

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

FIRST DATA CORPORATION and
CONCORD EFS, INC.,

Defendants.

CASE NUMBER: 1:03CV02169

JUDGE: Hon. Rosemary M. Collyer

FILED: May 17, 2004

**UNITED STATES' CERTIFICATE OF COMPLIANCE
WITH TUNNEY ACT AND MOTION FOR ENTRY OF FINAL JUDGMENT**

Plaintiffs the United States, the District of Columbia, and the States of Connecticut, Illinois, Louisiana, Massachusetts, New York, Ohio, Pennsylvania, and Texas hereby certify that they have complied with the provisions of Section 5 of the Clayton Act, as amended by Section 2 of the Antitrust Procedures and Penalties Act (codified at 15 U.S.C. §§ 16(b)-(h) ("Tunney Act")), and state:

1. Pursuant to 15 U.S.C. § 16(b), the proposed Final Judgment against First Data Corporation and Concord EFS, Inc., and the Hold Separate Stipulation and Order consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act, were filed with the Court on December 15, 2003. The proposed Final Judgment and the Hold Separate Stipulation and Order are attached as Exhibits 1 and 2, respectively.

2. On December 23, 2003, each defendant submitted a certificate of compliance with the requirements of 15 U.S.C. § 16(g). *See* Exhibits 3 and 4.
3. An Amended Hold Separate Stipulation and Order was filed with the Court on January 9, 2004. *See* Exhibit 5.
4. Pursuant to 15 U.S.C. § 16(b), the Competitive Impact Statement was filed with the Court on January 23, 2004. *See* Exhibit 6.
5. Pursuant to 15 U.S.C. § 16(b), the proposed Final Judgment and the Competitive Impact Statement were published in the *Federal Register* on February 10, 2004, at 69 Fed. Reg. 6325-6339 (2004). A copy of the *Federal Register* Notice is attached as Exhibit 7.
6. Pursuant to 15 U.S.C. § 16(c), a summary of the terms of the proposed Final Judgment and the Competitive Impact Statement were published in *The Washington Post* for seven consecutive days, from February 6, 2004 through February 12, 2004. A copy of the Proof of Publication from *The Washington Post* is attached as Exhibit 8.
7. The 60-day period for public comments on the proposed Final Judgment, specified in 15 U.S.C. § 16(d), commenced on February 13, 2004 and expired on April 12, 2004.
8. The United States received and responded to two comments on the proposed Final Judgment. The United States' response to the public comments, as well as the comments received, were filed with the Court on May 7, 2004, and published in the *Federal Register* on May 14, 2004, at 69 Fed. Reg. 26885-26892 (2004), pursuant

to 15 U.S.C. § 16(d). The two comments, the response to comments, and a copy of the *Federal Register* Notice are attached as Exhibits 9, 10, 11 and 12, respectively.

Pursuant to the Stipulations filed on December 15, 2003, the Court may enter the proposed Final Judgment after it determines that the proposed Final Judgment satisfies the public interest standard of 15 U.S.C. § 16(e). Plaintiff's Competitive Impact Statement and Response to Public Comments demonstrate that the proposed Final Judgment is in the public interest. Accordingly, Plaintiff requests that the Court enter the proposed Final Judgment without further hearings. The United States is authorized by counsel for First Data Corporation, Concord EFS, and the Plaintiff States to state that they join in this request.

Dated May 17, 2004.

Respectfully submitted,

_____/s/_____
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Certificate of Compliance with Tunney Act and Motion for Entry of Final Judgment was served on the following counsel, by electronic mail in PDF format, on May 17, 2004:

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