

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABITIBI-CONSOLIDATED INC. and  
BOWATER INC.,

Defendants.

CASE NO: 1:07-cv-1912

JUDGE: Collyer, Rosemary M.

DECK TYPE: Antitrust

DATE STAMP:

**MOTION FOR ENTRY OF PROPOSED FINAL JUDGMENT AND  
MEMORANDUM IN SUPPORT**

Pursuant to Section 2(e)-(f) of the Antitrust Procedures and Penalties Act (the “APPA” or “Tunney Act”), 15 U.S.C. §16(e)-(f), with the consent of the Defendants, the United States moves for entry of the proposed Final Judgment (copy attached) in this civil antitrust action.

**I. The United States and the Defendants have complied with the APPA**

Simultaneously with this motion, the United States is filing a Certificate of Compliance certifying that the parties have complied with all applicable provisions of the APPA, and that the waiting periods imposed by the APPA have expired. The APPA prescribes a sixty-day period following publication of notice in the Federal Register for the submission of comments.

15 U.S.C. §§ 16(b) and (d). The APPA also prescribes a sixty day waiting period following commencement of publication in a local newspaper before the Judgment may be entered.

15 U.S.C. § 16(c). Notice of the proposed Final Judgment was published in the Federal Register on November 8, 2007. Thus the sixty-day comment period ended on February 7, 2008. Notice of the proposed Final Judgment was published in a local newspaper, *The Washington Post*, starting on November 18, 2007 and ending on November 24, 2007. The United States received

one comment, a 22 page document with over 200 pages of attachments from the Newspaper Association of America (“NAA”) on January 2, 2008. The United States responded to this comment on April 18, 2008 and published the NAA’s Comment, its attachments and the Response of the United States in the Federal Register on June 10, 2008.<sup>1</sup> See 15 U.S.C. § 16(d)(noting that the United States shall file comments with the district court and publish them in the Federal Register.) The Court may now enter the Final Judgment, which is attached to this Motion.

## **II. The Proposed Final Judgment Satisfies the “Public Interest” Standard**

The United States has previously filed a Competitive Impact Statement (“CIS”). In that CIS, the United States explained that entry of the proposed Final Judgment is in the public interest because it remedies the Defendants’ violations alleged in the Complaint, prevents recurrence of those violations, and preserves competition in the relevant market. The public, including affected competitors and customers, has now had an opportunity to comment on the proposed Final Judgment as required by statute.

Before entering the proposed Final Judgment, the Court must determine whether the Judgment “is in the public interest,” see U.S.C. § 16(e). In making that determination, the Court shall consider:

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<sup>1</sup> The United States wishes to correct a statement it made in its Response to Public Comments submitted on April 18, 2008. As an example of swings in pricing based on changes in input costs and industry capacity, the United States stated that newsprint prices were at or below the lowest level which prices reached in 2006. Response of Plaintiff United States to Public Comments on the Proposed Final Judgment, at 11-15. That statement was made based on industry information available as of the date of the filing. Since that filing, data released for the entire month of April indicate that the average newsprint prices for April 2008 were one to two percent higher than they were at the lowest point of 2006.

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, 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(3).

In its CIS, the United States described the meaning and proper application of the public interest standard under the APPA and now incorporates those statements herein by reference.

The public, including affected competitors and customers, has had the opportunity to comment on the proposed Final Judgment as required by law. The NAA filed the only comment. The United States filed its Response to Public Comments on the proposed Final Judgment, which explains why that the proposed Final Judgment is within the range of settlements consistent with the public interest.

### **III. Conclusion**

For the reasons set forth in this Memorandum and in the CIS, the Court should find that the proposed Final Judgment is in the public interest. The Court should then enter the proposed Final Judgment.

Dated: June 18, 2008

Respectfully Submitted,

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