

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
UNITED STATES OF AMERICA,)	
)	
)	Case No. 1:07-cv-1952 (ESH)
<i>Plaintiff,</i>)	
)	
v.)	
)	
AT&T INC. and DOBSON)	
COMMUNICATIONS CORPORATION,)	
)	
<i>Defendants.</i>)	
_____)	

**PLAINTIFF UNITED STATES'S MOTION AND MEMORANDUM 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" or "Tunney Act"), the United States moves for entry of the proposed Final Judgment filed in this civil antitrust case. The proposed Final Judgment (which is attached) may be entered at this time without further hearing if the Court determines that entry is in the public interest. The defendants do not object to entry of the proposed Final Judgment without a hearing. The Competitive Impact Statement ("CIS") and Response to Public Comments, filed by the United States in the above-captioned matter, respectively, on October 30, 2007 and March 4, 2008, explain why entry of the proposed Final Judgment is in the public interest. The United States is filing simultaneously with this motion a Certificate of Compliance setting forth the steps taken by the parties to comply with all applicable provisions of the APPA and certifying that the statutory waiting periods have expired.

MEMORANDUM

I. Background

AT&T Corp. (“AT&T”) and Dobson Communications Corporation (“Dobson”) entered into an Agreement and Plan of Merger dated June 29, 2007, pursuant to which AT&T would acquire Dobson. The United States filed a civil antitrust Complaint on October 30, 2007 seeking to enjoin the proposed acquisition. As explained more fully in the Complaint, CIS, and Response to Public Comments, the likely effect of these acquisitions would be to lessen competition substantially for mobile wireless telecommunications services in seven (7) geographic areas in the states of Kentucky, Missouri, Oklahoma, Pennsylvania and Texas in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of competition would result in customers in these areas facing higher for prices mobile wireless telecommunications services than they would absent the merger.

At the same time the Complaint was filed, the United States also filed a Preservation of Assets Stipulation and Order (“Stipulation”) and proposed Final Judgment that were designed to eliminate the anticompetitive effects of the acquisition in the affected areas. Under the proposed Final Judgment, defendants are required to divest (a) Dobson’s mobile wireless telecommunications services businesses and related assets in three markets; (b) AT&T minority interests in other mobile wireless telecommunications services providers in two markets, and (c) Dobson's Cellular One Assets, which include the Cellular One service mark and related assets. Under the terms of the Stipulation, defendants will take certain steps to ensure that these assets are preserved and maintained until the required divestitures are completed.

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 actions, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. The United States and defendants have also stipulated that defendants will comply with the terms of the Stipulation and the proposed Final Judgment from the date of the signing of the Stipulation, pending entry of the proposed Final Judgment by the Court and the required divestitures. Should the Court decline to enter the proposed Final Judgment, defendants have also committed to continue to abide by its requirements and those of the Stipulation until the expiration of time for appeal.

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 in this Court on October 30, 2007; published the proposed Final Judgment and CIS in the *Federal Register* on November 19, 2007, *see* 72 Fed. Reg. 65,060 (2007); and published a summary of the terms of the proposed Final Judgment in the *Washington Post* for seven days beginning on November 18, 2007 and continuing on consecutive days through November 24, 2007. The 60-day period for public comments ended on January 22, 2008, and one comment was received. The United States filed its Response to Public Comments and the comment itself with this Court on March 4, 2008, and published the Response and the public comment in the *Federal Register* on March 13, 2008, *see* 73 Fed. Reg. 13,570 (2008). The Certificate of Compliance filed simultaneously with this Motion recites that all the requirements of the APPA have now been satisfied. It is therefore appropriate for the Court to make the public

interest determination required by 15 U.S.C. § 16(e) and to enter the Final Judgment.

III. Standard of Judicial Review

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment “is in the public interest.” *See* 15 U.S.C. § 16(e). In making that determination, the Court shall consider:

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(e).

In its CIS filed on October 30, 2007 and its Response to Public Comments filed on March 4, 2008, the United States has explained 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 proposed Final Judgment is within the range of settlements consistent with the public interest.

IV. Conclusion

For the reasons set forth in this Motion, the CIS, and the Response to Public Comments, 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.

Dated: March 17, 2008

Respectfully submitted,

/s/

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