

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

UNITEDHEALTH GROUP
INCORPORATED and
SIERRA HEALTH SERVICES, INC.,

Defendants.

Case No. 1:08-cv-322-ESH

**PLAINTIFF UNITED STATES' 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). Notice of the proposed Final Judgment was published in the *Federal Register* on March 10, 2008. 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 a local newspaper, the *Washington Post*, beginning on March 16, 2008 and ending on March 22, 2008, and in the *Las Vegas Review-Journal* beginning on March 8, 2008 and ending on March 14, 2008. Thus,

the sixty-day comment period ended on May 15, 2008. The United States received four comments and filed those comments with the Court on July 7, 2008. The United States filed its response to these comments on July 7, 2008 and published the comments, their attachments, and the Response of the United States in the *Federal Register* on August 22, 2008. *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

Before entering the proposed Final Judgment, the Court must determine whether the Judgment “is in the public interest,” *see* 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).

The United States filed a Competitive Impact Statement (“CIS”) on February 25, 2008. In the 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 CIS

describes the meaning and proper application of the public-interest standard under the APPA, and the United States incorporates those statements herein by reference.

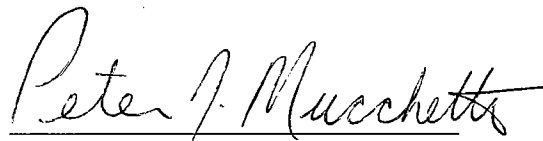
The public has had an opportunity to comment on the proposed Final Judgment as required by law. Four comments were submitted to the United States. The United States filed its Response to Public Comments on the proposed Final Judgment, which explains why the proposed Final Judgment is within the range of settlements consistent with the public interest.

III. Conclusion

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

Dated: August 25, 2008

Respectfully Submitted,

A handwritten signature in black ink, reading "Peter J. Mucchetti". The signature is fluid and cursive, with the first and last names being more prominent.

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