

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

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, *et al.*,

Defendants.

Case No. 1:19-cv-02232-TJK

**CERTIFICATE OF COMPLIANCE WITH PROVISIONS OF
THE ANTITRUST PROCEDURES AND PENALTIES ACT**

Plaintiff the United States of America, by the undersigned attorney, certifies that it has complied with the provisions of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (the “APPA” or “Tunney Act”), and states:

1. The Complaint, proposed Final Judgment, and Stipulation and Order, by which the parties have agreed to the Court’s entry of the Final Judgment following compliance with the APPA and without further notice to any party or other proceedings, were filed with the Court on July 26, 2019. *See* Dkt. Nos. 1 (Complaint); 2-1 at § IV.A (Stipulation and Order); 2-2 (proposed Final Judgment).
2. Pursuant to the Stipulation and Order, which was signed and entered by the Court on July 29, 2019 (Dkt. No. 16), DISH Network Corp. (“DISH”) has been joined to this action for purposes of the divestiture. Dkt. No. 16 at 6.

3. The United States filed its Competitive Impact Statement (“CIS”) with the Court on July 30, 2019. Dkt. No. 20.
4. The Complaint filed on July 26, 2019 was joined by the states of Kansas, Nebraska, Ohio, Oklahoma and South Dakota. Dkt. No. 1. An Amended Complaint adding the state of Louisiana as a plaintiff was entered on August 16, 2019. *See* Dkt. No. 28. The United States’ Consent Motions for Leave to Amend the Complaint to add the states of Florida, Colorado and Arkansas as plaintiffs are pending. Dkt. Nos. 33, 40, 43.
5. Each state that has been added or is seeking to be added as a co-plaintiff in this matter has likewise executed a Stipulation agreeing to the Stipulation and Order entered by the Court and agreeing to the Court’s entry of the Final Judgment following compliance with the APPA. Dkt. Nos. 26-2 (Louisiana); 33-2 (Florida); 40-2 (Colorado); and 43-2 (Arkansas).
6. Pursuant to 15 U.S.C. § 16(b), the proposed Final Judgment and CIS were published in the *Federal Register* on August 12, 2019. *See* 84 Fed. Reg. 39862 (Aug. 12, 2019).
7. Pursuant to 15 U.S.C. § 16(b), the United States furnished copies of the proposed Final Judgment and CIS to anyone requesting them and made both documents, along with the Complaint and Stipulation and Order, available on the Department of Justice Antitrust Division’s website.
8. Pursuant to 15 U.S.C. § 16 (c), a summary of the terms of the proposed Final Judgment and CIS was published in *The Washington Post*, a newspaper of general

- circulation in the District of Columbia, during the period August 3-9, 2019.
9. As noted in the CIS, the United States identified two determinative documents within the meaning of 15 U.S.C. § 16(b) that it considered in formulating the proposed Final Judgment. *See* CIS (Dkt. No. 20) at 22-23. Redacted versions of these documents have been available to the public at the court through the links contained in the CIS filed on July 30, 2019. *See id.* at 23 nn. 6-7.¹
 10. As required by 15 U.S.C. § 16(g), on August 5, 2019, each Defendant filed with the Court a description of communications by or on behalf of the Defendant, or any other person, with any officer or employee of the United States concerning or relevant to the proposed Final Judgment. *See* Dkt. Nos. 23 (Dish Network Corp); 24 (Deutsche Telekom AG and T-Mobile US, Inc.); and 25 (SoftBank Group Corp. and Sprint Corp.).
 11. The 60-day comment period specified in 15 U.S.C. §§ 16(b) and (d) for the receipt and consideration of written comments, during which the proposed Final Judgment could not be entered, commenced on August 12, 2019, and terminated on October 11, 2019.
 12. The United States received 32 comments on the proposed Final Judgment.
 13. On November 6, 2019, the United States filed with the Court its Response to Public Comments on the Proposed Final Judgment (“Response to Comments”), along with copies of the comments received. Dkt. No. 42. Pursuant to the Court’s Minute Order

¹ On September 6, the United States filed a Sealed Motion for Leave to File Document Under Seal to request permission to file the unredacted versions of these documents under seal with the Court. *See* Dkt. No. 31. This motion remains pending. No commenter expressed the view that their comment was limited in any way by inability to review the determinative documents.

of November 5, 2019, granting the Unopposed Motion of the United States to Excuse *Federal Register* Publication of Comments (*see* Dkt. No. 41), the United States posted on the Antitrust Division's website at <https://www.justice.gov/atr/case/us-et-al-v-deutsche-telekom-ag-et-al> the 32 comments and its Response to Comments. Pursuant to 15 U.S.C. § 16(d), the United States has caused to be published in the *Federal Register* its Response to Comments, along with the location noted above at which the 32 comments can be viewed and downloaded. The United States' submission has been accepted for publication by the *Federal Register* and will be published on November 13, 2019.

14. Pursuant to the Stipulation and Order entered by the Court (Dkt. No. 16), the Stipulations subsequently filed as additional states joined or sought to join as plaintiffs (Dkts. No. 26-2, 33-2, 40-2, and 43-2), and 15 U.S.C. § 16(e), the Court may enter the Final Judgment without further notice to any party or other proceedings upon a determination that such entry is in the public interest.
15. The United States' CIS and Response to Comments demonstrate that the proposed Final Judgment satisfies the public interest standard of 15 U.S.C. § 16(e).
16. The parties have satisfied all of the requirements of the APPA that were conditions for entering the proposed Final Judgment. The Court may now enter the Final

Judgment upon a determination, pursuant to 15 U.S.C. § 16(e), that such entry is in the public interest.

Dated: November 8, 2019

Respectfully submitted,

 /s/

Frederick S. Young
(D.C Bar No. 421285)
Trial Attorney
U.S. Department of Justice
Antitrust Division
450 Fifth Street NW, Suite 7000
Washington, D.C. 20530
(202) 307-2869