide duopoly.

Elaborating on my initial three points—the first point I would like to emphasize is that AlliedSignal will be harmed by this merger. By vertically foreclosing or gaming Allied and raising prices paid by Allied for landing gear, AlliedSignal will be harmed.

To address the question that was just raised, we look at our landing systems business as something other than an annuity. We look at it as a business with employees and an opportunity to grow and to move forward and to continue investing. Exclusion from the opportunities to participate in new landing gear and new aircraft will limit the growth and the long-term viability of that business.

The Windows browser analogy we are all familiar with is on point here. Landing gear is similar to the operating system in a computer and wheels and brakes are like the browser. The browser or the wheel and brake companies like AlliedSignal must, must get technical information from the landing gear manufacturer, the equivalent of the operating system owner, in order to compete. BFGoodrich/Coltec will control the landing gear information necessary for Allied to understand the interface between the wheels and brakes and the landing gear.

Based on Allied's experience, BFGoodrich will have every incentive to game the information provided to Allied. Prices will also go up. BFGoodrich will control the supply of landing gears that Allied needs to compete with BFGoodrich as a landing systems integrator. Allied has purchased landing gear on projects called integrated landing systems. BFGoodrich will have no incentive to sell landing gear to Allied at fair prices.

The second point I would like to emphasize is that it is not just AlliedSignal and Crane who are concerned about this transaction. Numerous parties who know landing systems recognize the anti-competitive effects of this deal. Aero Line who are the customers for wheels and brakes, oppose the merger. SAF, which is part of an eight-member Aero Line/Star alliance, AirTran, Northwest, American, Air New Zealand and others have all stated clearly their concerns about this transaction. Significantly, not one single air line has affirmatively supported this merger as being pro-competitive.

Further, besides Allied, the only other two major independent wheel and brake manufacturers in the world, Dunlop and ABSC, also oppose the merger. ABSC, based in Akron, OH, opposes the merger. I urge the committee to review the sworn affidavit of Mr. Ron Welch, president of ABSC, which was made part of the record at the subcommittee hearing held in South Bend. Again, not a single major independent wheel and brake manufacturer has provided sworn testimony that the BFGoodrich merger is pro-competitive.

The third and final point I want to emphasize is that all of these anti-competitive problems can be avoided. According to published reports, BFGoodrich and Coltec will consolidate their landing gear facilities and will close their Cleveland business.

BFG has said AlliedSignal has not put forward an offer to purchase this business. This is false. AlliedSignal has both privately and publicly offered to buy the Cleveland business or a portion of that business at a fair price. I reaffirm that offer today. BFG has said that no final decision has been made on closing Cleveland. If that is true, I call on BFGoodrich to give AlliedSignal the opportunity to buy the Cleveland business whenever a final decision is made.

In conclusion, BFGoodrich and Coltec have announced a merger that will result in a single U.S. landing gear manufacturer and one of only two worldwide. A Federal court in Indiana has preliminarily enjoined the merger, based on a finding that "the merger would likely result in a U.S. monopoly for the sale of landing gear that would result in higher prices for such gear." The U.S. Court of Appeals for the Seventh Circuit has affirmed the entry of that injunction. The Attorneys General of Indiana, Iowa and Connecticut have joined as amicus curiae, in that case. The Ohio Attorney General is conducting an investigation but has not taken any steps to stop the merger.

In these circumstances, there can be no argument that the BFG/Coltec merger does not harm competition.

Thank you for your time.

[The prepared statement of Ms. Loeb follows:]

WRITTEN TESTIMONY OF NANCY C. LOEB

I am the Deputy General Counsel (Antitrust) for AlliedSignal Inc. My educational and professional background includes a B.A. and M.A. from Johns Hopkins, and a J.D. from New York University. I have worked as an attorney in private practice, and for General Electric. I joined AlliedSignal in 1997, and I have been involved in numerous proceedings at the Federal Trade Commission and at the Department of Justice (Antitrust Division).

I am very familiar with the proposed BFG-Coltec merger. I have been involved in the review of the proposed BFG-Coltec merger from its announcement, to its review at the Federal Trade Commission and Department of Defense, to its litigation in U.S. District Court for the Northern District of Indiana and the United States Court of Appeals for the Seventh Circuit.

Overview

B.F. Goodrich ("Goodrich") and Coltec have announced a merger that will result in a single U.S. landing gear manufacturer (and one of only 2 worldwide). A federal court in Indiana has preliminarily enjoined the merger based on a finding that "the merger would likely result in a U.S. monopoly for the sale of landing gear that would result in higher prices for such gears." The United States Court of Appeals for the Seventh Circuit has affirmed the entry of that injunction. The Attorneys General of Indiana, Iowa and Connecticut have joined, as amicus curiae, AlliedSignal's efforts to enjoin the BFG-Coltec merger. The Ohio Attorney General is also investigating the transaction.

Concerns With the BFG-Coltec Merger

The proposed BFG-Coltec merger raises serious concerns because of the significant market concentration and market power resulting from the merger. The BFG-Coltec merger will result in a U.S. monopoly for landing gear, or a world-wide duopoly. After the merger, there will only be two firms capable of designing, testing and manufacturing landing gear for large commercial aircraft: BFG-Coltec and the French firm, Messier-Dowty. From a structural analysis, this merger is a merger to monopoly (or, at minimum, a merger to duopoly). Indeed, under relevant antitrust analysis using the Federal Trade Commission Guidelines, the market power of BFG-Coltec will be presumptively unlawful.

As discussed below, BFG can be expected to use its market power in anticompetitive ways. Indeed, the presumptively unlawful market power of BFG-Coltec is all the more troubling because BFG-Coltec will have the incentive and the opportunity to deny competitors access to landing gear, design landing gear to disadvantage wheel and brake suppliers that are competitors, refuse to provide information on landing gear design to wheel and brake competitors on a timely basis, and charge ultra-competitive prices for landing gear.

In these circumstances, AlliedSignal will not have the access it needs to landing gear in order to compete vigorously in various markets. In other words, a company such as AlliedSignal that wants to serve as a landing system integrator must also be able to purchase landing gear at fair and reasonable prices. BFG will have the incentive to deny AlliedSignal landing gear at fair and reasonable prices. So, one issue is – from AlliedSignal's perspective – how to ensure long-term access to landing gear that would be controlled by BFG-Coltec.

AlliedSignal's Opposition to the Goodrich-Coltec Merger

As I already indicated, AlliedSignal opposes the merger and there is ongoing litigation with respect to this merger. At the outset, it should be noted that AlliedSignal generally does not oppose mergers. AlliedSignal itself has been – and will continue to be – a company that seeks out merger opportunities to improve its competitiveness in the markets in which it competes. It bears emphasis that AlliedSignal almost never opposes mergers among its suppliers, customers, and competitors. Nor does AlliedSignal oppose the combination of Goodrich's and Coltec's aerospace businesses unrelated to landing gear systems, even though AlliedSignal competes with Goodrich and Coltec in these other aerospace lines of business. If AlliedSignal's opposition simply represented the complaints of a "whining competitor" – as Goodrich and Coltec have suggested – then AlliedSignal would have challenged many aspects of the merger – which it has not.

Landing Gear Design Process

The BFG-Coltec merger will give BFG the opportunity to exploit its dominance over the landing gear marketplace to favor its own wheels and brakes operation. In particular, BFG can exploit its exclusive control over the landing gear design process. The landing gear usually is the first component designed. Once the landing gear is designed, the brake control system and then the wheels and brakes are designed to fit the specifications and interfaces created by the landing gear design. In order to work properly, an aircraft's wheels and brakes must have a proper interface with the landing gear.

Obtaining timely information about the proposed landing gear design and its interface with wheels and brakes is crucial to being a cost-effective producer of wheels and brakes. Early knowledge of technical factors such as the load sizes of a landing gear, the torque take out, and other general information about the materials, weight, and type of wheels and brakes desired can avoid the unnecessary costs that might result from developing wheels and brakes based on incomplete information or from having to rush to complete the design work because the information was not received in a timely fashion. Moreover, the landing gear can be designed in a way to disadvantage competitors and favor affiliated wheels and brakes suppliers.

The BFG-Coltec Merger Will Greatly Diminish Wheels and Brakes Competition

AlliedSignal's opposition to the merger also has focused on the particular anticompetitive effects of the combination of Goodrich's and Coltec's landing gear businesses on the wheels and brakes market. BFG will be able to game the design of landing gear so as to make it difficult for AlliedSignal to place its wheels and brakes on aircraft. It can do so by tweaking the design of landing gear so as to raise its rival's – AlliedSignal's – costs and favor its own wheels and brakes. BFG also will have the capability to prohibit AlliedSignal from having fair and reasonable access to landing gear design data, which is necessary for efficient wheel and brake design and landing systems integration. BFG also can leverage its landing gear monopoly to obtain sole source positions as wheels and brakes suppliers in future aircraft programs. The net effect will be higher wheels and brakes costs, lower quality wheels and brakes, and delayed certification of AlliedSignal's wheels and brakes. This harms not only AlliedSignal, but also means higher prices and less choices for airlines.

Sale of BFG's Landing Gear Business to AlliedSignal Would Solve The Problem

As I noted at the outset, the critical question for AlliedSignal is how to ensure access to landing gear. There is an easy resolution to the competitive problems posed by the merger. AlliedSignal has offered to buy Goodrich's landing gear business (the former Cleveland Pneumatic Company). If AlliedSignal acquires Goodrich's landing gear business, it will invest in the company and aggressively compete for new business in the landing gear market. Such an acquisition would preserve competition in the marketplace and preserve any job losses that might occur due to any consolidation of Coltec's and Goodrich's operations. I therefore believe the sale of Goodrich's landing gear operations to AlliedSignal is a reasonable pro-competitive resolution of this dispute that would still allow the rest of the Goodrich-Coltec merger to go forward. This sale of CPC (or a portion of CPC) may not, of course, be the only solution to the problems posed by the BFG-Coltec merger, but it is an easy solution. (Indeed, it should be noted that AlliedSignal also offered to purchase Menasco's landing gear operations.)

Conclusion

I believe the Goodrich-Coltec merger is anticompetitive. A federal judge in the Northern District of Indiana has already decided that such a conclusion can be reached. The United States Court of Appeals for the Seventh Circuit affirmed that decision. The Attorneys General of Indiana, Iowa and Connecticut have opposed the merger. Other wheels and brake suppliers, including ABS located in Akron, Ohio, and airlines agree that the merger is anticompetitive. By contrast, while some companies have apparently decided not to get involved and therefore have chosen not to oppose the merger, I am not aware of any supplier, customer, or competitor of Goodrich and Coltec that has actually stated that the BFG-Coltec merger is "pro-competitive."

In short, the BFG-Coltec merger results in significant market power. That market power can be used – in unfair and unlawful ways – to control information and control the design, manufacture and sale of landing gear, which would have anticompetitive effects in the sale of landing systems, landing gear and wheels and brakes. One way to avoid these anticompetitive consequences is for BFG to sell CPC (or a portion of CPC) to AlliedSignal. This will ensure AlliedSignal access to landing gear – which is the key component of any resolution of the anticompetitive concerns raised by the BFG-Coltec merger.

Thank you again for giving me the time today to present testimony on this important subject.

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Mr. MCINTOSH. Thank you, Ms. Loeb, I appreciate that. And in the question and answer, we will get into more details on some of the points you have raised.

Let me now turn to our third witness. Again, welcome back to the subcommittee, Mr. Tubbs, and summarize your testimony, particularly emphasizing any new information from last time.

Mr. TUBBS. Thank you, Mr. Chairman. Mr. Kucinich and Ms. Tubbs Jones, I want to emphasize that Tubbs in Tubbs Jones, I do not get to meet somebody that shares my name very often.

Ms. TUBBS JONES. Any relation here?

Mr. TUBBS. I think so. We will talk about that.

Thank you for giving me the opportunity to appear again before the subcommittee, and today, I want to focus on the issue of competition and I want to talk about real world facts.

I want to reiterate that the BFGoodrich/Coltec merger has been thoroughly investigated by the Federal Trade Commission and by the Department of Defense. Each of the major purchasers of landing gear in the United States, our customers, after thorough discussions, did not object to this merger. Nobody dropped the ball.

On Friday, an editorial appeared in the South Bend Tribune authored by Kevin Arquit, former FTC general counsel and head of its Bureau of Competition. And I would like that editorial to be entered in the record of this hearing, if possible.

Mr. MCINTOSH. Yes, if you could get us a copy, that would be great.

Mr. TUBBS. I will be glad to, Mr. Chairman.

Mr. MCINTOSH. We will put that into the record.

[The information referred to follows:]

MICHIANA POINT OF VIEW/ KEVIN ARQUIT

Expert defends FTC merger decision

While a great deal of attention has been paid in South Bend to the pending BFGoodrich-Coltec Industries merger, there is still confusion about the role of the federal government review process.

These facts are clear: Both the Federal Trade Commission and the Department of Defense extensively reviewed the merger and ultimately signed off on it, even though AlliedSignal was involved in every step of the review process and raised all the issues that have been aired in South Bend.

The case is interesting because it provides clear illustration of how these issues should be handled by the FTC.

In taking its arguments to the FTC, Allied Signal has said the merger should be prohibited because it would lead to reduced competition by combining the two largest U.S. makers of landing gear for commercial and military aircraft.

Although market shares are an important consideration in any merger analysis by the antitrust agencies, they are by no means the only determinant of consumer impact.

Other key factors the FTC takes into consideration in reviewing mergers include: the existence and viability of foreign competitors; the need for large production scale to compete efficiently on a global basis; the ability of large buyers (in this case the Defense Department and commercial airline manufacturers) to use their market muscle to counter any threats to competition; and the likelihood that the combined entity will lead to lower cost or product innovations. Many of these factors are present here, and no doubt were instrumental in the decision by the FTC to clear the merger.

Although the FTC is always interested in what competitors, suppliers and (most importantly) customers have to say about a proposed merger, in the end the agencies view this public input with an eye towards each party's financial or political self-interest in coming forward, and then make a decision based on the competitive effect that the transaction will have on the marketplace. After all, it is the purpose of the antitrust laws to protect competition as a whole and not individual competitors.

The idea that the FTC missed the boat in approving this merger, as alleged by its critics, is hard to imagine, given its aggressively activist stance of late. Last year alone the FTC challenged close to three dozen transactions that it concluded would lessen competition. The enforcement activity affected numerous key industries, including pharmaceuticals, petroleum, computers and, yes, the defense and aerospace industries. Here, the government pursued a full scale inquiry over a five-month period reviewing company documents, and even requesting additional information from the merging parties, a step the antitrust agencies took in less than 3 percent of merger filings in 1998.

With so many merger proposals in the pipeline now, government enforcement decisions have the potential to significantly impact every U.S. consumer as well as the future of many companies, big and small. More than ever, it is imperative that the government stick by the same set of standards it used when ruling on the BF Goodrich merger and on countless transactions in the past, placing the interests of consumers and competition over the financial interests of competing firms.

Kevin Arquit is partner at the law firm of Roger & Wells in New York, specializing in anti-trust issues, and describes himself as a concerned neutral observer who is not affiliated with Coltec or BF Goodrich. He previously served in the posts of general counsel and director of the Bureau of Competition at the Federal Trade Commission in Washington, D.C. He resides in Harrison, N.Y.

Mr. TUBBS. Mr. Arquit described the current state of antitrust law and how the review process works. He paints a very different picture than Professor Bauer, and of course Mr. Arquit is not being paid by Coltec or Goodrich to give his opinions.

If we follow Mr. Arquit's guidance, we focus on our customers and try to understand why fancy talk about the Herfindahl-Hirschman Index and the sum of the squares of the market shares means little in the real world. The Index is, after all, a guideline that Mr. Arquit points out needs to be interpreted. And with all due respect to Allied's paid advocate, and attorney of record, Professor Bauer, let me point out that current case law, starting with General Dynamics and Baker-Hughes, requires regulatory agencies to look at the market realities and move past mechanical formulas.

If the Herfindahls are high for a given merger, the FTC's focus shifts to whether or not the merged companies can actually exercise the market power that this high index might suggest. This index is simply the starting point, not the end point that the Professor has suggested.

So what is the next normal step for the FTC's review? Well, not surprisingly, the FTC goes to major customers and asks them if they are concerned about the merger and the ability of the new company to raise prices, limit product development, control investment or prevent other companies from entering the particular business. The reason is that if the customers do not have a problem, then the likelihood of the merged company being able to exercise market power as a monopolist is small indeed.

In our case, when the FTC asked our major customers—Boeing, Lockheed and the Department of Defense—about their reaction to the Goodrich/Coltec merger, each of these large, sophisticated organizations responded that they were not concerned about market power because they understand all too well how the market for landing gear really works. In fact, they saw a number of advantages, including the potential for lower cost products and improved technology.

Let me tell you, these advantages matter greatly for a company like Boeing who is battling a very strong government-subsidized competitor like Airbus. In fact, this year, Airbus has sold three planes for every one Boeing plane sold. And I might add, since BFGoodrich and Coltec do not supply landing gear to Airbus, every plane Airbus sells to airlines like U.S. Airways is one less landing gear that we can supply. That is fewer jobs here in the United States. We need Boeing to be successful. We need to price our products to help them sell airplanes. The idea that there is a simple pass-through of costs ignores simple market reality.

The FTC did not miss the concept that in today's aerospace market, we sell to power buyers. Classic economics tell you that power buyers discipline the market. The Boeing company, Lockheed and Bombardier all have staffs of qualified landing gear engineers. Their landing gear engineers work with our landing gear engineers to design landing gear structures that fit their airplanes. At the end of the day, Boeing may choose us to make the landing gear structure, but they own the design, just like the Department of Defense does on military aircraft. Boeing and the DOD can take the design to another landing gear company and have the landing gear made for them. Even AlliedSignal admits that in addition to the major French landing gear company, Messier-Dowty, there are a number of very capable companies that they called build-to-print landing gear companies, both here and abroad. Every manufacturing process used in creating a landing gear has been reviewed and certified by Boeing and by Lockheed.

Airplane manufacturers know how to make landing gear as well as we do and they can tell anybody how to do it. And they pretty much determine what they want to pay—they call it target pricing. The idea that a BFGoodrich/Coltec landing gear company will hold Boeing captive is nonsensical.

Crane and Allied's hired experts have argued that Messier-Dowty is not a competitor within the United States. Believe me, Messier-Dowty is here today competing to be supplier to Boeing and to the U.S. military. The next generation military aircraft, the Joint Strike Fighter, is currently being designed. Two teams are going after the Joint Strike Fighter. One team is led by Lockheed Martin, the other by Boeing. Coltec is on the Lockheed Martin team. Boeing chose Messier-Dowty to be on its team. Messier-Dowty has opened up a facility in Seattle so as to get closer to its customer. It intends to supply landing gear from its North American facility located in Canada. Messier has shown its willingness to invest in its businesses, not just its landing gear business, but also its wheel and brake business. Messier's willingness to invest in order to compete needs to be contrasted with Allied's unwillingness to invest.

Previously we learned that Messier aced AlliedSignal out of its sole source position on the Boeing 767. Allied testified that Messier did so by investing over $25 million in order to become certified on the program. AlliedSignal exited the landing gear market in 1995 because they did not want to invest in the landing gear market.

Allied testified that it was not getting a large share of the Airbus market for wheels and brakes, probably because AlliedSignal is not competitive either on price or on quality. Allied did not tell us why they were not named as a supplier on the Bombardier regional jet 700.

Why is a monopolist like the Crane Co. and a company that is afraid to compete like AlliedSignal opposed to this merger and opposed to the business and job growth that will result from having a financially strong entity which can draw on the best practices of two fine industrial companies? Well, the answer is obvious. First, they do not like competition. Second, Crane wanted to buy Coltec and Allied twice tried to buy Coltec's aerospace business. As late as 1997, Allied made plans to buy BFGoodrich. Neither company was willing to step up and pay what our businesses are worth, so they decided to abuse the legal process and the political process to interfere with this merger. They are like school yard bullies. If they cannot have something, they do not want anybody else to have it either.

Do not let AlliedSignal and Crane, through their paid distinguished advocates, wrap themselves in a flag proclaiming to protect consumers. Let us not kid ourselves. There will be no increase in ticket prices as a result of this merger—the deregulated air travel market will not allow it. There will be no loss of safety for those that fly as a result of this merger—the FAA will not allow that, nor will Boeing.

Let me close by referring to a June 2 letter to President Clinton, signed by 240 leading independent economists in the United States, including economists from Ohio University, Case-Western, Indiana University and Ohio State. Let me point out that neither Coltec nor Goodrich paid to have these economists write the letter or state their position.

The letter refers to the increasing practice of companies turning to the government for protection, claiming antitrust concerns rather than competing on the basis of product quality and price. In pursuit of antitrust protectionism, these companies attempt to short-circuit the workings of the market. They are attempting to replace the decisions of the marketplace with the decisions of bureaucrats and politicians. Successful innovators are penalized, scale economies are lost and competition is thwarted, not enhanced. Instead of preventing prices from rising, antitrust protectionism keeps prices from falling.

Now is not the time, nor is the BFGoodrich/Coltec merger the deal, to institute further antitrust protectionism. This committee needs to tell AlliedSignal and Crane Co. to go compete and this committee needs to let BFGoodrich and Coltec move ahead together to compete in the marketplace, to grow their businesses and, in doing so, to grow jobs.

Thank you.

[The prepared statement of Mr. Tubbs follows:]

TESTIMONY OF ROBERT J. TUBBS,
EXECUTIVE VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY OF COLTEC INDUSTRIES INC.
TO THE SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES AND REGULATORY AFFAIRS
July 7, 1999

Good morning Congressmen. Thank you for the opportunity to be here today to talk to you about the Coltec Industries/BF Goodrich merger. Much has been said in the press, before this Subcomittee, a similar Senate Committee hearing and in the courts regarding this merger. Much of what has been said in opposition to this merger has been half-truths and out and out misstatements. It's easy to say that we'll let the courts decide who's telling the truth, but when we are being tried in the forum of public opinion as we are today, it's time to step up and put facts on the table. Today, I want to focus on the issue of competition and do I want to talk about real world facts.

I want to reiterate that the BFGoodrich/Coltec merger has been thoroughly investigated by the Federal Trade Commission and by the Department of Defense. Each of the major purchasers of landing gear in the United States – our customers – after thorough discussions – did not object to this merger. Nobody dropped the ball.

The antitrust review process was appropriate because it looked at our merger in light of current law. As far back as the *General Dynamics* case and followed through in *Baker-Hughes* and *Syufy,* the courts have taught that the Herfendahl-Hirschman Index just provides a starting point. A thorough merger analysis looks at market structure as a whole, the power of customers and pricing realities. The DoD and the FTC did look at those factors, they didn't depend on mechanical tests because the law requires them to look beyond the sum of the squares of market shares and to look at the real world market. Let me highlight some of these market realities.

In order for an airplane to land there are four basic devices which come into play. The landing gear structure itself is a hydraulic cylinder not unlike the shock absorber on your car. It can be as small as 2 feet or as tall as 15 feet in size. At the bottom of the hydraulic cylinder the wheels and brakes are installed. They take the initial impact of the plane as it touches down on the runway and then helps slow it down. The third major component which helps the plane to land and be controlled is the brake control system. The brake control system makes sure that pressure is applied evenly to all the brakes on the plane to keep it straight on the runway after landing. The final component in the system is the proximity sensor which provides indications to the pilot that the landing gear and brake systems are properly configured and provides an indication when the aircraft is firmly on the runway. Coltec makes the hydraulic cylinders, the landing gear structures. We do not make wheels and brakes, brake control systems or proximity sensors. BFGoodrich makes wheels and brakes and landing gear structures. They have never sold a major brake control system. The Crane Company, a company that many of you know of because of the pending litigation in South Bend, is a near-monopolist in the field of brake control systems and proximity sensors. I understand that they have over 75% market share for each of these products. Lastly, we have Allied Signal. Allied Signal makes wheels and brakes. They used to make landing gear, but they sold that business and we'll talk about that.

When an airplane is being designed, the landing gear structure is designed by the airframe manufacturer – that's Boeing, Lockheed and Bombardier for example – working in conjunction with a company like Coltec. It is an integral part of the airplane and its design is governed by the design of the airplane. All you have to do is look at the difference between the main landing gear on a Boeing 747 and the main landing gear on a Boeing 777 to understand how important it is to the airplane's design. The four engines hanging below the wings on a 747 are much smaller in diameter than the two massive engines that power a 777. The height of a 777 landing gear consequently is much taller than that on a 747 because it needs to provide more clearance so the engines won't scrape along the runway. Brake control systems and proximity sensors are also designed by their manufacturers working in close cooperation with the Boeings, Lockheeds and other air frame manufacturers. If an airframe manufacturer is satisfied with a landing gear structure, a brake control system or a proximity sensor, they make the decision to buy them and to have them installed on their airplanes.

Wheels and brakes are a much different story. Wheels and brakes are like razor blades. They wear out after a limited amount of time. They wear down every time a plane lands. Once an airplane has left Boeing's factory in the state of Washington, the wheels and brakes are the responsibility of the airline who flies the airplane. They are a major cost element in the operation of an airplane. When an airline orders a 737, a 767, a 777, they tell Boeing whose wheels and brakes they want on the airplane. Boeing delivers the airplane to the airline as specified.

Let's ask a common sense question here. Would any airline give up its right to make sure that it had the best wheels and brakes both in terms of performance and in terms of price? The answer is simply no. Look what just happened recently with the Boeing 767. Allied Signal was the sole source wheel and brake supplier on the 767. A group of airlines got together and said Allied is simply not competitive. We want somebody else. As a result of their request, Allied certified the French company Messier Bugatti to supply wheels and brakes on the 767 in addition to Allied Signal. The business was lost because Allied didn't have a competitive wheel and brake system to satisfy the airlines on a 767 and Messier was willing to invest $25 Million to have the opportunity to compete. That had nothing to do with the Coltec/BFG merger.

When I look at the industry as it is today I see some interesting facts. Allied Signal is specified as a wheel and brake supplier on 9 of 13 Boeing commercial platforms. They are certified on 4 of the 7 Airbus platforms, including all of Airbus' wide-body aircraft. Allied Signal is specified on 6 of 11 military platforms. When I say a platform I mean an airplane design like a 777 or a 747 or an F18. The design life of a platform can be up to 70 years. In fact, Allied Signal has testified that the B52 may have a design life of over 100 years. So long as you are specified on a platform you have the opportunity to compete, and let me underline the word compete, because that's what American industry does, for the wheels and brakes on each airplane produced to the platform design. When an airplane is made, it generally flies for at least 40 years, and every time an airplane lands it wears down its wheels and brakes and Allied Signal has the chance to compete to replace the wheels and brakes on that particular airplane. Congressmen, I would call that an annuity. So long as planes fly and so long as Allied can competitively produce and sell wheels and brakes it will have the opportunity to vigorously compete in the market. Nobody has explained why this is not true.

Of course Allied will tell you, we're afraid of the future, we could be locked out of future platforms. Let's talk about that concept for a moment. No credible engineer has ever testified that safety of an airplane, control of an airplane, flight characteristics of an airplane or any other technical benefit will result from designing wheels and brakes at the same time as the hydraulic landing gear structure. The idea of a technically superior "integrated system" is a fiction.

An airframe manufacturer might ask a landing gear company like Coltec or a wheel and brake company like Allied to provide a "packaged system". But be assured that they tell the packager what they want in the package, and as we said before, the package is determined partially by the airplane maker and partially by the airline that flies it. For example, Allied has testified that every Airbus airplane that flies has an integrated landing gear system. The true fact is at least three and generally four wheel and brake manufacturers supply wheels and brakes to match up with landing gear structures on Airbus airplanes. The landing gear is made by Messier-Dowty a powerful, worldwide landing gear company located in France who also owns a wheel and brake company. Messier can't get an exclusive package for their landing gear and wheels and brakes. The airlines won't let them. The Boeing Company buys what is called a "dressed gear". Boeing provides to a company like Coltec, wheels and brakes to install on the landing gear. We also dress it with all its hydraulic and electrical connections and, in the case of a 777, roll it out of our Everett, Washington facility across Boeing's runway and right into their 777 manufacturing complex. Sometimes we dress the gear with Allied Signal wheels and brakes, sometimes with BFGoodrich wheels and brakes, sometimes with Dunlop and sometimes with ABS. We don't choose wheels and brakes; the airlines do. And this will continue.

Remember, we talked about an airline being concerned about the cost of a wheel and brake on a per landing basis. This will never change. Additionally, the air frame manufacturers, Boeing, Bombardier and others, receive payments from every wheel and brake manufacturer who wants to be certified on a given platform. These payments can range between $5 and $10 million per platform. The payments are called certification fees. It more than defrays the cost of Boeing in obtaining certification for a wheel and brake design. In fact, it helps defray the air frame manufacturer's cost in designing the airplane. The wheel and brake manufacturers provide the first set of wheels and brakes to an airplane for free. They don't cost Boeing a dime. It's just like buying a razor and having two free blades in the package. It's time for a common sense question. Why would Boeing want to give up receiving these economic incentives by allowing a landing gear manufacturer to specify wheels and brakes? It doesn't make sense.

Let me point out, however, that recently Coltec teamed with Allied Signal to bid to Bombardier for the CRJ 700. Bombardier didn't like Allied Signal and told Coltec that they wanted ABS to be the brake and wheel supplier. Competition doesn't come easy and there was a loss of business because Allied Signal didn't have a competitive wheel and brake package for the CRJ 700. That had nothing to do with the BFG/Coltec merger.

Let me tell you a little more about our position as a landing gear supplier in this industry which might illustrate why the customer is all important. When we work with Boeing to design a landing gear structure, at the end of the day, we do not own the design. Boeing owns the design. Every landing gear made by Coltec must be sold to Boeing. The only way we sell landing gear is if Boeing sells airplanes. BFGoodrich is in the same situation. We don't supply to Airbus and BFGoodrich doesn't supply landing gear to Airbus. We need Boeing to be successful in order to sell landing gear. We want to sell landing gear and so does BFGoodrich. The idea that we would raise prices to make our partner, Boeing, uncompetitive against Airbus is ludicrous.

You might say that we have a hollow concern, Boeing is doing just fine. Less than a month ago the New York Times reported, however, that Airbus is close to achieving its goal of 50% market share on all new jet orders. In fact, this year Airbus has sold 153 jets to Boeing's 52. Unfortunately, neither Coltec nor BFGoodrich has landing gear on any of those 153 Airbus jets. If Boeing sells airplanes, on the other hand, more jobs will be gained in Indiana, Texas, Washington, Tennessee and probably even right here in Ohio.

Let me tell you a story about Coltec. Coltec, through its Menasco Landing Gear Division, has been making landing gear since World War II. It was always known as a good, "small gear" manufacturer. We could make nose gear but BFGoodrich's Cleveland Pneumatic made the big gear. We saw military programs going away and we wanted a chance to play in the growing commercial market. In the late 80's Boeing announced a dramatic new wide-body airplane – the 777. We went after the landing gear on the 777. We worked with Boeing's landing gear engineers on the 777 design, despite the fact that we had never done a landing gear of that size or of that complexity. We bid the gear to Boeing in competition with BFGoodrich and others and we won. Then we had to figure out how to make it and where to make it. We built additions to our facilities, we invested over $40 million in capital equipment, and by the time the first 777 rolled off the assembly line, in 1994 it had Coltec's Menasco landing gear supporting it. How did we do it? We took a risk; we had ingenuity; we were willing to compete.

During the same time frame, Allied Signal decided it wouldn't grow its landing gear business to compete for commercial programs. It decided to exit the landing gear business. In 1993, it went out and shopped its military landing gear business to the English company, Dowty. Allied Signal didn't have the faith in the South Bend operatitions to take the same risk that Coltec did. In 1995 Coltec bought Allied's military landing gear business. Allied Signal didn't require that we take its workforce. All they sold us was their existing contracts and some equipment in bad need of repair. We have upgraded that equipment in our Texas facility and we make a very fine landing gear. There is a theme from this story Congressmen – success comes to those who compete.

I've talked about the commercial side of the landing gear business, but I don't want to ignore the military side. There are many landing gear suppliers capable of delivering high-quality gear to the military. For example, Heroux, a Canadian company, produces nose and main gear for the C130 and the C141. SHL of our ally Israel, is on the F18 C and D, the F16 lightweight and the T45 program. Castle Precision located in Cleveland, Ohio, has the capability to provide military-type landing gear as it has proven by supplying the nose gear on the MD80 and MD90. Sumitomo of Japan, APPH of Great Britain and Liebherr of Germany all have landing gear capability. Allied has testified that there are a number of "build to print" landing gear companies, here and abroad.

Crane and Allied's hired experts have argued that Messier-Dowty is not a competitor within the United States. Believe me, Messier-Dowty is here today competing to be a supplier to Boeing and to the U.S. Military. The next generation military aircraft, the Joint Strike Fighter, is currently being designed. Two teams are going after the Joint Strike Fighter. One team is led by Lockheed Martin, the other by Boeing. Coltec is on the Lockheed Martin team. Boeing chose Messier-Dowty to be on its team. Messier-Dowty has opened up a facility in Seattle so as to get closer to its customer. It intends to supply landing gear from its North American facility located in Canada.

Generally, the military owns the drawings to the landing gear. The landing gear is developed for the military just as commercial landing gear is developed – in cooperation between the landing gear supplier and the airplane maker. In other words, we work with Lockheed hand-in-glove to develop landing gear for military airplanes. At the end of the day, Lockheed takes the drawings and provides them to the military. When we assemble the landing gear structure prior to delivering it to the military, we buy components from many different suppliers. 65% of the content of our landing gear comes from outside suppliers. 90% of Goodrich's content comes from outside suppliers, each having the capability to supply to the very exacting military specifications. The military well recognizes that they have a large supplier base for landing gear. For instance, last year approximately 1400 procurements of spare parts for landing gear were made by the military. Coltec was awarded less than a third. The supplier base got the rest. There is robust competition in the military market.

Let me close by suggesting a new line of inquiry for this committee as part of their charter on national economic growth. Perhaps the best question to ask is why are Allied Signal and the Crane Company opposed to these mergers and opposed to the growth that will result from having a financially stronger entity which can draw on the best practices of two fine industrial companies? I think the answers are obvious. First, they are afraid to compete. Second, both Crane and Allied Signal wanted to buy Coltec. Crane Company started back in 1995 and couldn't get their act together. In fact they sued us earlier this year trying to get another bite at the apple but were thrown out from the bench both by the US District Court and the US Court of Appeals for the 2nd Circuit. Allied Signal tried twice in 1997 to purchase Coltec. Those efforts failed. Of course Allied also attempted to buy BFGoodrich in late 1997 and early 1998. That would have been an interesting combination. I wonder whether Allied Signal would be so supportive of the BFGoodrich's Troy, Ohio plant when they went to combine the wheel and brake business with their own South Bend plant. We know that Allied Signal is not afraid to slash jobs. They've announced cutbacks of at least 4,500 employees as a result of the Honeywell merger. Just ask the union members of Local 1010 of the UAW in Bridgeport, Connecticut about how forthcoming Allied was when they shut the Lycoming Engine Facility in 1994 shortly after acquiring it from Textron and promising to bring commercial work in to help preserve 1,200 jobs.

One wonders whether the behavior of Allied Signal and Crane in opposing a merger are really the actions that we have all seen in petulant children. If they can't have something, they don't want anybody else to have it either. Nowhere has Allied or Crane warned their shareholders, including their employee shareholders, that earnings of either company would be affected if this merger goes through. Since there is a legal obligation to disclose to shareholders when there will be a material adverse change in the company's fortunes, one can only guess that neither Allied nor Crane sees any real harm.

Don't let AlliedSignal and Crane, through their paid distinguished advocates, wrap themselves in a flag proclaiming to protect consumers. Let's not kid ourselves. There will be no increase in ticket prices as a result of this merger. The deregulated air travel market won't allow it. There will be no loss of safety for those that fly as a result of this merger. The FAA won't allow that.

Let me close by reading from a June 2nd letter to President Clinton signed by 240 leading independent economists in the United States, including economists from Ohio University, Case Western, Indiana University and Ohio State. Let me point out that neither Coltec nor Goodrich paid to have these economists write the letter or state their position.

> "Dear President Clinton:
>
> ...The current state of heightened antitrust activism seems to suggest that anti-competitive business practices abound. Headline grabbing cases against Microsoft, Intel, Cisco Systems, Visa and Mastercard, along with the flurry of merger investigations now underway, would appear to demonstrate the need for a vigorously enforced antitrust policy that will create checks and balances to eliminate consumer harm.
>
> However, consumers did not ask for these antitrust actions – rival business firms did. Consumers of high technology have enjoyed falling prices, expanding outputs and a breathtaking array of new products and innovations. High technology markets are among the most dynamic and competitive in the world, and it is a tribute to open markets and entrepreneurial genius that American firms lead in so many of these industries. But, these same developments place heavy pressures on rival businesses, which must keep pace or lost their

> competitive races. Rivals can legitimately respond by improving their own products or by lowering prices. Increasingly, however, some firms have sought to handicap their rivals' races by turning to government for protection.
>
> Where antitrust authorities respond to these protectionist demands, the workings of markets are short-circuited. Antitrust protectionism means that market decisions about how to compete for consumers' favor are displaced by bureaucratic and political decisions. More of the energies of firms are directed to politics, less to production and innovation. Successful innovators are penalized, scale economies are lost, and competition is thwarted, not enhanced. Instead of preventing prices from rising, antitrust protectionism keeps prices from falling.
>
> Many of these cases are based on speculation about some vaguely specified consumer harm in some unspecified future, and many of the proposed interventions will weaken successful U.S. firms and impede their competitiveness abroad...."

Now is not the time, nor is the BFG/Coltec merger the deal to institute further antitrust protectionism. This committee needs to tell AlliedSignal and Crane Company to go compete and this committee needs to let BFGoodrich and Coltec move ahead together to compete in the marketplace, to grow their businesses, and in doing so, to grow jobs.

Thank you very much.

Mr. McINTOSH. Thank you, Mr. Tubbs.

Our final witness on this panel will be Professor Bauer from the Notre Dame Law School. Professor Bauer, if I could ask you to summarize your testimony and particularly emphasize additional points from the last hearing.

Mr. BAUER. Congressman McIntosh, Congressman Kucinich, Congresswoman Tubbs Jones, thank you for inviting me to testify before the subcommittee. It is a pleasure to be in Cleveland for the second phase of these hearings.

I will accept Congressman McIntosh's invitation to offer a brief summary of my statement and then hopefully reserve time for questions at the end of that.

Although the merger under scrutiny involves the aircraft landing system industry, to use an old cliche, you do not have to be a rocket scientist to conclude that this merger raises numerous red flags regarding its adverse impact on competition.

As has been said multiple times already this morning, presently in the market for the design and manufacture of landing gear for large commercial aircraft and for many military aircraft, there are only three companies in the entire world and only two companies in the United States. Looking at the market share for commercial wide-bodied aircraft landing gears, Coltec has approximately 30 percent of the market, BFGoodrich, approximately 34 percent of the market and Messier, which is owned by the French Government, also approximately 34 percent of the market—a total of upwards of 98 percent of the market accounted for by three firms.

If this merger is consummated, after the merger, there will only be two firms left in the world and only one firm left in the United States. In short, this will be a merger resulting in a domestic monopoly in the design and manufacture of commercial wide-bodied landing gears.

The Chair noted earlier this morning some of the remarks I made at our hearings in South Bend about the advantages that flow to industry and to the market from competition. Innovation, more and better products, lower prices, and indirectly, more jobs. What about the loss of competition? The firms which were formerly competitors no longer have to compete vigorously against each other to innovate. They are not quite as driven to produce more and better products. And they do not have the stimulus to reduce their prices.

So the effect of the elimination of competition in this industry will be felt by aircraft manufacturers; the U.S. military; by airlines which are consumers of replacement parts including replacement wheels and brakes; by consumers, including you and me who fly in those airplanes; and by you and me again as taxpayers, who may have to pay more when the U.S. military pays more for both original equipment and replacement parts.

There is a second effect that may flow from this merger. Today, BFGoodrich is an integrated company, making not only landing gears but also making aircraft wheels and brakes. And in that capacity, BFGoodrich is a competitor of AlliedSignal. There has been, over the last several years, a trend in this industry toward designing and manufacturing and selling integrated landing systems, including in those integrated landing systems, landing gears and wheels and brakes.

AlliedSignal presently has a strategic alliance agreement with one of the parties to the merger, Coltec, which provides for the sharing of information and which gives AlliedSignal a partner in the design and sale of integrated landing systems. But after the merger, when BFGoodrich and Coltec become a single entity, that merged entity will have both the opportunity and the incentive to favor BFGoodrich wheels and brakes relative to AlliedSignal's wheels and brakes.

There are a number of possibilities that will flow as a result of that merger. BFGoodrich may not release information to its competitors in the same way it does today. The design of wheels and brakes so that the interface operates properly may become more difficult. BFGoodrich will clearly be in a position to sell landing gears to AlliedSignal and others at elevated prices, or it will have the choice not to sell to AlliedSignal at all. The effect then of the merger, the vertical component of the merger, is harm to competitors, harm to competition and higher prices to consumers.

Let me talk about the law regarding acquisitions and mergers. The statute, as you all know, is section 7 of the Clayton Act. The Clayton Act was amended in 1950. Since 1950, there have been a number of decisions from the Supreme Court of the United States describing how one should evaluate both horizontal and vertical mergers. But the principal determinants are to look at the market shares of the merging companies, both before and after the merger, to look at the concentration of firms in the industry, to look at the changes in concentration as a result of the merger, and then to consider potential defenses, including efficiency.

This merger will result in a merged firm having 64 percent of the domestic market, only two companies in the world and only a single company in the United States.

Mr. Chairman, I would like to address, because you referred to it again this morning, the merger guidelines drafted by the Department of Justice and the Federal Trade Commission. Those guidelines are intended to give guidance to business and to industry as to those mergers which the enforcement agencies will and will not challenge. So that industry knows as to certain measures there is a safe harbor, but as to other potential mergers, these are problematic and there is a substantial probability that the enforcement agencies may challenge them.

Those guidelines set forth three categories and use an index drawn up or devised by two economists known as the Herfindahl-Hirschman Index [HHI]. The HHI can range at its very lowest from a number of one up to its very highest if there was a single firm with 100 percent of the market, 10,000. The three categories are below 1,000, 1,000 to 1,800 and the third category where the HHI is over 1,800. In that third category where the HHI is over 1,800 and where the merger would result in a change of the HHI of more than 100, the guidelines say these mergers are quite likely to cause competitive effects and therefore suggests that the agencies are likely to challenge those mergers.

Let us look at the numbers here. Before the merger, in the market for commercial wide-bodied aircraft, the HHI is already 3,230.

After the merger, it will rise to 5,272, for a change of over 2,000 points. So you can tell, HHI over 1,800, here post-merger 5,270, and a change of 2,000 percent over the threshold in the guidelines.

But Mr. Tubbs says, and correctly so, we do not only look at the numbers. There are other factors to look at. And among the factors in the guidelines are that one of the firms may be a failing company. I do not believe either Coltec or BFGoodrich are failing companies.

A second possible defense is that there may be low barriers to entry. Well, Mr. Linnert has told us, well maybe for $200 million you can build a plant, but the barriers to entry here are enormous. There are technological barriers, there are engineering barriers, there are capital barriers, there are time lag barriers, there are certification barriers. You just do not go in and startup a landing gear business overnight.

And then the third thing that the guidelines identify are efficiencies. I am not sure what the efficiencies are, I hear that there is going to be a stronger company, but it sounds to me like the greatest efficiency that is going to flow from this is we can close one of these plants and that will allow us to work more efficiently—two plants rather than three.

So no great surprise, my conclusion, my personal conclusion, this is a merger that the Federal Trade Commission should have challenged. And if I can add three points, and I will do it quickly in view of limitations on my time.

No. 1. Simply to remind the committee and everybody else that the decision by the Federal Trade Commission under the Hart-Scott-Rodino procedure, not to challenge this merger, is not affirmative approval. They do not say we think this merger is good, all they say is we are not going to take any action here. And in fact, the letter sent on April 26, 1999 to BFGoodrich explicitly says, "This action is not to be construed as a determination that a violation of Section 7 of the Clayton Act or Section 5 of the FTC Act may not have occurred." That is for Judge Sharp to decide, not for the FTC and not for this committee and not for you or me.

Second point, the Seventh Circuit opinion. Let me now add a few comments about the June 23, 1999 decision of the U.S. Court of Appeals for the Seventh Circuit. In my testimony before the subcommittee last month, I noted that under the Hart-Scott-Rodino pre-merger notification procedure, the enforcement agencies do not give their affirmative approval to proposed mergers, but only indicate that they will not challenge them. I therefore stressed that the Commission's decision in April not to seek to stop this merger should not have any effect on AlliedSignal and Crane's lawsuit presently pending in the U.S. District Court for the Northern District of Indiana.

The Seventh Circuit reached the same conclusion, pointing out that, "Courts do not generally defer to an agency's decision not to challenge a merger" and that, "to the contrary, Federal regulators will not necessarily challenge every potentially troublesome merger, which is why Congress made private enforcement 'an integral part of the congressional plan for protecting competition.'"

And then I went on to observe in my statement, but I will save time, the Court of Appeals also expressly noted that the District

Court did not abuse its discretion in concluding that the plaintiffs had "shown a sufficient likelihood of a Clayton Section 7 violation."

Finally, Mr. Chairman, if I can refer very briefly to the op-ed piece that Mr. Tubbs referred to in the South Bend Tribune last Friday by Kevin Arquit. I should add that the South Bend Tribune has asked me if I would respond to that piece and so my response will also appear this week and I will make that a copy of this committee's record.

But let me just note two things that Mr. Arquit said. He says, "The idea that the FTC missed the boat"—I am quoting from his piece—"The idea that the FTC missed the boat in approving this merger, as alleged by its critics is hard to imagine, given its aggressively activist stance of late." Let me give you the FTC's own data—this comes from them, not from me. In the last year, 1998, there were 4,643 filings and 33 enforcement actions, 0.71 percent. Now if that is aggressively activist, then I can play one-on-one with Michael Jordan. Mr. Arquit also talks about the viability of foreign competitors and he puts it in the plural. But in fact, there is only one foreign competitor, Messier, and we have evidence that at least with respect to certain programs, the Department of Justice does not like to do business with other than American companies.

So this opinion, while interesting and provocative, is flawed and I will just stand on the statement that I am going to make in response to it.

Mr. Chairman, thank you very much.

[The prepared statement of Professor Bauer follows:]

STATEMENT BY PROF. JOSEPH P. BAUER

REGARDING BFGOODRICH/COLTEC MERGER

BEFORE HOUSE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,

NATURAL RESOURCES AND REGULATORY AFFAIRS

COMMITTEE ON GOVERNMENT REFORM

JULY 7, 1999

CLEVELAND, OHIO

It is a privilege to come to Cleveland, to be able to share my views with this Subcommittee regarding the proposed merger between BFGoodrich and Coltec. Much of what I will testify to today will overlap with my testimony to this Subcommittee at the hearings held in South Bend, Indiana, on June 19, 1999. However, I will be supplementing the comments I offered at that hearing in several ways, including discussing the opinion of the United States Court of Appeals for the Seventh Circuit, decided on June 23, affirming the April 30 entry of a preliminary injunction, by the U.S. District Court for the Northern District of Indiana, in an action which AlliedSignal brought as a co-plaintiff, in which the court temporarily barred the consummation of this merger; and the relevance to this merger of another transaction – the proposed merger between AlliedSignal and

Honeywell.

Let me first give a little background on my professional experience and on my relationship to this transaction. I am a 1969 graduate of the Harvard Law School. I then worked for three years in the antitrust litigation department of the New York City law firm of Kaye, Scholer, Fierman, Hays & Handler. I have been on the faculty of Notre Dame Law School since 1973, and have taught antitrust at least once each year since then, for a total of over thirty times. I have been, since 1980, the co-author, with the late Earl Kintner, who was a former chairman of the Federal Trade Commission, of the multi-volume treatise entitled Federal Antitrust Law, and am myself the author of four of the volumes in that series. In addition, I have written approximately a dozen law journal articles in the antitrust field, and have lectured and consulted extensively in the antitrust area. Finally, I should add that in the summer of 1978, during an enforcement atmosphere which was quite different from that which prevails today, I worked as a staff attorney/consultant to the F.T.C. in the Washington, DC, headquarters, on a project designed to expand the Commission's merger enforcement role, and particularly with respect to challenges to conglomerate mergers.[1]

Now a word about my involvement with this proposed merger. If this merger between BFGoodrich and Coltec is consummated, it would have serious effects not only on competition and on consumers -- a matter I will discuss shortly -- but also on AlliedSignal, its employees and on the communities in which they work, including South

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[1] That project resulted in a published law journal article: Bauer, Challenging Conglomerate Mergers Under Section 7 of the Clayton Act: Today's Law and Tomorrow's Legislation, 58 Boston Univ. L. Review 199-245 (1978).

Bend, my home town, and potentially also on over 600 employees of BFGoodrich who work in the Cleveland area. About four months ago, I was contacted by attorneys in the Washington, DC, office of Kirkland & Ellis, which law firm is representing AlliedSignal. At that time, AlliedSignal was, among other avenues, presenting evidence regarding the merger to the Federal Trade Commission and also contemplating commencing a lawsuit to seek to enjoin it. The attorneys at Kirkland & Ellis asked if, given my antitrust experience generally and my experience with the Clayton Act, I would be willing to act as a consultant on this matter. I gladly accepted, since this assignment represents the combination of two qualities: it allows me to be involved in a dispute raising interesting and important antitrust issues, while it also allows me to be on the side of the case in which I genuinely -- and I would almost say passionately -- believe. While I am serving as a consultant, I want to emphasize that my testimony to this Subcommittee reflects my own views, and they are not necessarily the views of AlliedSignal. As I will now begin to describe, I sincerely believe that this merger would be bad for competition and bad for consumers. Therefore, speaking only personally, I am deeply troubled that the Federal Trade Commission has chosen not to challenge it and that it may be allowed to proceed.

Let me begin by describing briefly the relevant industry and the position of the parties in that industry. I will then discuss the anti-competitive effects that would result by allowing two of the major firms in this industry -- BFGoodrich and Coltec -- to merge, and which support my conclusion that this merger would violate Section 7 of the Clayton Act. I will analyze this from three perspectives: an analytical/ theoretical approach; a brief consideration of some of the major Supreme Court cases dealing with Section 7; and then a comparison of this transaction to the Department of Justice/FTC Merger Guidelines. Finally, as noted, I will add a few comments about the Seventh Circuit decision and the proposed AlliedSignal-Honeywell merger.

The proposed merger between BFGoodrich and Coltec involves two large firms engaged in a number of different industries. But, the competitive issues resulting from the merger which I would like to address arise with respect to aircraft landing systems. Landing systems consist of three key components: (1) landing gear structures – the landing strut and its adjacent elements – which absorb the shock of the landing; (2) wheels and brakes; and (3) the brake control system. These systems and their components are used in both civilian and military aircraft. They are selected and purchased both by major airframe manufacturers such as Boeing, Airbus, Bombardier and Embraer, and by the US military and the companies which design and manufacture military aircraft. These three components must be integrated in order to work properly.

In the United States, there are only two major manufacturers of landing gear structures – BFGoodrich, which has its major manufacturing facilities for this product in Cleveland, Ohio, and Tulluhoma, Tennessee, and Coltec (through its Menasco Aerospace division), which has manufacturing facilities in Dallas, Texas, and Ontario, Canada. In the rest of the world, there is only one other major manufacturer of landing gear structures – a French firm, Messier-Dowty. There are in fact a number of other smaller manufacturers of landing gear structures, but their products are used principally for smaller aircraft. On a worldwide basis, BFGoodrich accounts for 33.7% of the market for commercial wide-body landing gear structures, Coltec for 30.3% and Messier-Dowty for 34.3%.

Furthermore, there are numerous factors that raise serious questions as to the extent to which Messier-Dowty, which is owned by the French government, is a full competitor for landing structures in the United States: its long-standing relationship as a supplier to Airbus; the fact that the US military has been unwilling to purchase from non-American suppliers for a number of projects; and the additional fact that Messier and BFGoodrich are already involved in several cooperative arrangements or joint ventures, which lessens the competition between them. Therefore, focusing solely on American suppliers of landing gears, the combined market share of the two merging companies would result in a single firm having a virtual monopoly position in the design and manufacture of landing structures.

There are also two major American manufacturers of aircraft brakes and wheels -- BFGoodrich and AlliedSignal. The French firm, Messier/Bugatti, is also a major manufacturer of aircraft wheels and brakes, although the same concerns I just noted about viewing this company as an equal competitor for landing structures would apply here.

Historically, in the course of designing new aircraft, some aircraft manufacturers have initially specified the source of each component, including the landing gear structures and the brakes and wheels. Even here, however, the aircraft manufacturer receives extensive input from landing gear design firms early in the aircraft design process. More recently, the trend has been towards outsourcing, ie, determining the interface of the elements of the landing system into a unified whole, with an outside "integrator" (AlliedSignal is one of the firms seeking to compete for that role) harmonizing and then selecting the specifications and manufacturer of each component. In order to be a successful competitor in the markets for either landing gear structures or aircraft brakes and wheels, or to be able to act as an integrator, it is essential for the manufacturer that the other elements in the "package" be compatible and available from other manufacturers.

As things presently stand, with Coltec (the manufacturer of landing structures) as an entity which is independent of BFGoodrich, AlliedSignal (the manufacturer of wheels and brakes) has a partner for the design of landing systems. Each firm may buy from or sell to the other, and they can either act as a team or compete individually in designing and marketing integrated landing systems to aircraft manufacturers. Indeed, in 1995, these two firms entered into a Strategic Alliance, whereby they would share confidential information and otherwise cooperate to preserve competition in these markets.

Things will change radically if BFGoodrich merges with Coltec. First, to state the obvious, the "horizontal" impact will be that there will then be only one major manufacturer of landing structures in the United States. There will also be several important "vertical" impacts from the merger. When AlliedSignal purchases landing structures, it will no longer be purchasing from an independent Coltec, but from a firm which is its own competitor in the wheel and brake portion of the industry. As a monopolist of landing structures, BFGoodrich will be in a position to disfavor AlliedSignal's wheels and brakes, for example by designing new landing structures that do not interface with AlliedSignal's wheels and brakes, or by delaying release of information on the designs and interface, thereby making it more difficult for AlliedSignal to design compatible wheels and brakes; BFGoodrich will also be able to charge supracompetitive prices to AlliedSignal for those landing structures on which AlliedSignal seeks to perform the role of systems integrator; or BFGoodrich could simply refuse to sell to AlliedSignal at all. Furthermore, in its own position as a designer and seller of integrated landing systems, BFGoodrich will have an even stronger motivation and ability to design them in ways which favor its own wheels and brakes. Finally, when BFGoodrich and Coltec act as systems integrators -- in which capacity they would be purchasing brake control systems to be used in combination with their landing structure business -- the combined BFGoodrich/Coltec will be able to exercise monopsony power.

In short, the potential impact of this merger on competition in the landing system market is devastating. A central tenet of the antitrust laws is that consumers are benefitted by strong competitors and vigorous competition. Here, however, first looking at the horizontal aspect of this merger -- which combines the only two major American manufacturers of landing structures — one can not avoid the obvious conclusion that this transaction is effectively a "**merger to monopoly.**" The important benefits to purchasers of landing structures which presently flow from the competition that now exists between BFGoodrich and Coltec — including lower prices, greater innovation, product diversity and better service — will all be lost if they are merged into a single entity.

The vertical aspect of the merger -- the combination of BFGoodrich's position as a manufacturer of wheels and brakes and Coltec's position as the only other American manufacturer of landing structures -- is equally problematic. The competitive concern with respect to mergers that have vertical effects is that each party to the transaction will favor the other in making sales or purchases, thereby foreclosing competitors of those parties from competing on the merits, on the basis of price or quality. In this particular case, this transaction will harm competitors like AlliedSignal, since BFGoodrich is likely to favor its own affiliates in designing landing systems and in making purchases and sales. And, this harm to competitors – which in the long run could even result in their demise, and in the short run will diminish their capacity to be innovative or competitive — will harm consumers as well.

It is important to note that this merger will have harmful effects on the indirect as well as on the direct consumers of these products. In the first instance, the consumers include aircraft manufacturers like Boeing and Lockheed, as well as airlines and the U.S. Department of Defense, which will have to pay more both for aircraft and for replacement parts, including wheels and brakes, if the combined BFGoodrich and Coltec enjoy the benefits of their monopoly position in the landing systems market. But, in fact the affected parties will include all Americans, both because we will have to pay more in airfares, and because our taxes will increase to pay the added costs the Pentagon will incur.

I would next like to address some of the caselaw in this area. What all of the cases – both the older and the more recent – reveal is that with respect to a horizontal merger, the primary concern is the extent to which the competition which formerly prevailed between the parties will be eliminated.[2] Predictions about this adverse impact on competition will be made principally based on the market shares of those firms and on the degree of concentration of the major firms in the market.[3] The principal concern about a merger with

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[2] See, e.g., United States v. Continental Can Co., 378 U.S. 441 (1964); United States v. Philadelphia Nat'l Bank, 374 U.S. 321 (1963); Brown Shoe Co. v. United States, 370 U.S. 294 (1962).

[3] These same concerns are reflected in the Department of Justice/FTC Guidelines and their use of the Herfindahl-Hirschmann

vertical effects is its impact on competitors of the merging firms, and the extent to which they will be foreclosed from making sales or purchases after the transaction is consummated; once again, the market share of the firms and the availability of other sources (again, measured in large part by the degree of concentration in the upstream and downstream markets) will be the primary measure of the likelihood of an adverse impact on competition.[4]

While the Supreme Court has, over the past twenty-five years, raised somewhat the standards for a successful challenge of a proposed merger or acquisition,[5] the federal courts have continued to strike down mergers when the transaction threatened to have the requisite adverse effect on competition.[6] Although a detailed analysis of the caselaw is beyond the scope of this statement, suffice it to say that both the qualitative and quantitative indicia which I have described above clearly bring this transaction within the range of those which precedent indicates should be deemed violative of Section 7 of the Clayton Act.

Another perspective for evaluating this transaction is to analyze it under the

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Index, discussed below.

[4] See, e.g., Ford Motor Co. v. United States, 405 U.S. 562 (1972); Brown Shoe Co. v. United States, 370 U.S. 294 (1962).

[5] See, e.g., Cargill, Inc. v. Monfort Of Col., 479 U.S. 104 (1986); United States v. General Dynamics Corp., 415 U.S. 486 (1974).

[6] See, e.g., Community Publishers, Inc. v. DR Partners, 139 F.3d 1180 (8th Cir. 1998); Hospital Corp. of Am., 807 F.2d 1381 (7th Cir. 1986); FTC v. Warner Communications, Inc., 742 F.2d 1156 (9th Cir. 1984) (joint venture); FTC v. Tenet Healthcare Corp., 17 F. Supp.2d 937 (E.D. Mo. 1998); FTC v. Staples, Inc., 970 F. Supp. 1066 (D. D.C. 1997).

Department of Justice/FTC Merger Guidelines. These Guidelines, which are intended to inform the business and financial communities about the likelihood of governmental challenges to potential mergers, first require the identification of the relevant geographic and product markets in which the firms operate. Then, relying on the Herfindahl-Hirschmann Index to obtain a more sophisticated interpretation of the significance of the market shares of the merging firms and the extent of concentration – both before and after the proposed merger – in the affected industry, the Guidelines set forth three categories.

In the first category, in which the market is unconcentrated, the Guidelines create a "safe harbor" of legality, since the Enforcement Agencies view these mergers as "unlikely to have adverse competitive effects and [therefore] ordinarily require no further analysis."[7] The second, or intermediate, category involves mergers in moderately concentrated markets. Therefore, here the decision whether the Agencies should proceed also requires determining the extent to which concentration would be significantly increased as a result of the merger; the Guidelines state, however, that a not insignificant increase in concentration "potentially raise[s] significant competitive concerns."[8] Finally, the third category involves mergers in which the markets are "highly concentrated;" here, unless the increase in concentration is insignificant, the Guidelines state that these mergers are deemed likely to "raise significant competitive concerns."

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[7] These mergers involve transactions in which the post-merger HHI is below 1000. Guidelines, § 1.51(a).

[8] These mergers involve transactions in which the post-merger HHI is between 1000 and 1800; the Agencies then look to whether the increase in the HHI would be more or less than 100 points. Guidelines, § 1.51(b).

The Guidelines properly make the analysis subject to more than just numerical considerations. Barriers to entry, possible efficiencies and the possibility that one of the parties to the merger is a "failing firm" may all be taken into consideration.[9] But, the Guidelines indicate that "where the post-merger HHI exceeds 1800, it will be presumed that mergers producing an increase in the HHI of more than 100 points are likely to create or enhance market power or facilitate its exercise."[10] It is in those cases that a challenge to the merger by the Department of Justice or the FTC is both likely and appropriate.

Now, let me analyze the BFGoodrich/Coltec merger in the light of these factors. The HHI numbers here are off-the-chart. They confirm mathematically exactly what one's intuition would suggest, when the two largest American manufacturers of a product agree to combine into a single firm. In the market for commercial, wide-body landing gear, the pre-merger HHI is 3230, and the post-merger HHI would be 5272 (with the combined firm accounting for a 64% share of the worldwide market), for a net change of the HHI of 2042.[11] The market shares, and pre- and post-merger concentration numbers, firmly establish the likelihood of an adverse effect on competition.

Then, what about the possible counterbalancing factors? Obviously this is not a failing firm situation. And, the barriers to entry are enormous. Among the substantial

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[9] Guidelines, §§ 3-5.

[10] Guidelines, § 1.51(c).

[11] While not quite so high, the numbers for military landing gears are also far beyond the limits in which challenges are indicated as probable. Here, the pre-merger HHI is 3157, and the post-merger HHI will be 4372 (with the combined firm having a 59% share of the worldwide market), for a net change of 1214.

obstacles to entry, making it highly unlikely that a new firm would emerge to challenge the merged BFGoodrich/Coltec, are capital barriers, technological and engineering barriers, specialized manufacturing equipment barriers, time lag barriers, and need for certification of product barriers. It is instructive that recent decades have experienced only exit from, and no entry into, this market. So, the only possible remaining explanation within the Guidelines for failing to challenge this transaction would be the existence of significant efficiencies after the merger takes place. Yet, any efficiencies from the merger are vague and speculative.[12] Perhaps one such alleged "efficiency" is that BFGoodrich might shut down its facility in Cleveland, with the elimination of hundreds of jobs, and therefore might have certain scale benefits by operating only a single plant for the manufacture of landing structures. But, there are at least two difficulties with viewing this move as an alleged benefit from the merger.[13] First, BFGoodrich has made several recent public representations that this step is still only under discussion. Second, and more important, if the plant closing in fact takes place anyway, it illustrates that the asserted "efficiency" is instead a restriction on output, and so is really a mask for the benefits flowing to a

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[12] The Guidelines state that "[e]fficiency claims will not be considered if they are vague or speculative or otherwise cannot be verified by reasonable means." Guidelines, § 4.

[13] Even if the closing of the Cleveland plant, and the consequent loss of hundreds of jobs, is viewed as an "efficiency," this is not the kind of "benefit" which BFGoodrich could not obtain by itself, rather than through the merger with Coltec. Yet, the Guidelines state that "[t]he Agency will consider only those efficiencies likely to be accomplished in the absence of either the proposed merger or another means having comparable anticompetitive effects." Id.

monopolist from the elimination of competition.[14]

In summary, in my own, personal view, it is hard to understand why the FTC, after its review of this record, declined to file a complaint attacking the merger. It is my view that given the strong likelihood of serious anti-competitive effects which will occur if this transaction is permitted, and the fact that this merger clearly falls within the presumptively unlawful category in the Merger Guidelines, it was one which surely should have resulted in a challenge.

I could, by way of speculation, attempt to offer various explanations for the Commission's decision not to file its own complaint. One possible rationale – and I am just guessing here, since there is no "decision" which accompanies a "no-action letter" – is that the Commission, knowing that both AlliedSignal and Crane had already initiated litigation attacking the merger and thus that the transaction would be adequately scrutinized because of this challenge by two large private litigants, decided to use its limited enforcement resources in other areas.[15] It may be an appropriate role for this Subcommittee to use the Commission's decision in this case, as a vehicle to consider both the adequacy of the Commission's resources and its use of its prosecutorial discretion.

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[14] Therefore, it is particularly surprising that the FTC gave any regard to these claims, since the Guidelines state that "[e]fficiencies almost never justify a merger to monopoly or near-monopoly." Id.

[15] However, the numbers would suggest that the Commission's decision not to challenge this merger is not solely the result of resource limitations. Drawing on the Commission's own data, in 1997, there were 3702 Hart-Scott Rodino filings, and the Commission took enforcement actions in only 27 of those cases (.73%). In 1998, the comparable numbers are 4643 filings, and 33 enforcement actions (.71%).

Let me now add a few comments about the June 23, 1999, decision of the United States Court of Appeals for the Seventh Circuit.[16] In my testimony before this Subcommittee last month, I noted that under the Hart-Scott-Rodino Pre-Merger Notification procedure, the Enforcement Agencies do not give their affirmative approval to proposed mergers, but only indicate that they will not challenge them.[17] I therefore stressed that the Commission's decision in April, not to seek to stop this merger, should not have any effect on AlliedSignal's and Crane's lawsuit, presently pending in the U.S. District Court for the Northern District of Indiana. The Seventh Circuit reached the same conclusion, pointing out that "[c]ourts do not generally defer to an agency's decision not to challenge a merger," and that "[t]o the contrary, federal regulators will not necessarily challenge every potentially troublesome merger, which is why Congress made private enforcement 'an integral part of the congressional plan for protecting competition....'"[18]

Even more importantly, the Court of Appeals concluded that the district court did not abuse its discretion in concluding that the plaintiffs had "shown a sufficient likelihood of a [Clayton Act] Section 7 violation."[19] Although the FTC may have relied on the alleged absence of complaints by aircraft manufacturers (principally Boeing) as a basis for declining

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[16] AlliedSignal, Inc. v. B.F. Goodrich Co., No. 99-2098 (7th Cir. 1999).

[17] The Commission's "no-action" letter, sent to BFGoodrich on April 26, expressly states that "[t]his action is not to be construed as a determination that a violation [of Section 7 of the Clayton Act or Section 5 of the F.T.C. Act] may not have occurred."

[18] Slip op. at p. 10.

[19] Id.

to challenge the merger,[20] the Court of Appeals correctly noted that wheels and brakes and other components of the landing assembly may be pass-through items, with the principal burden of elevated prices being borne in the after-market. The impact of this merger will be principally on airlines, which would have to pay higher prices for replacement wheels and brakes. In affirming the district court's entry of the preliminary injunction, the Court of Appeals pointed to the "evidence that ... a number of airlines object to the merger, which suggests that AlliedSignal's prediction of the likely market effects of the merger is worthy of some credence."[21] This is precisely the kind of adverse impact on consumers against which Section 7 of the Clayton Act is designed to protect, and it illustrates why the merger should have been challenged by the FTC.[22]

Finally, a word about the impact of the proposed merger between AlliedSignal and Honeywell, on the competitive significance of this merger between BFGoodrich and Coltec.

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20 As Prof. Einer Elhauge of Harvard Law School noted in his testimony before the Subcommittee on Antitrust, Business Rights and Competition of the U.S. Senate Committee on the Judiciary, on June 10, 1999, there are a number of reasons that customers of merging companies might decline to object to the transaction, "that have nothing to do with the merger being procompetitive." It is also noteworthy that there does not appear to be a single entity in the industry - be it supplier to, customer from or competitor of BFGoodrich and Coltec - which actually supports the merger.

21 Id.

22 The Court of Appeals also properly gave short shrift to BFGoodrich's argument "that the merger promises substantial efficiencies in the global aerospace market." Id. Instead, the court reiterated that "[i]f the merger were to lead to noncompetitive prices for landing gear, this would be a significant harm to AlliedSignal, the Crane Plaintiffs, and the public." Id. On this basis, the court concluded that there was "no abuse of discretion in the district court's determination that the balance of harms outweighed the potential benefits identified by B.F.Goodrich." Id.

And that word is "None"! As I have described at length, the Goodrich/Coltec merger is problematic because of its impact on the integrated landing system market and on several of its components, including the markets for landing structures for a variety of different kinds of planes and for aircraft wheels and brakes. While AlliedSignal is a competitor of BFGoodrich in the wheel and brake market, it is because it has does not manufacture landing gears -- and instead relies on Coltec as a source for those components so that AlliedSignal can be a viable competitor for the design and sale of integrated landing systems -- that it complains of the impact on competition of BFGoodrich's merger with Coltec. Although Honeywell does manufacture products for <u>other</u> sectors of the aerospace industry, it has absolutely <u>no</u> position in any part of the landing systems market. BFGoodrich's references to another transaction is an attempted smokescreen, a tactic intended to divert attention from the anticompetitive consequences of its own acquisition of Coltec. It is clear, however, that AlliedSignal's plans to merge with Honeywell can not change two salient facts about BFGoodrich's merger with Coltec: once this merger is consummated, the combined company will become a <u>monopolist</u> in the landing structure market; and AlliedSignal's ability to act as a vigorous competitor in the landing systems market – with the benefits to consumers that presently flow from that competition – will be eroded.

Mr. MCINTOSH. Thank you, Professor Bauer, and let me ask unanimous consent that your response to that be included in the record when you have submitted it to us. In fact, what we will do is keep the record open for an additional 15 days for additional information that may come as a result of the questions posed here.

[The information referred to follows:]

MICHIANA POINT OF VIEW/JOSEPH P. BAUER

Coltec-B.F. Goodrich merger would be anti-competitive

Regarding the July 2 Michiana Point of View by Kevin Arquit, in which Arquit defended the decision by the Federal Trade Commission not to challenge the proposed merger between B.F. Goodrich and Coltec Industries:

This merger would be bad for competition, bad for consumers, bad for taxpayers and, not incidentally, may also have serious repercussions for AlliedSignal Corp. and its more than 1,000 employees in the South Bend area. Therefore, the FTC erred in not challenging the merger, since it violates both the applicable legal standards for evaluating mergers found in Section 7 of the Clayton Act, and the FTC's own published merger guidelines.

The merger would have significant anti-competitive effects in various portions of the aircraft landing systems market, including competition with respect to aircraft landing gears and aircraft brakes and wheels. At present, in the entire world, there are only three major manufacturers of aircraft landing gear. In the market for landing gear for commercial wide-body planes, Goodrich has a 33 percent market share, Coltec a 30 percent market share and Messier (a company owned by the French government) a 34 percent market share. The merger would give the combined Goodrich/Coltec a monopoly in the domestic market, and would leave them facing only a single major world-wide competitor.

Competition is good for the economy and good for consumers because it tends to promote innovation and results in lower prices. Having a monopoly in this important industry will have the opposite result — aircraft manufacturers, airlines and their customers will pay higher prices.

The merger would have a second significant anti-competitive effect. Goodrich is also a manufacturer of aircraft wheels and brakes, and is a competitor in that field with AlliedSignal. Today, when AlliedSignal sells its wheels and brakes, purchases landing gear, or attempts to design an integrated landing system, it has a partner, Coltec, with which it has entered into a long-term strategic alliance agreement. But, a merged Goodrich/Coltec would have an incentive to favor its own wheels and brakes, could refuse to sell landing gear to AlliedSignal, could charge it unfavorably high prices or could design interfaces to disfavor AlliedSignal. In the long run, this would also mean higher prices for wheels and brakes and harm to a competitor, with a potential loss of many jobs in South Bend.

Bauer

The U.S. Supreme Court, in interpreting the Clayton Act, has particularly held unlawful those mergers in which the two firms have high market shares or in which there are only a few firms in the market, which would concentrate market share and market power.

Following up on that, the U.S. Department of Justice and the FTC have adopted merger guidelines to identify those transactions which are most likely to be challenged as anti-competitive. These guidelines use a formula adopting the Herfindahl-Hirschman Index (HHI) to target mathematically the most problematic mergers. These are transactions in which the HHI is over 1800 and where the change in the HHI as a result of the merger would be more than 100.

What are the relevant numbers for this merger? In the market for commercial, wide-body landing gear, the pre-merger HHI is 3,230 and the post-merger HHI would be 5,272, for a net change of over 2,000. So, how can one explain the FTC's decision *not* to challenge this merger?

Arquit's column suggests that other factors may overcome even disturbingly high market share figures and then lists "the existence and viability of foreign competitors" and "the likelihood that the combined entity will lead to lower cost or product innovations" as two such possibilities. But, note that here there is only one foreign competitor, and that in the past the United States military has been unwilling to use any foreign supplier for certain secret programs. Goodrich has not identified any specific cost savings that will flow from this merger, although there has been speculation that it might close its Cleveland plant, at which it manufactures landing gear, at a cost of more than 600 jobs. The real benefit to Goodrich is that it will become a monopolist and it will no longer have to worry about competition from Coltec.

Arquit also described the FTC's "aggressively activist stance as late," noting that "last year alone the FTC challenged close to three dozen transactions." What Arquit conveniently fails to disclose (the actual number is 33 challenges) is that last year there were 4,643 pre-merger notification filings, so that the FTC initiated challenges in fewer than 1 percent of all covered transactions. The percentage of challenges has actually *dropped* over the past few years.

Finally, a word is in order about the significance of the FTC's "no-action" decision, for the trial scheduled to start in South Bend on Monday. In its opinion earlier this month affirming the district court's grant on April 30 of a preliminary injunction to bar the consummation of the merger, the Court of Appeals for the Seventh Circuit noted that "courts do not generally defer to an agency's decision not to challenge a merger... To the contrary, federal regulators will not necessarily challenge every potentially troublesome merger, which is why Congress made private enforcement 'an integral part of the congressional plan for protecting competition.' "

Arquit and I disagree about the wisdom of the FTC's decision not to challenge this merger. I believe that the merger is anti-competitive, harmful to consumers and well within the guidelines of those mergers which should have been challenged.

But, in our system, the final word is not his, mine or the FTC's. Instead, it properly belongs to the courts, and they will have their say shortly.

Joseph P. Bauer has taught at the University of Notre Dame Law School since 1973. He is the author of four volumes in Earl W. Kintner's treatise "Federal Antitrust Law," and numerous law journal articles about trade regulation.

Mr. MCINTOSH. Let me start the questioning with the panel. Mr. Linnert, you mentioned and stated there was a risk in the business essentially, that if you make a misstep or you borrow money at the wrong time, do not get a contract that could be potentially very disastrous for any one of the companies there, and that the merger will allow you to avoid some of those risks.

Stepping back, not from the company's standpoint, but from society's standpoint, if that analysis is correct and there are those risks there, if you have got fewer players in the field, then the possible negative outcome takes on a much greater implication. From society's standpoint, you have got, say five companies and one of them makes a misstep and fails, you have got four others that provide the service or the product. But when you only have one in the United States and two worldwide, then the potential negative impact of one of those risks from society's standpoint, again I will emphasize that, seems to me significantly greater. And that is one of the concerns that we have in looking at the appropriateness of this type of merger.

I wanted to put that out there so you could see that our perspective has to be that broader one than one individual. But I wanted to also give you an opportunity to elaborate how you thought from the combined company standpoint, those risks would be diminished.

Mr. LINNERT. Sure, thanks. A couple of points I would like to make.

First, one of the things that Mr. Oliver testified to in Washington at the hearing—and let us take the different markets, because as you just talked about, the risk to society of maybe less companies in a given field, you have to look at it by the market that they are in. So let us take military for the moment. I believe what Mr. Oliver testified was that while Messier-Dowty, Coltec and Goodrich have a predominant share of this military market——

Ms. TUBBS JONES. Excuse me, Mr. Linnert. I believe that people in the back may be having difficult hearing you. Would you pull the microphone over closer, please.

Mr. LINNERT. Thank you.

Again, takes a market analysis, what Mr. Oliver did was speak about the military markets. One of the points he did make is while Messier-Dowty, Goodrich and Coltec are the predominant suppliers of military landing gear, they are not all. I will come back to that point. But while they are the predominant suppliers, one of the points he emphasized was quality of competition.

Professor Bauer talked about this HHI index, that is a starting point. The next thing you look at is quality of competition. And what the Department of Defense, I believe said at that hearing was that they thought the Coltec/Goodrich merger created a stronger, higher quality competitor for landing gear long-term. Now we are the larger ones in the military field, but we are not the only ones.

Let me just read off some other names of folks who are actually on military programs already. You have heard about Messier-Dowty, but Heroux in Canada manufacturers military gear, as does Castle Precision, APPH, SHL and then Goodrich and Coltec. So there are other folks who are capable of making military gear and are already on some programs. And I have a chart that will show that. This is a chart that shows the multi-national military landing gear suppliers and it shows the programs tested, the F–18, it gives you the number of suppliers on the C–17, T–45s. So again, I just want to point out there are more players here than just two in the world.

But going back again to your question, Congressman——

Mr. MCINTOSH. My eyes are not as good as they used to be. Just so we know which column is BFGoodrich and which is Coltec, if you could——

Mr. LINNERT. Yes, sir. The first column is Goodrich and this is McDonnell Douglas, this is Menasco, which is the name of the Coltec landing gear business.

Mr. MCINTOSH. Right.

Mr. LINNERT. Messier-Dowty, Heroux and some of the others.

But going back to your question about how society would look at this. Again, quality of supplier in terms of being a strong competitor able to invest in technology and in research and development is a factor I believe Department of Defense did look at.

Now let us take a different market, let us take that large commercial market that folks are concerned about. There is principally BFGoodrich and Coltec and then Messier-Dowty. Now this is the large landing gear programs. A couple of folks who are missed whenever people talk about those lists are—and I will just read off the names—SHL, which is a subsidiary of Israeli Industries. They provide the landing gear for the Boeing 717; Heroux, which is a Canadian firm, provides landing gear for C–17, that is large gear, so they are capable also of being in that market. Why do they not have a bigger share? It is background, BFGoodrich, Coltec and Messier-Dowty are strong competitors. And again, I think when you look at the quality of the supplier, both in terms of financial strength, ability to invest in R&D and ability to grow, I think that is a factor, Congressman, as you point out, that should be considered.

Now the only other market that is of relevance—I spoke about military and large commercial—the other markets are regional and business. Those are more vibrant markets than military or large commercial, and we can go into a whole long list of people who compete there.

Mr. MCINTOSH. And I remember from your chart, the other one, those were where you had multiple competitors.

Mr. LINNERT. Right.

Mr. MCINTOSH. Looking at that, if you merge the first and the third column, then at least in terms of U.S. suppliers, you really get down to one with McDonnell-Douglas being the one exception there for one of the planes, that is a supplier for most of the aircraft, than for the military.

And as I was listening to Senator DeWine, I think the question he was asking is how does that benefit the military. And presumably you all made some arguments to them and they could not repeat them back to him, or at least did not. So let me give you a chance now—and Mr. Tubbs, if you want to add to that too.

Mr. TUBBS. Well, let me just—because they are not out there because they are not now on a military program, but Castle Precision, which is a U.S. company is on the MD–80 and 90 which are fairly good size regional aircraft. They are also a major spare parts supplier to the U.S. military. So it is not to say that you do not have another build-to-print shop, as Allied calls them, out there. You have Castle Precision.

Let me give you an anecdote about research and development. We cannot get on Airbus, we, the American companies, cannot get on Airbus. Part of the reason is because in order to get on Airbus, we have to fund the research and development and if they do not sell one airplane, we do not get any of our money back. So we are taking the total investment risk of research and development. We cannot do that in the way—we have to have returns for our shareholders in the United States. A government-supported company like Messier-Dowty certainly will do that.

Part of the thought here is if you put Goodrich and Coltec together, you can get the economic strength to go in and offer to invest in their programs so that we can sell to Airbus. The same thing holds true in a military program. We need the financial strength to invest into the business so that if it is awarded, we get a return on our contract. Messier-Dowty is with Boeing already, as I talked about, on the Joint Strike Fighter.

So what we are talking about is not past market shares, those have already been awarded, those are already determined. What we are talking about is the future, and the future is we need to be strong in order to invest in the future.

Mr. LINNERT. What the Department of Defense witness said at Senator DeWine's hearing, he did talk about, you know, research and development, he did talk about quality supplier. A third point that he made is when he was looking at—when the Senator kept asking a question about, well, you know, are you not concerned that there would only be one domestic supplier, and his answer seemed to be I want a strong domestic supplier. But what he also said was this, he said the military owns the design rights to the landing gear, their landing gear, just like Boeing does. When you own the design rights, landing gear is something that you could go different places and have built to your print.

And Professor Bauer said maybe there are barriers to entry in terms of somebody starting things up, but the point is this, military owns the design, they already use foreign suppliers and they can go any place they want in order to have that landing gear made. And he did add this, he said—I do not want to put words in his mouth, but I think he said landing gear was not in the military hierarchy of components of an airplane that they were worried about secrecy or national defense.

Mr. MCINTOSH. OK. But so that we understand your point there, again I think it is something I did not know when we first started these hearings, but you have made apparent to me. There is this difference between sort of past contracts, designs that are already there. And you are describing airplanes where the military already has the designs versus the ones going forward. And you have got different interests, the military would have different interests as to both. And if I understand your point correctly, you are saying as to those existing aircraft, there is some protection for them because they own the design rights.

Mr. TUBBS. Yes, that is correct.

Mr. MCINTOSH. Let me—and I think my colleagues from Ohio will probably go into this in more detail, but let me just ask you, Mr. Linnert, you talked about the preliminary study that has been much cited here and the options, the three options, none of which resulted in the Cleveland plant staying open.

Mr. LINNERT. Right.

Mr. MCINTOSH. But tried to emphasize no decision has been made.

Mr. LINNERT. Right.

Mr. MCINTOSH. Let me ask you two questions with respect to that. Has the management considered an option that is not reflected in that study that would keep that plant open? Is there an active option that is being considered and developed and researched by the company there?

Mr. LINNERT. I think evidence that there has been continuing study about how to keep that plant open—I mentioned the $30 million that has been invested since 1993. Let me just quote a couple of metrics, if I might. Our folks took a look at the Cleveland operations from 1993 until now and they had some metrics they came up with. Sales from the Cleveland facility have improved 200 percent in that time period. Safety incident rate has improved by 360 percent. Quality measures are all improved, productivity is improved, cycle time is improved.

Another thing that I will point out, in terms of a metric, is back in 1993, there was little attention to training development, little internal advancement opportunities. We believe we made significant investment in employee training and development activities. Significant investment has been made in the engineering talent that is at that plant because those facilities, the Cleveland facilities are not just UAW facilities, there is also an engineering staff there.

So again, we have made investments and I think that is an indication—just what you started with, we want that facility to be competitive, so there is no predetermined game plan here to do anything other than measure all the Coltec and Goodrich facilities post-merger on a level playing field.

And I guess I would like to quote from a letter, just to reinforce it, a letter that Mr. Burner sent out to the Cleveland landing gear folks. He said "It has been indicated that we are planning to close the Cleveland landing gear facility." This is a quote from the letter. "This is absolutely not true. Currently we have no plans to close the Cleveland operations." He talks about that study that was done, he said, "This review was limited in scope since it did not include any operating data involving the Coltec facilities. Absolutely no decision has been made, based on this preliminary analysis."

He goes on to say though, we will do it, we have said it as plain as we can, post-merger, we will do a study of our landing gear, all our landing gear operations to try and take a look at what is the best, most efficient, cost-productive, customer-friendly operation we can have. We just have not predetermined the outcome.

Mr. MCINTOSH. OK. And I do not want to put words in your mouth, so correct me if I am not distilling this correctly. You are saying there is no decision. There is that preliminary study and I assume you not disavowing the work that was done there, that will be part of the deliberative process. But I did not hear you say there is another study or an additional study that indicates the plant would be kept open.

Mr. LINNERT. That is correct. The next study that will be done is post-closing of the merger.

Mr. MCINTOSH. OK, let me now turn to Ms. Loeb and focus in on the question that we started to raise with the back and forth with Mr. Tubbs.

If I am remembering correctly—and I think it again hinged on this analysis of business going forward versus supplying contracts that have already been awarded and having the ability to manufacture for existing aircraft and replacement parts—that if you looked out 5 years, the estimate was the work force in South Bend at the AlliedSignal plant would be reduced somewhere 500 to 600 employees if they were only relying on that replacement business. Is that accurate, am I remembering that correctly?

Ms. LOEB. Representative McIntosh, I am going to apologize. As you can see, I was handed a note by counsel, so I am going to try to answer your question in generalities. Counsel has advised me because of the trial and the testimony of Mr. Montalbine, that I should not answer specifically, but that I can talk to you generally—more generally about that.

Mr. MCINTOSH. Also I was going to offer you, you may not be familiar with those estimates since you are in the legal department. I mean if you need to get more data, I want to be sure the answer is correct.

Ms. LOEB. I can assure you that I do not have the data that Mr. Montalbine would. But I also have been advised by counsel not to discuss——

Ms. TUBBS JONES. Again, would you use your microphone? The people in the back cannot hear.

Ms. LOEB. I apologize. I would like to say a couple of things about the point that you were just making. One of the things that is fascinating to me, having listened to Mr. Tubbs' testimony, during which at length he berated AlliedSignal for not being willing to make the investments needed to compete in this business. He has just sat here after making that testimony and said that BFGoodrich and Coltec, the incumbent major U.S. suppliers, are not willing or able to make the investments needed in this business in order to compete for Airbus aircraft. Basically what they have told you is either they are undermining their suggestions about the ease of entry or they have told you that indeed it is very unlikely and very difficult for a company like AlliedSignal to enter without the technology. This is one of the reasons why we have offered to buy an ongoing business. And as I said, I reiterate today our offer to do so.

With respect to your question concerning historical versus going forward competition, I think your point or where you seem to be leading, Congressman McIntosh, is exactly correct. Many names are being bandied about, about build-to-print shops and being put up on charts, but the reality of who can actually compete to design and manufacture new landing gear structures for new aircraft is very different from the list that is put on this board. And I would submit to you that for certain aircraft, especially our large commercial aircraft and certain very high technological and high capability requirement aircraft in the military, that it is really only in the United States, Goodrich and Coltec that are capable of competing going forward.

Mr. MCINTOSH. Thank you.

Mr. LINNERT. Congressman, could I make one comment about that, because I just want to make sure—I think what Congressman Roemer said only was that there would be no immediate impact. I think those were the words. And then you asked him correctly about the next 5 or 6 years. And the reason that time became relevant is because the arbitration panel ruled that the strategic alliance agreement would stay in place. So I think that is what he meant to say, is there could not be an impact until after that.

Mr. MCINTOSH. I think that is right.

Mr. LINNERT. I would suggest that.

Mr. MCINTOSH. I think that is right. You have got that potential as well as this different dynamic in the market where your companies are supplying both on existing planes and aggressively, as you should be, trying to get market place in future aircraft that are built.

Thank you.

I see my red light is on. Let me turn now to Representative Kucinich for a round of questions.

Mr. KUCINICH. Thank you very much, Mr. Chairman.

I have just been notified that the mayor of the city of Cleveland has asked to submit his testimony right now and I would be more than pleased, as a former mayor of Cleveland, to defer to him at this time and then I will, with the Chair's permission, with unanimous consent, then proceed with my questions. So if Mayor White is here, we would be happy to have him come forward.

Mr. MCINTOSH. That is a great suggestion.

Mr. KUCINICH. He is supposedly on his way over.

Mr. MCINTOSH. Why don't you start your questioning and then I would ask the panel's indulgence in order to accommodate the mayor's schedule, we will interrupt and come back to you after that.

Mr. KUCINICH. I am going to ask if staff would just look down the hall and see if he is coming, because I think, with the Chair's permission, I do not want to interrupt this line of questioning.

Mr. MCINTOSH. OK. Perhaps while we are waiting, let me ask a question I wanted to get back to, and then turn it back to Representative Kucinich.

But—and I understand you all are parties to a lawsuit and therefore, this has to be carefully weighed with what you say—is there a chance that a win-win solution can come out of this? And I guess I would ask each of you to weigh that.

Mr. LINNERT. I will be happy to take a shot. Allied has offered publicly and privately to buy our landing gear business. We have said publicly and privately it is not for sale. We are in the landing gear business, we want to stay in the landing gear business, so our business is not for sale. And business means manufacturing facilities, customer contracts, research and development programs—we are not going to sell that business.

Mr. MCINTOSH. That would not necessarily preclude, if the company went ahead and made a decision—which you have told us they have not made yet—about the Cleveland plant, to create an opportunity there where it can be a win-win solution.

Mr. LINNERT. If what you are suggesting is if after the study is complete, if a decision was made—do you want me to keep going?

Mr. MCINTOSH. Keep going.

Mr. LINNERT. If a decision was made to close the facility, whatever State it is in, or country, because remember one of these facilities is in Canada—after the consolidation is complete, if there is a facility left over or vacant, sure, we would be happy to consider selling it to anyone who would be interested in buying that.

Mr. KUCINICH. Mr. Chairman, as I indicated earlier, I would defer my round of questioning until the mayor of the city of Cleveland has a chance to present his testimony.

So at this time, it is an honor for me to introduce to the chairman somebody who Congresswoman Tubbs Jones and I know very well and we are very happy to have him here in front of our subcommittee—the mayor of the city of Cleveland, Michael White. Mayor White.

Mr. MCINTOSH. Thank you, Mayor for coming. Let us make sure that we have a seat with a microphone, if we could, for you. While you are seated, let me tell you, I was delighted as we came into the city today, to see the wonderful condition of the downtown, and you had an opportunity to testify before our full committee about 4 years ago when Mr. Clinger was in Cleveland with the committee. I was impressed then by your ideas on how to make our Nation's cities an even better place to live and raise a family, and I can see you have been working hard at that, or at least the results are evident by a Hoosier who has come over here to visit in Ohio.

So thank you for taking time to join us today, and please present a summary of your testimony. We will put the entire written remarks into the record.

STATEMENT OF MICHAEL R. WHITE, MAYOR, CITY OF CLEVELAND, OH

Mayor WHITE. Thank you very much, Mr. Chairman. Let me, first of all, welcome you to Cleveland and just indicate to you how this old Buckeye's heart feels so warmed by a Hoosier saying such great things about what is going on in one of the cities of the Buckeye State. I also want to just pay my respects to my Congresslady, Congresswoman Stephanie Tubbs Jones, and also one of my predecessors, the now Congressman Dennis Kucinich, who is also, as well as Congresswoman Jones, doing an outstanding job on behalf of our city.

Let me also thank you for affording us the opportunity to speak with you about our concerns regarding the merger matters before you involving a number of important companies in the United States of America. Ladies and gentlemen of the panel, I would just like to very quickly focus you on three fundamental issues.

No. 1, I do not believe that the issue that is before you is solely about the issue of two corporate giants and the effect of that merger on the landing gear industry and the military of this country. I think even before you can get to that question, the question of landing gears, the question of mergers, the question of the stuff that lawyers are employed for, for many many years, there is a human element to the discussion that is taking place. And I would just respectfully submit to you today that it is that human question that ought to be the paramount question. And that question revolves around 650 men and women from all parts of Cuyahoga County, who come to work every day and do the best they can. They do the best they can on behalf of their employer, they do the best they can on behalf of their families, they do the best they can on behalf of the community and they do the best they can on behalf of our Nation, since the work they do is so important.

If that is true, and I submit to you today that it is true, then I think that we, as leaders of the community and the country at the local, county, State and Federal level have an obligation first to those 650 workers; second, to their spouses and significant others; and last, but not least, to their children. Because this discussion goes even beyond those 650 workers, it goes to all of the men and women and children and aunts and uncles and grandparents who are financially or otherwise dependent upon these breadwinners at this particular plant.

So I come today first of all to say to you that I hope within your deliberations, I hope that within the work of the Congress, that you will help these companies arrive at a position that you would want them to arrive at if the three of you were members of the 650 employee contingent.

Second, Mr. Chairman, I come to just raise with you in a very small way and to restate to you in a very small way, the whole question of monopolies as it pertains to some of the matters and some of the products that are manufactured by these two entities. I have not come today to suggest to you that I have any global or national understanding of what is before you, but I do know this—and I think if there is any area where Congressman Kucinich and I would agree, monopolies are bad. Bad for the country, bad for the consumer and in the end, really bad for the corporation because it does not create the incentive to do better, it does not create the incentive to be better. It does not create the incentive to think about how to create a different and more unique product.

And I think in the area that we are talking about today, the critical importance of the products that are being manufactured, we need the very best. We need those products at the cutting edge and we need to be better than anybody in the rest of the world. So whether it is the private industry or the military, we need to assure that these products are in fact critically important.

I have last come just to ask you to assist us. The water is kind of muddy. Mr. Chairman, on a good day, on a hot day in Cleveland, Lake Erie is green, blue or greenish-blue. You can stand our on Willard Park Garage and look out at our lake and it is a beautiful sight to behold. But every now and then, just like yesterday, we have a storm and that storm is very strong, that storm is very powerful. Sometimes if that storm rages long enough, that green or that blue or that greenish-blue lake is no longer green, blue or even greenish-blue. It becomes tan or even brown, but it becomes murky. You can no longer just stick your hand in the water and see your hand or see some of the fish at the docks, that swim by.

I would suggest to you from my small seat on the sidelines, the issue of this merger, the real intent of the industries and the corporations that are involved in this merger, are like the morning after of a bad storm on Lake Erie. Their intentions are not clear, their commitments are not understood, they have not been forthright and direct about what their true intentions are.

In my own small way, that kind of behavior has always bothered me, because I have found that when people I deal with or entities I deal with are not forthright, it is because they do not want to be, not because they do not know how to be.

I hope, not on my behalf, but on behalf of the 650 families and the thousands of other people who are dependent upon them, and on behalf of our community, that you will keep them at the table and that you will force them to be forthright and clear about what their true intentions are, because it is only by assuring that we understand their clear and firm intentions that we can adequately protect those 650 workers, the thousands of people who depend on them, our community and indeed, just maybe, the United States of America.

I thank you for hearing my remarks. I thank you for coming to Cleveland to look at this very important issue. Let me say to you that there are many, many people in our community who are depending on you to get to the bottom of what is going on, and we are convinced that it is only the Representatives of the Congress and the Congress, including the very esteemed and very honorable U.S. Senator, Michael DeWine, that will enable us to get where we need to go. And I do want to publicly, just as I end, thank him as well for the outstanding leadership that he has given to us.

Thank you, Mr. Chairman.

[The prepared statement of Mayor White follows:]

Mayor Michael R. White
City of Cleveland
July 7, 1999

Comments for the
National Economic Growth, Natural
Resources, and Regulatory Affairs Subcommittee
Field Hearing

I'd like to welcome the members of the subcommittee to Cleveland and thank them for devoting time to an issue that will have not only a dramatic, debilitating impact on a neighborhood in the urban core of northeast Ohio and the Mid-Western United States, but an issue that will also have a substantial, negative impact on every taxpayer of our country.

I would also like to thank members of the congressional delegation representing Cleveland and Northeast Ohio: Representative Stephanie Tubbs Jones, Representative Dennis Kucinich, Senator George Voinovich and Senator Mike DeWine. Our representatives and senators should be commended for their efforts to keep the local impact of this proposed merger at the forefront.

As you know, B.F. Goodrich and Coltec Industries plan to merge. Goodrich manufactures aircraft wheels, brakes and landing gear; Coltec manufactures aircraft landing gear. Goodrich currently manufactures aircraft landing gear at its Cleveland Plant in Cleveland's Broadway neighborhood. This plant employs 650 highly skilled, well-paid workers. It has been reported in the media, and we have no evidence to contradict these reports, that Goodrich will close its Cleveland Plant after the merger is complete. Closing this plant will result in the loss of 650 jobs in Cleveland. Although Goodrich claims is has not made a final decision regarding closure of its Cleveland Plant, documents submitted to the Defense Department make it clear that closing the Cleveland Plant, at the expense of 650 Cleveland jobs, is the only option Goodrich has considered.

You are all well aware of the economic stress on urban centers such as Cleveland. The loss of 650 highly-skilled, well-paid jobs in this hard-working, urban-core neighborhood would be devastating. We have worked very hard this decade to improve the quality of life in our neighborhoods. Since 1990, crime has declined by 25%, seven new industrial parks are underway, nearly 30,000 jobs have been created or retained, and the City is experiencing its greatest new housing boom since the 1950's. But, ladies and gentlemen, we cannot afford to take a large step backwards. Losing 650 jobs will not only affect an entire neighborhood but also 650 families. It's imperative that Cleveland retains those jobs as we continue our progress.

While the impact of the loss of jobs on the 650 Cleveland families cannot be understated, the effect of the merger on the "bottom line" of the various taxing districts benefiting from B.F. Goodrich's Broadway neighborhood plant. B. F. Goodrich's Cleveland facility pays an estimated $470,000 of income taxes annually, $40,000 in real property taxes annually, and an estimated $115,000 in personal property taxes annually. If this merger is allowed to proceed, the City of Cleveland, the Cleveland City School District and other stand to lose up to $625,000 of tax revenue annually.

This merger must be closely scrutinized not only because of the debilitating effect it will have on one of Cleveland's core neighborhoods, but also because of the impact of the resulting monopoly in Ohio and throughout the United States. The company which will result from the proposed merger, Inrich, will be the only source of aircraft landing gear to both commercial wide- and narrow-body jets and U.S. military aircraft. The monopoly which will result should the merger proceed as proposed will undoubtedly cause irreparable economic harm to the citizens of the United States and the State of Ohio. Not only will Inrich be in a position to dictate the price of landing gear to aircraft manufactures, who will, in turn, pass the costs on to the airlines who will pass them on to consumers, but

Inrich, will be the single domestic supplier of landing gear for U.S. military aircraft. Therefore, Inrich will not only be in a position to negatively influence landing gear prices to the U.S. Department of Defense, but the Department of Defense will clearly be at risk if Inrich is unable to meet the Defense Department demand for supply. Clearly, a situation which puts the American taxpayer in an untenable position.

Allied Signal, Inc., a manufacturer of component parts for aircraft landing gear, has filed an anti-trust action in the United States District Court for the Northern District of Indiana, challenging the Goodrich/Coltec merger. Although Goodrich had challenged Allied's right to file such an action, the Federal Court of Appeals recently ruled that Allied Signal "made the requisite showing of likely anti-competitive effects," and, therefore, Allied's claims can, and should, proceed to trial.

Recently, I wrote to Ohio Attorney General Betty Montgomery requesting that she carefully review this matter. The Attorney General has the authority to "step into the shoes" of the citizens of this state to take the steps necessary to protect our interests. I've asked Attorney General Montgomery to, at a minimum, determine whether a brief in support of Allied Signal's action is warranted. The Attorneys General of Indiana, Connecticut, and Iowa, all of whom believe their states will suffer irreparable economic harm from the merger of B.F. Goodrich and Coltec, have filed such a brief. I believe, considering the imminent potential for direct harm to Cleveland and all of Ohio, an anti-trust action on behalf of the citizens of the entire state may be appropriate.

Fortunately, there is truly a "win-win" solution to this problem. Allied Signal has offered publicly to pay fair market value for B.F. Goodrich's plant here in Cleveland. Allied has guaranteed to not only retain the current workforce under the terms of their current contract, but to also modernize the facility. The Federal Trade Commission could order this "fix" before allowing the merger to proceed. After the modernization, Allied will be in a position to compete directly with Inrich in the landing gear market - improving, rather than weakening, the position of consumers and taxpayers in the United States. Additionally, this fix would retain 650 jobs in Cleveland, a vital urban-core neighborhood of this country.

Ladies and gentlemen, the bottom line here is jobs. We cannot lose sight of the fact that this is about the livelihood of 650 families. If this plant closes, the impact on the lives of the employees and their families, the neighborhood and the City of Cleveland would be devastating. As I stated earlier, I support Allied Signal in their effort to buy the B.F. Goodrich plant, and I urge the Ohio Attorney General to file a brief in support of Allied Signal. Finally, I pledge to work with Congresswoman Tubbs Jones, Congressman Kucinich, Senator DeWine, the Ohio Attorney General and Allied Signal to reach a solution that will preserve those jobs. Thank you.

Mr. McINTOSH. Thank you, Mayor White, I think you have indeed summarized the crux of the issue for us, particularly starting from that very first perspective of what does it do for the families whose jobs are at stake. And so thank you for coming and I will assure you, we will get to the bottom of this and leave no stone unturned in terms of finding out what is intended and what will happen.

Mayor WHITE. Thank you, Mr. Chairman.

Mr. KUCINICH. Thank you, Mr. Mayor. Nice to see you.

Mr. McINTOSH. Dennis, if you want to proceed with the questioning of the panel please do so. To each of the witnesses there, I appreciate your letting us be able to interrupt that with the testimony, so we were able to include that in the record.

Mr. KUCINICH. Mr. Chairman, I have a unanimous consent request. I have a number of documents, correspondence, et cetera, that I am going to ask be submitted into the record, if they may be.

Mr. McINTOSH. Absolutely, we will include those at this point in the record.

[The information referred to follows:]

exhibit #1

The BFGoodrich Company
4020 Kinross Lakes Parkway
Richfield, Ohio 44286-9368
Tel: (330) 659-7700
Fax: (330) 659-7702

David L. Burner
Chairman and
Chief Executive Officer

November 23 1998

The Honorable Dennis Kucinich
United States House of Representatives
1730 Longworth House Office Building
Washington, D.C. 20515-3510

Dear Representative Kucinich:

I want to inform you that The BFGoodrich Company is announcing today an agreement to merge with Coltec Industries of Charlotte, North Carolina. Coltec manufactures highly engineered products, primarily for aerospace and industrial customers. The merger should be completed late in the first quarter of 1999, subject to approval by shareholders of both companies and appropriate regulatory agencies.

The company, which will retain the BFGoodrich name, will be based in Charlotte. As a result, our corporate headquarters in Richfield and our aerospace headquarters in Montrose will relocate to Charlotte. A total of 170 jobs will leave Northeast Ohio. An undetermined number of employees from both staffs will be offered the opportunity to relocate. Those employees not invited to join the new organization will receive an enhanced level of severance benefits and outplacement assistance.

The 170 jobs represent about 5 percent of BFGoodrich's Ohio employment, which totals almost 3,400 jobs at more than a dozen sites around the state, including major operations in Akron, Avon Lake, Brecksville, Cincinnati, Cleveland and Troy.

None of these other Ohio-based jobs will be affected by the relocation of the headquarters. These operations and their employees will continue to contribute significant amounts of tax revenue to their local communities and to the state after the merger is complete.

In addition, BFGoodrich fully intends to honor all the commitments we have made to nonprofit and charitable organizations in Northeast Ohio.

November 23, 1998
Page 2

BFGoodrich's roots run deep in Northeast Ohio, and we are proud of our legacy here. Our close ties to the area made this decision extremely difficult. We regret that these actions invariably will cause pain to our fine employees, their families and the region. Yet, BFGoodrich has changed dramatically in the past 20, 10 and even five years. We would be ignoring our duty to our shareholders, our customers and our employees if we were to bypass this opportunity to evolve and grow into an even stronger company.

Although we no longer will be based in Northeast Ohio, we look forward to maintaining our strong ties to the area in as many ways as possible.

Sincerely,

Dave

David L. Burner
Chairman, President and CEO
The BFGoodrich Company

exhibit 2

Memorandum

To: Jack Carmola

CC: Tom Fitch

Jeff Frattin

From: Hank Borisenko HB

Date: 02/24/99

Re: 1999 Restructuring Charges Estimate

Attached is an estimate for the 1999 BFGLG restructuring reserve. I have included a summary of the reserve requirements and answers to the eight action items addressed by corporate.

SUMMARY

A. Capital

Account		Total NBV 12/31/98	Relocated Portion	Remaining Asset Disposal Value	Restructuring Reserve	Comments
Cleveland						
1611	Land & Improvements	$158	$0	$30	$128	Estimated sale value (K. Banke meeting)
1612	Buildings	$819	$0	$0	$819	
1613	Building Equipment	$740	$0	$0	$740	
1614	Factory M & E	$17,751	$11,157	$985	$5,609	Detail analysis attached
1615	Office F & F	$2,463	$1,232	$123	$1,109	Used 50% recovery/10% value of disposal
1616	Software	$2,121	$2,121	$0	$0	
1617	Tools/Dies/Jigs	$142	$142	$0	$0	
1618	Lease Hold Improvements	$929	$0	$0	$929	
CIP	Construction in Progress	$4,006	$4,006	$0	$0	Mainly 2 G & L's, list attached
	Total Cleveland	$29,129	$18,658	$1,138	$9,334	
Plating						
1613	Building Equipment	$58	$0	$0	$58	
1614	Factory M & E	$1,999	$1,000	$100	$900	Used 50% recovery est. from plant manag
1615	Office F & F	$37	$19	$2	$17	Used 50% recovery
1618	Lease Hold Improvements	$807	$0	$0	$807	
CIP	Construction in Progress	$75	$0	$0	$75	Shipping Dock & Nickel Room Ventilation
	Total Plating	$2,976	$1,018	$102	$1,856	

TOTAL CAPITAL RESTRUCTURING RESERVE EST. $11,190

B. LEASE RELATED

	Reserve	Comments
Cleveland		
Lease	$345	Lease up 5/31/2002 ($244k annual payme
Environmental Remediation	$101	Corporate legal estimate
Plating		
Lease	$0	Lease up 9/30/2000
Bring back to original state	$100	Misc. work on property
Environmental Remediation	$31	Corporate legal estimate
SEATTLE		Move to larger facility due to work move from Clev
Lease	$65	Penalty for breaking lease
Bring back to original state	$10	Walls & doors to original state
TOTAL LEASING RESTRUCTURING RESERVE EST.	$652	

C. Employee Related Costs

	Reserve	Comments
Cleveland		
Hourly severance	$6,056	22 weeks pay/employee (1 week per year
Salary Exempt severance	$2,301	18 weeks pay/employee (2 weeks per yea
Salary Non Exempt severance	$428	18 weeks pay/employee (2 weeks per yea
Salary Stay Pay (all including Plating)	$3,473	6 months pay based on company need da
Salary 55 or older added severance	$2,029	1 year pay plus $3k annual medical supp.
Salary between 50-54 severance	$900	$3k annual medical supplement (30 empl
Outplacement - Hourly	$69	2 day workshop - all
Outplacement - Salary	$41	3 day workshop - all
Outplacement - Salary	$120	10 high level employees with office space
Plating		
Hourly severance	$538	20 weeks pay/employee (1 week per year
Salary Exempt severance	$173	18 weeks pay/employee (2 weeks per yea
Salary Non Exempt severance	$44	18 weeks pay/employee (2 weeks per yea
TOTAL EMPLOYEE RESTRUCTURING RESERVE EST.	$16,170	

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Outside C
Eyes C

TOTAL RESTRUCTURING COSTS $28,012

BFG2000037

D. Specific actions to determine the restructuring reserve for landing gear operations

1. Identify which plants can be closed within the first 18 to 24 months.

Cleveland manufacturing operations at:	8000 Marble Ave. Cleveland, Ohio 44105
Plating operations at:	2800 East 33rd Cleveland, Ohio 44115

2. Determine the number of employees to be terminated by location and job function. Be as specific as we can be. A key element is estimating the years of service for the group to be terminated. We will have to gather specific information on the average years of service and age in the impacted population, perhaps by department or job code.

The closing of the Cleveland and Plating operations is estimated to impact 583 employees (based on 1/30/99 employment data) at both facilities. The distribution of the employees is as follows:

Hourly Cleveland employees represented by UAW, Local 2333	300
Hourly Plating employees represented by UAW, Local 2333	44
Subtotal Hourly terminations	344
Salary Exempt - Anticipated to be relocated to other BFGLG sites	75
Salary Non Exempt Co-ops which do not qualify for termination pay	10
Salary engineering employees to remain at a Cleveland site (no termination status)	22
Subtotal Salary non terminations	107
Salary employees for regular termination status	72
Salary employees between ages 50-54 with 5 years of service termination status	30
Salary employees 55 or older with 10 years of service termination status	30
Subtotal Salary terminations	132
Total Employees terminated	476
Total Employees non termination status	107
Total Employees impacted	583

Reference schedules A1 to A5 for detail information on the above employee distribution.

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Eyes Only

BFG2000038

D. Specific actions to determine the restructuring reserve for landing gear operations

3. For the employees to be terminated, determine the termination benefits to which they are entitled. For BFGoodrich Landing Gear Division, this will be the EPP plan or some enhanced benefit. We need to need to determine what benefit the Coltec employees are entitled to. Benefits would include not only severance pay buytalso any related fringe benefits which are provided as part of the overall package.

Hourly Cleveland employees represented by UAW, Local 2333
Hourly Plating employees represented by UAW, Local 2333
- proposing 1 week pay per year of service, 1 month full cobra medical, and 1 month 50% company paid cobra medical

Salary employees for regular termination status
- proposing 2 weeks pay per year of service, full benefits during the severance period

Salary employees between ages 50-54 with 5 years of service - termination benefits
- proposing 2 weeks pay per year of service, full benefits during the severance period
- additional annual medical benefit payment up to $3000/employee

Salary employees 55 or older with 10 years of service - termination benefits
- proposing 2 weeks pay per year of service, full benefits during the severance period
- additional annual medical benefit payment up to $3000/employee
- 1 year annual salary lump sum payment

Salary Stay Pay - Bonus paid to employees for staying until company determined date
- proposing 26 weeks wage lump sum payment
- If all terminated salary employees are paid 'Stay Pay', the cost would be in excess of of $3M, a derivative of this proposal could be used to reduce the cost.

Reference schedules B1 to B4 for detail information on the above employee termination costs.

4. Determine what type of stay pay arrangements will be required to keep certain employees in place until plant closure. Determine how much of this expense, if any will be eligible for the restructuring reserve. E & Y may be needed to assist in this determination.

Stay pay was addressed above. We anticipate that stay pay may range from 0 to $3M, depending on how it is implemented.

5. Determine if a voluntary termination plan will be required, what it will consist of and what portion of the the costs will be eligible for the restructuring reserve.

Do not anticipate using this option.

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BFG2000039

D. Specific actions to determine the restructuring reserve for landing gear operations

6. ***Determine the amount of impaired assets that may exist in the facilities to be exited. This will have to be done by asset type and include the book value of asset and the estimated market value. Appraisals of some other form of independent verification will be required to substantiate market values.***

The estimate below is based on our ability to successfully pass a test which establishes that the impaired assets are larger then our future cash flows.

$000's		Total NBV 12/31/98	Relocated Portion	Remaining Asset Disposal Value	Restructuring Reserve	Comments
Cleveland						
Account						
1611	Land & Improvements	[redacted]				Estimated sale value (K. Banke meeting)
1612	Buildings	[redacted]				
1613	Building Equipment	[redacted]				
1614	Factory M & E	[redacted]				Detail analysis attached
1615	Office F & F	[redacted]				Used 50% recovery/10% value of disposal
1616	Software	[redacted]				
1617	Tools/Dies/Jigs	[redacted]				
1618	Lease Hold Improvements	[redacted]				
CIP	Construction In Progress	[redacted]				Mainly 2 G & L's, list attached
	Total Cleveland	[redacted]				
Plating						
1613	Building Equipment	[redacted]				
1614	Factory M & E	[redacted]				Used 50% recovery est. from plant manager
1615	Office F & F	[redacted]				Used 50% recovery
1618	Lease Hold Improvements	[redacted]				
CIP	Construction In Progress	[redacted]				Shipping Dock & Nickel Room Ventilation
	Total Plating	[redacted]				
TOTAL CAPITAL RESTRUCTURING RESERVE EST.					$11,190	

Reference schedules C1 to C8 for detail information on the above impaired assets.

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BFG2000040

D. Specific actions to determine the restructuring reserve for landing gear operations

7a. Determine if any environmental remediation will be required to sell the facilities closed due to the restructuring and how much the required remediation will cost. Again, some form of independent assessment will be required to substantiate our estimate. This may include a Phase I or II study by an outside firm. We also need to consider any indemnification provided by third parties (Abex in the case of CPC).

Cleveland	
Environmental Remediation	[redacted]
Plating	
Environmental Remediation	[redacted]
TOTAL Environmental Remediation	[redacted]

Note: We are hopeful that the Cleveland Landlord will accept the land owned by BFGoodrich Landing Gear Division as a trade off for releasing any further liabilities related to the Cleveland leased property.

7b. Determine if other eligible exit costs can be identified, for example costs to exit one of the leased facilities in Everett.

Cleveland	
Lease	[redacted]
Plating	
Lease	[redacted]
Bring back to original state	[redacted]
SEATTLE	Move to larger facility due to work move from Cleve
Lease	[redacted]
Bring back to original state	[redacted]
TOTAL LEASING RESTRUCTURING RESERVE EST.	[redacted]

8. Ensure that necessary management approvals for the restructuring plan (this may be the B F G Board) and employee communications occur before the financial statement date, most likely March 31, 1999.

We are in the process of meeting this requirement.

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BFG20000411

File: 99 cost improvement project .

02/23/99

BFGoodrich Landing Gear Division
Restructuring Impact on Employment
Anticipated 12/31/2000 Closing

Restructuring Related to Cleveland Closing

	1999	Restructuring Reserve Impact							
		Total		Salary Employee Impact					
	ACTUAL	Impacted	Hourly	No Impact	No Impact	No Impact	Total Salary Layoffs		
Layoff Timetable :	Jan	Employees	Layoff	Co-ops	Relocate	Cleve Eng	Reg. Layoff	Layoff 50-55	Layoff >5
BFG Landing Gear Division									
Direct Labor	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Hourly Indirect	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Salaried - Exempt	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Salaried - Non Exempt	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Grand Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

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02/23/99

Anticipated 12/31/2000 Closing

Restructuring Related to Cleveland Closing

	1999 ACTUAL	Restructuring Reserve Impact		Salary Employee Impact					
		Total Impacted	Hourly	No Impact					
Layoff Timetable :	Jan	Employees	Layoff	Co-ops	Relocate	Cleve Eng	Rec. Layoff	Layoff 50-55	Layoff >55
CLEVELAND OPERATIONS									
HOURLY DIRECT									
1002 Small Parts Cell	[redacted]	[redacted]							
1004 Large Cylinder Cell	[redacted]	[redacted]							
1005 Welded Structure Cell	[redacted]	[redacted]							
1011 Heat Treat	[redacted]	[redacted]							
1012 Welding	[redacted]	[redacted]							
TOTAL CHIPCUTTING	[redacted]	[redacted]	[redacted]						
PERCENT OF TOTAL DIRECT	[redacted]	[redacted]							
1024 Sub Assembly	[redacted]	[redacted]							
1025 Final Assembly	[redacted]	[redacted]							
TOTAL ASSEMBLY	[redacted]	[redacted]	[redacted]						
PERCENT OF TOTAL DIRECT	[redacted]	[redacted]							
1525 NDT Inspection	[redacted]	[redacted]							
1535 Service Insp.	[redacted]	[redacted]							
1540 Mfg. Inspection	[redacted]	[redacted]							
1545 Assembly Insp	[redacted]	[redacted]							
1550 Surface Plate	[redacted]	[redacted]							
TOTAL INSPECTION	[redacted]	[redacted]	[redacted]						
PERCENT OF TOTAL DIRECT	[redacted]	[redacted]							
TOTAL HOURLY DIRECT	[redacted]	[redacted]	[redacted]						
HOURLY INDIRECT									
1130 Stockrooms	[redacted]	[redacted]							
1140 Shipping	[redacted]	[redacted]							
1150 Towmotor	[redacted]	[redacted]							
1160 Receiving									
1210 Sweepers-chiphaulers	[redacted]	[redacted]							
1220 Maintenance	[redacted]	[redacted]							
1260 Expense Stores	[redacted]	[redacted]							
TOTAL MFG. INDIRECT	[redacted]	[redacted]	[redacted]						
PERCENT OF TOTAL INDIRECT	[redacted]	[redacted]							
1560 Gage Inspection	[redacted]	[redacted]							
1565 Receiving Insp.	[redacted]	[redacted]							
TOTAL INSP. INDIRECT	[redacted]	[redacted]	[redacted]						
PERCENT OF TOTAL INDIRECT	[redacted]	[redacted]							
1770 Empl. on Long Term L.O.A.	[redacted]	[redacted]	[redacted]						
PERCENT OF TOTAL INDIRECT	[redacted]	[redacted]							
TOTAL HOURLY INDIRECT	[redacted]	[redacted]	[redacted]						
TOTAL HOURLY	[redacted]	[redacted]	[redacted]						

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A2

02/23/99 Anticipated 12/31/2000 Closing

Restructuring Related to Cleveland Closing

Layoff Timetable :	1999 ACTUAL Jan.	Total Impacted Employees	Hourly Layoff	Salary Employee Impact: No impact Co-ops	Relocate	Cleve Eng	Rep. Layoff	Layoff 50-55	Layoff >55	
MANUFACTURING-EXEMPT										
1020 Assembly Admin	[redacted]	[redacted]								
1002 Small Parts Cell										
1004 Large Cylinder Cell										
1005 Welded Structure Cell										
1012 Welding										
1011 Heat Treat	[redacted]	[redacted]								
1130 Stockrooms										
1220 Maintenance										
1230 Planning & Logistics										
1231 Planning & Logistics										
1260 Expense Stores										
1340 Traffic										
1350 Manufacturing Admin.										
TOTAL MANUFACTURING										
QUALITY-EXEMPT										
1500 Quality Admin										
1505 Quality Engineering	[redacted]	[redacted]								
1510 Inspection Super.										
1515 Suppliers Quality Assurance										
1580 Materials & Processes										
TOTAL QUALITY										
PROCUREMENT-EXEMPT										
1400 Procurement Admin.	[redacted]	[redacted]								
1450 StrategicProcurement										
Total Procurement										
ENGINEERING-EXEMPT										
1600 Engineering Administration	[redacted]	[redacted]								
1610 Design										
1620 Structures Incl Comp										
1630 Test										
1640 Advanced MRB										
1690 Seattle Office										
TOTAL ENGR.										
FINANCE - EXEMPT										
1935 Finance	[redacted]	[redacted]								
BUSINESS MANAGEMENT-EXEMPT										
1835 CLE - BOEING CELL	[redacted]									
1836 CLE - DOUGLAS CELL										
1837 CLE - SMALL GEAR CELL										
1838 CLE - INTEGRATED LANDING G										
Total Contracts										
MIS-EXEMPT										
1905 Computer Operations	[redacted]	[redacted]								
EMPLOYEE RELATIONS-EXEMPT										
1700 Emp. Relations Admin.	[redacted]	[redacted]								
1730 Employee Benefits										
1770 Empl. on Long Term L.O.A.	[redacted]	[redacted]								
TOTAL EMP. REL.										
MARKETING/SERVICE										
1800 Marketing Admin.	[redacted]	[redacted]								
1170 Service										
Total Marketing Admin.										
ADMINISTRATION-EXEMPT										
1900 Administration	[redacted]	[redacted]								
TOTAL EXEMPT	[redacted]	[redacted]				[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

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02/23/99

Anticipated 12/31/2000 Closing

Restructuring Related to Cleveland Closing

Layoff Timetable :
NON EXEMPT

	1999 ACTUAL Jan.	Restructuring Reserve Impact: Total Impacted Employees	Hourly Layoff	Salary Employee Impact: No Impact Co-ops	Relocate	Cleve Eng	Req. Layoff	Layoff 50-55	Layoff >55
MANUFACTURING-NON EXEMPT									
1020 Assembly Admin.	[redacted]	[redacted]							
1004 Large Cylinder Cell									
1005 Welded Structure Cell									
1130 Stockrooms									
1140 Shipping									
1220 Maintenance									
1260 Expense Stores									
1350 Mfg. Admin.									
TOTAL MANUFACTURING									
QUALITY-NON EXEMPT									
1515 Quality Source(Ind)	[redacted]	[redacted]		[redacted]					
1660 Materials & Processes									
TOTAL QUALITY									
PROCUREMENT-NON EXEMPT									
1400 Procurement Admin.	[redacted]	[redacted]							
1450 StrategicProcurement									
TOTAL PROCUREMENT									
ENGINEERING-NON EXEMPT									
1600 Engineering Admin	[redacted]	[redacted]		[redacted]					
1610 Design									
1630 Test									
1640 MRB Engineering									
TOTAL ENGR.									
FINANCE-NON EXEMPT									
1935 Gen Finance	[redacted]	[redacted]							
MIS-NON EXEMPT									
1905 Computer Operations	[redacted]	[redacted]							
EMPLOYEE RELATIONS-NON EXEMPT									
1700 Emp Relations Admin	[redacted]	[redacted]		[redacted]					
1710 Labor Relations									
1730 Employee Benefits									
1915 Office Services									
1770 Emp on Long Term L.O.A.									
TOTAL EMP. REL.				[redacted]					
BUSINESS MANAGEMENT/CONTRACTS/ADMIN-NON EXEMPT									
1800 Marketing Admin.	[redacted]	[redacted]							
1835 CLE - BOEING CELL									
1836 CLE - DOUGLAS CELL									
1837 CLE - SMALL GEAR CELL									
1900 Administration									
TOTAL NON EXEMPT	[redacted]	[redacted]		[redacted]			[redacted]		
TOTAL SALARIED	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
DIRECT LABOR									
Chipcutting	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Assembly									
Quality									
TOTAL DIRECT									
HOURLY INDIRECT									
Manufacturing	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Quality									
Admin. - LOA									
TOTAL INDIRECT									
SALARIED									
Exempt	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Non Exempt									
TOTAL SALARIED									
TOTAL PLANT-CLEVELAND	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

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BFG2000045

A4

Restructuring Reserve to Cleveland Closing

Layoff Timetable:	1999 ACTUAL Jan.	Restructuring Reserve Impact: Total Impacted Employees	Hourly Layoff	Salary Employee Impact: No Impact: Co-ops	Relocate	Cleve Eng	Req. Layoff	Layoff 50-55	Layoff >55
PLATING									
HOURLY DIRECT LABOR									
3881 Stop Off	[redacted]	[redacted]							
3882 Polish	[redacted]	[redacted]							
3883 Cadmium	[redacted]	[redacted]							
3884 Chrome	[redacted]	[redacted]							
3885 Sandblast	[redacted]	[redacted]							
3886 Shot Peen	[redacted]	[redacted]							
3887 Inspection	[redacted]	[redacted]							
3873 Nickel Electroless	[redacted]	[redacted]							
TOTAL HOURLY DIRECT	[redacted]	[redacted]	[redacted]						
HOURLY INDIRECT LABOR									
3868 Trucks	[redacted]	[redacted]							
3869 Maintenance	[redacted]	[redacted]							
3872 Rack Room	[redacted]	[redacted]							
3875 Shipping & Receiving	[redacted]	[redacted]							
3876 Laborer									
TOTAL HOURLY INDIRECT	[redacted]	[redacted]	[redacted]						
PLATING EXEMPT SALARY									
3884 Chrome	[redacted]	[redacted]							
3887 Inspection	[redacted]	[redacted]							
3869 Maintenance	[redacted]	[redacted]							
TOTAL EXEMPT SALARY	[redacted]	[redacted]					[redacted]		
PLATING NON EXEMPT SALARY									
3887 Inspection	[redacted]	[redacted]							
3869 Maintenance	[redacted]	[redacted]							
3871 Office Administration	[redacted]	[redacted]							
TOTAL NON EXEMPT SALARY	[redacted]	[redacted]					[redacted]		
TOTAL PLATING	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
BFG Landing Gear Division									
Direct Labor	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Hourly Indirect	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Salaried - Exempt	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Salaried - Non Exempt	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Grand Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

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Severance Cost & Stay Pay

Cleveland Hourly

Proposed per employee		
1 week pay per year of service		
Average hourly rate	$20.12	
Hours per week	40	
Average years of service	22	
Fica % of wayes paid	7.65%	
		$19,060
1 month full cobra cost		$750
1 month 1/2 cobra cost		$375
Total cost per Cleveland hourly		$20,185
Total Hourly Layoffs		300
Total Cleveland hourly closing cost		$6,055,524

Plating Hourly

Proposed per employee		
1 week pay per year of service		
Average hourly rate	$12.85	
Hours per week	40	
Average years of service	20	
Fica % of wayes paid	7.65%	
		$11,066
1 month full cobra cost		$750
1 month 1/2 cobra cost		$375
Total cost per Cleveland hourly		$12,191
Total Hourly Layoffs		44
Total Plating hourly closing cost		$536,422

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Severance Cost & Stay Pay

Cleveland/Plating Salary Exempt Layoff Pay

Proposed per employee		
Weeks pay per year of service	2	
Average hourly rate	$26.00	
Hours per week	40	
Average years of service	9	
Fica % of wayes paid	7.65%	
		$20,152
Benefits months paid	4.5	
Benefit cost per month	$1,020	
		$4,590
Total cost per Salary Exempt		$24,742
Total Salary Exempt Layoffs - Cleveland		93
Total Cleveland exempt closing cost		$2,301,013
Total Salary Exempt Layoffs - Plating		7
Total Plating exempt closing cost		$173,195

Cleveland/Plating Salary Non Exempt Lay Off Pay

Proposed per employee		
Weeks pay per year of service	2	
Average hourly rate	$15.00	
Hours per week	40	
Average years of service	9	
Fica % of wayes paid	7.65%	
		$11,626
Benefits months paid	4.5	
Benefit cost per month	$698	
		$3,141
Total cost per Salary Exempt		$14,767
Total Salary Exempt Layoffs - Cleveland		29
Total Cleveland non-exempt closing cost		$428,249
Total Salary Exempt Layoffs - Plating		3
Total Plating non-exempt closing cost		$44,302

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BFG2000048

B2

Severance Cost & Stay Pay

Cleveland/Plating Salary Exempt & Non Exempt Stay Pay

Proposed per employee		
Stay pay weeks	26	
Average hourly rate	$23.50	
Hours per week	40	
Fica % of wayes paid	7.65%	
		$26,310
Benefits months paid	0	
Benefit cost per month	$0	
		$0
Total cost per Salary Exempt		$26,310
Total Salary Exempt Stay Pay employees - Cleveland		132
Total Salary Stay Pay		$3,472,875

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B3

exhibit #3

Cost per hourly employee		Savings
Wages	$42	
Benefits	$18	
Premium Pay	$7	
Total Wages & Benefits	$67	

CLEVELAND OPERATIONS		
HOURLY DIRECT		
TOTAL CHIPCUTTING	[redacted]	[redacted]
TOTAL ASSEMBLY		
TOTAL INSPECTION		
TOTAL HOURLY DIRECT	[redacted]	[redacted]
TOTAL HOURLY INDIRECT	[redacted]	[redacted]
TOTAL HOURLY	[redacted]	[redacted]
Savings wage & fringes for new site hourly		
25% savings vs. Cleveland ($15 vs. $21/hr)	[redacted]	[redacted]
Total Cleveland Hourly Savings		
MANUFACTURING-EXEMPT	[redacted]	[redacted]
QUALITY-EXEMPT		
PROCUREMENT-EXEMPT		
ENGINEERING-EXEMPT		
FINANCE - EXEMPT		
BUSINESS MANAGEMENT-EXEMPT		
MIS-EXEMPT		
EMPLOYEE RELATIONS-EXEMPT		
MARKETING/SERVICE		
ADMINISTRATION-EXEMPT		
TOTAL EXEMPT	[redacted]	[redacted]
MANUFACTURING-NON EXEMPT	[redacted]	[redacted]
QUALITY-NON EXEMPT		
PROCUREMENT-NON EXEMPT		
ENGINEERING-NON EXEMPT		
FINANCE-NON EXEMPT		
MIS-NON EXEMPT		
EMPLOYEE RELATIONS-NON EXEMPT		
Admin and Contracts - Non Ex.		
TOTAL NON EXEMPT	[redacted]	[redacted]
TOTAL SALARIED	[redacted]	[redacted]
TOTAL CLEVELAND EMPLOY	[redacted]	[redacted]
PLATING EXEMPT SALARY	[redacted]	[redacted]
PLATING NON EXEMPT SALARY		
TOTAL PLATING		
Total Cleve & Plating Employees		
Direct Labor	[redacted]	[redacted]
Hourly Indirect		
Salaried - Exempt		
Salaried - Non Exempt		
Grand Total		
Other Costs/Savings		
Repair & Maintenance (New equipment)	[redacted]	[redacted]
Utilities		
Security		
Material Acquisition (Mainly Frt)		
Plating Savings (25% of 1900 Budget)		
MIS Expenses		
Travel (Related to employee reductions)		
Office Supplies (less employees)		
Cleveland & Plating Building Rent		
Salary OT costs (50% of 1998 actual)		
Total Savings		

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BFG2831704

EXHIBIT
PIE'S
43
4-10-99 PS

exhibit #4

BFGOODRICH RESTRICTED

January 8, 1999

To: Jack Carmola
Roger Wright

Re: ***Meeting Notes—January 6, 1999***

The following is a summary of our meeting and discussions of January 6, 1999.

We started our meeting with a review of each facility in terms of the process and capabilities; the floor space, utilization, labor relations climate, number of employees and any issues. A summary of both the Menasco and BFGoodrich facilities is attached. As part of this review, we "rated" the plants as shown below. The rating is an overall rating and is obviously very subjective. We will use plant visits next week to help confirm or change the ratings. Oakville was rated the best facility with Cleveland and Dallas rated the worst overall. Tullahoma, Krosno and the Cleveland Plating facility were rated better than average.

We stated that we create value, or bring added value, to our customer through specialized machining and processing, and the assembly and integration of landing gear components. In an ideal world we would like to have production facilities that are union free, cost effective, flexible and efficient in their layouts and as self-contained as possible. We would sub-contract all parts or processes for which we are non-competitive or that are not part of our core competency.

As a result of our discussion about facilities, we thought that the following actions should occur if we are to meet as many of our ideal world objectives as we can:

1. Close Texas, Cleveland and Plating (approximately 866,000 square feet)
   - Eliminates 700 hourly positions (assume $50,000/year @ 6 months severance pay) Cost would be: $17,500,000
   - Eliminates 300 salary positions (assume $60,000/year @ 9 months severance pay) Cost would be: $13,500,000
   - Relocates 200 people (assume $50,000/relocation) Cost would be: $10,000,000
   - Total dollar impact $41,000,000
   - Total people impact: eliminates 1000 positions here
2. Combine Everett facilities
   - Do all Boeing assembly; enhance engineering and purchasing
   - Adds 20 people (part of those relocated above)

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Meeting Notes of January 6, 1999
Page 2

3. Close Burlington Service facility and combine with Miami
   - No impact here
4. Expand Oakville by approximately 75,000 square feet
   - Produce 757,747N, 767N, 777N, 737
   - Expansion costs w/ machinery — $20,000,000
   - Adds 100 people (mostly hourly)
5. Expand Tullahoma by approximately 100,000 square feet
   - Produce C17N, F18, F16, F15, F22, V22, GV, 737N
   - Add processing & HT Expansion — $15,000,000
   - Adds 50 people (almost all hourly)
6. Build a Greenfield plant of approximately 300,000 square feet
   - Produce 747M, 767M, 777M, C17M and A3XX
   - New plant and equipment — $100,000,000
   - Includes Plating & HT
   - Adds 300 people (non-union, new hires)
7. Expand Krosno by approximately 25,000 square feet
   - Produce DHC-8, 728, Boeing Sub-assemblies and components
   - Expansion includes Plating and HT — $10,000,000
   - Adds 30 people (all hourly)

- Total one-time costs — $186,000,000

- On-going savings
  - 400 people (assume $80,000/year pay) — $32,000,000 annually
  - Going from 700 to 500 in hourly
  - Going from 500 to 300 in salary

- Items not included in above:
  - Environmental clean-up costs
  - Equipment and facility write-offs
  - IS needs
  - Vacated property management costs
  - Building destruction or demolition costs
  + Saving associated with Greenfield site labor costs
  + Procurement benefits
  + Savings associated with not operating three facilities

<u>**Actions for Jack and Roger**</u>:

- See if the workload distribution (of programs) that we devised is approximately correct so that we have a balanced workload by facility.

- Have the Engineering heads look at the capacity and capabilities of their respective drop test and fatigue facilities.

- Other considerations: Ernie is to check and see if we could combine Menasco Flight Controls, W&B BCS and Motion's hydro-mechanical businesses into one division of approximately $40 M in revenue.

Ernie

Ernie Schaub

KEY PEOPLE BY FUNCTIONS

Function	BFGoodrich	Menasco
Engineering	Martin	Levoir
Sales/Marketing	Cyr Cooper	McDowell
Operations	Strehle Steward Maglosky Krowiak	Wright Northern
HR	Parker	
Finance	Fitch	Schoenfeld
Other		Kouverianos ▪ Engineering background ▪ Good Boeing relationships

We should each make it a point to meet the above individuals and get to know something about them during our tours.

FACILITIES

	Oakville	Burlington	Texas	Krosnov	Everett	Cleveland	Tullahoma	Plating	Everett
Floorspace	277	80	443	76	20	324	192	99	28
Mfg. Only	222	72	384	66	18	297	184	91	23
Office	55	8	59	10	2	25	12	8	5
People (H)	389	98	350	99	6	248	147	45	22
(S)	219	35	247	77	3	221	41	11	7

Objectives
- No Union
- Cost Effective
- Efficient Layout
- Self-contained

Value Added
- Specialized Machining and Processing
- Assembly & Integration of Components

Plants Ranked By "Best" (10=Best)

Oakville	10
Tullahoma	7
Krosnov	6
Plating	6
Texas	3
Cleveland	3

exhibit #5

BRUSSELS NEW DELHI
CHICAGO NEW YORK
COLUMBUS PARIS
DALLAS PITTSBURGH
FRANKFURT RIYADH
GENEVA TAIPEI
HONG KONG TOKYO
IRVINE WASHINGTON
LONDON

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February 1, 1999

CONFIDENTIAL
CONTAINS PROPRIETARY
BFGOODRICH INFORMATION

VIA HAND DELIVERY

Kathy Brown, Esq.
Senior Attorney
Office of General Counsel
DEPARTMENT OF DEFENSE
The Pentagon
Room 3D973
1600 Defense Pentagon
Washington, DC 20301-1600

Re: BFGoodrich/Coltec

Dear Ms. Brown:

This letter is a further response to your January 25, 1999 questionnaire. We understand that DOD is interested in information about actions which will affect directly the process of designing, manufacturing and selling landing gear. To restate my January 29, 1999 letter, the merger review has not progressed to the point at which the detailed information necessary to create and decide upon such actionable plans can be shared.

At the same time, BFG has been working to establish a restructuring accounting reserve reflecting estimates of the cost that will be associated with the merger and reorganization of the companies generally. As part of this preparation, possibilities and recommendations for reorganizing various facets of the businesses have been and are being prepared and reviewed. With regard to LGD, reorganization options have been formulated based on LGD's internal information, general industry knowledge, and a walk-through of the Coltec landing gear manufacturing facilities. I am enclosing material related to LGD's work in this regard.

BFG expects to generate efficiencies and improvements to its post-merger landing gear business that will sustain and facilitate expansion of capacity as required by airframe build cycles. We are working on the supplemental response with regard to capacity and will submit a response in the next few days.

Very truly yours,

Tom D. Smith

TDS/clv

Enclosure

cc: Ann B. Malester, Esq. - w/o enclosures
Norman Armstrong, Esq. - w/o enclosures
Steven K. Bernstein, Esq. - w/enclosures
Terry Linnert, Esq. - w/o enclosures
M. Kevin Ryan, Esq. - w/o enclosures

Current Facility Status

FACILITY	EQUIPMENT	PEOPLE	EXPANSION CAPABILITY
OAKVILLE	↑	↑	↔
SEATTLE	↔	↑	↔
TULLAHOMA	↓	↑	↑
DALLAS	↑	↓	↑
CLEVELAND	↓	↓	↓

Total manufacturing/office space is 1.4M ft.^{2}
Total employment: 2000 people

closing of Cleve facility sets stage for

Options for Restructuring

- **Option 1**
  - **Close Cleveland/Plating now**
    - **Disburse work to existing facilities**
    - **Minimize additional work in Texas; must fix**
    - **Expansion required in some facilities**

- **Option 2**
  - **Close Cleveland/Plating and Texas now**
    - **Establish Greenfield site for large gear**

- **Option 3**
  - **Close Cleveland/Plating with Greenfield now**
    - **Relocate streamlined headquarters and administration**
    - **Use existing facilities and start Greenfield**
    - **Phase Texas out gradually**

Option 1
Close Cleveland/Plating
Issues - Pros/Cons

PROs

- **Allows the quickest Cleveland exit**
- **Reduces CAPEX requirements from Greenfield**
- **Postpones Greenfield decision**
- **Aligns product families with facilities**
- **Effectively utilizes existing infrastructure and expertise**

CONs

- **Not a game changer**
- **2 out of 3 key facilities still unionized**
- **Adds to future closure cost Dallas**
- **Headquarters ?**
- **Plating permits in Tullahom**
- **Will require additional brick mortar**

Option 2
Close Cleveland/Plating/Texas
Issues - Pros/Cons

PROs

- Eliminates the two most inefficient facilities
- Results in lowest long-term operating cost
- Implementation of desired culture
- Current 747 projection rate may allow breathing room

CONs

- Most difficult to implement timing
- Retention of people a question depending on location
- Highest initial investment
- Highest execution risk
- 24 months not reasonable
- May be customer issue

Option 3
Close Cleveland/Plating and transition to Greenfield
Issues - Pros/Cons

PROs

- Lower risk approach
- Allows flexibility
- Smaller facility (at least in short term)
- Can time with market conditions and older facility performance
- Easier for customers to swallow

CONs

- Slower transition from Texa[illegible] Cleveland may be more diffi[illegible]
- Longer payback period to re[illegible] financial rewards

exhibit #6

JONES, DAY, REAVIS & POGUE

ATLANTA
BRUSSELS
CHICAGO
COLUMBUS
DALLAS
FRANKFURT
GENEVA
HONG KONG
IRVINE
LONDON
LOS ANGELES
NEW DELHI
NEW YORK
PARIS
PITTSBURGH
RIYADH
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February 3, 1999

CONFIDENTIAL
CONTAINS PROPRIETARY
BFGOODRICH INFORMATION

VIA HAND DELIVERY

Kathy Brown, Esq.
Senior Attorney
Office of General Counsel
DEPARTMENT OF DEFENSE
The Pentagon
Room 3D973
1600 Defense Pentagon
Washington, DC 20301-1600

Re: BFGoodrich/Coltec

Dear Ms. Brown:

This is BFG's supplemental response to your January 25, 1999 questionnaire. The questions which remain to be answered included several that pertained to the issue of capacity, capacity utilization, and future plans relating to such issues. While the response will address each of these specific questions, we believe that a more general discussion of the current market for landing gear and BFG's stand-alone situation will help place these issues in context.

The U.S. landing gear business is not growing. In fact, in the past ten years the total number of OEM shipsets for U.S. commercial and military aircraft has declined. As Attachment A shows, the number of new U.S. aircraft produced has declined since a peak in 1991, when 926 new aircraft were built. Since 1992, the total number of new units has not reached 800 and fell to a low of only 416 in 1996. The decrease in the number of OEM shipsets required is attributable in part to a decline in the number of landing gear required for U.S. military aircraft. In the 1980's, the industry provided the military with more than 400 shipsets per year; in 1998 this figure had declined to about 150, and it is not expected to increase materially in the near future. Another indication of the market's outlook, is that total worldwide revenue for landing gear is expected to decline between 1998 (approximately $1.12 billion) and 2001 (approximately $1.05 billion).

Kathy Brown, Esq.
February 3, 1999
Page 2

As you are aware, BFG has only a very modest presence in the manufacture of military landing gear; it is the current vendor for the F-15E/F (domestic versions) and the C-17, each of which are low build rate programs; it does not have a role in the F-18, F-22, F-16, or the Joint Strike Fighter. In addition, BFG recently suffered a substantial setback on its commercial landing gear production when Boeing decided to cut back production of the 747, for which it provides the wing, main, and nose gear.[1] In 1998, the 747 program provided almost 50 percent of BFG's total landing gear revenues, a figure expected to decline to less than 15 percent of revenue by 2001. Finally, most of the increase in the total number of landing gear shipsets in the U.S. anticipated for 1999 is for the Boeing 737, for which BFG is responsible only for the nose gear (which provides only modest revenues relative to the main gear).

In short, BFG's core landing gear business is comprised of older, mature, and/or low build rate programs. Thus, both the landing gear business in the United States in general, and that of BFG in particular, face a critical challenge over the next few years. The total number of shipsets required by U.S. airframe builders is expected to remain below 800 for at least the next ten years. BFG is expected to suffer unit and dollar sales declines at least through 2005. As estimated in BFG's presentation to the DoD on December 17, 1998, BFG forecasts that its total landing gear revenue will fall from about $233 million in 1998, to about $173 million in 2002 and 2003; and without drastic business action operating income is expected to be negative in 2001, 2002, and 2003.

Since the Company acquired the Cleveland Pneumatic Corporation (CPC) in mid-1993, BFG has been confronted with equipment, labor, and planning challenges. BFG had hoped substantially to improve the financial performance of the CPC operation, especially its Cleveland facility. For a variety of reasons, improvements were slow in being realized and never reached the levels originally anticipated. In particular, the Cleveland facility's productivity has lagged expectations due to old equipment and historically difficult labor/union issues.

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[1] Boeing has cut back from a run rate of about 55 aircraft per year (about 4.6 per month) to a planned rate of 24 per year (about 2 per month) in 2000. Although Boeing has announced that it will produce about 24 747s in 2000, they have also indicated that actual production rates may fall as low as 12 to 18 per year (1 to 1.5 per month) in 2000 and 2001.

Kathy Brown, Esq.
February 3, 1999
Page 3

It is within this context that BFG's landing gear capacity must be assessed. The Company has been searching for business options and alternatives (including closing and moving equipment and operations from Cleveland, as well as building a new "greenfield" landing gear facility) for several years in an attempt to put its landing gear business on a more sound footing. With recent changes to the business (e.g., the decline in the number of 747s to be built and the failure to win a position on newer, growing programs such as the Boeing 777 and the newer Airbus aircraft), the financial viability of BFG's options has narrowed, making it all the more challenging to find a viable alternative to business as usual. While BFG remains committed to the landing gear business, its investment in new equipment and facilities must be guided by sound financial principles and prospects that are currently questionable.

For much of its ownership of CPC, BFG has evaluated the possibility of reconfiguring its manufacturing and assembly capacity for landing gear. After struggling mightily to improve productivity at the Cleveland facility, it determined that an important component of any long-range program would include closing this facility. Several options for doing so have been considered but rejected as not being economically feasible. The last options presentation occurred on October 16, 1998. At that time the landing gear management again determined that the capital expenditures required and the impact on operating income were too great, given the risk that demand would not meet projections, and reluctantly determined to continue trying to improve Cleveland's productivity. It should be noted that the October 16, 1998 presentation was based on higher anticipated rates of production for the 747 than are now projected. The recent cutback in build rate simply reconfirms the decision that stand alone there are no financially attractive options for BFG to reconfigure its business.

This situation highlights one of the main attractions of the merger with Coltec. Coltec not only has a much stronger business base with the military (e.g., positions in the important F-18 and F-22 programs, and a preferred position with Lockheed on the Joint Strike Fighter program), but it is also the vendor for several growing commercial programs (e.g., 737 main gear, 757, and 777). A merger between BFG and Coltec would combine the volumes of the two firms in a manner that allows the combined firm to achieve a more efficient utilization capacity. Also, the additional financial strength and volume of the combined businesses will allow BFG to modernize and upgrade facilities. As a result, the combined entity should be a more efficient and lower-cost producer.

As part of its initial consideration of the merger with Coltec, BFG has evaluated several options involving reconfiguring the facilities of the two firms. (See the Attachment to my February 1, 1999 letter to you.) With the combined volumes of the two firms, one or more options may be attractive. In particular, the combined firm might well choose to close the Cleveland plant and plating facility, and open a new "greenfield" plant somewhere in the southeastern states. This option (No. 3 in the Attachment to the February 1, 1999 letter), would result in closing Cleveland (BFG), building a new facility, and retaining both Tullahoma, Tennessee (BFG) and Oakville, Ontario (Coltec). The plan would also preserve the ability either to continue operating Coltec's Texas facility or to close it, depending on demand and market developments over the next two to three years.

Although BFG does not have sufficiently detailed information about Coltec's operations to have confidence in its initial conclusion about such a reconfiguration, it believes that the new facility could be ready to begin phasing in production in about two years, and that savings of $50 million per year are obtainable. Of key importance, BFG does not believe that the reconfiguration would result in any reduction in capacity. Equipment would be shifted among locations, new equipment would be purchased, and the volume of the combined firms could be allocated more effectively and efficiently among available capacity, which should have the effect of increasing the capacity of the combined businesses beyond that of each business alone.

Considering its October 16, 1998 stand-alone analysis along with its recent thinking about reconfiguring the two firms reflects a key fact. BFG did not find it financially attractive to invest in and reconfigure its landing gear business in October 1998; moreover, subsequent events -- the downturn in 747 production -- merely compounds the challenges it faced at that time and would make new investment even less attractive today. However, the merger with Coltec opens up opportunities to improve productivity and efficiency that were not previously available even with the 747 downturn. We believe that the merger is in the interest of BFG, Coltec, and their customers including the DoD.

With respect to your specific questions regarding capacity, let me begin by noting that the capacity to machine and assemble landing gear is highly flexible. In general, equipment must be maintained in place by the OEMs (e.g., BFG and Coltec) to machine larger, more complex components (e.g., large cylinders and pistons), while the bulk of the parts and components needs is subcontracted. In fact, fully 98.4 percent of all of the parts used in BFG's landing gear operations are subcontracted. In 1998, BFG produced a total of only 73 out of 4,688 parts used in its landing gear (1.6 percent produced by BFG); generally, BFG produces only the largest required parts. Approximately 63 percent of the product cost is outsourced to subcontractors. In fact, for current production programs BFG produces only six parts for military landing gear, all large parts for the C-17: three each in Cleveland and Tullahoma.[2] All other parts for military programs, including all parts for the F-15, are purchased from subcontractors.

Attachment B shows for BFG both historical rates of capacity utilization (1994-1998)[3] and estimates for utilization through 2003, the end of its planning period. BFG estimates capacity in terms of available machine hours; capacity utilization is simply the number of hours the equipment is actually used relative to this estimated capacity. As the table shows, the firm operated at only about 50 percent of capacity in 1998 and, consistent with its expectation that unit volumes and revenue will decline, utilization is expected to decline over the next several years.[4]

BFG has ample capacity to machine larger components; indeed, much of the capacity to machine these larger parts currently is underutilized and could easily accommodate increased rates of output (for either commercial or military landing gear, or both). This is corroborated, in part, by the fact that it was able to accommodate the recent surge in commercial landing gear demand when the number of aircraft built by domestic manufacturers increased from a low of 256 shipsets in 1995 to 588 in 1998.[5] At a time (1995-1998) when the number of commercial gears increased by more than 330, the number of military gears supplied fell by

---

[2] In Cleveland, BFG makes the C-17 post and axle beams, as well as the nose cylinder. In Tullahoma, BFG makes the C-17 main and nose gear pistons and the main gear cylinder.

[3] The request for information asked for capacity utilization going back 10 years. BFG acquired CPC in mid-1993; and only has data since that time.

[4] We note that some pieces or types of equipment are lower-cost and/or more flexible than others. Some of BFG's newer machinery is used much more intensively than the averages reflected in the chart. BFG believes, however, that the estimated capacity incorporated in the chart reflects its ability to machine and produce landing gear.

[5] This increase was driven largely by increased demand from Boeing/McDonnell for the 737, 747, 777, and MD80/90 programs, and smaller increases for the 757 and 767; the increases for the 747 have, of course, been reversed by Boeing's recent cutback in production.

only 36, from 186 in 1995 to 150 in 1998. BFG and the industry was able to accommodate this increased demand with current capacity.

BFG did so by the normal business mechanisms available to it. First, it increased the rate of production on in-house machinery and equipment. Second, it increased the number of man-hours for landing gear assembly. Third, it increased the rate of outsourced part and component acquisition.

Following the Coltec merger, BFG is committed to, and would expect to, meet increases or surges in landing gear demand by resort to each of the avenues listed above: increased production from existing capacity, increased labor hours (both direct and overtime), and increased outsourcing, just as it did between 1995 and 1998. While its views concerning reconfiguration are necessarily tentative, BFG expects to realign the facilities, capacity, and staff of the two entities and maintain them in a manner consistent with its obligation to meet projections of peak airframe demand. BFG can and does assure DoD that these changes will not result in a decrease in capacity.

I hope this information proves helpful. If you need any additional data, please contact me and we will provide it promptly.

Very truly yours,

Tom D. Smith

TDS/clv

cc: Ann B. Malester, Esq. - w/o enclosures
Norman Armstrong, Esq. - w/o enclosures
Steven K. Bernstein, Esq. - w/enclosures
Terry Linnert, Esq. - w/o enclosures
M. Kevin Ryan, Esq. - w/o enclosures

WA1057023

Attachment 4(c)8

exhibit # 7

The BFGoodrich Company
4020 Kinross Lakes Parkway
Richfield, Ohio 44286-9368
Tel: (330) 659-7700
Fax: (330) 659-7702

David L. Burner
Chairman and
Chief Executive Officer

PERSONAL & CONFIDENTIAL

November 19, 1998

Ms. Jeanette Grasselli Brown
Ms. Diane C. Creel
Mr. George A. Davidson, Jr.
Mr. James J. Glasser
Mr. Jodie K. Glore
Mr. Douglas E. Olesen
Mr. Richard de J. Osborne
Mr. Alfred M. Rankin, Jr.
Mr. Robert H. Rau
Mr. James R. Wilson
Mr. A. Thomas Young

Dear Directors:

I enclose a summary of additional information for your consideration relative to our Board meeting discussions. I have attempted to direct my comments to the major areas of discussion from our Monday telephonic Board meeting. An additional package will be sent tomorrow including information to follow up on our Monday discussions and to supplement our discussions for the Sunday, November 22 telephonic Board meeting.

I have reported to many of you about the successful conversations with Boeing and Lockheed. In both instances we received enthusiastic support for the merger transaction and we were assured that there will be no objections registered with the government agencies. By the time of our Board meeting on Sunday afternoon, I will have talked with each Director in further detail. I appreciate your advice and input. Thank you for your time and attention to the important matter of this significant opportunity.

Kind regards,

Dave

98205caw
Enclosure

Copied w/enclosure: M. Larsen, D. Price, T. Linnert, N. Calise, L. Vinney

November 19, 1998

To The BFGoodrich Company Board of Directors:

Thank you for your participation in the telephonic Board meeting on Monday, November 16. I appreciate your understanding of the need to have Special Meetings to discuss and act on these important matters. I assure you that our management is giving serious proper consideration and evaluation to the proposed acquisition and business consolidation decisions. Coltec has long been a desired acquisition candidate, and the time and circumstances are appropriate for us to act to accomplish this very attractive business combination. The aerospace industry is closely connected and merger discussions are quickly rumored when it becomes necessary to involve more people in the process. Our experience with the acquisition process is substantial and we believe that we have the capability and industry knowledge to allow us to act decisively on a transaction such as this after performing the appropriate due diligence processes to properly evaluate the risks and rewards of a business combination. Your counsel and advice are an essential part of our due diligence and evaluation process. Our management takes our responsibilities very seriously with a full understanding of the requirements for the protection of our shareholders' interests and the need for an appropriate return on their investment. The timing requirements of this transaction necessitate that our discussions and deliberations take place telephonically rather than in person. I do not believe that this process impairs our ability to properly deliberate and evaluate these matters.

This acquisition opportunity brings with it attractive aerospace products and a grouping of engineered industrial products. Although the industrial products and businesses are diverse, they have the common characteristics of strong market positions, a high incidence of replacement and repair business, and attractive and sustainable profit margins. These industrial businesses offer to us a further opportunity for business expansion and diversity. Coltec has the management capabilities for these businesses in place, with leadership that will be provided by John Guffey, the current Coltec CEO. John's business background is closely related to the industrial product group. We will supplement that leadership with the introduction and implementation of our strategic planning processes and a plan for strategic business direction and related action plans. We believe that we can apply the strategies and business tactics that have proven successful for the creation of an outstanding aerospace business segment to this industrial business group. I have previously described to you and to our industry analysts our willingness to consider acquisitions that may include business segments that are in addition to our two present business segments. I believe that the analysts and our investors will be supportive of this transaction and the addition of a new segment.

Coltec has in place a program for the protection of their senior management group in the event of a change in control. These programs are very common in the business world and our company has a similar program in place. As you are aware, the theory of these programs is that management will concentrate on the interests of shareholders rather than personal concerns, and that they will properly maintain and operate the business during the uncertain times leading to the closing of a merger. I cannot now debate the wisdom or appropriateness of these programs in this instance; however they are in wide use and a competitive necessity in today's business environment. You will recall that our acquisition of Rohr triggered their change in control provisions and their senior management group were paid their benefits as provided by their plan. We believe that the motivating intention and desire of the Coltec board of directors, and their senior management, is solely to enhance their shareholders' value by combining their business with another that is the most appropriately and strategically aligned with them, and one that will add value to the new organization. We and the Coltec organization believe this business combination offers that value. Further, the advice and recommendation of our investment advisors support this merger transaction.

The combination of these companies has the good business logic that we have discussed. The merger also creates the opportunity for significant savings through the elimination of duplicative costs and improved operating efficiencies. In addition to those savings, we believe that the time and form of this transaction offers the opportunity for significant change in the organization structure of The BFGoodrich Company. I planned to share with you during our December Board meeting executive session our thoughts about changing our organization structure. Our internal discussions and preparatory work on organization requirements were well in process prior to our merger discussions with Coltec. The timing of the Coltec transaction created the need, and the opportunity, to expedite the decisions to appropriately structure BFGoodrich for the current and future competitive business environment.

I believe that it is important to understand the origin of our current company configuration. The BFGoodrich business and organization structure is the residual of the exit from our industrial and commodity businesses. Our core businesses, aerospace and specialty chemicals, exist because they remained after exiting all of the other Goodrich businesses. I worked in the BFG Industrial Products Group during the period of change, and I assisted in the sale of numerous of those industrial businesses. Many of our very good industrial products businesses were sold to generate cash to repair our impaired financial position. The subsequent exit from the tire and PVC businesses left us with the two segments, which became the BFGoodrich of today. We were also left with a central research and development organization that was dedicated to polymer products and chemicals. I suggest that we are today composed of these two business segments because the circumstances of the company financial position and vulnerable market positions in commodity businesses required the exit of all other businesses. The answer to the so often asked question of why we are in the aerospace and specialty chemical businesses is easy and factual; they were all that remained. That explanation begs for a strategy and we struggle to create some plausible explanation other than the facts. My observations are not a criticism of the bold decisions made to transform our company. Those actions were appropriate and well executed.

The fact remains that our new organization is very good at creating value from our businesses. We have the capabilities to add value with our strategic management skills and operational and market expertise that allows us to differentiate ourselves in a very competitive market environment. I also suggest that the residual businesses could have been other than aerospace and chemicals. They also could have been three, four or five in number. Our challenge would have been the same. Create value for our shareholders as an independent public company or explore the alternatives. We chose to remain independent and to create value. We are a completely different company from the BFGoodrich that had its origin and roots in Akron, Ohio.

Our organization structure is also a residual of this transformation. The Aerospace segment organization was structured to remain as autonomous as possible from the corporate organization. This structure was created and protected because the Aerospace organization has little confidence in the capabilities of the corporate office. The history of the corporate headquarters is that it was held separate from the business operations. The Performance Materials organization was likewise structured to operate autonomously. In both segment organizations functional staffs were created that duplicated one another and also duplicated corporate functions. The corporate functions are now staffed, in part, with personnel that remained, or survived the transformation. In many instances the segment organization will not use the services of the corporate organization because of concerns at the segment level about the control and competency at the corporate level.

The central research organization is also a residual of the old corporation structure. The R&D organization existed in the past primarily to serve the polymer and chemical technologies of the company. The central R&D organization survived the transformation, although constantly reorganized over time. The assumption for the continuation of the central research organization has been that the segment organization cannot or will not dedicate resources to advanced technology. Dr. Haynes has been very instrumental in finding creative ways to change that perception and to support the businesses, primarily through the pacing research fund process (PRF). Although initially successful, recent submissions for PRF participation from the businesses suggest that interest from the businesses in the central process is waning. The majority of the work now done in the central research organization is related to Performance Materials. Separating the segment activities that are within the central research organization is possible and redirecting research activities to segment specific opportunities is appropriate. This would lead to the elimination of the Advanced Technology Group as a separate organization. The addition of a third segment makes such a change even more appropriate.

The integration and consolidation of the Coltec merger demands a more urgent analysis of our company structure and our functional capabilities. In addition, the consolidation process allows the creation of financial reserves against which the costs of reorganization must be charged. Our restructuring and the integration of Coltec's headquarters creates a significant portion of the overall synergies. The timing is appropriate to create the right organization structure to ensure the continuing success of the enterprise.

<u>What is the right organization structure</u>? The strength of the company must reside in the business operations. The support organization must exist only to add value or to serve the needs of the shareholders. Support services must be consolidated for efficiency if

they can effectively serve the needs of the businesses. Consolidated support services at the company level should include certain aspects of human resources, accounting and finance, treasury, taxes and others. Where such duplicate functions and support exist at the segment level, they should be eliminated. The restructuring of our existing segments and the structuring of a new industrial products segment will provide the opportunity to create this organization. These changes also suggest that efficiencies may be optimized if the segment management and support teams are housed within the Company structure. Research and development activities should be directly related to and lead by the segment organization. This new enterprise structure will be cost effective, flexible, business focused and organized for the future.

What are the implications? The new organization will require the right number of qualified people to accomplish the goals. Mediocrity will not be acceptable. The capabilities of the management leadership together with the support of the business operations will define the correct structure and resources required. In many instances the right people are not within our present organization. In many instances the right resources and support should be outsourced. Numerous positions will be replaced or removed. The present headquarters facility is not appropriately shaped or sized for the envisioned organization. A more flexible facility will be needed to meet the current and future needs of the organization. The Aerospace headquarters facility and certain of their support organization will not be required. The central research and development organization in Brecksville will require alteration to meet only the needs of Performance Materials. Performance Materials will further reorganize and numerous people will be replaced or removed. The implications are significant.

Why move? This vision of organization structure requires dramatic change. In some instances positions will be eliminated, in others the incumbent will not meet the requirements of the job. Some good capabilities reside in the Coltec organization. The magnitude of the change required in every aspect strongly suggests that moving to the right facilities, making the very hard decisions to get the right capabilities in every position, and moving the right Coltec personnel to the consolidated facilities will require moving the corporate headquarters from the present area.

Why Charlotte? Charlotte is a desirable location in a rapidly growing metropolitan area. The area will be positive for recruiting new people. We can leverage Coltec's capabilities, which are new because they moved to the area from New York three years ago. The State is offering to us some very attractive incentives.

Other? There are, and will be numerous other issues. The merger with Coltec triggers the BFGoodrich change in control provisions. The parachute benefits will be important to those who do not continue in our employ. Certain of the Coltec personnel have experience in facilitating a move; they can be helpful. The BFG flight operations are a significant resource investment. We will investigate outsourcing those requirements rather than investing in new facilities and people. The reorganization plan will be fully developed as participating personnel are informed of our plans. Our top-level estimates suggest that as many as 150 positions will be eliminated with annual savings that will offset the costs of implementation in less than one year.

Why make this decision now? For those reasons stated herein and to position this company to provide improved shareholder value, our reorganization and headquarters facility move is the right decision. If so, now is the time to tell our people and our communities. We must make the right decisions for our investors and proceed to execute. The announcement of the merger transaction will require a definitive public statement about consolidation plans and the investment community will be very positive about the reorganization and consolidation. We must inform the organization now to allow us to create the plans required to facilitate the transition.

This document cannot adequately describe the magnitude of the discussions, deliberations and concerns involved in this decision. We will provide to you more specifics; however the concept and vision will dictate the plan. Several senior positions will be changed.

PRIVILEGED
MATERIAL REDACTED

I will provide further details of these positions and others in our following discussions.

This letter is an attempt to document our thinking about the significant changes that we have the opportunity to make in connection with the merger and restructuring. Our senior management organization supports this vision and we believe that these actions will add significant shareholder value to our company. These are the very hard decisions that it is our responsibility to make. The social, family and community implications are serious and significant. We will do everything that is appropriate for those that are affected by these changes.

Our recommendations are the result of serious and comprehensive considerations. Because of the need for confidentiality we do not yet have the full details of the proposed changes. Following the public announcement we will use the resources required to complete a detailed analysis. Timing requirements prior to our Monday discussions did not allow me to prepare you for the discussions of the implications of the reorganization that we are recommending. Unfortunately, there was no way to do so. I again assure you that we are fully aware of the magnitude of this decision and the significance to all of the constituents affected. We remain committed to our responsibilities to our investors.

I will be pleased to discuss these matters in further detail at any time. Thank you for your consideration and support.

Dave Burner

exhibit # 8

The BFGoodrich Company
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Richfield, Ohio 44286-9368
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David L. Burner
Chairman and
Chief Executive Officer

November 20, 1998

Mrs. Jeanette Grasselli Brown
Ms. Diane C. Creel
Mr. George A. Davidson, Jr.
Mr. James J. Glasser
Mr. Jodie K. Glore
Dr. Douglas E. Olesen
Mr. Richard de J. Osborne
Mr. Alfred M. Rankin, Jr.
Mr. Robert H. Rau
Mr. James R. Wilson
Mr. A. Thomas Young

Dear Directors:

Enclosed are materials in response to questions raised during our telephonic meeting on Monday as well as a draft of Morgan Stanley's fairness opinion. Also enclosed are some of the basic documentation previously provided to you for your ease of reference and the proposed resolutions. Incorporated within the prior basic documentation is an expanded explanation of Coltec's industrial businesses. In addition, I have included a savings and expense summary relating to the proposed headquarters consolidation and a listing of various location incentives. An executive summary of the proposed merger agreement is also included.

Because of the need to make an announcement prior to our December Board meeting, I am also enclosing an appropriation request relating to some Aerostructures plant consolidations.

This is an exciting opportunity for BFGoodrich. I look forward to our discussions on Sunday.

Sincerely,

Dave

David L. Burner

DLB:jt
Enclosures

Merger Price Analysis

Offer price		[redacted]
Premium on 11/4/98		[redacted]
Exchange ratio		[redacted]
Premium to average historical one-month exchange ratio		[redacted]
Premium to 2-year average exchange ratio		[redacted]
Implied Coltec equity value		[redacted]
Implied Coltec aggregate value		[redacted]
Implied acquisition multiples on 1998 results	Agg. Value/LTM Revenues	[redacted]
	Agg. Value/LTM EBITDA	[redacted]
	Agg. Value/LTM EBIT	[redacted]
	Price/1998E EPS	[redacted]
	Price/1999E EPS	[redacted]
Pro Forma ownership		
BFG		[redacted]
Coltec		[redacted]

Opportunities for Synergies

Estimated Consolidation Cost Savings

($ Millions)	1999	2000	2001
Landing Gear Manufacturing	[redacted]	[redacted]	[redacted]
Sensors Business Consolidation	[redacted]	[redacted]	[redacted]
MRO Consolidation	[redacted]	[redacted]	[redacted]
Total Operational Savings	[redacted]	[redacted]	[redacted]
Corporate Cost Eliminations	[redacted]	[redacted]	[redacted]
Total Pre-Tax Savings	[redacted]	[redacted]	[redacted]

exhibit #9

ACQUISITION OVERVIEW -- COLTEC INDUSTRIES ($2.2 BILLION)

BFGoodrich is considering the acquisition of Coltec Industries ("Coltec") through a tax-free pooling-of-interests transaction valued at approximately $2.2 billion. Coltec manufactures highly engineered products primarily for aerospace and industrial customers. The combined business will have revenues approaching $6 billion, with improved operating margins.

STRATEGIC RATIONALE FOR ACQUISITION

Consolidation of the aerospace industry has moved from the original equipment manufacturers into the supplier base. To position itself for global leadership and to continue its strategy as a "Portfolio Integrator", BFGoodrich must participate in this consolidation by increasing its mass, broadening its product offering, and expanding its capabilities. Coltec will allow us to integrate new capabilities both horizontally and vertically within our Aerospace segment. We have a strong competency fit, sharing a common element of highly engineered content. Further, the acquisition of Coltec – with an industrial segment of sufficient competitive mass -- enables BFGoodrich to offset some of the inherent cyclicality of the aerospace and performance materials industries by adding a new "third leg" to our portfolio.

The proposed Coltec acquisition provides a number of attractive opportunities:

- Coltec's aerospace portfolio provides synergistic opportunities to develop strong themes at the group level, such as fuel and utility systems, landing systems, and sensor systems.
- Coltec's landing gear business complements BFG's Landing Gear Division and enables us to grow our partnership with Boeing.
- Coltec enables BFG to expand its "total fuel systems integrator" strategy with the addition of Chandler-Evans (fuel pumps) and Delavan (spray bars, fuel injectors and nozzles).
- Coltec provides the basis for a third operating segment – an industrial components leg -- with enough mass to compete in the industrial products market, and to dampen the cyclicalities of BFG's current aerospace and performance materials segments.
- Coltec's industrial businesses generally have strong positions in their respective markets, and the company's business units have operating margins in the 15-20% range.
- The proposed merger is immediately accretive with anticipated cost synergies, producing a $0.03 increase in EPS in year one. Further, it provides top-line growth during a period when both aerospace and performance materials markets are flat.

COMPANY BACKGROUND

Coltec was formed by the merger of several separate manufacturing companies that were founded in the 19th Century. The founders of the early operations included Samuel Colt, who produced firearms; O.J. Garlock, with industrial sealing systems; Charles Morse, with the first successfully marketed internal combustion engine; and the Holley brothers, who developed an automobile by 1903.

In the mid-80's, Colt Industries conducted two leveraged recapitalizations. The first occurred in 1986 when Colt implemented a shareholder leveraged recapitalization plan in which public shareholders received one share of new company stock and $85 in cash for each share held. In

1988, the company's board of directors approved a leveraged buyout (LBO) in which the corporation merged with Colt Holdings, formed at the direction of Morgan Stanley Equity Fund II L.P.

In 1990, the company divested its firearms business and changed its name to Coltec Industries. In 1991, John Guffey joined Coltec as COO, eventually becoming Chairman and CEO. The company remained privately-held until an initial public equity offering in 1992. In conjunction with the IPO, Coltec made two new debt offerings and instituted a new credit facility. Coltec completed the divestiture of its original equipment automotive businesses in 1998 and repositioned itself as an aerospace and industrial company. Coltec's decentralized organizational structure is compatible with our own.

BUSINESS DESCRIPTION

Coltec manufactures products with high engineering content, many of which use proprietary technology. The company generated 1997 revenues of $1,315 million and operating income of $198 million. The aerospace segment accounted for 42% of sales, while the industrial segment produced 58% of sales. The company's total sales were 47% original equipment and 53% aftermarket.

The foundation of the aerospace segment is the Menasco division, a supplier of landing gear. Several other businesses are related to fuel delivery and control, particularly on the engine side of the aircraft system. These divisions are Chandler Evans (engine fuel controls and pumps), Delavan (fuel nozzles and spraybars), and Walbar (engine blades and hot section components). These products are complementary to our own "dry" fuel system components, resident in the BFG Aircraft Integrated Systems division. The smallest Coltec aerospace operations are Lewis Engineering, which manufactures aircraft instruments and temperature sensors, and AMI, a manufacturer of crew seats. Coltec Aerospace is described in more detail in Attachment A.

The industrial segment is comprised of a number of industrial specialty businesses featuring substantial aftermarket content. These businesses can be described in three groups - sealing technologies, compressors, and specialty products. The largest industrial operations are Garlock (fluid sealing devices), Quincy (rotary screw compressors), and Fairbanks Morse (heavy duty diesel engines). Coltec's industrial segment is described in more detail in Attachment B.

At the end of 1997, Coltec Industries had approximately 9,200 employees, of whom approximately 3,700 were salaried. Approximately 2,250 workers are represented by unions. Coltec considers employee relations to be satisfactory.

FINANCIAL ANALYSIS

COLTEC INDUSTRIES 5-YEAR RESULTS* FOR FISCAL YEAR ENDING DECEMBER 31

($ in millions)

[illegible]	[illegible]	[illegible]	[illegible]	1996	1997
Sales	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Operating Income	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Operating Margin	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
EPS -- Continuing Operations	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

* Historical data from Coltec, Inc. Annual Reports for 1996 and 1997.

NOTE: Operating income and margin is shown before special charges.

COLTEC INDUSTRIES SALES AND INCOME PLAN

($ in millions)

[illegible]	[illegible]	[illegible]	[illegible]	2001
Sales	[redacted]	[redacted]	[redacted]	[redacted]
Operating Income	[redacted]	[redacted]	[redacted]	[redacted]
Operating Margin	[redacted]	[redacted]	[redacted]	[redacted]

MERGER EFFECT ON FINANCIAL MEASURES

[illegible]		[illegible]	[illegible]	[illegible]
Sales ($M)	BFGoodrich	[redacted]	[redacted]	[redacted]
	Combined	[redacted]	[redacted]	[redacted]
OI ($M)	BFGoodrich	[redacted]	[redacted]	[redacted]
	Combined*	[redacted]	[redacted]	[redacted]
OI/Sales (%)	BFGoodrich	[redacted]	[redacted]	[redacted]
	Combined	[redacted]	[redacted]	[redacted]
EPS ($)	BFGoodrich	[redacted]	[redacted]	[redacted]
	Combined	[redacted]	[redacted]	[redacted]
ROE (%)	BFGoodrich	[redacted]	[redacted]	[redacted]
	Combined	[redacted]	[redacted]	[redacted]

****Includes anticipated synergies***

MIRR = 13.5%

IMPLEMENTATION PLAN

Our consolidation plan for the merged enterprise has four main elements. The two corporate overhead operations will be rationalized. the two landing gear manufacturing entities will be combined and rationalized. the landing gear overhaul operations will be combined. and the Lewis Engineering division will be folded into BFG Sensors and Avionics divisions. Attachment C shows the estimated synergies released by these actions. which will total $60 million by Year 3 and thereafter.

Approval of the proposed merger will require the practical satisfaction of The Boeing Company. the major aerospace customer of both companies. Additional issues are discussed in Attachment D.

FORM OF THE TRANSACTION

An acquisition of Coltec would be a stock-for-stock merger structured as a pooling-of-interests for accounting purposes. The transaction would be tax-free to both sets of shareholders and there would be no goodwill nor any new debt with associated interest expense. 100% of Coltec stock would be acquired with BFGoodrich common stock at a proposed exchange ratio of 0.56, which would result in a premium of 22.5% relative to Coltec common stock price on November 4, 1998 (Coltec = $17.38. BFGoodrich = $38.00). This results in an effective 8.2 multiple on Coltec's last twelve month EBITDA. The transaction is accretive by $0.03, $0.14, and $0.18 in 1999. 2000. and 2001. respectively. Coltec shareholders will own approximately 33% of BFGoodrich stock, post-merger. In addition, BFGoodrich will assume $841 million of existing Coltec debt. Acquisition multiples and accretion analysis are provided in Attachment E, and potential credit rating impact in Attachment F.

TRANSACTION STATUS/NEXT STEPS

The merger concept was initially discussed between the respective Chairmen on October 14, 1998. Subsequently, high-level meetings on October 28-29 and November 5-6 identified synergy opportunities and provided insights into the financial outlook of the two enterprises.

We propose requesting your approval of the merger in a BFGoodrich telephonic Board meeting on November 22. Before this second telephonic meeting, the two companies' CEOs will discuss the merger concept with Boeing's senior management. Announcement of the proposed union is tentatively set for November 23. The subsequent process of regulatory reviews, continuation of due diligence, joint proxy and shareholders' meetings is estimated to be completed in March-April, 1999.

SUMMARY

Aerospace industry dynamics have increased the importance of mass, breadth of capabilities and niche market leadership. The common characteristics of BFGoodrich Aerospace and Coltec--strong commercial focus, close OEM relationships, niche leadership and systems integration capability--produce a strong strategic fit and further our strategy of "Portfolio Systems

Integrator." Coltec's profitable industrial segment is an excellent way to create a "third leg" for BFGoodrich, providing stability for market cycles. Strategic opportunities are summarized in Attachment G.

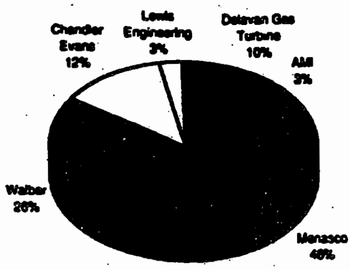
The proposed transaction is immediately accretive, with an MIRR value of 13.5%.

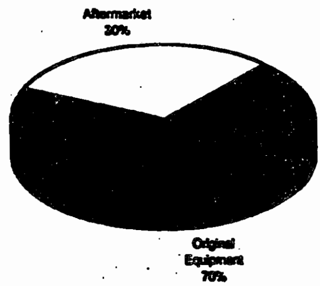
ATTACHMENT A

AEROSPACE SEGMENT

The aerospace segment is comprised of five product groups that include landing gear and flight control systems, engine controls, aircraft engine components, gas turbine products, and aircraft instrumentation. In 1997, the aerospace segment produced sales of $558 million and operating income of $88 million. The distribution of sales for 1997 is shown below.

1997 Aerospace Sales: $558 Million





Menasco	[redacted]	[redacted]	Landing gear, flight controls
Walbar	[redacted]	[redacted]	Turbine blades, disks, and rotors
Chandler Evans	[redacted]	[redacted]	Small engine fuel pumps and controls
Delavan Gas Turbine	[redacted]	[redacted]	Fuel injectors and spray bars for aerospace and land-based gas turbines
AMI	[redacted]	[redacted]	Cockpit and flight attendant
Lewis Engineering	[redacted]	[redacted]	Electromechanical instrumentation and temperature sensors
Total 1998(E)	[redacted]	[redacted]	
% Growth 1997-98	[redacted]	[redacted]	

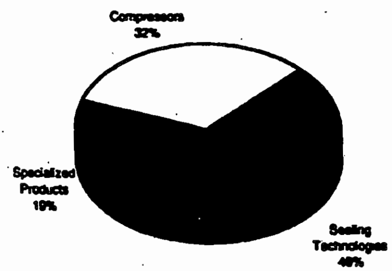
Facilities. The aerospace segment has thirteen production facilities in the U.S., Canada, and Europe with a total of 1,600,000 square feet.

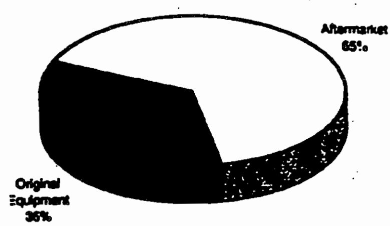
ATTACHMENT B

INDUSTRIAL SEGMENT

The industrial segment produces industrial seals, gaskets, packing products, self-lubricating bearings, and oil seals and hubodometers for trucks and trailers; spray nozzles for agricultural, home heating, and industrial applications; air compressors for manufacturers; and other automotive products. In 1997, the industrial segment posted sales of $663 million and operating income of $113 million.

1997 Industrial Sales: $757 Million





[redacted]			
Sealing Technologies	[redacted]	[redacted]	Fluid sealing devices
Ceflilac	[redacted]	[redacted]	Seals, gaskets, packings
Helicoflex	[redacted]	[redacted]	Rings and seals
Specialty Products	[redacted]	[redacted]	Fluid handling products
Plastomer	[redacted]	[redacted]	Specialty tapes
Stemco	[redacted]	[redacted]	Truck wheel-end systems
Quincy	[redacted]	[redacted]	Rotary compressors
Delavan	[redacted]	[redacted]	Atomizers and pumps
Bearings	[redacted]	[redacted]	Self-lubricating bearings
France Compressors	[redacted]	[redacted]	Sealing components for recip compressors
Fairbanks Morse	[redacted]	[redacted]	Heavy duty diesel engines
Sterling Die	[redacted]	[redacted]	Thread rolling dies
Haber Tool	[redacted]	[redacted]	Cold-forming tools
Total 1998(E)	[redacted]	[redacted]	
% Growth 1997-98	[redacted]	[redacted]	

ATTACHMENT C

ESTIMATED CONSOLIDATION COST SYNERGIES
($ in millions)

Corporate Cost Elimination	**18**	**28**	**28**
Landing Gear Mfg. Consolidation	**0**	**10**	**15**
Sensors Business Consolidation	**2**	**4**	**5**
MRO Consolidation	**5**	**8**	**12**
Total Operational Savings	**7**	**22**	**32**
Total Pre-Tax Savings	**25**	**50**	**60**

ESTIMATED MERGER COSTS AND EXPENSES
(After-tax $ in millions)

Executive Benefits and Severance	**$42**	**Upon closing**
Merger Integration - Operations	**$25**	**Over 2 years**
Merger Integration - Corporate	**$ 6**	**Over 2 years**
Advisory Fees and Transaction Expense	**$20**	**Upon closing**
Total Expenses	**$97**	

ATTACHMENT D

ISSUES AND CONCERNS

- *Reaction of the Investment Community*. We have developed a sound list of reasons why the merger with Coltec makes good strategic sense for both companies. If we can present a deal that is neutral or accretive to EPS in the first year and accretive in follow-on years, the market's response should be favorable.

- *Management Depth at Coltec*. Coltec management will need to continue running the industrial businesses until BFG decides what actions to take concerning current managers.

- *Dilution of Ownership*. Merger requires issuance of 36.8 million new BFG shares to former Coltec shareholders.

- *Contingent Liabilities*. (1) Asbestos litigation. Coltec is self-insured for asbestos claims involving exposures occurring after 1984. The company has third-party insurance that should cover approximately 82% of the dollar value of asbestos claims involving exposures occurring before 1984. The management of Coltec believes that the projected expense rates and reserves are adequate, but risk still exists that the current asbestos litigation environment could change. (2) Environmental. Coltec has sold a number of its facilities and generally provided indemnification to the buyers for environmental liability associated with Coltec's ownership. Coltec also has not performed in-depth environmental assessments of its existing large manufacturing sites.

ATTACHMENT E

TRANSACTION STATISTICS

Exchange Ratio = 0.56 BFGoodrich share for each Coltec share

Premium = 22.5% to Coltec stock price on November 4, 1998
(Coltec = $17.38; BFGoodrich = $38.00)
23% to average historical one-month exchange ratio
16% to average historical 2-year exchange ratio

Multiples = Implied value per Coltec share = [redacted]
Aggregate enterprise value = [redacted] million
Equity Value = [redacted] million
Value per LTM EBITDA = [redacted]
Value per LTM EBIT = [redacted]
Price per 1998(E) EPS = [redacted]
Price per 1999(E) EPS = [redacted]

ACCRETION ANALYSIS

BFGoodrich EPS	[redacted]	[redacted]	[redacted]
Combined Entity EPS	[redacted]	[redacted]	[redacted]
Accretion	[redacted]	[redacted]	[redacted]

CONFIDENTIAL
Outside Counsel
Eyes Only

BFG2130920

ATTACHMENT F

PRO FORMA COMBINED BFG/COLTEC

[redacted]			
Credit Coverage			
EBIT Interest Coverage	[redacted]	[redacted]	[redacted]
EBITDA Interest Coverage	[redacted]	[redacted]	[redacted]
Funds from Operations/Total Debt	[redacted]	[redacted]	[redacted]
Profitability			
Operating Income Before Debt/Sales	[redacted]	[redacted]	[redacted]
Capitalization			
Total Debt/Capitalization	[redacted]	[redacted]	[redacted]
Indicative Ratings	BBB+	A-	A-

ATTACHMENT G

Factor	Discussion
Industry Dynamics	The maturing Aerospace industry forces consolidation of second-tier suppliers. Our present size mandates that we seek a major acquisition or merger to increase mass and market presence.
Complementary Companies	Coltec and BFGoodrich share many characteristics which make the merger a good strategic fit: — Strong commercial focus — Systems integration strategy — Close OEM relationships — Niche leadership
Significant Mass Increase	After the merger with Coltec, BFGoodrich grows by approximately $1.5 billion in sales.
Advantageous Merger Structure	Pooling preserves our financial capacity by enabling us to avoid both new debt and interest expense. Pooling also provides an incentive for both parties to see appreciation of the stock after the merger.

exhibit # 10

November 2, 1998

Dave Burner

Attached is the Project Runway analysis. We have run our models using various assumptions agreed upon by CS First Boston and Morgan Stanley. These assumptions include:

- Synergies of $36/67/80MM in years 99-00-01, respectively
- 37.6% tax rate
- Deferral of $25MM of transactions cost into 2000
- After tax parachute costs of $42.4MM
- After tax merger integration/advisory fees of $51.7MM

The area in which Morgan Stanley differs from CSFB is in the costs associated with the transaction which they place at $3.5MM additional cost compared to First Boston ($23.5MM versus $20MM – see attachment). However, the EPS impact of this difference is virtually nil.

The models use both a 9% and 12% EPS growth rate for both companies. In both cases, 50% of the synergies is shared at the 20% premium price.

Also attached is an analysis showing the IRR at varying offer prices and exchange ratios which was done in house.

Les Vinney

js

Attachment

exhibit #11

INTERIM PROTECTIVE
ORDER INFORMATION

BFGoodrich

Presented to:

Moody's Investors Service
November 19, 1998

BFG Restricted

BFG0011180

Integration Plan

- Consolidate aerospace business into BFG Aerospace
  - Menasco production facilities into Landing Gear Division
  - Menasco Landing Gear Services into BFG Landing Gear Services
  - Lewis Engineering into BFG Sensors and Avionics Divisions
  - Consolidate Menasco's and BFG's dress gear facilities at Everett, Washington
- Coltec's industrial segment becomes third BFG segment
- Coltec receives 3 seats on the post-merger Board of Directors
- Consolidate Corporate operations

BFG0011195

Estimated Consolidation Cost Savings

($ Millions)

	1999	2000	2001
Corporate Cost Elimination	$18	$28	$28
Landing Gear Manufacturing Consolidation	0	10	15
Sensors Business Consolidation	2	4	5
MRO Consolidation (Per JV Study)	5	8	12
Total Operational Savings	$7	$22	$32
Total Pretax Savings	$25	$50	$60

Estimated Merger and Consolidation Costs

($ Millions)

	Pretax	After-tax
Executive Benefits and Severance	$65.0	$40.6
Fees	23.5	23.5
Consolidation and Integration Costs	50.0	31.2
Total	$138.5	$95.3

exhibit #12

BFGoodrich

Presented to:

Standard & Poor's
November 18, 1998

BFG Restricted

Estimated Consolidation Cost Savings

($ Millions)

	1999	2000	2001
Corporate Cost Elimination	$18	$28	$28
Landing Gear Manufacturing Consolidation	0	10	15
Sensors Business Consolidation	2	4	5
MRO Consolidation (Per JV Study)	5	8	12
Total Operational Savings	$7	$22	$32
Total Pretax Savings	$25	$50	$60

exhibit # B
10/21/98-1

PRIVILEGED
MATERIAL REDACTED

- Synergies
  - Value of Charlotte 26-28 MM disappear of 32mm
    - mostly sal & benefits
    - $18 ¢ rent
    - insr D&O 500k

40 on acctg; annually of which 8 asbestos

- 160 MM discontd, 52 excess for Borg Warner
  rest long tail 35 envir (25yrs)
  crucible steel

- move TX to Can etc. → 15-20 in ops?
  plus inclg o/h work done estd at 5

- synergy objective 50 over 3 yrs. / JG
  opports in Asia in future
  C putting op in Poland for certain parts
- rotable inventory $9M on C bks as f.a.

- C spendg 36 on enterprise systs. for all aero ops

10/21-2

- Lndg Gr. facil has writen-off contract, expenses & not using program acct'g

- 10 yr. agreement w/ A/S - must manage out of every program, hasn't been very effective

- Ind'l bus.
  - Growth thru acq efforts -
    - Flexitallics - metal gaskets
    - Flowserve - pumps & mechanical seals (also TI biggest in this)

  * Garlock strength - distributor organization/ teflon tech. & adding product lines leverages this
  * Delavan gas turbine overlaps into Aero
  * Stemco truck brakes
  * Gardner-Denver

  Asbestos - not legal problem, but CF issue (40 yrs. of insr - issue gaps due to bankruptcy & looking to insr. this piece
  plaintiffs bar not sue in futr?
  63 yrs. of insr coverg $1.3B - John Maeir

- Fairbks-Morse - good CF, like to sell, talk'g to Austrian Co.

⇒ High consumable maint growth potential if capital avail to grow it
  Combine FCF strong at ~ 250 before added dividends
  JG doesn't see Aero decline 99/00, but flat
  In ind'l will go after mkt sh, but are concernd about downturn - looking to ↓ costs there.

10/21-3

Needs
- Bus plan exch '99-'01
  - review of asbestos & litigation issues
  - ability to achieve synergies

- Values
  - some in bus going forward ∴ need to evaluate B currency for future → need to get to # between DB & JG
- Pooling review done recently & available
- Debt recently refinanced → 250 revolver + public

Gerry Lodge - First Boston
Jim Stynes - M/S

- Total Δ of control cost $ ~~60~~ 65 mm (18/19 pa w/ non-compete, none subject to gross-up per Duff & Phelps
  • 11 & 23 mo. triggers

- Bkg fees + acctg + legal estd ~ 20

• Roger Wright - head Menasco primary contact w/ Steve & Ernie for B

10/28 C starts bus plan
- street est 99 1.85 +10% over '98, not comfortable to JG on ind'l side

Runway 10/22/98—1

· Gorey Lodge, Larry Hamdan, 1st Boston - JG, FH, RT, JA, JM
: Jim Stynes, Lance H. , MSDW - DB, ML, TL, LV

- Will not solicit any offers - have taken offer, currently outstdg, to BOD. Must work issues of combined goes first plus value then consider so. efacty offer.
→ jointly employ economist & set time period estab language to enable exclusivity subj to current party?
Start 4 week period 10/22 - 11/19 then agree on value soon - after these estab exclusivity

° meet on value 11 AM Monday 10/28 at MSDW

COT '98 1.67 / street OK GR '98
'99 1.85-1.90 / street ⇒ 1.80

50 MM synergies - Corp HQ, overhead, landg gear 1/2 in 12 mo., all in 2 yr.
3.5 MM severance for HQ
Δ in control agreement 65 MM pre-tax w/ non-compete ∴ no gross-up
/ Duff & Phelps

COT '98 70 MM free cash flow after Capex
'99 100 MM " " " " "

20 MM deal fees for both

GR '98 3.05 / street CF 110 '98, 140 '99
'99 3.48 / ws. 11-12%

The Pierre
New York
A Four Seasons · Regent Hotel

10/22 - 2

Pooling - COT shs. tainted 4.9 Mil shs.

Past 99 growth 10% Boston plan thru '01 from last yr. - but
JG hi single digit EPS growth post - 99

- yr. 2000 flat revenues for Aero for few yrs.

COT Aero people Roger Wright / Paul Kuhn
Ind'l - JG

- 5-6 people due diligence from COT

⇒ Schaub, Huggins, Schmidt

Mr. KUCINICH. I would like to start out by asking Ms. Loeb some questions. Are you familiar with a phone call that Mr. Bossidy made to me related to an assurance of AlliedSignal's willingness to purchase the Cleveland Pneumatic Co.?

Ms. LOEB. No, Congressman, I am not familiar with that phone call. I am familiar with general statements.

Mr. KUCINICH. Are you familiar with a letter——

Ms. LOEB. The letter, yes, I am.

Mr. KUCINICH [continuing]. That Mr. Bossidy wrote.

Ms. LOEB. Yes, I am.

Mr. KUCINICH. And this letter is substantially the same letter which—it mirrors your testimony today, would you not say? You are familiar with the letter?

Ms. LOEB. Absolutely, yes.

Mr. KUCINICH. And you stand by this, of course, it is in your testimony; is that correct?

Ms. LOEB. Absolutely.

Mr. KUCINICH. I read your testimony carefully and there is a point in your testimony which is on page 4, where you say the sale of CPC, Cleveland Pneumatic, or a portion, may not of course be the only solution to the problems posed by the BFG/Coltec merger, but it is an easy solution.

When I heard you say that and I read your testimony, you are saying "a portion." Is not the Cleveland Pneumatic Co. an integrated manufacturing facility?

Ms. LOEB. Congressman, based on the information we have—and obviously at this point it is still limited—it is our understanding that there are several facilities that are a part of that business. And we believe that we could operate a strong competitive landing gear business going forward without buying all of Cleveland Pneumatic, if buying all of the business were an obstacle to being able to sell us something that would enable us to compete. Now it has always been our understanding that the crux of Cleveland Pneumatics is Cleveland, and that there are other aspects of the business that may be assembly facilities or something like that.

The other thing that we have said is that—and I would like to make sure this clarification is here—that we would like to buy a business and we look to a business to mean an ongoing business with workers employed and contracts to fill that business.

Mr. KUCINICH. And that is substantially what this letter says and what your statement was. Now do you foresee any possibility or set of circumstances where BFGoodrich and AlliedSignal could, let us say, come to an agreement, which would still close the Cleveland Pneumatic Co.?

Ms. LOEB. Congressman, do you mean in the context of settling the litigation?

Mr. KUCINICH. I will run it by you again. Do you foresee any set of circumstances, do you have any knowledge of any set of circumstances, under which BFGoodrich and AlliedSignal could come to an agreement where you would jointly decide in an agreement to shut the Cleveland Pneumatic Co.?

Ms. LOEB. The first thing is that AlliedSignal will never agree to shut the Cleveland facility, that is not a decision that we could or would make. It is possible—we are, as you know, pursuing——

Mr. KUCINICH. When you say could or would make, you mean because you do not own it.

Ms. LOEB. Because we do not own it.

Mr. KUCINICH. Right.

Ms. LOEB. And we have made every attempt, in fact, to buy it, so that we could keep it open and invest in it. So as you have heard Mr. Linnert say again today, it is the ongoing decision of Goodrich and the unwillingness of Goodrich to sell us that business so that we can operate it, that is the obstacle.

Mr. KUCINICH. But it is possible you could conclude your differences with BFGoodrich without that plant being at issue.

Ms. LOEB. It is possible that our wheels and brakes business could be protected as an ongoing business through some form of settlement. It is conceivable to me that it could be, without our being able to obtain Cleveland. And that, as I said, is something that we ourselves cannot resolve.

Mr. KUCINICH. Mr. Bauer, can you foresee any set of circumstances where if BFGoodrich and AlliedSignal came to an agreement which did not involve the Cleveland Pneumatic Co. and in effect resulted—as a secondary result—would mean the closing of Cleveland Pneumatic, could you foresee that kind of an agreement passing a competitive—an anti-competitive test?

Mr. BAUER. Let me start out, Congressman, by saying that while I think I know a fair amount about antitrust, I do not know nearly as much about the dynamics of this industry. But the picture that I have tried to portray was that the impact, the competitive impact that would flow from this merger would be to unite in a single entity all of the domestic production for the design and manufacture of certain landing gears.

Now as you know, there is at present a strategic alliance agreement between Coltec, which is one of the entities to this merger, and AlliedSignal, which as presently designed, gives AlliedSignal certain measures of protection. I should say two things——

Mr. KUCINICH. I am familiar with that and I do not want to go too much into that right now. The thing that I want to do, with all due respect, is to go back to AlliedSignal and point this out to the Chair that it is possible that we could—you know, I am looking at AlliedSignal's qualification here where they talk about a portion of CPC, and in looking at that statement, I am comparing it with the letter that the chairman or the CEO, Mr. Bossidy, wrote to me, which did not talk about a portion.

As I look at that, what occurs to me is the possibility—on one hand you have BFGoodrich, which has said Cleveland Pneumatic is not for sale, but it is very clear that they could shut it down without selling it. And on the other hand, you have AlliedSignal, which, while they state verbally and in writing that they are interested in purchasing Cleveland Pneumatic, but they are not selling—BFGoodrich is not selling—they well could be in a position where they come to an agreement where Cleveland Pneumatic is left out of the picture. And I am letting you know, Mr. Chairman, that this is something that we need to keep an eye on, because while the Justice Department essentially passed this decision along to the Federal Trade Commission, I would like to state publicly that if there is any set of circumstances in which AlliedSignal comes to an agreement with BFGoodrich and Cleveland Pneumatic is kept out that, that I would be prepared to vigorously pursue action before the Justice Department to make sure that the competitive aspects get reviewed, because they have not been reviewed before the FTC in this manner. Nor have they been reviewed by the Justice Department—or by the Defense Department, which is something that Senator DeWine pointed out.

So I would like Mr. Linnert to answer some questions about his company's plans for a landing gear facility here in Cleveland. Now this plant currently employs approximately 650 workers, many of whom are constituents of mine or constituents of Congresswoman Stephanie Tubbs Jones. I am concerned about what is going to happen to their livelihood if BFGoodrich decides to close this facility, which they say is not for sale, after its merger with Coltec.

On the day the merger was announced, Mr. Burner, the chief executive officer of BFGoodrich, sent me a letter stating that aside from employees who would lose their jobs when the company moved its headquarters to Charlotte, "none of these other 3,400 [by the way] Ohio-based jobs would be affected by the relocation of the headquarters." I will refer to this as exhibit No. 1, Mr. Chairman, to Mr. Linnert, have you seen this letter?

Mr. LINNERT. Yes.

Mr. KUCINICH. To the best of your knowledge, was this a truthful and accurate statement?

Mr. LINNERT. Yes.

Mr. KUCINICH. In fact, when you testified before this committee on June 19, you said again that no decision has been made about the future of the Cleveland landing gear facility, is that correct?

Mr. LINNERT. That is correct.

Mr. KUCINICH. Do you still stand by this statement?

Mr. LINNERT. That no decision has been made about the future of the Cleveland—yes.

Mr. KUCINICH. I would like to draw to your attention these documents that you have in front of you. The first document is a February 24, 1999, memo from Hank Borisenko to Jack Carmola. Can you tell me who these people are, Mr. Linnert?

Mr. LINNERT. Jack Carmola is head of the Cleveland landing gear business.

Mr. KUCINICH. Mr. Borisenko?

Mr. LINNERT. I do not know who Mr. Borisenko is.

Mr. KUCINICH. He is a general manager in the BFGoodrich finance department. Now this memo describes cost improvement projects that would be part of the company's restructuring after the merger. It provides in great detail an estimate of the revenues that would be generated by selling the land, buildings, equipment and the cost of severance pay for the Cleveland employees.

I would like to draw to your attention in particular, the third page in this, where it says "Specific actions to determine the restructuring reserve for landing gear operations."

The memo identifies two facilities, the Cleveland manufacturing operation and the Cleveland plating operations that "can be closed within the first 18 to 24 months." It goes on to state that "closing of the Cleveland and Plating operations is estimated to impact 583 employees" including 334 employees represented by the UAW local 2333.

The second document, which I believe is dated March 1, 1999, goes through a similarly detailed financial analysis related to the "Cleveland closing."

Now these are pretty specific documents, do you not think? But according to your testimony, there is no specific plan to close the Cleveland facility. Is that correct?

Mr. LINNERT. That is correct. What we have said—and I said it in my written testimony and I have said it orally today—there was a preliminary study done based on BFGoodrich data only. The documents that you are referring to are the documents that relate to that study.

No study has been shown to senior management, no decision has been made by senior management, and in fact, what senior management has said and I read from Dave Burner's letter a short time ago, a study will be done.

Mr. KUCINICH. Well, I appreciate that, Mr. Linnert, that a study will be done. But this is the third document I referred to now. On January 6, 1999, a month before that memo was written, a group of——

Mr. LINNERT. I am sorry——

Mr. KUCINICH. On January 6, 1999, I am going to refer now to document four. On January 6, 1999, a month before the memo was written, a group of BFGoodrich and Coltec executives held a meeting to discuss the pros and cons of the combined companies' landing gear facilities, including the labor relations climate at each facility. This next document dated January 8 are the typed notes from that meeting, which you saw at the last hearing. They were sent from Ernie Schaub to Jack Carmola and Roger Wright.

Now we know that Jack Carmola is the vice president of the BFGoodrich landing gear division. Can you tell me who these other people are?

Mr. LINNERT. Jack Carmola, I think his title is general manager, but he's head of the landing gear division. Roger Wright is his counterpart for Menasco, which is Coltec's business. Ernie Schaub, the gentleman who wrote the memo or wrote the notes, is the vice president—group vice president for one piece of aerospace, which does include wheels and brakes and landing gear.

Mr. KUCINICH. So these are pretty senior people. Now the notes say, "we thought that the following actions should occur if we are to meet as many of our ideal-world objectives as we can: '1. Close . . . Cleveland and Plating.'"

Now according to the attached document, listed first under the company's objectives, "no union."

Now do you intend to close the Cleveland facility as a way to eliminate union jobs?

Mr. LINNERT. Absolutely not. In fact——

Mr. KUCINICH. Is the fact that the Cleveland work force is unionized going to be a factor in your decision as to which facilities to lose?

Mr. LINNERT. Absolutely not. As I testified before, three of our six landing gear facilities are represented by unions and this memo, as it says up in the first paragraph, this rating is obviously very subjective and the reason for that is they did not have access to the Coltec operating data.

Mr. KUCINICH. And may I ask you, these are documents that you turned over to the Department of Defense as part of the review of the proposed merger. Attached to this letter dated February 1, 1999 from BFGoodrich's attorneys to the Department of Defense, is a chart dated January 29, that evaluated the combined company's landing gear facilities in terms of equipment, people and expansion capability. Only one of those five facilities got a down arrow for all three categories. And this is document five, which I wanted to submit into the record. Can you tell me which facility it was that got the down arrows in these documents submitted to the Department of Defense?

Mr. LINNERT. Yes, the Cleveland facility.

Mr. KUCINICH. And did Cleveland get the down arrow in the category of people because they are union members?

Mr. LINNERT. I do not know that.

Mr. MCINTOSH. Excuse me, Mr. Kucinich, can I interrupt you just 1 second?

Mr. KUCINICH. Yes.

Mr. MCINTOSH. Mr. Linnert, you have said repeatedly that they made this analysis without the Menasco data, but the second paragraph of Mr. Kucinich's document No. 4 has the following sentence in it: "A summary of both the Menasco and the BFGoodrich facilities is attached. As part of this review, we rated the plants as shown below." That seems to imply they were considering the data from both corporations.

Mr. LINNERT. No. The very next sentence, Congressman McIntosh, says "The rating is an overall rating and is obviously very subjective." The reason is that our people legally were not allowed to have the operating cost data or competitively sensitive information from each other's business until we close the merger. And in fact, the letter to the Department of Defense transmitting the document that Representative Kucinich was referring to says in the cover letter, "To restate the January 29 letter, the merger review has not progressed to the point at which detailed information necessary to create and decide upon such actionable plans can be shared." So these folks did work based on Goodrich data only.

Mr. MCINTOSH. So the different plants listed here—and I do not know all the different facilities—those are all Goodrich facilities?

Mr. LINNERT. No, I can help you with that. Oakville is a Canadian facility, that is a Coltec facility. There are actually two facilities in Washington, Tullahoma is a facility in Tennessee, that is a BFGoodrich facility. Dallas is a Coltec facility and then Cleveland is a Goodrich facility. And then there is one that is not on here, it is in Poland.

Mr. MCINTOSH. Well, then when it says, for example, expand Oakville, the cost for machinery is $20 million——

Mr. LINNERT. I am sorry, where are you at?

Mr. MCINTOSH. Page No. 2 of that exhibit.

Mr. LINNERT. The February 1 letter?

Mr. MCINTOSH. January 6 meeting notes memo.

Mr. LINNERT. Which page are you on now, page 2?

Mr. MCINTOSH. It is the second one in the order I have got. It is BFGoodrich document——

Mr. LINNERT. I see where you are saying.

Mr. MCINTOSH. That $20 million, that came from a BFGoodrich estimate?

Mr. LINNERT. Yes, whatever our projected costs are for expanding the facility, that is what they would have used.

Mr. MCINTOSH. Even though it is a Coltec facility?

Mr. LINNERT. Yeah, I assume what they did is apply a standard expansion metric to any facility.

Mr. MCINTOSH. And Mr. Wright was participating in this meeting from Coltec. Now if he said we can do it differently than that, that would not have been reflected in the meeting?

Mr. LINNERT. I would have assumed it would have been.

Mr. MCINTOSH. So presumably he agreed that——

Mr. LINNERT. As an expansion cost number, yes.

Mr. MCINTOSH. I am a little puzzled on your assertion that this is based on BFGoodrich data alone since they were analyzing the plants owned by both companies.

Mr. LINNERT. Well again—go ahead.

Mr. TUBBS. Mr. Chairman, I think that there is a little bit of difference here. What Mr. Linnert is saying is that we never allow them to talk in terms of operating data, so on an ongoing basis, it would be hard for them to know whether a plant is going to operate effectively in the future. When you are doing rough cut expansion analysis, you can look at a building and you can say (a) do I have enough land to expand, how many square feet do I need, what is the normal cost of expansion, is it $10 a square foot, $20 a square foot. So you can do rough cut analysis. The fact that it is not $20.65 tells me that that is a rough cut analysis and that—engineers who are making that will make those kinds of judgments.

Mr. MCINTOSH. And your point would be further reflected on the second page where it says "ongoing savings, 400 people, assume $80,000 per year," that obviously is an assumption.

Mr. TUBBS. It is an assumption based upon an average salary, is what my guess would be.

Mr. MCINTOSH. Let me ask both of you and then I will return the questioning to Mr. Kucinich, because I interrupted his time, but do you anticipate there being significant changes of those assumptions once you get the actual data?

Mr. TUBBS. Those assumptions on average cost of expansion, I do not think you will have a 50 percent difference in that, I think you might be able to fine-tune it in order to know what, you know, once you start going to do your purchasing.

Mr. MCINTOSH. And the same thing on the $80,000 estimate?

Mr. TUBBS. Your average cost per employee fully loaded is a general number. Maybe it is 77.3 versus 78.6, but it is not going to be a 50 percent difference.

Mr. MCINTOSH. So just an observation and conclusion. I mean, I understand you are saying maybe they have not done any actual detailed review and that is yet to come. But based on what you are telling me right now, I think it is fair for us to assume the corporate personnel have a pretty good idea——

Mr. TUBBS. No, because you are still not looking at how well a plant runs. That is fine to say if you do close it, what will your costs be. That does not reach the question of should you close it because it is not operating efficiently or it cannot operate efficiently.

Mr. MCINTOSH. So the missing data from this memo is the sales or profit attributable to the plant.

Mr. TUBBS. No, it is throughput, it is number of units you can make. It does not reach your age of equipment, to judge throughput and things like that. It does not give you any operating rates and any of that kind of stuff. So it is not just a P&L, you cannot just depend upon P&Ls to do that.

Mr. MCINTOSH. Thank you. Excuse me for interrupting you.

Mr. KUCINICH. I appreciate the Chair's questioning, because you are, as usual, getting into the heart of the matter as far as the intent here.

Now on November 23, 1998, BFGoodrich CEO David Burner, in a letter to me, wrote that the proposed merger would not affect any manufacturing jobs in Ohio. We have documents, however, which I believe show that BFGoodrich planned to close the Cleveland facility long before Mr. Burner made that statement.

Now, Mr. Chairman, I would like to show two letters written by Mr. Burner to the BFGoodrich Board of Directors concerning this merger. The first letter, written November 19, 1998, states that the merger also creates the opportunity for significant savings through the elimination of duplicative costs and improved operating efficiencies. The social, family and community implications are serious and significant.

Now Mr. Linnert, what do you suppose Mr. Burner meant by that? Was he referring to closing some of the landing gear facilities?

Mr. LINNERT. Could you refer me to where you were, Congressman? I was trying to find the document, but I think I have got it. The November 19 letter?

Mr. KUCINICH. I will just continue. Now in a followup letter written the next day, Mr. Burner attached—this is document 7. I am now going to refer to document 8.

Mr. LINNERT. OK.

Mr. KUCINICH. In a followup letter written the next day, Mr. Burner attached a summary of opportunities for synergies which included, "estimated consolidation costs savings" for landing gear manufacturing, $10 million in the year 2000 and $15 million in the year 2001. Here it is right here. It has been redacted as far as the numbers. "Estimated consolidation cost savings."

Now can you tell me, Mr. Linnert, where those specific consolidation savings from landing gear manufacturing are going to come from?

Mr. LINNERT. From looking at this, my belief is that the estimate for landing gears, sensors and MRO consolidation, all were estimates done by BFGoodrich people.

Mr. KUCINICH. Where did the $10 million come from? If they were done by your people, would you like to speculate where that $10 million would come from?

Mr. LINNERT. You mean what the form of consolidation was it that was the underpinning for this study? It could have come from a lot of things, it could have come from reducing from two or three shift operations to one shift, it could have come from becoming more efficient, I just do not know.

Mr. KUCINICH. Now even before that, in a document titled "Acquisition Overview" dated November 16, 1998, which discussed the proposed merger under the header "Implementation Plan," on page 4 is the statement, "Our consolidation plan for the merged enterprise has four main elements. The two landing gear manufacturing entities will be combined and rationalized." It then refers to Attachment C, which is the same chart referred to by Mr. Burner, showing savings of $10 million in the year 2000, and $15 million in the year 2001. This is exhibit No. 9, Mr. Chairman.

Now Mr. Linnert, do you still expect us to believe that these specific savings do not refer to a specific plan for consolidation?

Mr. LINNERT. Yes. What these refer to is an estimate that was done by Goodrich people. And as you can see from the same chart, they looked at various overlaps between the company—it was not limited to landing gear only, it also included sensors and MRO. The detailed data to do an action plan as opposed to an estimate, is not available, we are not allowed to share that data.

Mr. KUCINICH. Well, you know, I think you could expect us to accept an answer, but I just wonder if Wall Street would accept the numbers that were not backed up by any specific plans for consolidation.

In a November 2, 1998 letter from Les Vinney, the company's vice president of finance to David Burner, Mr. Vinney wrote, "Attached is the Project Runway analysis. We have run our models using various assumptions agreed upon by CS First Boston and Morgan Stanley. These assumptions include: Synergies of $36/67/80 MM in the years 99–00–01, respectively."

Now Mr. Chairman, this is document No. 10, which I will submit for the record.

Furthermore, BFG's presentations to Moody's and Standard & Poor's also included estimates for savings from landing gear consolidation of, guess what, $10 million in 2000 and $15 million in year 2001. And these are documents that BFGoodrich presented to Moody's Investors Service November 19, 1998, which I want to submit for the record; and here is what BFGoodrich presented to Standard & Poor's November 18, 1998, exhibit No. 12, which I would like to present to the record.

Now Mr. Linnert, do you still stand by your statements that these saving estimates, which you are using to sell the proposed merger to Wall Street investors, do not include specific estimates from closing any particular facility?

Mr. LINNERT. They may include an estimate for a facility, not a specific facility. They may include downsizing a facility. I do not know exactly what they include. Those are estimates. When you said CS First Boston, that was the investment——

Mr. KUCINICH. So a facility does not mean a specific facility, just a facility, is that what you are telling this committee?

Mr. LINNERT. Yes, because again, what you have seen in that prior study, one of the options involved other facilities besides Cleveland.

Mr. KUCINICH. As we see from the record, however, Mr. Chairman and Mr. Linnert, all the documents which were present in the records concerning BFGoodrich's intentions, all of them involved the closing of the Cleveland facility, notwithstanding your testimony to the contrary.

Mr. LINNERT. So there is no misunderstanding, we have never said we were not going to do a study. We never said we were not going to consider closing a facility or other consolidation opportunities. What we have consistently said——

Mr. KUCINICH. No, I understand that from the record, because you had to say that in order to pass muster with Wall Street. I have documents here from Moody's and Standard & Poor's which makes it very clear that you made—that BFGoodrich made statements that consolidation was part of their goal here—it is very clear.

Mr. LINNERT. We have always said that.

Mr. KUCINICH. Now according to David Burner, the first time the merger was discussed was at a dinner meeting between the CEOs on October 14, 1998, and this was followed up by a meeting in New York City on October 21. Did you attend that meeting?

Mr. LINNERT. Yes.

Mr. KUCINICH. And do you know where the meeting took place?

Mr. LINNERT. It took place at the Pierre Hotel.

Mr. KUCINICH. The Four Seasons Pierre Hotel, is that correct?

Mr. LINNERT. The Pierre Hotel is the only name I know.

Mr. KUCINICH. Do you know if the topic of closing of any landing gear facilities was discussed at the meeting?

Mr. LINNERT. My recollection is that we discussed the synergies that could be obtained from various combinations. Headquarters, landing gear, sensors and maintenance, repair and overhaul operations were all——

Mr. KUCINICH. When you say synergies, what do you mean by synergies?

Mr. LINNERT. Some type of cost savings or improvements in efficiency or another synergy, for instance, is Coltec is a highly leveraged company, we would be able to refinance all their debt, that would be a financial synergy. It would result ultimately in some kind of cost savings or efficiency improvement.

Mr. KUCINICH. Now Mr. Chairman, I would just like to submit for the record that, according to Webster's Dictionary, synergy is defined as a combined action or operation.

I have one more question.

I would like to show Mr. Linnert a set of handwritten notes taken at that October 21 meeting in New York City. This is exhibit 13, for the record. I would like for Mr. Linnert to look at page 4, a little more than halfway down the page, it says "$50 million synergies, landing gear, ½ in 12 months, all in 2 years"

Mr. Linnert, I believe that this document, these handwritten notes from the meeting at the Four Seasons Pierre Hotel, demonstrates that BFGoodrich knew from the beginning that it was going to close the Cleveland landing gear facility. And I believe that this document, which was not in the possession of the FTC and not in the possession of the Department of Defense, needs to be in the possession of the U.S. Justice Department so that we can see if an appropriate antitrust review can be done from another level.

Mr. LINNERT. Congressman Kucinich, for your——

Mr. KUCINICH. And I would appreciate your response, of course.

Mr. LINNERT. Sure. The sentence that you are quoting included a number of things. It said $50 million in synergies—corporate headquarters, overhead, landing gear, ½ in 12 months, all in 2 years. It included a list of where possible synergies were. What is missing is financial synergies, as I mentioned, and the sensors, which you have seen on other charts as well as MRO.

In terms of antitrust analysis, I will go back to what we said earlier, this transaction received unusual scrutiny in terms of an anti-competitive review. The Department of Defense took 4 months, and the Department of Defense not only reviewed it against their own merger guidelines, which do include anti-competitive review—not only did they do that because AlliedSignal and Crane opposed our merger, they went in with their antitrust and anti-competitive arguments—full analysis by DOD.

More importantly, Congressman Kucinich, the Federal Trade Commission, who is charged from a regulatory basis, with looking at that issue, took 5 months. They gave AlliedSignal the opportunity to not only interact with the staff, but with each Commissioner, including the Chair, and Crane also. And at the end of that process and an exhaustive analysis, they came to the conclusion they would not object to this merger. That does not mean Allied does not have a right to be in court. That is fine, we will meet——

Mr. KUCINICH. Nor does it mean that this committee does not have the right to ask questions that perhaps the regulatory agencies did not.

Mr. LINNERT. Congressman Kucinich, as you know, we have fully cooperated with this committee in every——

Mr. KUCINICH. And you have, and I think we are all grateful.

Thank you very much, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Kucinich. Thank you for bringing that document to the committee's attention.

Let me turn now to our guest, Congresswoman Jones, if you have any questions for this panel.

Ms. TUBBS JONES. I know that time is awasting here, so I am going to try and be brief. I will not try and review all the questions that my colleagues have previously asked.

But having had the opportunity to sit as a judge in a preliminary injunction on many instances, I wanted to ask Professor Bauer, in the litigation that you were testifying in, who in fact was the other hired—the battle of the experts, who appeared on the other side on issues that you raised, sir?

Mr. BAUER. Congresswoman, I should correct. Two things——

Ms. TUBBS JONES. You were a consultant, excuse me.

Mr. BAUER. I am a consultant and I am an attorney of record. There has yet not been a trial and therefore there has not yet been testimony. The trial is scheduled to start July 12.

Ms. TUBBS JONES. So you are saying that the judge in this instance granted a preliminary injunction without any hearing?

Mr. BAUER. No, there was a hearing.

Ms. TUBBS JONES. That is what I asked about.

Mr. BAUER. There was a hearing, but the hearing involved—the judge at that hearing, the hearing was held on April 30, which was the day the merger otherwise would have closed.

Ms. TUBBS JONES. OK.

Mr. BAUER. At the hearing, counsel for AlliedSignal, Coltec and BFGoodrich made presentations to the judge, and there were voluminous documents presented to the judge, but there was no testimonial evidence actually heard in court. There were of course——

Ms. TUBBS JONES. Well, then your statement, Professor Bauer, did you provide a written statement to the attorneys for AlliedSignal to present to the court?

Mr. BAUER. I did not.

Ms. TUBBS JONES. OK.

Mr. BAUER. I mean I certain——

Ms. TUBBS JONES. So you have not ever testified in open court on this particular issue in this case.

Mr. BAUER. Nor am I scheduled to do so.

Ms. TUBBS JONES. Nor are you scheduled to testify.

Mr. BAUER. Right.

Ms. TUBBS JONES. How is it then that you come here to be a witness?

Mr. BAUER. Well, I have served as a consultant to AlliedSignal and I——

Ms. TUBBS JONES. And you were invited by?

Mr. BAUER. The committee.

Ms. TUBBS JONES. OK, I want to understand. Is there another person that serves on the other side in a similar capacity that might be of interest to me to hear, that raises the same issues that you raise?

Mr. BAUER. Well, I assume that both BFGoodrich and Coltec have engaged antitrust experts——

Ms. TUBBS JONES. But as a consultant then, in preparation for a trial, you do have the opportunity to review deposition testimony or whatever else of another person on the other side to assist counsel in making arguments; is that a fair statement?

Mr. BAUER. To be sure.

Ms. TUBBS JONES. Have you done that?

Mr. BAUER. No, I've done it only on a very limited basis.

Ms. TUBBS JONES. OK. Well, briefly then, tell me what an expert that would sit on the other side of this issue would say in response to your statements with regard to the monopolistic result of this merger. And the only reason I am asking this is because having, as I said, been a judge, I always like to hear both sides of an argument before I reach a conclusion.

Mr. BAUER. Well, Congresswoman, I feel somewhat sheepish trying to—I guess the phrase is—be the devil's advocate.

Ms. TUBBS JONES. Do not feel sheepish, I am giving you an opportunity to be bold. Go ahead.

Mr. BAUER. No, I appreciate that—and to articulate the views to support this merger. Mr. Tubbs showed the committee this op ed piece from the South Bend Tribune that appeared last week by Kevin Arquit. Mr. Arquit is a former high staff member in the Bureau of Competition at the Federal Trade Commission, and he attempted to identify considerations which would support the FTC's decision not to go ahead.

If you read Mr. Arquit's testimony, he—excuse me, his article, do you have that in front of you?

Ms. TUBBS JONES. Yes, I do.

Mr. BAUER. In the second column, you see he says, "Although market share is an important consideration to any merger," and those were the HHI numbers that I referred to and Mr. Tubbs dismissed, he says, "they are by no means the only determinant." And he identifies in his opinion other key factors. And I would refer those to you.

Ms. TUBBS JONES. Hold on a minute, Professor Bauer. Since Mr. Tubbs is here to testify, I can ask him those kind of questions. Let me refer then to your own statement. Let us go to page 7. It says, "In short, the potential impact of this merger on competition in the landing system market is devastating." And it skips on and then you have, "merger to monopoly." What would someone sitting in your role on the other side say in response to your statement "merger to monopoly?"

Mr. BAUER. Well, I think, Congresswoman, perhaps someone would say two things. Monopoly, of course, requires defining the relevant market. If the relevant market is worldwide rather than only domestic, then there are two firms, and so instead of having monopoly, there is a duopoly. That is one response.

Certainly a second response, somebody sitting on the other side of the fence from me would say that there are strong buyers in this industry and particularly firms like Boeing and Airbus. And so that there is countervailing buying power, which would offset the countervailing selling power on the part of the monopolist.

A third argument that somebody sitting in my opposite position I think would say is that there are efficiencies which would flow from this merger. Certainly there are always efficiencies which flow from any merger. The question—again now taking my own position, the question is what are those efficiencies, from what do those efficiencies flow and of course one of the things we have talked about this morning is that the alleged efficiencies may flow from the closing of a plant.

And then, of course, to the extent that there are efficiencies, are those offset by anti-competitive effects, because section 7 of the Clayton Act, the final phrase says that a merger is unlawful when there is a reasonable probability of a substantial lessening of competition. Substantial lessening of competition means that the anti-competitive effects outweigh the pro-competitive effects.

But somebody attempting to defend this merger, I believe, would talk about potential pro-competitive effects from the merger. Call them synergies, that is a nice word; call them efficiencies; whatever.

Mr. TUBBS. Congresswoman——

Ms. TUBBS JONES. I appreciate—I will get to you in a minute.

Professor Bauer, let me ask you another question. I appreciate your response to my question, you did a good job. It was not hard, it did not hurt you, did it?

Mr. BAUER. Well, you know that this is what a law professor does; you ask the question of one student and then you ask the same question——

Ms. TUBBS JONES. So it is like being the student instead of the law professor.

Mr. BAUER. You are putting me on the spot.

Ms. TUBBS JONES. Not intentionally, please know that.

Let us talk for a moment about a statement that Mayor White made, which was the human element of the result of this merger. Can you elaborate, if you will, step aside from the legal and the ethical—well, I do not want to go ethical—the legal side of it for a moment and say, based on your review, what the human element of the—or impact of this merger might be.

Mr. BAUER. I think every person in this room is sensitive to the potential human element. And the human element is the ability of people who are capable of working hard, who have put in substantial years for a company working hard, who have done their best and who may lose their jobs, their livelihoods and the impact that that is going to have both on them, on their families, on their communities. And I think nobody is insensitive to that.

I think, if I can—again, you are asking me to view this in a larger sense—from an antitrust perspective, what antitrust is designed to do is enhance competition because it is competition which will, as I said before, increase innovation, make for better and less expensive products or services; and then I said in my testimony this morning, and indirectly increase jobs.

But it may well be, and I think we all recognize that, there may be situations in which competition may——

Ms. TUBBS JONES. Dr. Bauer, can you hold on 1 second? Our esteemed chairman has to make a leave and I want to give him an escape route, so why don't you just stop for a minute and let me——

Mr. MCINTOSH. I will excuse myself and thank you, Congresswoman Jones. Let me now turn over the Chair for this proceeding to Representative Kucinich and let me particularly apologize to the next panel and the representative of the UAW. I will be reading your testimony with great interest and wish I could stay to hear it personally. But Dennis and I will catch up when we are back in Washington about a week from now.

This has been a very helpful hearing and very helpful for me in understanding the dynamics here.

Please continue and I look forward to looking at the full record. Thank you.

Mr. KUCINICH [presiding]. Thank you very much, again, Congressman McIntosh. Good luck to you and have a safe trip home. Thank you.

Please proceed, Congresswoman.

Ms. TUBBS JONES. Dr. Bauer.

Mr. BAUER. Yes, you were asking me about the——

Ms. TUBBS JONES. The human element, right.

Mr. BAUER [continuing]. Role of the potential loss of jobs. I think antitrust scholars and economists recognize that in some situations, competition will be enhanced and the welfare of the society at large will be enhanced, even though it may result in the loss of jobs.

So I do not think one can take the position that the potential loss of jobs is itself sufficient reason to say that a merger should not go ahead, or other kinds of business activities go ahead.

I think in this case what you have is a joining of various elements. That is, my position is that this merger is harmful to competition, it is harmful to consumers because it may result in higher prices and less diversity. And in addition, it results in substantial impact on local economies and the loss of jobs.

So, Congresswoman, the loss of jobs by themselves are certainly not, in my view, looking at it from an antitrust perspective, sufficient to say the merger should or should not go ahead. But it adds to the mix and makes us even more concerned about the transaction.

Ms. TUBBS JONES. Last line of questioning with you, Dr. Bauer. You are familiar, I am assuming, with the history of Allied and BFGoodrich and Coltec and BFGoodrich and Allied; correct?

Mr. BAUER. Yes.

Ms. TUBBS JONES. Does the fact that these three companies have had prior relationships impact your position on whether this merger is good for our country or bad for our country?

Mr. BAUER. Mr. Tubbs—and I do not mean to mischaracterize it, so I am just going to paraphrase—referred to AlliedSignal as the bullies in the playground or the disappointed suitors. In my view from an antitrust perspective, it has no role whatsoever.

Ms. TUBBS JONES. And that is because?

Mr. BAUER. In order for a private litigant to bring an action to challenge a merger, the antitrust laws, section 16 of the Clayton Act, imposes certain requirements for a private litigant to seek injunctive relief for violation of the antitrust laws.

In fact, in the 1980's, the Supreme Court, in two decisions, made it more difficult for private plaintiffs to bring an action. And in part, for reasons that were described this morning. We do not want people who are merely affected themselves to challenge a merger because they are unhappy. They can challenge it if, and only if, they can show that the merger is going to harm competition, if the merger is going to harm consumers. And so there are cases which require both antitrust injury and standing.

The Seventh Circuit, in their opinion, I believe it was June 23, addressed that issue. The question, one of the questions that BFGoodrich and Coltec raised in their briefs before the Seventh Circuit is that these private plaintiffs are not properly before this court because they lack standing, they cannot show antitrust injury. They are just unhappy competitors. And the Seventh Circuit rejected that position, and I believe properly so.

So the fact that they are unhappy, for whatever reason, is beside the point. The issue before the Court when the trial starts next Monday, and the issue I think that this committee is addressing is what is the impact under the antitrust laws, what is the impact on consumers, what is the impact on competition, what is the impact on national defense. And AlliedSignal and Crane are empowered under the Clayton Act, that has been part of the antitrust laws for a century, to take the position of the public. In fact, there is a phrase "private attorneys general" used to refer to people in the role of——

Ms. TUBBS JONES. It is like a taxpayer lawsuit.

Mr. BAUER. So I guess that is my view, that to the extent that they legitimately assert competitive impact, that is what is in play here.

Ms. TUBBS JONES. I am going to be a little more quick, but my last question to you, Professor Bauer is, in fact there are instances where preliminary injunctions are in fact granted and ultimately permanent injunctions are denied.

Mr. BAUER. That is true in antitrust, that is true in all kinds of cases.

Ms. TUBBS JONES. Right, right. Thanks.

Let me quickly go to Ms. Loeb and then I am going to allow you gentlemen—ask you a few questions as well.

Ms. Loeb, you stated that AlliedSignal would honor any UAW contracts of the employees at Cleveland Pneumatic Tool were you permitted to purchase Cleveland Pneumatic Tool. Are all the employees of Cleveland Pneumatic Tool or the Cleveland branch union employees?

Ms. LOEB. I do not know that. Mr. Linnert might be able to answer that, but I can tell you that——

Ms. TUBBS JONES. But you are representing whether they are union, no matter what they are, you——

Ms. LOEB. We plan, if we were able to buy the Cleveland Pneumatic business, it would be our intention to grow that business, and therefore, we want to honor the contracts and the terms of employment of the employees there.

Ms. TUBBS JONES. Would you—go ahead, I'm sorry, go ahead.

Ms. LOEB. To honor the existing contracts and to continue to employ the employees there.

Ms. TUBBS JONES. Would you be willing to unionize or allow those that are not union, if there are any of those, to unionize? Are you willing to make that same commitment as well?

Ms. LOEB. I do not know that, under the law, we have any ability to preclude anyone from unionizing.

Ms. TUBBS JONES. That is not the question I asked you. It is a yes or no answer.

Ms. LOEB. I think I just answered it to the best of my ability.

Ms. TUBBS JONES. It is a yes or no answer, would you allow those that are not union to unionize?

Ms. LOEB. I think the answer is I do not think we as a corporation have any ability to preclude anyone from unionizing and it is certainly not our intent and I think it is certainly not the spirit of the letters sent to Representative Kucinich by our chairman to in any way infringe with union activities. Indeed, it was our intent to make a very clear statement about our commitment to this business and to growing this business in Cleveland, that of his own initiative, Mr. Bossidy, our chairman, stated quite clearly our intent, if we were allowed to buy that business, to honor those contracts.

Ms. TUBBS JONES. Except that we have seen historically that growing businesses in fact may mean that unions are displaced. Is that a fair statement?

Ms. LOEB. I can tell you that it is not our intent.

Ms. TUBBS JONES. Answer my question. The question was, we in fact seen that growing businesses often may well mean that unions are displaced.

Ms. LOEB. I can tell you that I personally cannot speak to that. I am not trying to be evasive, I am not the company's employment lawyer, I am not familiar with that area of the law and that is why I am trying to speak about——

Ms. TUBBS JONES. But you are prepared to sit here and say then that if you were able to buy the business, unions would be able to stay.

Ms. LOEB. I can say that because our chairman, Mr. Bossidy, clearly said that in a letter that was made public to Representative Kucinich, to Senator DeWine—our intent to buy this business and grow it.

Ms. TUBBS JONES. OK.

Ms. LOEB. And to honor contracts——

Ms. TUBBS JONES. And what I am trying to understand, is does grow include the possibility that unions could be displaced.

Ms. LOEB. I can simply tell you I have not in any way ever heard anyone inside AlliedSignal suggest that that would be the case.

Mr. KUCINICH. The record has shown a statement, written statement, from Mr. Bossidy, which we have in the record, which states—and I would like to quote from that. I understand the Congresswoman's import of her question, it is well-taken, but the third point that he makes, "If we are permitted to purchase CPC, we plan to continue to work with the current union, just as we work with the unions at other AlliedSignal's unionized facilities, and would honor the existing contract."

That is what you are referring to. I think the Congresswoman is referring to something else.

Ms. TUBBS JONES. Specifically I am saying that you say you would honor the union contract, but you are also talking about growth. And all of us recognize that sometimes when a company speaks to the issue of growth, it does not always mean that at some juncture you are going to honor the contract. How long is the contract, do you have any idea how long the UAW contract is?

Ms. LOEB. No, we do not have access to that information.

If I could just give some context to this, that I think is very important here, Congresswoman. And that is that our statements, I would hope, would be seen in the positive light in which they were made and that is that we recognize or believe, based on the documents that have all been presented here, that there is a significant possibility that the Cleveland Pneumatic facility here in Cleveland will be closed if this deal goes through. And in attempting to resolve our own antitrust concerns as well as to recognize that there was an opportunity to address the kinds of issues that have been addressed here today, including by Mayor White, we made an affirmative offer to buy a business that we believe would be at very significant cost. And rather than say that we will look for cost synergies, to take costs out of this business, we said—or to say we are going to look to deunionize this business—we said we recognize there is a UAW contract here, we affirmatively, positively want to work with the union here. We want to grow this business. Now beyond that——

Ms. TUBBS JONES. I understand what you are saying, but let me be clear on what I am saying to you. That I have seen instances wherein we are in a hoopla about an issue and someone steps up and says I will do it, I will take it, I will take it over, and make promises that are empty umbrellas. And so all I am trying to make an inquiry further on is your company is stepping up to the plate, making all these positive statements, I want to be clear on just what you are saying so we do not end up in a dilemma like we are now or questioning what those statements mean. That is the sole purpose of my inquiry.

Ms. LOEB. And I can tell you that I believe the statements of our chairman were made in good faith and that——

Ms. TUBBS JONES. And I am not questioning his good faith.

Ms. LOEB [continuing]. And that those questions that were made——

Ms. TUBBS JONES [continuing]. And I am allowed to inquire, so let me keep going so we can get through.

Ms. LOEB. Sure.

Ms. TUBBS JONES. What has been the history of your company's relationship with BFGoodrich?

Ms. LOEB. We are competitors in the marketplace. I believe to a very limited extent, there may be some areas in which we buy component parts from each other or sell to each other. There has been a suggestion I believe made by Mr. Tubbs in his testimony that we had planned to buy BFGoodrich at some point. I can tell you unequivocally that that is not true. I can tell you that people have examined looking at many businesses inside the aerospace industry to determine whether or not they might be proper acquisition candidates. I can tell you, as someone who provided advice to people who asked whether that was do-able, that I absolutely and unequivocally advised that it was not. And so there is no broader relationship here.

Ms. TUBBS JONES. Did in fact you sell a portion of your business to BFGoodrich?

Ms. LOEB. No, we did not.

Ms. TUBBS JONES. At no time?

Ms. LOEB. At no time.

Ms. TUBBS JONES. Did you sell some to Coltec at some point?

Ms. LOEB. Yes, we had a very small—I reiterate, very small—landing gear business that we did not believe would be competitive against Messier or with BFGoodrich on its own. It was a very small landing gear business, limited to military, I believe the F–18 aircraft. We went to Coltec, and we said can we work together to team or partner in some way to become a more effective landing gear competitor against Messier and BFGoodrich, and they said to us we are willing to work with you but only on the condition, only on the condition, that you sell us that small landing gear business that you have and then we will become effectively—we will enter into what became known as the strategic alliance agreement—so that we would work together as effectively a third landing gear, integrated landing gear wheel and brake supplier. And we entered into a 10-year contract to do that.

Ms. TUBBS JONES. What year was the contract?

Ms. LOEB. It was in 1995 and it expires in 2005.

Ms. TUBBS JONES. And according to the negotiation—excuse me, arbitration, that contract is recognized and still exists, is that correct?

Ms. LOEB. Yes. Although I would like to say that I believe the scope of the arbitration panel's decision is much broader than has been characterized here. The arbitration panel simply said that they did not believe that this merger per se violated the strategic alliance agreement, but what they also said is that very significant protection would have to be put in place to protect our rights under the contract to enable us to continue to compete.

Ms. TUBBS JONES. But it did recognize the agreement.

Ms. LOEB. It absolutely recognized that there is an agreement, in effect, a legally effective agreement.

Ms. TUBBS JONES. Thank you.

Let me real quickly, Congressman Kucinich, ask a couple of questions of Mr. Linnert, please.

Mr. Linnert, there has been some testimony in your letter and our discussions, you said that at some juncture, the Cleveland plant was considered to be closed. I am not talking about the area that Congressman Kucinich went through, but previously considered being closed, and it was not closed. Why was it considered—why did you consider closing Cleveland previously?

Mr. LINNERT. My understanding is when we acquired that facility in 1993, the equipment there, the condition of the plant, its productivity was not what we would have liked it to be. So we began to invest in that plant from 1993 coming forward. My understanding is it was a—there was a series of studies where it looked at—they looked at the efficiencies and productivity of that plant and said is there a better way to do this. Each time the decision was no, let us keep going and keep investing. And to date, a total of just under $30 million since 1993 has been invested in improving both facilities.

Ms. TUBBS JONES. So what was it, if you are familiar with what Cleveland did that caused you to say no, we are going to keep it open, we are going to keep it open, we are going to keep it open?

Mr. LINNERT. My understanding, it was just the efficiencies and productivity of the plant, the all-end costs of manufacturing, I honestly do not know more than that.

Ms. TUBBS JONES. So if it is efficiencies and productivity, are those areas that would have to be considered by you or Coltec or whoever, before you would consider closing Cleveland, if, as you say, the decision has not been made to close Cleveland?

Mr. LINNERT. Yes, when the study is done, at each of the facilities, those are important things that will be looked at, you know, in terms of what the operating efficiency is, what the quality of operations is; as Bob mentioned before, what the throughput is. Those will all be looked at. And I say that the evidence that Goodrich is committed—as Congressman McIntosh said at the start of this hearing, one of the purposes here is to make sure folks have a fair chance to compete. That is what we want too. Our investment in Cleveland indicates we are trying to make that happen. We just negotiated a new energy supply contract for that facility, getting a discount. We are talking to the folks there about the cell form of manufacturing.

I think those are evidences, we want that plant to compete and compete well.

Ms. TUBBS JONES. You recognize that Congressman Kucinich, Mayor White, Congresswoman Jones, the UAW in the back, we want the opportunity to compete. Are you prepared then to make a statement that you are going to give the Cleveland plant a fair opportunity to compete in the decisionmaking if this merger goes through?

Mr. LINNERT. Absolutely, Congresswoman. And not only are we going to give it a fair chance to compete, we are doing everything to make sure it has that chance. As I mentioned earlier, we are going to meet with Governor Taft's staff to look at whatever offers or whatever help they can think of in providing to make it more competitive. We will explore all opportunities, yes.

Mr. KUCINICH. Excuse me, Congresswoman, but the gentleman can state that without having done a study?

Mr. LINNERT. That we will give it all opportunities?

Mr. KUCINICH. Please continue.

Ms. TUBBS JONES. I have to laugh, Congressman, let us lighten up a little bit here. I even lost my train of thought, hold on a second.

Mr. KUCINICH. Talking about keeping it open.

Ms. TUBBS JONES. Oh, I know. As an attorney, Mr. Linnert, you recognize the concern that is being expressed by my colleagues and me with regard to the inconsistencies, for lack of a better term, in the different paperwork that we received with regard to the proposed merger, as well as the documents that were presented for testimony. You recognize our concern.

Mr. LINNERT. Yes, ma'am.

Ms. TUBBS JONES. And were you seated, as Congressman Kucinich and I are seated, you would have that same concern about leaders of a company who have presented these differing presentations, is that a fair statement?

Mr. LINNERT. That is exactly why we have taken the time to meet privately and with this committee at every juncture to try to explain exactly what will be done going forward. I agree. We understand there is a concern and that is why we are here to address it. And we have tried to address it privately also.

Ms. TUBBS JONES. But you understand why we are still leery.

Mr. LINNERT. Yes.

Ms. TUBBS JONES. OK. Let me see—I would like to adopt as my own many of the questions that my colleagues have already asked. I do not want to go through much more of that.

Let me now go to my brother, Mr. Tubbs—and that is a joke, for the record, Mr. Tubbs, and I have no relationship, though you could not tell by looking at either one of us.

Mr. Tubbs, you wanted to respond to several of the inquiries that I had made earlier with Professor Bauer. Do you have your notes so you know what you wanted to say?

Mr. TUBBS. I just wanted to talk a little bit about what Professor Bauer was talking about in terms of defining the market. That seemed to be a key question that we have talked about today. What market do we have and what does the airplane market look like. And I do want to point out to the committee that it was not too long ago that there were two producers of commercial aircraft in the United States, McDonnell-Douglas and Boeing, and now there is one, and it is McDonnell-Douglas-Boeing. And that company is having to compete worldwide against Airbus. So as we see the consolidation in the air frame market, you also begin to see the consolidation in the supply market. You have seen that with the United Technology/Sunstrand merger, you see that in the Honeywell/Allied merger.

There was an article in today's Wall Street Journal about a similar consolidation in the railroad parts industry following the consolidation in the locomotive and freight car industry.

So as we look at the market, we begin to see things begin to parallel at all levels, and when you look at this market over here, there is a lot of people supplying a lot of parts and a lot of different landing gear to a lot of different people. So I think that we have got to remember that we are talking as lawyers here, we like to carve things as closely as we can, we like to define markets and submarkets as closely as we can to make our point. But I think you have to step back and look at the overall picture. You have one extremely large air frame manufacturer in the United States, Boeing, competing against one extremely large worldwide air frame manufacturer. They are fighting real hard to survive and all of us who are in the supply chain are also trying to survive in that business. And I think we have got to step back and look at the whole picture on this.

Ms. TUBBS JONES. Real quickly, this is my last question, I promise.

Mr. Bauer was using your words to respond to one of the questions I asked him. Can you put yourself in Mr. Bauer's shoes for a moment and respond to the question I asked of him, which is the potential impact of this merger on competition in the landing system market is devastating. Could you support that argument?

Mr. TUBBS. Can I support that it is devastating? No, I cannot support that it is devastating? No, I cannot support that it is devastating at all. I see multiple suppliers at all levels, I see a Boeing company and a Lockheed Martin with staffs of landing gear engineers who can do design. I can see that they own the landing gear at the end of it.

I think at the end of the day, what you have is a very, very strong landing gear company being able to support its customers. So I do not think it is devastating at all.

Ms. TUBBS JONES. What will we get—assume—well, the FTC and the DOD said they did not oppose the merger, and I am not taking a position, that is not my job at this juncture—but my question is on page 8 of Mr. Bauer's statement, he says, "I would next like to address some of the case law in this area. What all of the cases, both the older and the more recent, reveal is that with respect to a horizontal merger, the primary concern is the extent to which the competition which formerly prevailed between the parties will be eliminated."

If that statement is in fact true, what are we going to get in place of competition if this merger is permitted to proceed?

Mr. TUBBS. Well, both Ms. Loeb and Professor Bauer sort of dismissed the idea of failing company and dismissed us being able to invest. But let me talk a little bit about what a Coltec is. A Coltec is a $1.2 billion company versus an about to be $45 billion Allied/Honeywell company. We are leveraged with about $600 million worth of debt. We need to have a partner like a BFGoodrich, so that we can invest, we can put the money into programs so that we are a stronger company. And this is not just about landing gear, Congresswoman. This is about fuel systems for helicopters, this is about gaskets that go in chemical plants, this is about compressors that go in every part of our infrastructure. These are all things that we make. This merger makes our company stronger across the board to be able to compete in many different markets. In the landing gear side of things, you are getting a much stronger company, who can now go and compete head on head with Messier-Dowty, maybe take in—maybe get an Airbus contract so that we can break the fortress Europe. I think you are getting a much stronger company as a result of this merger.

Ms. TUBBS JONES. Ms. Loeb, lest I give the men in the room the last word, let me give you the last word.

Ms. LOEB. I would like to say that we recognize that Coltec and BFGoodrich are both much broader companies than just their landing gear businesses, and indeed in some of those areas outside of landing gear, we also compete. We have not in any way objected to the merger with respect to any other aspect. We do hope they will be able to form a much more efficient company; however, this is what we believe is an unnecessary aggregation of market power, specifically in landing gear, in a way that will affect not only competition in landing gear, but also affect competition in wheels and brakes and unfairly, contrary to the law, unfairly preclude us from being a competitor going forward and preclude consumers—and in this instance you have heard many consumers, the airlines, make clear their concerns about this—preclude the consumers from getting the benefit of a true third competitor out there.

Ms. TUBBS JONES. I am done, Congressman Kucinich, thank you very much.

Mr. BAUER. Congresswoman, could I respond for 30 seconds?

Ms. TUBBS JONES. Sure.

Mr. BAUER. Mr. Tubbs failed to see my problem, my characterization of the merger as devastating.

The Sherman Act was enacted in 1890 and it has two essential premises. One, that competition is good; and two, that monopoly is not good. Presently in the landing gear portion of this market, there are two vigorous American companies. After the merger, there will only be one.

Mr. KUCINICH. I think with that, we will conclude the testimony of this panel. I want to thank all of you very much for your participation and this panel will continue—this committee will continue to be in touch with you regarding whatever information we derive from our continuing research of the records in this case.

But again, I want to thank you very much for your participation today. I think that all of you have been very thorough in presenting your point of view and the information that you have.

At this time, I am going to call the third panel forward, you have been very patient sitting there. Representatives of the workers, Mr. Rich Vadovski of the UAW and also a representative of the people in the community, the city councilman, Edward Rybka. I would ask the gentlemen to take your positions and before you are seated, it is the custom of this committee, since we are a regulatory oversight and investigative committee, to swear in all witnesses. And I will ask you just to stand and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. The record will show that the people who are to testify have been appropriately sworn and I will ask Mr. Vadovski if he would like to proceed with his written statement.

STATEMENTS OF RICHARD VADOVSKI, ASSISTANT DIRECTOR, REGION 2, UAW; AND EDWARD W. RYBKA, COUNCILMAN, CITY OF CLEVELAND, OH

Mr. VADOVSKI. Thank you, Congressman Kucinich, and I would like to also thank Chairman McIntosh as well as yourself for holding this important field hearing here in Cleveland today, as well as the participation from Congressperson Stephanie Tubbs Jones.

I am Richard Vadovski, assistant director with the auto workers region 2 here in Cleveland. UAW region 2 represents 90,000 active and retired UAW members in eastern Ohio, western Pennsylvania and the State of West Virginia. There are approximately 325 hourly UAW members represented by local 2333, as well as some 350 salaried workers working at Cleveland Pneumatic Co. of BFGoodrich. Because of your pursuit of BFGoodrich's true aims in acquiring Coltec, the workers know the seriousness of the situation facing us and our community.

We know that in spite of BFGoodrich's public assurances to the contrary, BFGoodrich intends to use this merger to close the Cleveland plant, eliminate the union and move jobs to the south. Internal corporation documents prove this without a doubt. Nevertheless, BFGoodrich has employed a public disinformation campaign where they have lied to Members of Congress, to public officials in Cleveland and to the public at large.

At stake with this merger is not only the jobs of the workers, the community as a whole directly benefits from these good paying jobs. Six hundred and fifty workers earn and spend a payroll in the area of $25 million in Cleveland's neighborhoods. They pay $500,000 in payroll taxes alone to the city of Cleveland. This, in addition to paying property taxes, sales taxes, sin taxes, et cetera. Community economic development experts will tell you that the workers' payroll is spent and turned over three times in the community, where workers spend their paychecks, where merchants sell their goods, employ others who then spend and so on. It is fair to say that the BFGoodrich payroll is the economic lifeblood of the community around the plant. Closing the plant will cutoff not just the workers and their families, but the community as a whole.

Interestingly, poverty figures released recently by the Council for Economic Opportunities in Greater Cleveland reveal that family income is dropping. In this supposedly hot economy, income for Clevelanders dropped by some 4.7 percent. The data shows that Cleveland working family incomes, adjusted for inflation, dropped from $24,829 to $23,654 per family during the 1990's. In short, Clevelanders are losing serious economic ground. The closing of this highly skilled plant, which has decent paying jobs, will further devastate the Cleveland economy.

Our union regards the merger as an attack on our members. Thanks to the documents your committee has unearthed, it is plainly obvious that BFGoodrich is deliberately using corporate law to destroy the union, a democratically elected representative of the workers at that plant. Our union has pursued more detailed information from BFGoodrich as it relates to the current contracts between the company and the union. We think that plans to close the plant are relevant to the necessary good faith of a collectively bargained and agreed upon contract. We consider the plans of BFGoodrich to be a willful violation of the contract, just as we would the underpaying of workers or the unfair firing of an employee.

The government is the people's representatives. You, in the U.S. Congress, are aggressively representing the public interest by investigating the merits and representations of this merger. I wish the same could be said about the Ohio Attorney General. The internal BFGoodrich documents revealing that Goodrich intends to lay off the 650 Cleveland workers if it is allowed to merge with a North Carolina firm, have been available to the Ohio Attorney General for months. But the Attorney General of Ohio, who should care about the impact of the merger on Ohio and the creation of monopolies, has done nothing to stop the merger. Ohio Attorney General Betty Montgomery has the power to help save Cleveland jobs and the local community by filing suit in Federal court. Well, where is she? Why does she not file a motion to stop the merger? Why is she knowingly allowing BFGoodrich to close down Cleveland, create a monopoly in the landing gear business, when the bulk of the impacts of that merger will be felt in her own home State and by her constituents here in Ohio?

We urge you to continue your investigation into this monopoly grab by BFGoodrich corporate officials. The work you are doing protects our Nation, this State and 650 decent paying jobs here in Cleveland.

Again, thank you for this hearing here in Cleveland today and my opportunity to appear here and testify. Thank you.

[The prepared statement of Mr. Vadovski follows:]

Statement of Richard Vadovski, Assistant Director, Region 2, UAW
before the Subcommittee of National Economic Growth, Natural Resources
and Regulatory Affairs
July 7, 1999

Thank you Chairman McIntosh and Ranking Member Kucinich for holding this important field hearing today. I am Richard Vadovski, Assistant Director of Region 2, UAW. UAW Region 2 represents 90,000 active and retired UAW members in eastern Ohio, Western Pennsylvania and West Virginia. There are 325 hourly UAW members, represented by Local 2333, as well as 350 salaried workers working at the Cleveland Pneumatic Company of B. F. Goodrich. Because of your pursuit of B. F. Goodrich's true aims in acquiring Coltec, the workers know the seriousness of the situation facing us and our community.

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Ohio's Attorney General, Betty Montgomery, has the power to help save Cleveland jobs and the local community by filing suit in federal court. But where is she? Why doesn't she file a motion to stop the merger? Why is she knowingly allowing B. F. Goodrich to close down Cleveland, create a monopoly in landing gear, when the bulk of the impacts of that merger will be felt in her own home state and by her constituents in Ohio?

We urge you to continue your investigation into this monopoly grab by B. F. Goodrich Corporate officials. The work you are doing protects our nation, this state and 650 decent paying Cleveland jobs.

Again, thank you for this hearing and for my opportunity to appear here today.

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Mr. KUCINICH. Thank you very much, Assistant Regional Director Rich Vadovski.

At this time, we are going to turn to the city councilman, Edward Rybka, who represents ward 12. Councilman Rybka holds a seat that I once held and I am very grateful for his service to the community and would ask him to proceed with his testimony. At the conclusion of Mr. Rybka's testimony, we are going to ask some questions of both Mr. Vadovski and Mr. Rybka.

Councilman, please proceed.

Mr. RYBKA. Thank you, Congressman, and indeed it is a privilege to have been serving as your successor as the Broadway Councilman, and certainly it is a privilege to be joining the UAW in this panel in representing the 650 employees and their families. And last, it is a privilege to address both Congressmen who represent the Broadway community. Thank you very much, and to the chairman for having this hearing here in Cleveland. Thank you for waiting this length of time to allow us to address you.

Congressman Kucinich, I know you succeeded me—preceded me here and I know the seat——

Mr. KUCINICH. You never know about this business, I might succeed you too. [Laughter.]

Mr. RYBKA. Well, I also know the seat that you are sitting in right now and I will refrain from any attempts at humor there. But I also know the red light system and it is on already.

Mr. KUCINICH. I know some members of the media who would understand the supreme irony of this seat, but we will not get into that.

Mr. RYBKA. I was more concerned as to whether or not you were controlling the green and red lights.

Mr. KUCINICH. I have never been as powerful as I am at this moment, I will tell you.

Go ahead, Mr. Rybka.

Mr. RYBKA. Thank you. And again, I do not wish to take time trying to address antitrust or national security except that since 1980 when I graduated from law school and I think if I remember correctly, the purpose for debate around those issues, the purpose of those laws, is to protect the quality of life of the citizens of this country. And may I suggest that the quality of life of the 650 employees at the Cleveland Pneumatic/BFGoodrich facility and their families deserve that protection and that debate. Certainly the evidence, Congressman Kucinich, that you have been able to document and present at this hearing, and I might add that the hours I have sat here and listened to this deliberation, have been most edifying for myself and indicates these 650 employees and their families have reason to be concerned about their futures and their quality of life.

If I may briefly also, as a city official, address other impacts, the impact on the revenue and the general fund of the city of Cleveland with the closure of this kind of facility, the loss of those jobs, personal property taxes. This is a machine-intensive industry that generates a lot of personal property tax, which is the primary revenue source for the Cleveland Public Schools and the nearly 80,000 children in that school system. They would be adversely impacted by the closure of this plant as well.

And I might add one other impact. Across the street from this existing facility is the other half of the former Cleveland Pneumatic facility; offices, manufacturing facility, huge complex, hundreds of thousands of square feet, totally unoccupied, a total blight on the Broadway community, fenced in by a cyclone fence to avoid an arson and a tragedy that has previously happened in the Broadway community. We need to make sure that this facility that today is operating with 650 people does not contribute to that kind of urban blight and scenario.

I do not mean to belittle the importance of a communication that goes to a Member of the U.S. Congress, but Congressman Kucinich, I too have my November 23, 1998 letter from the CEO of BFGoodrich, who also indicated and gave me assurances that the other jobs in Cleveland besides the 170 corporate jobs, were all safe and not in harm's way. Unfortunately, having succeeded you now in this job for 13½ years, I have become a little cynical, and did not quite trust that November 23 letter, and therefore, on December 21, 1998, sent my own letter to David Burner. If I could read just a few of the sentences.

Mr. KUCINICH. Of course.

Mr. RYBKA. It addresses the concern I have with the responses that you have been given assuring that this $30 million investment in the plant that has taken place since 1993 shows a bright future—we ignore this light in city council also, so if you do not mind, I will ignore that red light for a few seconds.

Mr. KUCINICH. Proceed.

Mr. RYBKA. "I appreciate the assurances in the fourth paragraph of your correspondence indicating that no other Ohio-based jobs will be affected by the relocation of the headquarters. However, I am troubled that as a rationalization can be offered to relocate a corporate headquarters out of a state where 3,400 other company jobs exist, just as swift a rationalization could be made to further downgrade or to close and relocate facilities to another location. At the minimum, if a decision to downgrade or close is being considered, the City and I be given the opportunity to address concerns. These jobs are important to those who hold them and to the City."

When I hear testimony that we are talking about one of these two companies being $1 billion operation with $600 million of leveraged debt, then I suggest to you Honorable Members of Congress and fellow elected officials that a $30 million investment is a drop in the bucket and it can easily be rationalized away as the cost of doing business, the cost of synergism and any other term of art that you might want to throw into this debate and into this mix.

And I would add that there has probably been very few issues in my term as the Broadway Councilman that have had more of a roller coaster than has Cleveland Pneumatic/BFGoodrich. It started off 12 years ago when Cleveland Pneumatic was making plans for huge expansions, the opportunity to bring their suppliers to locations adjacent to this facility, to grow this plant. And then BFGoodrich became the owner and it was all nice talk. But yet in the October 25, 1993 Crane's Cleveland Business, "Only Room for One, Goodrich Pits Plants Here and in Tennessee Against Each Other." Cleveland Plain Dealer, same thing, Tuesday, September 21, 1993, "Pneumatic Warns of Layoffs. BFGoodrich warned 325 hourly workers yesterday that they are in danger of losing their jobs." It has been the chronic scenario, it happens every time the union contract comes up. And I am going to suggest that any affirmations that were made today, especially couched in the light of a $30 million investment, a much needed investment, I do not disagree at all with that, leaves me, though, still lacking in the assurances that I need as representative of the people of Broadway. And those 650 employees are my constituents as well, even though they might not all live in the Broadway community.

And therefore, would urge this Congress working with the Senate to continue its careful scrutiny of this merger and how it impacts the lives of people.

Thank you very much.

Mr. KUCINICH. Thank you very much, Councilman Ed Rybka. You know, as you were speaking, I am looking at that chart there, when you talked about all of the ups and downs of the Cleveland Pneumatic Co.'s promises, hope for expansion, things put on hold, multi-national military landing gear suppliers, just count the number of flags, U.S. flags, foreign flags, and you see that here we have a condition where of all this work that is being done on all these different facilities in all these different countries—or companies, it looks like America is not really leading the picture worldwide. It is pretty well dispersed and as a matter of fact, there are 9 U.S. flags there and 11 foreign flags.

One of the subtexts of this committee's work, national economic growth, also deals with how many jobs end up going not only south but out of the country. And jobs that are lost—and in this case, what makes it even more ironic is some of the work that is being done is for the U.S. taxpayers. So we can end up losing U.S. jobs, U.S. firms losing the jobs to foreign firms, jobs that should be done in this country for the U.S. taxpayers being farmed out of this country. So it is another complicating matter.

Now to Mr. Vadovski, how many members do you have in region 2?

Mr. VADOVSKI. Approximately 90,000, Congressman, in region 2, both active and retired.

Mr. KUCINICH. And at this particular facility, you have 650 jobs that you spoke to, correct?

Mr. VADOVSKI. Correct.

Mr. KUCINICH. Now what is the range of pay that people make? These are pretty good paying jobs, are they not?

Mr. VADOVSKI. To just maybe highlight a little, there are 650 total that we spoke, we are talking about all the jobs, not just the union jobs, but——

Mr. KUCINICH. Right, I understand that.

Mr. VADOVSKI. The rates range in the landing gear facility, which has approximately 300 of our members, from $19.88 to approximately $21.47 an hour, is the rate of the jobs.

Mr. KUCINICH. So those are good paying jobs we are talking about.

Mr. VADOVSKI. Correct.

Mr. KUCINICH. These are jobs that help support families, pay the mortgage, send kids to college.

Mr. VADOVSKI. Absolutely.

Mr. KUCINICH. And they are jobs that are part of the social and economic fabric of a community.

Mr. VADOVSKI. Yes.

Mr. KUCINICH. And you are representing the members, but in a sense you are also representing those families as well, who are affected by this.

Mr. VADOVSKI. Yes, we are.

Mr. KUCINICH. What is the overall payroll at that facility?

Mr. VADOVSKI. I believe we are looking at in excess of $25 million a year, of which $500,000 is paid in payroll taxes.

Mr. KUCINICH. That relates of course to Councilman Rybka's point of view.

Mr. VADOVSKI. Right.

Mr. KUCINICH. You made a statement that I think is very telling here. You are in contract negotiations right now, is that correct?

Mr. VADOVSKI. There is some discussions with the local union committee over some jobs. The labor agreement does not expire at the landing gear division until mid-year of next year.

Mr. KUCINICH. Is there a reopener, are you in a reopening period?

Mr. VADOVSKI. No, they are just talking about some placement of some machinery.

Mr. KUCINICH. Has it been your experience that talk of moving is used as leverage in arriving at a contract that is favorable to a company?

Mr. VADOVSKI. Oh, absolutely. Threats of closures and moving, yes.

Mr. KUCINICH. And, you know, how does your membership respond to something like that?

Mr. VADOVSKI. Well, you know, they do not lay down over it. They are not going to give away everything with no hope at the end of that task of having anything left.

Mr. KUCINICH. What is the mood of the membership right now about this whole——

Mr. VADOVSKI. The mood of the membership is angry, angry at not being told the truth by the employer that they work for, that corporation.

Mr. KUCINICH. And you feel you have not been told the truth—why?

Mr. VADOVSKI. You know, I think just in the documents that have been uncovered as a result of your efforts, the chairman and the committee. The contradictions, the contradictions we just heard here today in previous testimony about documents and what the intent was and the discussions and who was involved in those discussions. Did they talk about closure, did they talk about consolidation? And it seems like every time you turn the page, you have a different viewpoint as to what was said or what was not said.

Mr. KUCINICH. Did you get a copy of this letter dated June 30, 1999, from BFGoodrich's CEO David Burner to BFGoodrich Landing Gear Associates—are you familiar with that letter?

Mr. VADOVSKI. Yes.

Mr. KUCINICH. You have read it then?

Mr. VADOVSKI. Yes, I have.

Mr. KUCINICH. This letter was distributed to the UAW officials and to the UAW members?

Mr. VADOVSKI. Correct.

Mr. KUCINICH. And this letter goes on to say that "In the past several weeks, newspaper and television stories based primarily on comments from elected officials and officials of AlliedSignal have indicated that we are planning to close the Cleveland landing gear facility. This is absolutely not true." Now that is what BFGoodrich's CEO says. He goes on to say that "We have been encouraged by the ongoing discussions with union officials about the way to make the operations more competitive. We work cooperatively with the UAW," it goes on and on.

Have they been cooperating with you in regards to these reports about the company's——

Mr. VADOVSKI. Absolutely not.

Mr. KUCINICH [continuing]. Changing status?

Mr. VADOVSKI. Absolutely not. We have a number—the servicing rep, the international representative, assigned to that local union has sent in a number of letters requesting various information and requesting various documents of which, as of today, we have not received response to.

Mr. KUCINICH. So despite the fact that Mr. Burner wrote a letter a little more than a week ago, distributed it to the UAW members and by reference to the community, saying that they have no plans to close the Cleveland operations and saying that they have been encouraged by ongoing discussions with union officials and furthermore stating they are working cooperatively with the UAW, you are saying they are not cooperating with you and you are saying that for all intents and purposes they are not communicating with you.

Mr. VADOVSKI. Yes, that is correct. And may I add my opinion to this? This letter conveniently came out just a few days prior to the hearing here.

Mr. KUCINICH. Well, you know, when you are in the business of holding investigative hearings, it is not unusual for statements to be released in advance of the hearings to try to put some coloration on the hearings. We understood that. I just wanted to know what your testimony would be as the second highest UAW official in the region, and you are telling us that there has really been no communication with the membership about this, notwithstanding the fact that Mr. Burner has written a letter, period.

Mr. VADOVSKI. Correct.

Mr. KUCINICH. OK. Councilman Rybka, a number of businesses in this area depend on the maintenance of that plant, is that not correct?

Mr. RYBKA. Not necessarily in this area, but obviously in the Greater Cleveland marketplace.

Mr. KUCINICH. Restaurants——

Mr. RYBKA. And retailers as well.

Mr. KUCINICH. And in particular, if this plant were to close, what kind of impact would it have on the small businesses in the area?

Mr. RYBKA. I think it would have an extreme impact. At 650 jobs, this is one of the larger employment locations in the corporate limits of the city of Cleveland. So to take that much of a job presence out of the Broadway community would have a negative impact on the small restauranteur or the drug store operation or wherever a convenience operation might be. And I might add even Greater Cleveland wise, though, the suppliers to this company. Going back 11–12 years ago when Cleveland Pneumatic was focusing on an expansion, that was one of their strategies, to assemble land to bring those suppliers closer to this facility.

Mr. KUCINICH. Has anyone from BFGoodrich come to you as the Council representative of the area and asked for help in any way to enable them to stay in the neighborhood?

Mr. RYBKA. The December 21, 1998 correspondence I sent to Mr. Burner was not responded to.

Mr. KUCINICH. So no communication from them.

Mr. RYBKA. No.

Mr. KUCINICH. Thank you. Congresswoman Tubbs Jones.

Ms. TUBBS JONES. Just briefly. Thank you both for coming to testify this afternoon and waiting through our questioning to be heard.

Are you familiar, Mr. Vadovski—is that correct?

Mr. VADOVSKI. Right.

Ms. TUBBS JONES [continuing]. With any—you heard the testimony earlier today about some contemplation of closing the Cleveland plant previously. Are you privy to any of that discussion, were you representing Cleveland Pneumatic Tool during those times and were you as a representative of UAW involved in any of that discussion?

Mr. VADOVSKI. No, I was not.

Ms. TUBBS JONES. Are you familiar with who in the UAW may well have been involved in that process?

Mr. VADOVSKI. I think the corporation never discussed with us the closure, you know. And I said earlier, Congresswoman, that the contradiction between documents that have been uncovered are very puzzling to us.

Ms. TUBBS JONES. Let me be clear, the closure I am discussing is back in 1993 when they invested other dollars. Were you the representative of UAW overseeing Cleveland Pneumatic Tool at that time?

Mr. VADOVSKI. I was not the Assistant Director at that time.

Ms. TUBBS JONES. OK.

Mr. VADOVSKI. And I was not involved in those negotiations.

Ms. TUBBS JONES. Could you, if you could, determine if there are any UAW people that were around back in 1993 coming forward? It might be of interest to both you and our hearing, our members, to determine what was going on back with the UAW and Pneumatic——

Mr. VADOVSKI. We still have members who were there at that time.

Ms. TUBBS JONES. It might be of interest to us to learn what it was that kept this plant open. I am confident it was the work of the UAW workers and their productivity and all that was going on that may have been a part and parcel, and it might be useful as we go down this road.

Mr. VADOVSKI. I can say this, that it is a highly skilled work force running some very close tolerance work that is, you know, inspected by those customers very meticulously. And again, it is the skills of workers in Cleveland which have worked in that facility for many, many years.

Ms. TUBBS JONES. Thank you.

Councilman Rybka, only one question. Are you still prepared to do what you could do, in your capacity as a Council person, to assist in keeping Cleveland Pneumatic Tool and seeing what could be done from your perspective to maintain that facility?

Mr. RYBKA. That is the pledge I made in the December 21 communication that I sent and certainly it is a commitment I have received from the city administration, that we would do all we could legislatively or non, to the State, to the Federal Government, to wherever, to help with the issues that surround the viability of this facility.

Ms. TUBBS JONES. It is fair to say that you are looking for a response to your December 21 letter.

Mr. RYBKA. Yes.

Ms. TUBBS JONES. Thank you, Congressman.

Mr. KUCINICH. I want to thank the witnesses, Mr. Vadovski of the United Auto Workers region 2, for your leadership and your participation, and let your membership know that this committee is doing everything it can to try to get to the bottom of this issue and to find out exactly what the truth is. Hopefully we will be in a position to favorably report at some point that we have been successful in our efforts to demonstrate the economic importance of that facility and be successful—from my own personal standpoint, I am hoping that our efforts are going to help keep that plant open and I want Councilman Rybka to know the same.

This is another in a series of meetings which the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs is having on the Goodrich/Coltec merger. This committee has been involved in researching the records of firms involved and we will continue to do so using the powers which are vested in us by virtue of the Constitution of the United States and the role of this committee as the investigating committee of the Congress.

I want to thank all of the witnesses who appeared here today for their presence and their cooperation. I want to thank the members of the congressional staff for being here, both from Mr. McIntosh's staff and from our own committee staff of the subcommittee. I want to express my appreciation to the representatives of Cleveland's media who have taken the time to communicate this event back to the citizens of our town, and thank all those in attendance in the audience.

This is a very serious matter because it relates to the economy of this country and more specifically, Congresswoman Tubbs Jones and I are concerned because this relates to the economy of our community.

Without further ado, this meeting of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will be adjourned and I want to once again thank Congressman McIntosh for his outstanding leadership on this critical economic issue.

We stand adjourned. Thank you.

[Whereupon, at 1:34 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Office of the Mayor

July 6, 1999

The Honorable David McIntosh
Chairman
Subcomittee on National Economic Growth,
Natural Resources & Regulatory Affairs
B-377 Rayburn House Office Building
Washington, DC 20515

Dear Congressman McIntosh:

On behalf of the City of Brecksville and me personally, I want to describe to the Subcomittee the positive relationship between the City of Brecksville and The BFGoodrich Company. This relationship began in 1948 and has been mutually beneficial during the past fifty-one years. The BFGoodrich Company is a very important component of our community.

Since I took office in 1988, there has been major expansion worth tens of millions of dollars and an employee increase to nearly 550 individuals. This provides in excess of $1,000,000 in payroll and property taxes for our community.

Many of the BFGoodrich employees are now residents of Brecksville and the management and employees have made many contributions toward the betterment of this community. I do not hesitate in telling you that The BFGoodrich Company is one of the finest corporate citizens we have. They could be called the flagship of our office commercial area.

Recently there was a staff reduction at BFGoodrich. However, BFGoodrich apprised us of this downsizing and gave the City advance notice of this decision. In fact, Mr. David B. Price, Jr., Executive Vice President called me personally.

BRECKSVILLE

9069 Brecksville Road • Brecksville, Ohio 44141 • 440.526-4351 • Fax 440.526-8708

Therefore, I request that you consider my comments and enter them into your official reading. The BFGoodrich Company has been an excellent corporate neighbor and an important part of Brecksville's history.

I appreciate this opportunity to share my thoughts with you on behalf of the City of Brecksville. We thank you and your colleagues for your concern for the welfare of our citizens and trust that you will consider my sincere comments.

Yours very truly,

Jerry N. Hruby
Mayor

JNH/bl
cc: Congressman Dennis Kucinich
Senator Mike DeWine

CAMP INC
Where Manufacturers Go For Answers

Prospect Park Building 4600 Prospect Avenue
Cleveland, Ohio 44103-4314
216/432-5300 FAX: 432-5510

on Edison Technology Center

Stephen J. Gage
President

July 6, 1999

The Honorable David McIntosh
U.S. House of Representatives
1208 Longworth House Office Building
Washington D. C. 20515

Dear Congressman McIntosh:

I am writing to express my support for the BFGoodrich Company. BFGoodrich has been a member of CAMP and a generous contributor to Northeast Ohio through its Foundation and executive leadership. CAMP and its Campaign for Manufacturing Excellence has been a benefactor of their generosity.

Manufacturing is the driving force behind our regional economy. Realizing the demands placed upon the corporate community, it has been manufacturers like BFGoodrich, through their support, that have helped CAMP generate over a quarter of a billion dollars in economic impact over the last fifteen years which led to the retention or creation of 6,000 local jobs.

CAMP is concerned about the impact on our regional economy through the relocation of jobs. CAMP recognizes BFGoodrich for its sustaining presence, and I believe they will continue their tradition of support for manufacturing and civic initiatives that provide quality jobs and enhance the quality of life in the region.

CAMP respectfully asks that this letter be placed in the record of the Committee's proceedings. Thank you.

Sincerely,

Stephen J. Gage, Ph.D.
President

Cc: The Honorable Mike DeWine
The Honorable Dennis Kucinich

CAMP Divisions NIST Great Lakes Manufacturing Technology Center • Electronic Commerce Resource Center
CAMP Affiliates Advanced Manufacturing Center • Center for Automation and Intelligent Systems Research • Cuyahoga Community College's Business, Community and Economic Development Center • Edison Sensor Technology Center

Cleveland Tomorrow

1801 East Ninth Street, Suite 1020, Cleveland, Ohio 44114 Telephone (216) 574-6276 • FAX (216) 574-2216

June 29, 1999

The Honorable David McIntosh
Congressman
U.S. House of Representatives
1208 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman McIntosh:

Cleveland Tomorrow is an organization of 50 chief executives of northeast Ohio's largest corporations. Cleveland Tomorrow focuses on stimulating public-private partnerships that enhance the region's economic competitiveness. The BFGoodrich Company has been a member for ten of the seventeen years since our founding, and one of the first regional companies to join our organization.

We believe that the support we have continued to receive for technology, education and other economic development programs is characteristic of the strong commitment BFGoodrich executives place on the importance of civic responsibility. Throughout these years, the BFGoodrich Company has stood along side civic, government and community leaders to provide the personal leadership and necessary financial support to transform northeast Ohio into a location where businesses and families like to live, work and raise their children.

Although we understand the realities of companies merging, we also believe that with more than 3,000 employees remaining in the state, BFGoodrich will continue to be an active participant in initiatives that will enhance the quality of life in the region.

Sincerely,

Joseph D. Roman
Executive Director

OAI

Leveraging Resources Through Collaboration

June 29, 1999

The Honorable David McIntosh
U.S. House of Representatives
1208 Longworth House Office Building
Washington, D.C. 20515

Dear Representative McIntosh:

I wanted you to be aware of what an outstanding corporate citizen the BFGoodrich Corporation has been and how much they have supported our educational and economic development efforts.

OAI is a private, non-profit institution whose mission is to promote collaboration among universities, industry, and government in education and research. Enclosure (1) is a brief description of OAI activities and accomplishments, many of which reflect the contributions of BFGoodrich.

Founded in 1990, OAI has benefited from the active participation of several dozen BFGoodrich executives in the creation and governance of the Institute. Most notable was the personal commitment of CEO Dave Burner as founding Board member since 1990, and as Chairman of the Board from 1995 to 1998. In addition, Dave has shown his personal commitment to improving primary and secondary education in Ohio and was instrumental in helping us found the Ohio Mathematics and Science Coalition (encl. 2) and recruit top-notch industry executives for the SMART Consortium (encl. 3). BFGoodrich has also contributed $50,000/year to OAI for university research, and an additional $54,000/year for support of graduate students.

Very truly yours,

Michael J. Salkind
President

cc: Senator Mike DeWine, w/encls.
Congressman Dennis Kucinich, w/encls.

so

mcintosh/gov

direct line: 440/962-3001
fax: 440/962-3120
email: michaelsalkind@oai.org

OAI • 22800 Cedar Point Rd. • Cleveland, Ohio 44142 • 440.962.3000 • F: 440.962.3120 • www.oai.org

Cleveland Scholarship Programs, Inc.
Educational Opportunity through Financial Aid and Counsel

850 Euclid Avenue, Suite 1000
Cleveland, Ohio 44114-3300
(216) 241-5587
FAX: (216) 241-6184
csp@cspohio.org

June 29, 1999

The Honorable David McIntosh
U.S. House of Representatives
1208 Longworth House Office Building
Washington, DC 20515

Dear Congressman McIntosh:

This year Cleveland Scholarship Programs (CSP) helped more than 11,000 high school students as they attempted to achieve their goal of attending post-secondary education. The achievements of these young people are made possible through the generosity of corporate and individual supporters who wish to enrich not only the lives of these students and their families but also of our community.

Cleveland Scholarship Programs has enjoyed both financial support and strong Board leadership from The BFGoodrich Company. This support has enabled us to meet with students in 50 high schools and middle schools throughout Northeast Ohio. Additionally, this partnership has opened the doors to meetings with BFGoodrich employees who have college age children. For us, there is no greater pleasure than to conduct a group meeting with parents where we can listen to their concerns and help them solve problems for the benefit of students.

The BFGoodrich Company understands the importance of reaching young people from various social and economic communities who may have the academic desire but feel they do not have the financial capability to attend college. The commitment The BFGoodrich Company has to our program is indicative of the concern they have for providing educational opportunities for young people so that they may have a sound and productive future.

Sincerely,

Christina R. Milano
Executive Director

cc: The Honorable Dennis Kucinich
The Honorable Michael DeWine

CITY OF AVON LAKE, OHIO

150 AVON BELDEN ROAD • AVON LAKE, OHIO 44012-1699
(440) 930-4100 • (440) 933-6141
Cleveland: 1-800-365-8626
Fax (440) 930-4105

Vincent M. Urbin
MAYOR/SAFETY DIRECTOR

June 29, 1999

The Honorable David M. McIntosh
Chairman
Subcommittee on National Economic
Growth, Natural Resources and Regulatory Affairs
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Congressman McIntosh:

The purpose of this letter is to express to the Subcommittee the positive relationship the City of Avon Lake enjoys with the B.F. Goodrich Company. As you may know, The B.F. Goodrich Company has been located in Avon Lake since 1946. The Company and their employees have been outstanding neighbors and corporate citizens in numerous ways.

For your information, The B.F. Goodrich Avon Lake facility employs nearly 300 individuals, which accounts for approximately $23,000,000 in payroll and property taxes generated for our community. In the City of Avon Lake we are grateful for their many contributions and look forward to continuing our relationship with B.F. Goodrich in the future.

I respectfully ask that this correspondence be entered into the official record of your Subcommittee's proceedings. Thank you for this opportunity and for your attention to this matter.

Sincerely,

Vincent M. Urbin

Vincent M. Urbin
Mayor

VMU:nf

cc: Senator Mike DeWine
Congressman Dennis Kucinich

BFGoodrich

The BFGoodrich Company
4020 Kinross Lakes Parkway
Richfield, Ohio 44286-9368
Tel: (330) 659-7735
Fax: (330) 659-7737

Terrence G. Linnert
Senior Vice President
and General Counsel

July 22, 1999

The Honorable David McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Representative McIntosh:

I want to take this opportunity to expand upon information provided to your office in my letter dated June 30, 1999 concerning landing gear component subcontracting work done for BFGoodrich at foreign locations. Attached with this cover letter you will find detailed information pertaining to the specific programs, components and locations of the subcontracted work. Additionally, I wanted to clarify information provided to the Subcommittee regarding landing gear component work that BFGoodrich subcontracts outside of the United States for U.S. military programs.

It is still my understanding that virtually no landing gear component subcontracting work is done outside of the United States on behalf of the military. However, B.F. Goodrich does send 2 C-17 forgings, (which are purchased in the U.S.), to Canada for machining only. The machined forgings are then sent back to BFG's landing gear facility in Cleveland. Also, B.F. Goodrich buys, in low volume, small F-15 components from a vendor in Canada and ships them to the BFG landing gear facility in Cleveland.

As we have stated previously, we expect the vast majority of the work that we subcontract to remain with companies located in the United States. However, as we continue to expand globally we will continue to look for opportunities to involve companies in emerging markets to reduce production costs and improve delivery performance.

Thank you for the opportunity to further expand on this issue. I hope this detailed information answers any remaining questions you have regarding this issue. As always, please do not hesitate to contact me if you or members of your staff have any further questions.

Sincerely,

Terry Linnert

BFG Landing Gear Component - Subcontracting Specifics

China: Boeing 747, 737, G5 and Ayers LM200

4 Steel Forgings For Boeing
4 Steel Forgings For Gulfstream
Work used to be performed in U.S. by subcontractors. Low volume, equal to or less than 2 million dollars.

Also, we purchase 5 Aluminum Forgings for Ayers LM200 in China.
Machining on those parts done in Singapore.
Work is new, never done in U.S.

Russia: Boeing 747, 737

3 Titanium Forgings, was done in U.S. previously.
Subcontractor has not been certified by BFG yet, so no product has officially been manufactured.
Low volume for near future.
Products are shipped back to Cleveland for final assembly.

Singapore: Ayers LM200 and G5

Machining and Assembly of G5 nose cylinder and front piston.
Machining work mentioned previously on Ayers LM200
Products shipped back to Cleveland for assembly.
Work transferred from BFG Tullahoma. Relatively low volume.

Taiwan: Boeing 747

Buy 3 small aluminum brace details.
Low volume, work was moved from U.S. subcontractors.
Shipped back to Tullahoma for assembly.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

ALLIEDSIGNAL INC., CRANE CO., ELDEC CORP., and HYDRO-AIRE INC., Plaintiffs, v. THE BFGOODRICH CO., COLTEC INDUSTRIES INC., and MENASCO AEROSPACE LTD., Defendants.	Consolidated Civil Nos. 3:99 CV 0116 AS

STIPULATED ORDER OF DISMISSAL WITH PREJUDICE

AlliedSignal Inc., The BFGoodrich Co., Coltec Industries, Inc. and Menasco Aerospace Ltd., having agreed and the Court being sufficiently advised, IT IS HEREBY STIPULATED AND ORDERED that this action and all the claims asserted by AlliedSignal Inc. are dismissed with prejudice and without costs.

Dated: July 8, 1999

Allen Sharp

The Honorable Allen Sharp
United States District Court Judge
Northern District of Indiana

WA: 1083261v1

Entry of the foregoing Stipulated Order of Dismissal with Prejudice is hereby consented to by:

ALLIEDSIGNAL, INC.

Dated: July 8, 1999

By:
Thomas D. Yannucci, P.C.
Donald G. Kempf, P.C.
Eugene F. Assaf
Jonathan F. Putnam
KIRKLAND & ELLIS
655 15th Street, N.W.
Washington, DC 20005

Mark D. Boveri
Joseph R. Fullenkamp
Patrick D. Murphy
BARNES & THORNBURG
600 1st Source Bank Center
100 North Michigan
South Bend, IN 46601

THE BFGOODRICH COMPANY

Dated: July 8, 1999

By: Robert J. Palmer, by RJ
Thomas F. Cullen, Jr.
Gregory M. Shumaker
Edward K.M. Bilich
JONES, DAY, REAVIS & POGUE
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113

Robert J. Palmer
MAY, OBERFELL & LORBER
300 Michigan Street
South Bend, IN 46601

COLTEC INDUSTRIES, INC. and MENASCO AEROSPACE LTD.

Dated: July 8, 1999

By: Robert J. Konopa, by RJK

Robert Joffe
Rory O. Millson
Elizabeth L. Grayer
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825 Eighth Avenue
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KONOPA & MURPHY, P.C.
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South Bend, IN 46634-0237

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

ALLIEDSIGNAL INC., CRANE CO., ELDEC CORP., and HYDRO-AIRE INC., Plaintiffs,	
v.	Consolidated Civil Nos. 3:99 CV 0116 AS 3:99 CV 0181 AS
THE BFGOODRICH CO., COLTEC INDUSTRIES INC., and MENASCO AEROSPACE LTD., Defendants.	

STIPULATED ORDER OF DISMISSAL WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned pursuant to Fed.R.Civ.P. 41(a)(1) that this action, including any and all remaining claims asserted by any of the parties, is dismissed with prejudice and without costs, and that the preliminary injunction entered by the Court on April 30, 1999, is hereby dissolved.

All pleadings and exhibits filed by the parties to this action will be discarded within one week from the date of this order. Any counsel who desires to retrieve any filings or exhibits should do so within one week. Otherwise, the documents will be shredded and destroyed.

SO ORDERED:

Allen Sharp

Dated: July 12, 1999

The Honorable Allen Sharp
United States District Court Judge
Northern District of Indiana

CRANE CO., ELDEC CORP. and HYDRO-AIRE INC.

Dated: July 12, 1999

By: ________________

Garret G. Rasmussen
Stephen J. Kott
Michael J. Nardotti
Todd Andersen
PATTON BOGGS LLP
2550 M Street, N.W.
Washington, DC 20037

Thomas H. Singer
Carmen M. Piasecki
NICKLE & PIASECKI
205 W. Jefferson Blvd., Suite 600
South Bend, IN 46601

THE BFGOODRICH COMPANY

Dated: July 12, 1999

By: ________________

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COLTEC INDUSTRIES, INC. and MENASCO AEROSPACE LTD.

Dated: July 12, 1999

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