

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No. 2:07-0329
v.)	
)	Judge Copenhaver
)	
DAILY GAZETTE COMPANY,)	Magistrate Judge Stanley
)	
and)	
)	
MEDIANEWS GROUP, INC.,)	
)	
Defendants.)	
_____)	

**MOTION AND MEMORANDUM OF THE UNITED STATES
IN SUPPORT OF ENTRY OF FINAL JUDGMENT**

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (“APPA”), plaintiff United States moves for entry of the proposed Final Judgment filed in this civil antitrust case. The proposed Final Judgment, a copy of which is attached as Exhibit A, may be entered at this time without further hearing if the Court determines that entry is in the public interest. Defendants agree to the entry of the proposed Final Judgment without a hearing. The Competitive Impact Statement (“CIS”), filed in this matter on January 20, 2010, explains why entry of the proposed Final Judgment would be in the public interest. The United States is also filing a Certificate of Compliance, attached hereto as Exhibit B, which sets forth the steps taken by the parties to comply with all applicable provisions of the APPA and certifying that the statutory waiting period has expired.

I. Background

On May 22, 2007, the United States filed the Complaint in this matter challenging a series of agreements entered into by the defendants on May 7, 2004 (the “May 2004 transactions”). The Complaint alleges that these transactions violated Section 7 of the Clayton Act, 15 U.S.C. § 18, and Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 & 2, by consolidating ownership and control of the only two local daily newspapers in Charleston, West Virginia, under defendant Daily Gazette Company and eliminating competition between the defendants.

On January 20, 2010, the United States filed a proposed Final Judgment that was designed to address the anticompetitive effects alleged in the Complaint. The United States filed a revised proposed Final Judgment on February 26, 2010. The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on a proposed Final Judgment. *See* 15 U.S.C. § 16(b). In compliance with the APPA, the United States filed the CIS on January 20, 2010; published the proposed Final Judgment and CIS in the Federal Register on March 11, 2010 (*United States v. Daily Gazette Company, et al.*, 75 Fed. Reg. 11682); and published summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final

Judgment, in the *Washington Post* for seven days beginning on March 10, 2010 and ending on March 16, 2010, and in the *Charleston Gazette* and *Charleston Daily Mail* for seven days beginning on March 4, 2010 and ending on March 11, 2010. The sixty-day public comment period terminated on May 15, 2010, and the United States received no public comments. The Certificate of Compliance (Exhibit B hereto) states all the requirements of the APPA have been satisfied. It is now appropriate for the Court to make the public interest determination required by 15 U.S.C. § 16(e) and to enter the proposed Final Judgment.

III. Standard of Judicial Review

In the CIS, the United States the United States explained how the proposed Final Judgment addresses the harm to competition caused by the defendants' May 2004 transactions and subsequent conduct. Section VII of the CIS describes the meaning and proper application of the public interest standard under the APPA, and the United States incorporates those statements herein by reference.

The public, including affected newspaper advertisers and readers, has had the opportunity to comment on the proposed Final Judgment as required by law. The proposed Final Judgment is within the range of settlements consistent with the public interest.

IV. Conclusion

For the reasons set forth in this Motion and Memorandum and in the CIS, the Court should find that the proposed Final Judgment is in the public interest and should enter the proposed Final Judgment without further hearings. The United States respectfully requests that the proposed Final Judgment be entered as soon as possible.

Respectfully submitted,

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Dated: May 26, 2010

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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