

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, )  
 )  
 *Plaintiff,* )  
 ) Civil No.: 1: 00CV01176 (RCL)  
 )  
 v. )  
 )  
 )  
 AT&T CORP., and )  
 MEDIAONE GROUP, INC., )  
 )  
 *Defendants.* )  
 \_\_\_\_\_ )

MOTION FOR ENTRY OF FINAL JUDGMENT  
AND SUPPORTING MEMORANDUM

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, ("APPA" or "Tunney Act"), 15 U.S.C. § 16 (b)-(h), the United States of America moves for entry of the proposed Final Judgment in this civil antitrust proceeding. The Final Judgment may be entered at this time without further hearing, if the Court determines that entry is in the public interest. A Certificate of Compliance, certifying that the parties have complied with all applicable provisions of the APPA and that the waiting period has expired, has been filed simultaneously with this Court.

## I.

### Background

This action was commenced on May 25, 2000 when the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25. The complaint alleged that the proposed acquisition of MediaOne Group, Inc. (“MediaOne”) by AT&T Corporation (“AT&T”) would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. The Complaint alleges that the acquisition would substantially lessen competition in the nationwide market for the aggregation, promotion, and distribution of residential broadband content.

Also on May 25, 2000, the United States submitted a proposed Final Judgment and a Stipulation signed by the parties consenting to entry of the proposed Final Judgment. Defendants consented to abide by the terms of the proposed Final Judgment pending its entry by this Court. On May 25, 2000, the United States filed a Competitive Impact Statement explaining the provisions of the Final Judgment and their anticipated effect on competition in relevant markets.

The United States and defendants stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (“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 the proposed Final Judgment, 15 U.S.C. §16(b). In this case, the sixty-day comment period commenced on June 21, 2000, and terminated on August 21, 2000. During this period, the United States received no comments on the proposed Final Judgment, so that it was not necessary to file a Response of the United States to Comments or publish any comments or Response in the Federal Register. Those requirements of the APPA that must be completed prior to entry of the proposed Final Judgment have all been met, as is attested in the Certificate of Compliance filed by the United States simultaneously with this motion. 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 Final Judgment. The Court will retain jurisdiction to construe, modify or enforce the Final Judgment.

## III.

### Standard of Judicial Review

Before entering the proposed Final Judgment, the Court is to determine that the Judgment "is in the public interest." In making that determination, the court *may* consider:

- (1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). In its Competitive Impact Statement filed with the Court, the United States has explained the meaning and proper application of the public interest standard under the APPA, and incorporates that statement herein by reference.

The public, including affected competitors and customers, has had opportunity to comment on the proposed Final Judgment as required by law, and no comments have been received. There has been no showing that the proposed settlement constitutes an abuse of the Department's discretion or that it is not within the zone of settlements consistent with the public interest.

#### IV.

#### Conclusion

For the reasons set forth in this Motion and in the Competitive Impact Statement, 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 is authorized by counsel for the defendants to state that the defendants join in this motion. The proposed Final Judgment submitted on May 25, 2000 has not changed during the pendency of the Tunney Act proceedings in this case and should be entered in the form originally submitted to the Court. A copy of the proposed Final Judgment is attached to this motion.

Dated: September 20, 2000

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion for Entry of Final Judgment were served by first-class U.S. mail, postage prepaid, this 20th day of September, 2000 upon counsel for each of the parties as listed below:

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/s/  
Claude F. Scott, Jr.