UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

and

STATE OF NEW YORK,

Plaintiffs,

v.

VERIZON COMMUNICATIONS INC.,
CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS,
COMCAST CORP.,
TIME WARNER CABLE INC.,
COX COMMUNICATIONS, INC., and
BRIGHT HOUSE NETWORKS, LLC,

Defendants.

Case: 1:12-cv-01354 (RMC)

PLAINTIFF UNITED STATES'S MOTION AND SUPPORTING MEMORANDUM TO ENTER FINAL JUDGMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA" or "Tunney Act"), the United States moves for entry of the proposed Final Judgment filed in this civil antitrust case. The proposed Final Judgment (attached as Exhibit A) may be entered at this time without further hearing if the Court determines that entry is in the public interest. The Competitive Impact Statement and Response to Public Comments, filed by the United States on August 16, 2012 and March 11, 2013, respectively, explain why entry of the proposed Final Judgment is in the public interest. The United States is filing simultaneously with this motion a Certificate of Compliance setting forth the steps taken by the parties to

comply with all applicable provisions of the APPA and certifying that the statutory waiting period has expired.

I. BACKGROUND

On August 16, 2012, the United States and the State of New York filed a Complaint in this matter, alleging that certain agreements among Verizon Communications Inc. ("Verizon"), Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), Comcast Corporation ("Comcast"), Time Warner Cable Inc. ("Time Warner Cable"), Bright House Networks LLC ("Bright House Networks"), and Cox Communications, Inc. ("Cox") unreasonably restrain trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

Simultaneously with the filing of the Complaint, the United States filed a Competitive Impact Statement ("CIS"), a proposed Final Judgment, and a Stipulation and Order signed by the parties consenting to entry of the proposed Final Judgment after compliance with the requirements of the APPA. The Stipulation and Order, which was entered by the Court on August 30, 2012, provides that the proposed Final Judgment may be entered after the completion of the procedures required by the APPA. 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 public comments on a proposed Final Judgment. *See* 15 U.S.C. § 16(b). In compliance with the APPA, the United States filed its Competitive Impact Statement ("CIS") with the Court on August 16, 2012; published the proposed Final Judgment and CIS in the *Federal Register* on August 23, 2012, *see* 77 Fed. Reg. 51,048 (2012); and had 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, published in *The Washington Post* for seven days beginning on August 18, 2012 and ending on August 24, 2012. The Defendants filed the statement required by 15 U.S.C. § 16(g) on August 27, 2012. The sixty-day period for public comments ended on October 23, 2012. The Division received four comments, the response to which was filed with the Court on March 11, 2013, and published in the *Federal Register* on March 21, 2013, *see* 78 Fed. Reg. 17,473 (2013). The Certificate of Compliance filed with this Motion as Exhibit B recites that all the requirements of the APPA now have been satisfied. It is therefore appropriate for the Court to make the public interest determination required by 15 U.S.C. § 16(e) and to enter the Final Judgment.

III. STANDARD OF JUDICIAL REVIEW

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e)(1). In making that determination in accordance with the statute, 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).

In its CIS filed on August 16, 2012 and its Response to Public Comments filed on March 11, 2013, 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, have had the opportunity to comment on the proposed Final Judgment as required by law. As explained in the CIS and the Response to Comments, entry of the proposed Final Judgment is in the public interest and the United States therefore requests that this Court enter the proposed Final Judgment.

IV. CONCLUSION

For the reasons set forth in this Motion, the CIS, and the Response to Public Comments, the Court should find that entry of the proposed Final Judgment is in the public interest and should enter the proposed Final Judgment without further hearings. The United States respectfully requests that the proposed Final Judgment attached hereto be entered as soon as possible.

Dated: March 26, 2013

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

/s/ Jared A. Hughes
Jared A. Hughes
Trial Attorney

U.S. Department of Justice
Antitrust Division
Telecommunications & Media Section
450 Fifth Street N.W., Suite 7000
Washington, DC 20530
Telephone: (202) 598-2311
Facsimile: (202) 514-6381
Jared.Hughes@usdoj.gov