

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, et al.,

*Plaintiffs,*

v.

FIRST DATA CORPORATION,

and

CONCORD EFS, INC.,

*Defendants.*

CASE NUMBER: 1:03CV02169 (RMC)

**UNITED STATES' MEMORANDUM REGARDING  
PROCEDURES FOR ENTRY OF FINAL JUDGMENTS**

1. The United States of America (“United States”) submits this memorandum summarizing the procedures regarding the Court’s entry of the proposed Final Judgment. This Final Judgment would settle this case pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)-(h) (“the Tunney Act”), which applies to civil antitrust cases brought and settled by the United States.

2. The United States, the District of Columbia, and the States of Connecticut, Illinois, Louisiana, Massachusetts, New York, Ohio, Pennsylvania, and Texas (“plaintiff states”) filed their Complaint on October 23, 2003. Today, the United States and plaintiff states have filed a proposed Final Judgment and a Hold Separate Stipulation and Order among the parties, by which they have agreed that the Court may enter the proposed Final Judgment following the United

States' compliance with the Tunney Act.

3. Entry of the proposed Final Judgment may not occur until compliance with the requirements of the Tunney Act. However, in the Hold Separate Stipulation and Order, defendants have agreed to abide by and comply with all terms and provisions of the proposed Final Judgment pending its entry.

4. Pursuant to 15 U.S.C. § 16(b), the United States will soon file a Competitive Impact Statement relating to the proposed Final Judgment.

5. The Tunney Act requires that the United States publish the proposed Final Judgment and the Competitive Impact Statement in the *Federal Register* and in certain newspapers at least sixty (60) days before the effective date of the Final Judgment. The notice will inform the public that they may review the Complaint, proposed Final Judgment, Competitive Impact Statement, and Hold Separate Stipulation and Order filed in this matter, and submit comments about the proposed Final Judgment to the United States Department of Justice, Antitrust Division. 15 U.S.C. §§ 16(b)-(c).

6. During the sixty-day period, the United States will consider, and at the close of that period, respond to, any comments that it has received. The United States will then file with the Court and publish in the *Federal Register* the comments and the United States' responses thereto. 15 U.S.C. § 16(d).

7. After the sixty-day period expires, the United States may ask the Court to enter the proposed Final Judgment (unless First Data Corporation notifies the Court that the proposed acquisition of Concord EFS, Inc. has been abandoned and will not be consummated, or the United States has decided to withdraw its consent to entry of the Final Judgment, as permitted by

Hold Separate Stipulation and Order). *See* 15 U.S.C. § 16(d).

8. If the United States requests that the Court enter the Final Judgment after compliance with the Tunney Act, then the Court may enter the Judgment with or without a hearing, provided that it concludes that entry of the Final Judgment is in the public interest. 15 U.S.C. §§ 16(e)-(f).

Dated: December 15, 2003.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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