IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

HENKEL AG & CO. KGAA,

HENKEL OF AMERICA, INC.,

HENKEL US OPERATIONS CORP.,

AIP, LLC d/b/a AMERICAN INDUSTRIAL PARTNERS,

A-PAINT HOLDING LP,

and

A-PAINT TOPCO, INC.,

Defendants.

Case No. 1:25-CV-10371-KPF

PUBLIC VERSION

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff Federal Trade Commission ("FTC" or "Commission"), by its designated attorneys, petitions this Court pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to enter a stipulated temporary restraining order and grant a permanent injunction preventing Henkel AG & Co. KGaA and its U.S. subsidiaries Henkel of America, Inc., and Henkel US Operations Corp. (collectively, "Henkel") from acquiring A-Paint Topco, Inc. from A-Paint Holding LP and AIP, LLC d/b/a/ American Industrial Partners ("AIP") (the "Proposed Transaction") in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45.

NATURE OF THE CASE

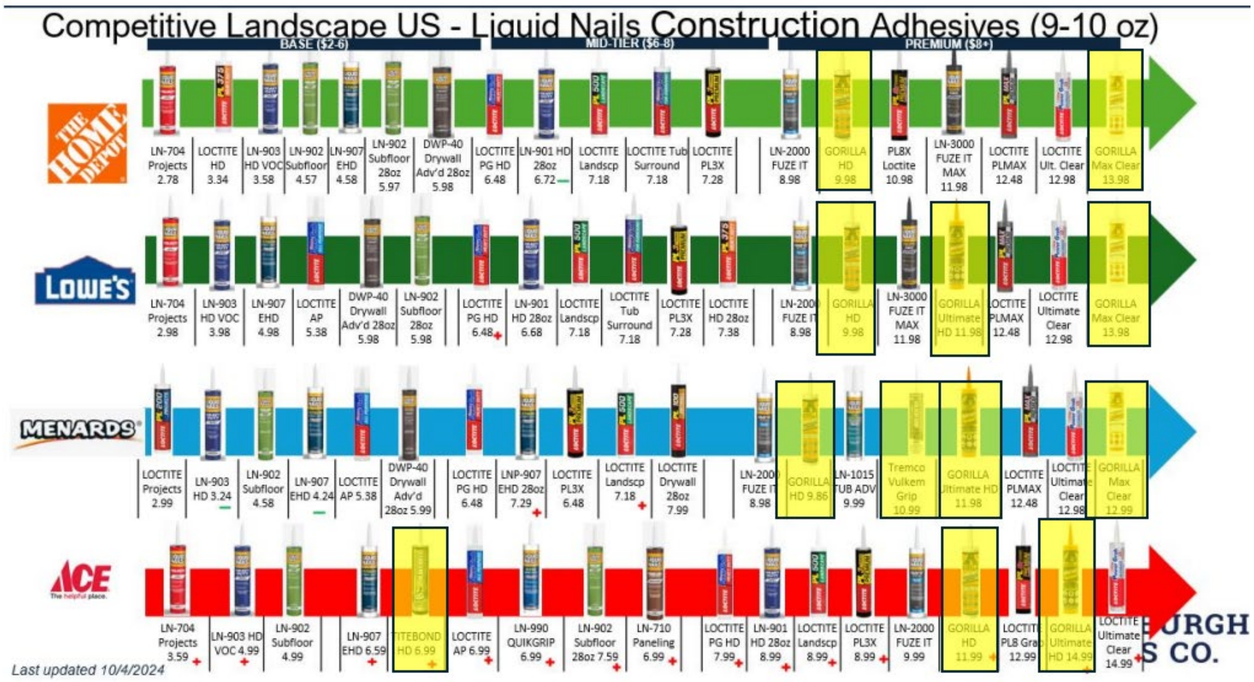
1. Henkel, manufacturer of the popular construction adhesives brand Loctite, proposes to buy Loctite's chief rival Liquid Nails from private equity firm AIP in a $725 million deal. If consummated, this deal would bring under one roof the two biggest brands—by far—of construction adhesives sold domestically at retailers like The Home Depot, Lowe's, Menards, and Ace Hardware. The combination of these heavyweights would both exacerbate market concentration and eliminate intense head-to-head competition that has inured to the benefit of Americans who use these products.

2. The consumers who purchase construction adhesives are the do-it-yourselfers ("DIYers") and the professional craftsmen responsible for repairing and remodeling American homes. They turn to these products when making home improvements, such as installing drywall, molding, subflooring, or tiles, that require a heavy-duty glue that can bind surfaces in a home to withstand the test of time. And when they go to the store to purchase these products, they see shelves dominated by Loctite and Liquid Nails, with little to no other competition. This Henkel document, from a product line review at Walmart in July 2025, could not be clearer:

3. The story is the same throughout the country. Whether shopping at The Home Depot in New York City, Ace Hardware in Gig Harbor, Washington, Lowe's in Ruckersville, Virginia, or Menards in Duluth, Minnesota, DIYers and professional craftsmen overwhelmingly see and purchase Liquid Nails or Loctite. This reality is starkly demonstrated by the following 2024 Henkel document excerpt highlighting Loctite construction adhesives in red, Liquid Nails construction adhesives in blue, and Gorilla Glue construction adhesives in gold (highlighting in original):

4. And, it has been this way for a long time. Others have tried and failed to squeeze onto retailer shelves. Well-known brands in adjacent categories—including household names like Franklin, DAP, and Sherwin-Williams—have struggled to take share. One of Henkel's deal analyses confirms that "Competitors focusing on either brand investment (Gorilla) or low price (Franklin and Dap) have not been able to meaningfully penetrate this category." Other Henkel ordinary course documents similarly recognize the failure of other brands to gain share in construction adhesives, noting, for instance, that [redacted] and has [redacted] and that [redacted] Likewise, Henkel's sales team joked in message chats about how they did not even notice Sherwin-Williams' White Lighting Speed Grip construction adhesive offering at Lowe's—not surprisingly, it was soon discontinued at the retailer.

5. Indeed, only one firm, Gorilla Glue, has been able to get a limited foothold in the last decade. Even so, Gorilla Glue, with its premium priced offerings, still only represents a small fraction of the market. As shown in the following 2024 A-Paint depiction of the "Competitive Landscape," other brands are the exception and get lost in a sea of Loctite and Liquid Nails (other brands highlighted in yellow for clarity):



6. Approximately 75% of construction adhesives sales in the United States are made through retailers (the "retail channel"), which include home centers (e.g., The Home Depot, Lowe's and Menards), hardware stores (e.g., Ace Hardware, Do It Best, and its subsidiary company, True Value), and mass merchants (e.g., Walmart). This sales channel boasts attributes that distinguish it from sales made through distributors, dealers, and lumberyards. Among other

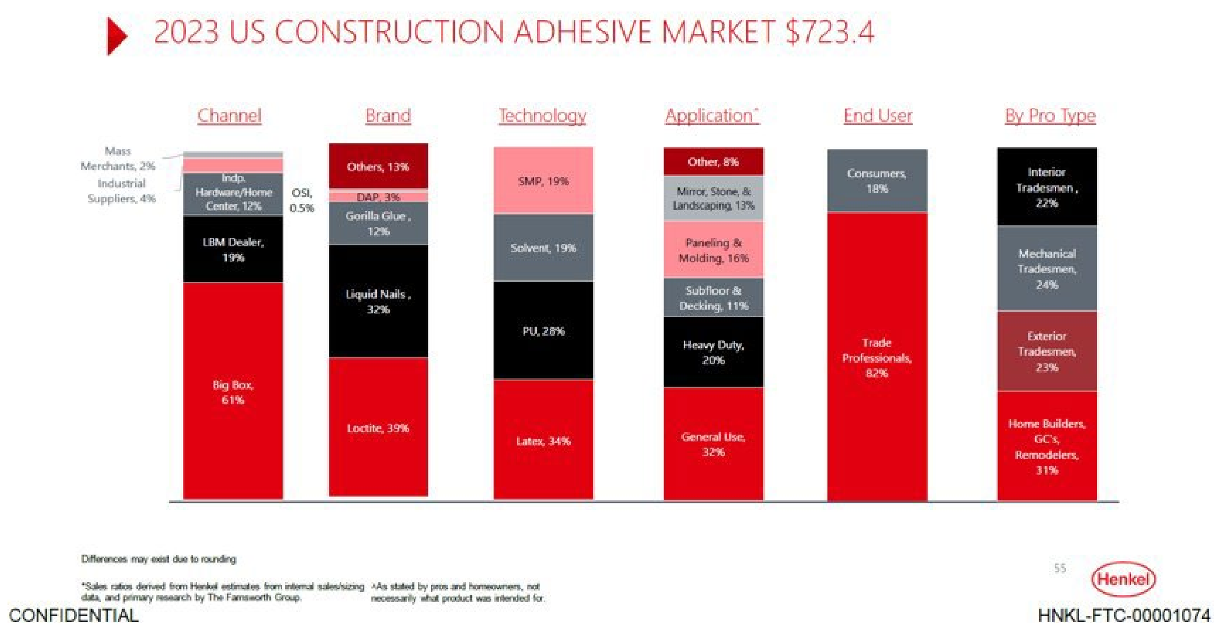
things, retailers cater to both DIYers and professional craftsmen looking for convenient, quick access to products; products are typically displayed in brick-and-mortar stores (where competition for shelf space is intense); pricing, discounts, and sales are very often made on a per unit basis (as opposed to purchases in bulk or by pallet); and purchases are made in store versus by bulk delivery. Accordingly, the merging parties and the industry recognize retail as a distinct, and separate, market—and one in which Loctite and Liquid Nails are widely acknowledged as the clear leaders.

7. Strategic documents from Loctite, Liquid Nails, and other industry participants bear out the dominance of Loctite and Liquid Nails in construction adhesives sold in retail stores throughout the United States, consistently showing a combined market share above 65%.

8. By combining the top two brands for construction adhesives sold in the retail channel in the United States, the Proposed Transaction will significantly increase concentration and result in a highly concentrated market, making the Proposed Transaction presumptively unlawful under controlling case law and the 2023 U.S. Department of Justice and FTC Merger Guidelines (hereinafter, the "Merger Guidelines"), which are rooted in case law and outline the legal tests, analytical frameworks, and economic methodologies both agencies use to assess a transaction's legality.

9. This is also true in a broader market of all sales of construction adhesives, irrespective of sales channel, as evident by the following study Henkel commissioned to understand the market and facilitate engagement with customers. It shows that, in 2023, Henkel's Loctite construction adhesives had a 39% share and Liquid Nails construction adhesives had a

32% share of a $723.4 million construction adhesives market—for a combined 71% market share. The market Henkel assessed included construction adhesives sold through multiple channels, namely big box stores (i.e., The Home Depot, Lowe's, Menards) (61% of sales), lumber and building materials (LBM) dealers (19% of sales), independent hardware stores and home centers (12% of sales), industrial suppliers (4% of sales), and mass merchants (2% of sales):



10. In addition to leading to unlawful levels of market concentration, the Proposed Transaction will eliminate fierce competition between Loctite and Liquid Nails. Loctite and Liquid Nails each have long viewed the other as its top competitor, and their ordinary course documents reflect a longstanding battle for market share. In one example from a marketing plan from November 2023, [redacted] Loctite's media strategy for its [redacted]

[redacted] For its part, Liquid Nails [redacted] As another example, Liquid Nails recently approved an R&D project to create a "Clear Adhesive offset to Loctite Power Grab," [redacted]. Consumers have benefitted from this rivalry, which has resulted in lower prices, higher quality, and increased innovation. The elimination of this fierce head-to-head competition violates the Clayton Act and requires an injunction blocking the Proposed Transaction, independent of market-share analysis.

11. Elimination of this competition, though, is the lynchpin of this deal for Henkel. As a Henkel Corporate Vice President explained just before the deal was inked: "LN [Liquid Nails] vs Loctite: we will have to confirm the specific target groups (DIYers, heavy DIYers, generalist Pros, specialized Pros ?) and reason to be of each brand ***to limit competition between the two brands***" (emphasis added). Elsewhere, that same executive mused about how to pitch certain initiatives to Henkel's retail customers, including imposing "***price increases asap on obviously low priced Liquid Nails*** whose e[q]uity can support much higher prices" once Henkel gains control of Liquid Nails. (emphasis added). Deal documents also show that, post-merger, Henkel intends to slash product variety and offerings as part of a plan to "[r]ationalize assortment between Loctite and Liquid Nails."

12. Loctite and Liquid Nails—"the 'Kleenex' of construction adhesives"—have held their incumbent positions at retail for decades, dominating shelf space by virtue of their well-

known, trusted, and sales-driving brands. Indeed, in assessing the deal, Henkel repeatedly emphasized the formidable brand strength and awareness of Loctite and Liquid Nails, using such words as "leading" and "iconic," [redacted] They were not alone in seeing antitrust red flags: as the primary AIP associate responsible for the Liquid Nails side of the deal observed when Henkel initially bid on Liquid Nails in 2024: "Loctite + Liquid Nails … surprised they will get through regulatory." And, during negotiations with Henkel regarding this deal, an AIP partner made clear to Henkel's most senior executive responsible for adhesives that allocation of antitrust risk was critical to sealing the deal: "just as [redacted] was your hot button, regulatory approval topics is mine." [redacted] AIP's position was hardly surprising given that its own due diligence showed that Liquid Nails' "[p]rimary competition [is] Loctite (Henkel)."

13. On December 11, 2025, by a 2-0 vote, the Commission found reason to believe that the Proposed Transaction may substantially lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45, or constitutes an unfair method of competition in violation of Section 5 of the FTC Act, and authorized the filing of this action.

14. The parties have stipulated to entry of a temporary restraining order to preserve the status quo and protect competition. Under this temporary restraining order, Defendants

cannot consummate the Proposed Transaction until the eighth day following the entry of any judgment that does not prohibit consummation of the Proposed Transaction.

15. The FTC brings this action to preserve the fierce competition between Loctite and Liquid Nails that would be squelched if the Proposed Transaction were allowed to proceed. The Proposed Transaction should be permanently enjoined.

JURISDICTION AND VENUE

16. This Court's jurisdiction arises under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and under 28 U.S.C. §§ 1331, 1337, and 1345. This is a civil action arising under Acts of Congress protecting trade and commerce against restraints and monopolies, and it is brought by an agency of the United States authorized by an Act of Congress to bring this action.

17. Defendants are, and at all relevant times have been, engaged in activities in or affecting "commerce" as defined in Section 4 of the FTC Act, 15 U.S.C. § 44, and Section 1 of the Clayton Act, 15 U.S.C. § 12.

18. The FTC Act, 15 U.S.C. § 53(b), authorizes nationwide service of process, and personal jurisdiction exists where service is effected pursuant to federal statute. Fed. R. Civ. P. 4(k)(1)(C). Venue is proper in the Southern District of New York under 28 U.S.C. § 1391(c)(3), as well as under 28 U.S.C. § 1391(c)(2) and 15 U.S.C. § 53(b). Defendants are found, reside, and/or transact business in this state and district, and are subject to personal jurisdiction therein.

THE PARTIES AND THE PROPOSED TRANSACTION

19. Plaintiff, the Federal Trade Commission, is an agency of the United States government, established, organized, and existing pursuant to the FTC Act, 15 U.S.C. §§ 41 et

seq., with its principal offices at 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The Commission is vested with authority and responsibility for enforcing, *inter alia*, Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45.

20. Defendant Henkel AG & Co. KGaA is a German multinational chemical and consumer goods company headquartered in Düsseldorf, Germany.

21. Defendant Henkel of America, Inc. is a subsidiary of Henkel AG & Co. KGaA and is headquartered in Rocky Hill, Connecticut.

22. Defendant Henkel US Operations Corporation is a subsidiary of Henkel of America, Inc. and is headquartered in Rocky Hill, Connecticut.

23. Defendant AIP, LLC d/b/a/ American Industrial Partners ("AIP") is a private equity firm headquartered in New York, New York. In December 2024, AIP emerged as the winning purchaser of the architectural coatings business of PPG Industries, Inc. ("PPG") for $550 million. That sale included PPG's adhesives and sealants business, of which Liquid Nails was a part. Post-sale, AIP renamed the business The Pittsburgh Paints Company ("PPC").

24. Defendant A-Paint Holding LP is a holding company owned and controlled by AIP and its associated funds and is headquartered in New York, New York.

25. Defendant A-Paint Topco, Inc. is a subsidiary of Defendant A-Paint Holding LP and is headquartered in New York, New York. Defendant A-Paint Topco, Inc. was created for purposes of the Proposed Transaction, and its assets consist solely of the specialty adhesives and sealants business—including Liquid Nails—that AIP acquired from PPG in December 2024.

Hereinafter A-Paint Holding LP, A-Paint Topco, Inc., AIP, PPG and PPC are referred to as "A-Paint" unless otherwise indicated.

26. On April 15, 2025, Defendants entered into a Sale and Purchase Agreement whereby Henkel agreed to acquire 100% of A-Paint Topco, Inc.'s voting securities for approximately $725 million.

27. According to Henkel's deal documents, the strategic rationale for the Proposed Transaction includes achieving "a leading market position in Construction Adhesives in US." [redacted]

THE PROPOSED TRANSACTION IS PRESUMPTIVELY UNLAWFUL BECAUSE IT WILL SIGNIFICANTLY INCREASE MARKET CONCENTRATION

28. The Proposed Transaction will significantly increase concentration in the already concentrated market for construction adhesives sold in the retail channel in the United States, leading to a presumption of illegality.

29. The parties' ordinary course documents show recognition of a U.S. construction adhesives market segmented by different sales channels, which reflect the market realities of how differently situated end-users purchase construction adhesives. These strategic documents universally show Loctite and Liquid Nails as the clear market leaders for construction adhesives sold at retail in the United States, a fact that is recognized by other industry participants and confirmed by analysis of market shares.

A. The Relevant Product Market Is Construction Adhesives Sold in the Retail Channel.

30. Construction adhesives sold through retailers—i.e., home centers, hardware stores, and mass merchants—are a relevant product market in which to evaluate the competitive effects of the Proposed Transaction.

31. Construction adhesives are designed to bond various materials (such as wood and drywall) in home improvement and construction projects and other light construction. DIYers and professional craftsmen alike turn to construction adhesives when they need a strong and durable bond that will stand the test of time: to install cabinets, to affix tiles and subflooring, to hang mirrors, or to build planter boxes. As Henkel puts it, construction adhesives are used "When you're going heavy duty." These products are specifically engineered to meet design strength requirements for construction projects and characterized by their superior tensile strength and fast drying time, the latter being important to reduce the need for bracing. At the same time, construction adhesives also provide an appealing aesthetic due to the absence of nails and holes.

32. Construction adhesives are sold in four different chemistries: solvent, latex, polyurethane, and hybrids (also called Silane Modified Polymer ("SMP") or advanced performance polymer), with each chemistry having advantages and disadvantages for end-users. They are also sold as multi-purpose (also called "general" or "all purpose") or specific purpose (e.g., subfloor, drywall, etc.).

33. Construction adhesives are generally marketed as meeting ASTM standards C-557 and/or D-3498. These ASTMs measure strength and the ability to extrude and the ability to

"stay stuck." Meeting or exceeding ASTM standards for construction adhesives is viewed by consumers as a marker for quality. These standards are considered [redacted] in construction adhesives and are important to consumers.

34. It is this high-strength bond between two surfaces that makes construction adhesives distinct from—and not functionally interchangeable with—many of the other products found in a hardware store, such as sealants and caulks; other types of adhesives (e.g., small tubes of epoxies, super glues, glue sticks, wood glue, etc.); and nails and fasteners. Sealants and caulks, for example, provide a seal between two surfaces to block out water, air, and debris. Similarly, super glues are used for different purposes than construction adhesives, specifically small bonds in projects like jewelry repair or mending broken ceramics. And nails and fasteners, while often used as complements to construction adhesives in the same home project, lack the structural integrity, noise reducing properties, and aesthetic "no show" look of construction adhesives. As Henkel states on its website, construction adhesives are the solution for projects when "nails and screws are not enough."

35. Construction adhesives are typically applied to surfaces using a caulking gun, which allows the user to administer a controlled and even bead of adhesive from a cartridge for easy, no mess application. Adhesives that are sold in other form factors, like multi-gallon buckets, are not reasonable substitutes for construction adhesives sold in a cartridge for use in a caulking gun. Adhesives sold in gallon or multi-gallon buckets, for instance, require application with a mason's trowel, typically have specialized applications like installing fiber reinforced

plastic or ceiling tiles, and are generally messier and harder to use than construction adhesives sold in a cartridge for use in a caulking gun.

36. The following Henkel training guide aptly describes the attributes of a construction adhesive:

CONSTRUCTION ADHESIVES
WHAT IS A CONSTRUCTION ADHESIVE?

Definition

- It sticks SH#% Together!
- Used to bond larger work pieces; offering fast initial tack that can fill joints/gaps in multiple materials

Properties

- Easy to apply (from a cartridge or tube)
- High initial tack
- Sufficiently high final strength
- Good adhesion on different substrates
- Gap-bridging capacity
- Durable bond
- Weather resistant

Henkel

37. Henkel is not alone: other industry participants recognize construction adhesives as a distinct product with specific functionalities and uses.

38. In the United States, most construction adhesives are sold through the retail channel. In this channel, Liquid Nails and Loctite are typically placed side-by-side on a distinct shelf, bay, or rack dedicated to construction adhesives in a brick-and-mortar store, commonly located in the paint department. Only about 25% of construction adhesives are sold outside of the

retail channel through distributors, specialty supply dealers, and lumberyards, who tend to serve professionals purchasing construction adhesives in larger volumes.

39. The parties and other industry participants distinguish sales of construction adhesives made through the retail channel from those made through other means.[1] Henkel and A-Paint have organized their businesses around these distinctions, with sales employees assigned to either the retail channel or distributers/dealers/lumberyards. These two sets of sales teams target different customers and employ different marketing tactics.

40. The parties' business structures make sense given the distinctive attributes of the retail channel. A-Paint itself noted these attributes in a submission to Lowe's in 2024, describing the retail channel as "displaying and selling small quantities to end customers through physical stores or online, and occasionally providing delivery services." A-Paint provided examples of retailers: "Home improvement centers" which sell a range of home or building repair and improvement materials with examples such as The Home Depot and Lowe's, "hardware stores" such as Ace Hardware and Do It Best, and other types of retail establishments. As A-Paint observed, firms in the retail channel operate brick-and-mortar stores and online sites through which they sell smaller packages of construction adhesives directly to end consumers. These retailers offer a broad range of home or building repair and improvement materials, including

[1] Defendants use different nomenclature to describe non-retail sales; A-Paint sometimes calls this channel "dealers" or "commercial," while Henkel uses the term "pro," but they all refer to the same thing.

construction adhesives, to a wide variety of consumers, including both DIYers and professional craftsmen.

41. Perhaps most importantly for purposes of competition between suppliers like Loctite and Liquid Nails, retailers have limited shelf space on which they display products. Retailers typically organize this shelf space based on “planograms” or visual diagrams that serve as the blueprint for each store’s organizational layout. Retailers develop their planograms based on product line reviews wherein suppliers compete for shelf space by offering better prices, promotions, and support.

42. In contrast, distributors, dealers, and lumberyards do not face the same shelf space limitations as retailers, allowing these sellers to carry a wider array of brands and products. For example, distributors, [redacted], operate a wholesale model through which they warehouse supplies and deliver them. In lumberyards, customers generally drive in and have their orders put on their trucks.

43. The retail channel serves DIYers and professional craftsmen looking to obtain construction adhesives conveniently and quickly. These customers tend to be highly aware of brands and loyal to their brand of choice. In contrast, distributors, dealers, and lumberyards serve professionals almost exclusively. Professionals who buy from distributors, dealers, and lumberyards may have options like job site delivery and payments on an accounts receivable basis. They tend to be less brand loyal and more focused on price than customers in the retail channel.

44. There are distinct pricing strategies for construction adhesives sold through the retail channel. Retailers sell construction adhesives with tiered pricing often using a good, better, best (or base-price, mid-tier, premium) framework. Retailers employ this framework to encourage consumers to trade up to higher quality, more expensive products that generate higher margins for the retailer. Sellers outside the retail channel, which typically serve more price-sensitive, professional customers, do not employ this same pricing framework.

45. As noted above, the parties' business structures reflect the distinctions between the different sales channels for construction adhesives. Their strategic documents likewise recognize a distinct category of construction adhesives sold at retail. For example, a 2025 Henkel strategic document created and presented to the Henkel executive responsible for its Consumer and Craftsmen business in North America—two months *after* the Proposed Transaction was memorialized—analyzed a distinct retail category in construction adhesives, highlighting the main sales outlets that are repeatedly cited as comprising the retail channel:

RETAIL U.S. : CATEGORY DEVELOPMENT CONSTRUCTION ADHESIVES

PURCHASES : Construction Adhesives

	YTD NES $	Δ $'s	Δ %
CONSTRUCTION ADHESIVES	[redacted]		
HOME DEPOT			
LOWE'S			
MENARDS			
ACE			
AMAZON			
All Others			

POS : Construction Adhesives

	YTD POS $'s	Δ	Δ %	Units Δ %
CONSTRUCTION ADHESIVES	[redacted]			
HOME DEPOT				
LOWE'S				
MENARDS				
ACE				
AMAZON				
	POS Not Available for All Customers			

* Figures YTD May 2025

THD HOME DEPOT :

(+) Growth coming directly from TPS Endcap & TPS Sidecap Placement (PL Premium & PG HD) [redacted]

(-) Negative impact from total PG program

LOWES :

(+) New item launches in reset

(+) End cap and other incremental cross merchandising locations

Menards :

(-) Maintaining. Opportunity coming to consolidate other brands.

(+) Recovery of PL Premium [redacted]

ACE :

[redacted]

AMAZON :

(+) Syndicated reviews, additional mktg spend, and new pack quantities (1/2/4/6/12)

Henkel

In fact, part of the deal rationale for Henkel is [redacted]

46. Although a relevant product market can be defined solely based on qualitative evidence regarding market characteristics, or "practical indicia," another common method employed by courts and enforcement agencies to determine the relevant market is the hypothetical monopolist test.

47. As explained by the case law and Merger Guidelines, the hypothetical monopolist test is a tool used to determine if a group of products is sufficiently broad to be a properly defined antitrust product market. If a single firm (i.e., a hypothetical monopolist) seeking to

maximize profits controlled all sellers of a set of products or services and likely would undertake a small but significant and non-transitory increase in price or other worsening of terms ("SSNIPT"), then that group of products is a properly defined antitrust product market. Here, a hypothetical monopolist of construction adhesives sold in the retail channel likely would undertake a SSNIPT. In the event of a SSNIPT for construction adhesives sold in the retail channel, consumers would not switch to other products or purchase outside the retail channel in sufficient volumes to render the price increase unprofitable. Accordingly, construction adhesives sold through the retail channel constitute a properly defined product market.

B. The Relevant Geographic Market Is the United States.

48. The United States is a relevant geographic market in which to assess the competitive effects of the Proposed Transaction.

49. Consumers in the United States purchase construction adhesives primarily from firms that sell products in the United States and do not typically import construction adhesives from abroad. The United States also has distinct regulatory requirements regarding product formulations for construction adhesives. Thus, not surprisingly, Henkel and A-Paint have agreed that the "appropriate geographic scope for the FTC to assess the effects on competition of the transaction is no larger than the United States."

50. A hypothetical monopolist controlling all sellers of construction adhesives sold in the retail channel in the United States could profitably implement a SSNIPT in the United States. Therefore, the United States is a relevant geographic market in which to assess the competitive effects of the Proposed Transaction.

C. The Proposed Transaction Will Increase Market Concentration in an Already Concentrated Market.

51. The Proposed Transaction is presumptively unlawful because it significantly increases concentration in the market for construction adhesives sold through the retail channel.

52. Loctite and Liquid Nails are by far the two largest suppliers of construction adhesives sold at retail in the United States. Both brands boast to their retail customers that they are the leaders in construction adhesives and dominate retail store shelves. Ordinary course documents from the parties and other industry participants support these claims, consistently showing that Loctite and Liquid Nails have a combined market share between 65% and 90% in retail.

53. Courts, federal and state agencies, and economists employ a metric known as the Herfindahl-Hirschman Index ("HHI") to assess market concentration. The HHI is the sum of the squares of the market shares of the market participants. For example, a market with five firms, each with 20% market share, would have an HHI of 2000 ($20^2 + 20^2 + 20^2 + 20^2 + 20^2 = 2000$). The HHI is low when there are many small firms and grows higher as the market becomes more concentrated. A market with a single firm would have an HHI of 10,000 ($100^2 = 10{,}000$). The increase in market concentration caused by the Proposed Transaction is indicative of the Proposed Transaction's likely negative impact on competition. The Merger Guidelines explain that a merger that significantly increases market concentration is presumptively unlawful. Specifically:

- A merger that creates a firm with a market share of over 30% and that increases the HHI of the market by more than 100 points is presumed to substantially lessen competition in that market and is thus presumptively illegal.
- A merger is also likely to create or enhance market power—and, again, is presumptively illegal—when the post-merger HHI exceeds 1800 and the merger increases the HHI by more than 100 points.

54. The Proposed Transaction is presumptively illegal in the market for construction adhesives sold through the retail channel in the United States. Although a merger need meet only one of the two aforementioned measures to be presumptively illegal, the Proposed Transaction blows both out of the water: it is presumed likely to create or enhance market power—and is presumptively illegal—in the market for construction adhesives sold through the retail channel in the United States because it increases the HHI in that market by over 1,000 points, leading to a post-transaction HHI above 3,000 points and a post-transaction market share for Henkel of considerably more than 30%.

55. Indeed, based on their ordinary course documents, Henkel would sell over 30% of all construction adhesives in the United States.

THE PROPOSED TRANSACTION WILL LIKELY ELIMINATE CLOSE AND SUBSTANTIAL HEAD-TO-HEAD COMPETITION

56. The Proposed Transaction would not only combine the two largest brands for construction adhesives sold in the retail channel in the United States—it would also eliminate the fierce competition between these brands that has benefitted consumers. The elimination of this

competition violates Section 7 of the Clayton Act and Section 5 of the FTC Act, independent of market-share analysis.

57. Today, consumers benefit from the intense competition between Loctite and Liquid Nails in the form of lower prices and increased product innovation. There is a reasonable probability that the elimination of competition from the Proposed Transaction would result in increased prices, lesser quality, and reduced consumer choice and innovation.

A. Loctite and Liquid Nails Are Each Other's Closest Competitor.

58. Henkel and A-Paint recognize Loctite and Liquid Nails are each other's closest competitor. A-Paint's business documents identify Liquid Nails' number one competitor as Loctite, and its internal retail strategy involves consistently targeting Loctite products and attempting to take Loctite share. For its part, Henkel regularly singles out Liquid Nails as a competitive target, analyzes Liquid Nails' capabilities, and benchmarks Loctite against Liquid Nails.

59. The parties' communications and interactions with their customers reflect recognition of the close competition between Loctite and Liquid Nails. Loctite has told The Home Depot that its primary competitors are Liquid Nails and Gorilla Glue. [redacted] And, in a showing of literal head-to-head competition, both Loctite and Liquid Nails regularly conduct demos of their construction adhesives against each other for their retail store customers.

60. The close competition between Loctite and Liquid Nails plays out vigorously through retail product line reviews. In these competitive scenarios, Loctite and Liquid Nails regularly propose that their retail customers replace each other in planograms. The documents below show the brands' respective recent efforts to take shelf space from the other at Lowe's, with one even depicting a person kicking a cartridge of Liquid Nails out of the store:

Duplicate Offerings in Current Assortment

[redacted]

61. Retailers respond to this competitive behavior and shift shelf space between the two brands. As just one example, Lowe's swapped out a Liquid Nails SKU for a Loctite one in its 2024 line review.

B. There Is a Reasonable Probability That the Proposed Transaction Will Eliminate Head-to-Head Competition.

62. Today, Loctite and Liquid Nails fiercely compete to win the business of retailers and consumers. The Merger Guidelines state that "[c]ompetition often involves firms trying to win business by offering lower prices, new or better products and services, more attractive features…or better terms relating to various additional dimensions of competition." Loctite and Liquid Nails closely monitor each other's performance at specific retailers and undertake

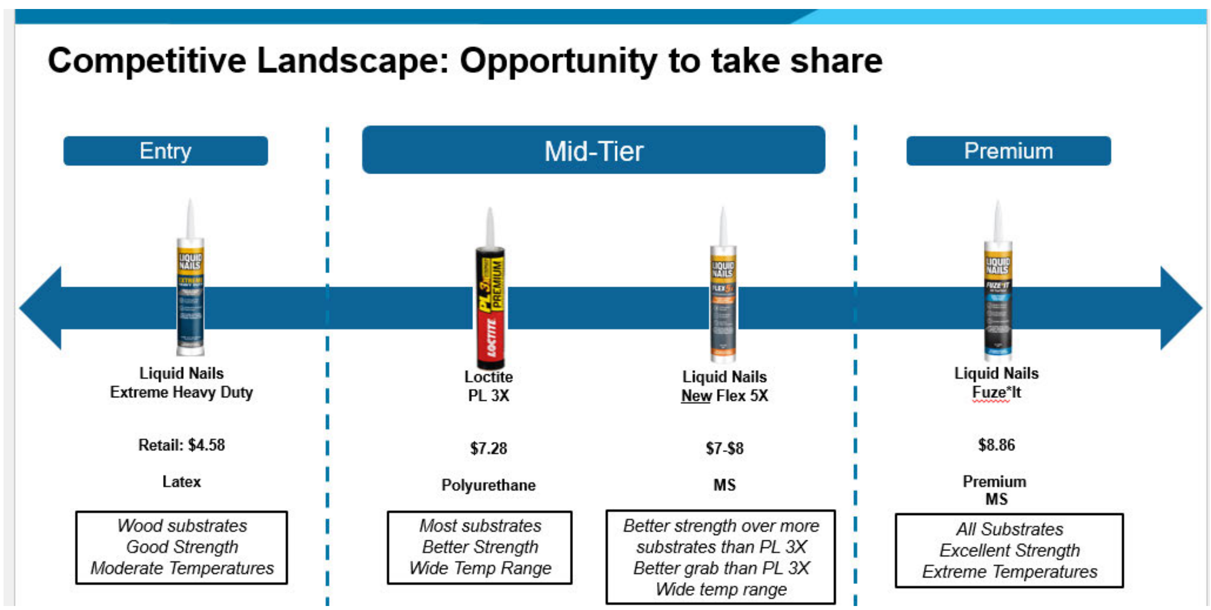
initiatives aimed at taking business and market share from the other. This competition has redounded to the benefit of American consumers, in the form of lower prices, better quality, and innovation. This fierce competition is likely to be lost as a result of the Proposed Transaction.

63. **Price.** Loctite and Liquid Nails monitor each other's prices and promotions, acknowledging that consumers can often be swayed away from one to the other based on price and value proposition. For instance, [redacted] Around that same time, Henkel's National Account Manager for Lowe's similarly observed that, on pricing, there was "[c]ontinued pressure from lower-priced competitors such as Liquid Nails." A-Paint likewise considers Loctite pricing when setting the price of Liquid Nails products. For example, in 2024, before it launched its Flex 5X product, A-Paint conducted a price elasticity study between Liquid Nails, Loctite, and Gorilla Glue. A-Paint ultimately came to market with a compelling value proposition for Flex 5X, leading the head of marketing for Henkel's Consumer and Craftsmen division to lament: "super frustrating the [sic] our competitors continue to bring SMP products to market at retails we can't achieve with Henkel costs."

64. Another example of the price competition between Loctite and Liquid Nails—and how these products are the closest substitutes for each other—[redacted]

[redacted]

65. **Innovation.** The competitive pressure between Loctite and Liquid Nails has resulted in new products and innovations. As mentioned above, A-Paint recently launched Liquid Nails Flex 5X, a hybrid product designed to target polyurethane construction adhesives users. As demonstrated in the document below, the launch was part of Liquid Nails' business strategy to switch consumers away from its "main competition Loctite PL Premium 3x":



Throughout A-Paint's research and development process, A-Paint had one goal—to develop a mid-tier priced product to compete with Loctite:

[redacted]

In response, Henkel conducted a study on Liquid Nails Flex 5X to better compete in a Lowe's product line review.

66. For its part, Henkel [redacted] And demonstrating [redacted], during Henkel's due diligence of the Proposed Transaction, members of its deal team [redacted]

C. Henkel Plans to Raise Prices and Reduce Choice Post-Transaction.

67. While the FTC does not have the burden to, and thus need not, show actual anticompetitive effects will occur as a result of the Proposed Transaction, deal documents suggest that the Proposed Transaction will in fact lead to price hikes and other anticompetitive harms for consumers. Following its acquisition of Liquid Nails, Henkel plans to dominate retail shelf space for construction adhesives, eliminate duplicative offerings, raise the price of the Liquid Nails, and execute a "trade up" strategy to push consumers into higher-priced products. These likely anticompetitive effects will harm consumers in terms of both through increased prices and reduced choice.

68. Today, Liquid Nails is known for its value offerings in construction adhesives. Henkel strategic documents as recent as August 2025 call out Liquid Nails' "Value Perception" as a key differentiator among the "US Competitive Landscape." To take share from Liquid Nails, Henkel strategic documents have long acknowledged that it must convince consumers to "trade up and over" from Liquid Nails to Loctite:

Of course, as its deal documents demonstrate, following the Proposed Transaction, Henkel can simply make consumers "trade up and over" by pushing Liquid Nails consumers into the higher-priced hybrid construction adhesive products. One way Henkel can accomplish its goal, as acknowledged by a Henkel executive: "limit competition between the two brands."

69. Indeed, as early as June 2024, Henkel acknowledged that once it owned Liquid Nails, a "[b]ig opportunity is to move the market out of OPP [opening price point] by controlling the set and all off shelf positions with higher quality/ticket items." A February 2025 email conversation between two top Henkel executives makes clear that the company expects to raise prices for Liquid Nails, with a Henkel Corporate Vice President asserting that the "price point of [Liquid Nails] is too low so we see further upside" to the head of Henkel's North American Consumer and Craftsmen adhesives business. That same month, Henkel's global head of

adhesives asked his North American counterpart to preview with Henkel's retail customers "price increases asap on obviously low priced Liquid Nails," which would "immediately improv[e] their $ margin, even with same % margin."

70. But Henkel's plan for Liquid Nails is not limited to price hikes: it also intends to cut products and formulations. Deal documents refer to plans to both "rationalize" (eliminate) SKUs for Loctite and Liquid Nails and [redacted] leaving Americans with fewer options and higher prices—the very outcome that the antitrust laws guard against and the FTC is tasked to prevent.

<u>THERE ARE NO COUNTERVAILING FACTORS TO JUSTIFY THE PROPOSED TRANSACTION</u>

71. Defendants cannot demonstrate that new entry or expansion by existing firms would be timely, likely, and sufficient to offset the anticompetitive effects of the Proposed Transaction.

72. Brand recognition—which Loctite and Liquid Nails have long had—is critical to gaining shelf space with retailers and driving sales with consumers. Loctite and Liquid Nails have held their incumbent positions at retail for decades, dominating shelf space by virtue of their well-known, trusted, and sales-driving brands. As one Henkel document puts it, [redacted] An A-Paint document agrees: "Brand matters most!" Both Loctite and Liquid Nails boast decades of experience and success in construction adhesives.

73. Brand is one of the most important attributes retail consumers consider when making purchases, and accordingly, brand is a key determinant in how retail stores stock their shelves. Stores fill their shelves with the most desired brands because those brands generate the

fastest sales. Retailers heavily scrutinize brand strength of suppliers during product line reviews where they require suppliers to present information about brand power.

74. Henkel's deal documents emphasize brand awareness and recognition, homing in on the importance of owning the "iconic" Liquid Nails brand. In one document analyzing the Proposed Transaction, Henkel highlighted Liquid Nails' "Brand Recognition," writing "Liquid Nails has a very strong brand, synonymous with construction adhesives in the US" and lauding its "very high brand equity" as an attractive strength. As Henkel observed, "[i]t would be very difficult to organically replicate the brand equity Liquid Nails has established over 50 years."

75. Brand is what has kept Loctite and Liquid Nails entrenched in the retail channel, and it has also been what has kept others out. Even existing, well-known companies in adjacent categories like paints and sealants have failed to gain meaningful entry into the retail market for construction adhesives market due to lack of brand strength in the construction adhesives space. No one has been able to penetrate the retail channel (except for the limited example of the premium priced Gorilla Glue).

76. The same is true of major retailers as well: Several years ago, The Home Depot attempted to enter the space with its own white-label HDX construction adhesive product, but failed to win customers away from Loctite and Liquid Nails, despite a value price point. Now, neither Lowe's, The Home Depot, or Menards offer their own private-label construction adhesives despite offering their own branded products in other categories.

77. In addition to requiring a strong brand, entry or expansion in the construction adhesive space requires significant investments of both time and money. A new entrant would

need to invest significantly in developing product chemistries and establishing manufacturing, neither of which are easy or quick. Using third-party toll manufacturing adds significant expense. Just preparing for a single retailer's line review can take months of coordination by a team of sales, marketing, and market intelligence professionals even for an established brand like Loctite. Offering a full portfolio of construction adhesives—like those of Loctite or Liquid Nails—would require even further investment.

78. Defendants also cannot demonstrate merger-specific, verifiable, and cognizable efficiencies sufficient to rebut the presumption and evidence of the Proposed Transaction's likely anticompetitive effects.

VIOLATIONS ALLEGED

Count I: Illegal Agreement

79. The allegations in Paragraphs 1 through 78 above are incorporated by reference as though fully set forth herein.

80. The Proposed Transaction constitutes an unfair method of competition in violation of the FTC Act, as amended, 15 U.S.C. § 45.

Count 2: Illegal Merger

81. The allegations in Paragraphs 1 through 78 above are incorporated by reference as though fully set forth herein.

82. The Proposed Transaction constitutes a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and thereby Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

PRAYER FOR RELIEF

83. Accordingly, the FTC respectfully requests:

A. The Court enter the parties' stipulated temporary restraining order;

B. The Proposed Transaction be adjudged to violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the FTC Act, 15 U.S.C. § 45;

C. The Court permanently enjoin Defendants from taking any further steps to consummate the Proposed Transaction, or any other acquisition of stock, assets, or other interests of one another, either directly or indirectly; and

D. The FTC be awarded such other relief as the Court may deem just and proper.

Dated: December 11, 2025

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