IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA Plaintiff, v. CALEDONIA INVESTMENTS PLC Defendant.	Civil Action No.

UNITED STATES' EXPLANATION OF CONSENT DECREE PROCEDURES

The United States submits this short memorandum summarizing the procedures regarding the Court's entry of the proposed Final Judgment. This Judgment would settle this case pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (the "APPA").

1. Today, the United States has filed a Complaint and a proposed Final Judgment and a Stipulation between the parties by which they have agreed that the Court may enter the proposed Final Judgment after the United States has complied with the APPA. The United States has also filed a Competitive Impact Statement relating to the proposed Final Judgment.

2. The Stipulation is a document that has been agreed to by both the United States and the Defendant.

3. In cases in which the APPA applies, it requires that the United States publish the proposed Final Judgment and the Competitive Impact Statement in the *Federal Register* and cause to be published a summary of the terms of the proposed Final Judgment and the Competitive Impact Statement in certain newspapers at least sixty (60) days prior to entry of the

proposed Final Judgment.[1] The Defendant in this matter has agreed to arrange and bear the costs for the newspaper notices. The notice will inform members of the public that they may submit comments about the proposed Final Judgment to the United States Department of Justice, Antitrust Division, 15 U.S.C. § 16(b)-(c).

4. 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, and it will publish the comments and the United States' responses in the *Federal Register.*

5. After the expiration of the sixty-day period, the United States will file with the Court the comments and the United States' responses, and it may ask the Court to enter the proposed Final Judgment (unless the United States has decided to withdraw its consent to entry of the Final Judgment, as permitted by Paragraph (1) of the Stipulation, *see* 15 U.S.C. § 16(d)).

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

[1] A court in this district recently held that the APPA applies to settlements for civil penalties in cases brought under Section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act"). *See United States v. Blavatnik*, No. 1:15-cv-01631-RDM (D.D.C. Feb. 12, 2016) (order denying entry of final judgment) (Moss, J.). Prior to *Blavatnik*, courts in this district had entered judgments in civil penalty cases under the HSR Act in forty-seven cases without applying the APPA. *See, e.g.*, *United States v. Berkshire Hathaway Inc.*, 2014-2 Trade Cas. (CCH) ¶ 78,870 (D.D.C. Aug. 20, 2014) (Howell, J.); *United States v. Diller*, 2013-1 Trade Cas. (CCH) ¶ 78,446 (D.D.C. July 3, 2013) (Kessler, J.); *United States v. MacAndrews & Forbes Holdings Inc.*, 2013-1 Trade Cas. (CCH) ¶ 78,443 (D.D.C. July 1, 2013) (Jackson, J.); *United States v. Biglari Holdings, Inc.*, 2013-1 Trade Cas. (CCH) ¶ 78,409 (D.D.C. May 30, 2013) (Leon, J.); *United States v. Roberts*, 2011-2 Trade Cas. (CCH) ¶ 77,742 (D.D.C. Dec. 28, 2011) (Kollar-Kotelly, J.); *United States v. Smithfield Foods, Inc.*, 2010-1 Trade Cas. (CCH) ¶ 76,880 (D.D.C. Jan. 25, 2010) (Huvelle, J.); *United States v. Malone*, 2009-1 Trade Cas. (CCH) ¶ 76,659 (D.D.C. Jun. 25, 2009) (Kennedy, J.). Although the United States takes no position as to whether *Blavatnik* was correctly decided, in light of the court's opinion, the United States has elected to follow the APPA procedures in this case.

Dated: August 10, 2016

Respectfully submitted,

/s/ Kenneth A. Libby
Kenneth A. Libby
Daniel P. Ducore
D.C. Bar No. 933721
Roberta S. Baruch
D.C. Bar No. 269266
Jennifer Lee
Special Attorneys
U.S. Department of Justice
Antitrust Division
c/o Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Phone: (202) 326-2694
Email: klibby@ftc.gov