

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

UNITED STATES OF AMERICA

Plaintiff

v.

UNITED TECHNOLOGIES CORPORATION

and

GOODRICH CORPORATION

Defendants

CASE NO.: 1:12-CV-01230-RC

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**UNITED STATES’S UNOPPOSED MOTION AND SUPPORTING MEMORANDUM  
FOR AUTHORIZATION TO EXCUSE *FEDERAL REGISTER* PUBLICATION OF  
ATTACHMENTS TO THE JEFFERIS COMMENT**

The United States hereby moves this Court, pursuant to 15 U.S.C. § 16(d)(2), for authorization to excuse *Federal Register* publication of the attachments to the Comment of Mr. Joseph C. Jefferis received in this case. Defendants United Technologies Corporation and Goodrich Corporation do not object to this motion.

As described in the United States’s Response to Public Comments (“Response”), filed with the Court on February 12, 2013, the United States received two public comments relating to the proposed Final Judgment in this matter. On February 25, 2013, the comments were filed with the Court, along with their appendices, exhibits and attachments, including the Comment of Mr. Joseph C. Jefferis (“Jefferis Comment”) and its multiple attachments.<sup>1</sup>

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<sup>1</sup> Concurrently with the filing of this motion, the United States has filed an Unopposed Motion for Leave to File Public Comments Under Seal, attached to which is a redacted version of the comments.

The United States will publish the Jefferis Comment in the *Federal Register* pursuant to statutory requirement, but seeks Court authorization through this motion to excuse costly publication of the attachments. Most of the attachments consist of correspondence, articles, and a deposition transcript relating to claims made by Mr. Jefferis about Goodrich activities that are not related to the issues in this case.

## **I. Argument**

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (the “Tunney Act”), the United States is required to publish the public comments it received in this matter and its Response in the *Federal Register* prior to moving the Court for entry of the proposed Final Judgment. In 2004, the Tunney Act was amended in light of the benefits of electronic publication and the costs of publication in the *Federal Register*. The amendment authorizes the Court to order an alternative publication method when the expense involved exceeds the public interest benefits to be gained:

Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.

15 U.S.C. § 16(d)(2).<sup>2</sup>

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<sup>2</sup> At the Senate hearing on the legislation, Senator Leahy noted that publication in the *Federal Register* “can be very expensive . . . with little benefit, because those materials are, if anything, more accessible on the Web than in a library.” 150 CONG. REC. 6,328 (2004). Senator Kohl echoed these comments stating, “[t]his provision is intended to avoid unnecessary expense in publishing proposed consent decrees if alternate means are available, such as, for example, posting the proposed decrees electronically, which are sufficient to inform interested persons of the proposed consent decree.” 150 CONG. REC. 6,332 (2004).

The United States would incur expenses of over \$100,000 to publish the attachments to the Jefferis Comment in the *Federal Register*. The attachments include an invoice and correspondence relating to business transactions unrelated to the issues in the Complaint; a publication describing certain statutes; various emails and other correspondence with auditors and government representatives unrelated to the issues in the Complaint; an eighty-three page transcript of a deposition before the Department of Labor; a copy of the Complaint filed in this matter; a consent agreement between UTC and the Department of State unrelated to the issues in the Complaint; and several articles and press releases. In order to reproduce the attachments in the manner in which they were filed with the Department of Justice, the *Federal Register* must individually photograph each of the 195 pages, at a cost to the United States of \$522 per page. See Government Printing Office Circular Letter No. 851, *Open Requisitions (SF1) for Federal Register and Code of Federal Regulations*, June 8, 2012 (attached hereto).

The United States proposes to publish the Jefferis Comment in the *Federal Register*, without the attachments but with a statement providing the link to the Department of Justice website where the attachments can be viewed or downloaded. This alternative would save the expense of full *Federal Register* publication while preserving the public interest benefits associated with public access to the materials. Moreover, the substance of the Jefferis Comment is fully understandable without the attachments.<sup>3</sup>

## **II. Conclusion**

The United States respectfully requests that the Court enter the Proposed Order authorizing the publication in the *Federal Register* of the Jefferis Comment with a link to the

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<sup>3</sup> The Jefferis Comment provide a detailed description of the attachments.

United States Department of Justice website where the attachments to that comment can be viewed and downloaded.

Dated: March 21, 2013

Respectfully submitted  
FOR PLAINTIFF UNITED STATES:

Handwritten signature of Kevin C. Quin in blue ink, written over a horizontal line.

KEVIN C. QUIN

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**CERTIFICATE OF SERVICE**

I, Kevin C. Quin, hereby certify that on March 21, 2013, I caused a copy of the Foregoing **UNOPPOSED MOTION AND SUPPORTING MEMORANDUM FOR AUTHORIZATION TO EXCUSE *FEDERAL REGISTER* PUBLICATION OF ATTACHMENTS TO JEFFERIS COMMENT and PROPOSED ORDER** to be filed in this matter with the Clerk of Court and to be served on the following counsel of record for Defendants United Technologies Corporation and Goodrich Corporation and the Monitoring Trustee:

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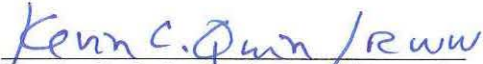
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