

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

GANNETT CO., INC.,
BELO CORP., and
SANDER MEDIA LLC,

Defendants.

Case No. 1:13-cv-01984-RBW

**PLAINTIFF UNITED STATES OF AMERICA'S MOTION AND
MEMORANDUM FOR ENTRY OF THE PROPOSED FINAL JUDGMENT**

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA"), plaintiff United States of America ("United States") moves for entry of the proposed Final Judgment filed on December 16, 2013 (Document 2-2). The proposed Final Judgment may be entered at this time without further proceedings if the Court determines that entry is in the public interest. 15 U.S.C. § 16(e). The Competitive Impact Statement ("CIS") filed by the United States on December 16, 2013 (Document 3), explains why entry of the proposed Final Judgment is in the public interest. The United States is filing simultaneously with this Motion and Memorandum a Certificate of Compliance (attached as Exhibit 1) setting forth the steps taken by the parties to comply with all applicable provisions of the APPA and certifying that the sixty-day statutory public comment period has expired.

I. Background

On December 16, 2013, the United States filed a Complaint in this matter challenging the proposed acquisition by Defendant Gannett Co., Inc. (“Gannett”) of Defendant Belo Corp. (“Belo”); the sale of KMOV-TV in St. Louis, Missouri, and five other Belo broadcast television stations to Defendant Sander Media LLC (“Sander”) for considerably below market price; and related agreements pursuant to which Sander would operate KMOV-TV in a close, ongoing business relationship between Gannett and Sander (this merger, asset purchase, and other related agreements hereinafter referred to collectively as “the Transaction”). The Complaint alleged that the Transaction’s likely effect would be to increase broadcast television spot advertising prices in the St. Louis Designated Market Area (“DMA”) in violation of Section 1 of the Sherman Act and Section 7 of the Clayton Act, 15 U.S.C. §§ 1, 18.

With the Complaint the United States also filed the proposed Final Judgment, which is designed to eliminate the anticompetitive effects of the Transaction; the CIS; and a Hold Separate Stipulation and Order (“Hold Separate”) signed by the parties consenting to entry of the proposed Final Judgment after compliance with the requirements of the APPA. Under the terms of the Hold Separate, which the Court entered on December 20, 2013 (Document 10), Defendants were allowed to consummate the Transaction subject to ongoing requirements that the Defendants take certain steps to ensure that KMOV-TV is operated as a competitively independent, economically viable business that is uninfluenced by Gannett so that competition is maintained until the divestiture required by the proposed Final Judgment occurs. On December 26, 2013, pursuant to Section VI.A of the proposed Final Judgment, Gannett notified the United States that it and Meredith Corporation (“Meredith”) had executed a definitive agreement for Meredith to acquire the Divestiture Assets. Pursuant to Paragraph IV.H and

Section VI of the proposed Final Judgment, the United States notified the Defendants on February 12, 2014, that it does not object to the divestiture of the Divestiture Assets to Meredith. The FCC approved assignment of the KMOV-TV station license to Meredith on February 26, 2014, and the transaction closed on February 28, 2014. In sum, the required divestiture has taken place, and the Divestiture Assets are now owned by Meredith.

Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the Final Judgment and to punish violations thereof.

II. Compliance with the APPA

The APPA requires a sixty-day period for the submission of written comments relating to the proposed Final Judgment, 15 U.S.C. § 16(b). In compliance with the APPA, the United States filed the CIS with the Court on December 16, 2013, and published the proposed Final Judgment and CIS in the Federal Register on December 30, 2013, *see* 78 Fed. Reg. 79,485 (2013). Summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, were published in *The Washington Post* for seven days during the period December 23, 2013, through January 1, 2014. The sixty-day period for public comments ended on March 2, 2014. The United States received no written comments relating to the proposed Final Judgment.

The Certificate of Compliance filed with this Motion and Memorandum states that all the requirements of the APPA have been satisfied. 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 proposed Final Judgment.

III. Standard of Judicial Review

Before entering the proposed Final Judgment, the APPA requires the Court to determine whether the proposed Final Judgment “is in the public interest.” 15 U.S.C. § 16(e)(1). 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)(1)(A),(B).

In its CIS, the United States set forth 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. As explained in the CIS, entry of the proposed Final Judgment is in the public interest.

IV. Conclusion

For the reasons set forth in this Motion and Memorandum and the CIS, the Court should find that the proposed Final Judgment is in the public interest and should enter the proposed Final Judgment without further proceedings. The United States respectfully requests that the proposed Final Judgment be entered at this time.

