UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	Civil No.: 1:99CV01119 (LFO)
	)	
v.	)	
	)	
	)	
BELL ATLANTIC CORPORATION,	)	
GTE CORPORATION,	)	
and VODAFONE AIRTOUCH PLC,	)	
	)	
	)	
Defendants.	)	
	)	

MOTION FOR ENTRY OF FINAL JUDGMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 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

On December 9, 1999, the United States filed a civil antitrust Supplemental Complaint under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25. The complaint alleged that (1)

the proposed acquisition of GTE Corporation ("GTE") by Bell Atlantic Corporation ("Bell Atlantic"); (2) the proposed partnership between Bell Atlantic and Vodafone AirTouch Plc ("Vodafone"); and (3) the combined effect of these two transactions would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, by lessening competition in the markets for wireless mobile telephone services in 13 major trading areas ("MTAs"), as well as in 96 metropolitan statistical areas ("MSAs") and rural service areas ("RSAs") in Alabama, Arizona, California, Florida, Idaho, Illinois, Indiana, Montana, New Mexico, Ohio, South Carolina, Texas, Virginia, Washington, and Wisconsin.[1]

On December 9, 1999, the United States filed with the Court a revised proposed Final Judgment and a Stipulation signed by the parties consenting to entry of the revised proposed Final Judgment.[2] Defendants have consented to abide by the terms of the proposed Final Judgment pending its entry by this Court. On December 22, 1999, 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 revised proposed Final Judgment requires Bell Atlantic, GTE, or Vodafone to divest wireless assets in 96 markets, including (1) 58 MSAs and RSAs

[1] On May 7, 1999, the United States filed the original complaint in this proceeding, which challenged a July 28, 1998 merger agreement between Bell Atlantic and GTE. On September 21, 1999, Bell Atlantic and Vodafone entered into a partnership agreement to combine the wireless businesses of Bell Atlantic, Vodafone, and GTE. On December 6, 1999, the United States filed a motion for leave to file a Supplemental Complaint and to add Vodafone as a defendant to this action. The motion was granted by the court, and the Supplemental Complaint was accepted as filed on December 9, 1999.

[2] The original proposed Final Judgment required either Bell Atlantic or GTE to divest its wireless telephone business in the markets where there was overlap between the businesses of the two companies. The revised Final Judgment essentially includes those areas, and adds the areas where Vodafone's wireless telephone businesses overlap with a competing business owned by either Bell Atlantic or GTE.

where GTE owns, in whole or in part, a cellular mobile telephone services business that overlaps with part of one of the ten MTAs where Bell Atlantic and Vodafone provide personal communications services through PCS PrimeCo, L.P. ("PrimeCo"), a business owned half by Bell Atlantic and half by Vodafone; (2) four MSAs where Bell Atlantic and GTE own, in whole or in part, competing cellular mobile wireless telephone businesses; (3) three MSAs and one RSA where Bell Atlantic and Vodafone own, in whole or in part, competing cellular mobile wireless telephone businesses; (4) ten MSAs and one RSA where Vodafone and GTE own, in whole or in part, competing cellular mobile wireless telephone businesses; and (5) ten MSAs and nine RSAs where Vodafone owns or will own, in whole or in part, a cellular mobile wireless telephone business that competes with a GTE wireless PCS telephone business that overlaps all or part of the area. In the markets where such overlaps exist, the defendants can choose which wireless business to divest.

The proposed Final Judgment will preserve competition in the sale of wireless mobile telephone services in the markets of overlap identified in the Supplemental Complaint, and it also contains provisions designed to minimize any risk of competitive harm that could arise pending completion of the divestitures. The Competitive Impact Statement explains the basis for the Supplemental Complaint and the reasons for which entry of the proposed Final Judgment would be in the public interest. The Stipulation provides that the proposed Final Judgment may be entered by the Court after completion of the procedures required by the APPA.

Currently, the parties are awaiting approval of both the Bell Atlantic/GTE acquisition and the Bell Atlantic/Vodafone partnership from the Federal Communications Commission. They have also begun the process of seeking buyers for the businesses to be divested under the proposed Final Judgment and have already reached an agreement with Alltel Corporation under which Alltel

would buy a number of the cellular businesses being divested.

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 January 5, 2000 and terminated on March 5, 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 to 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 with this Court 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 the 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. Counsel for the defendants have informed Plaintiff that defendants consent to the entry of the Final Judgment in this matter. The proposed Final Judgment filed on December 9, 1999 has not changed during the pendency of the

APPA 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: March 20, 2000

Respectfully submitted,

_____/s/_____

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