

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

_____)	
UNITED STATES OF AMERICA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	10-CV-4496 (NGG) (RER)
AMERICAN EXPRESS COMPANY,)	
AMERICAN EXPRESS TRAVEL)	
RELATED SERVICES COMPANY, INC.,)	
MASTERCARD INTERNATIONAL)	
INCORPORATED, and)	
VISA INC.,)	
)	
Defendants.)	
_____)	

**CERTIFICATE OF COMPLIANCE WITH PROVISIONS OF
THE ANTITRUST PROCEDURES AND PENALTIES ACT**

Plaintiff United States of America, by the undersigned attorneys, hereby certifies that, in compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (“APPA” or “Tunney Act”), the following procedures have been followed in preparation for the entry of the Final Judgment herein:

1. The Plaintiffs and Defendants Visa Inc. (“Visa”) and MasterCard International Incorporated (“MasterCard”) stipulated to the entry of the proposed Final Judgment, and the Stipulation and proposed Final Judgment were filed with the Court on October 4, 2010 (Docket No. 4).
2. Pursuant to 15 U.S.C. § 16(b), the United States filed a Competitive Impact Statement with the Court on October 4, 2010 (Docket No. 5).

3. Pursuant to 15 U.S.C. § 16(b), the Stipulation, proposed Final Judgment, and Competitive Impact Statement were published in the *Federal Register* on October 13, 2010. *See* 75 Fed. Reg. 62858.
4. Pursuant to 15 U.S.C. § 16(c), a summary of the terms of the proposed Final Judgment and Competitive Impact Statement, together with directions for the submission of written comments, was published in the *Washington Post*, a newspaper of general circulation in the District of Columbia, for seven days beginning October 11, 2010 and ending October 17, 2010, and in the *New York Post*, a newspaper of general circulation in the Eastern District of New York, for seven days beginning October 11, 2010 and ending October 17, 2010.
5. Pursuant to 15 U.S.C. § 16(b), copies of the Stipulation, proposed Final Judgment, and Competitive Impact Statement were furnished to all persons requesting them and were made available to the public on the Antitrust Division's Internet website.
6. Pursuant to 15 U.S.C. § 16(g), on October 14, 2010, Visa filed with the Court its disclosure statement concerning written or oral communications by or on behalf of Visa, or any other person, with any officer or employee of the United States concerning the proposed Final Judgment (Docket No. 12). On October 14, 2010, MasterCard filed with the Court its disclosure statement concerning written or oral communications by or on behalf of MasterCard, or any other person, with any officer or employee of the United States concerning the proposed Final Judgment (Docket No. 14).

MasterCard filed a supplemental 16(g) statement on October 18, 2010 (Docket No. 22).

7. The sixty-day comment period for this matter prescribed by 15 U.S.C. § 16(b) and (d) for the receipt and consideration of written comments, during which the proposed Final Judgment could not be entered, ended on December 16, 2010.
8. The United States received six comments from the public on the proposed Final Judgment.
9. Pursuant to 15 U.S.C. §§ 16(b) & (d), on June 14, 2011, the United States filed with the Court the public comments received and the United States' Response to those public comments.
10. On June 14, 2011, the United States filed with the Court an application to excuse *Federal Register* publication of certain exhibits to one of the public comments, pursuant to 15 U.S.C. § 16(d) (providing that publication may be excused 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"). On June 22, 2011, the Court issued an Order providing that, "the United States is excused from publishing the substance of the public comments in the Federal Register, see 15 U.S.C. § 16(d)(2), except for a notice stating that it received six public comments in this case, and that the comments and the United States' responses are available on the DOJ's website. In mentioning that this material is available on the DOJ's website, the United States should also include an

appropriate, permanent website address pointing to those comments online.” (Docket No. 121).

11. Pursuant to 15 U.S.C. §§ 16(b) & (d), and the June 22, 2011 Order, the United States published in the *Federal Register* its Response to Public Comments, along with a notice containing the information required by the June 22, 2011 Order. 76 Fed. Reg. 38700 (July 1, 2011). The complete set of public comments may be found on the Department of Justice’s website at the following address:

<http://www.justice.gov/atr/cases/americanexpress.html>.

12. As further directed in the June 22, 2011 Order, the United States filed a certification and proof of publication of the *Federal Register* notice on July 14, 2011 (Docket No. 133).
13. The parties in this action have now satisfied all the requirements of the Tunney Act, 15 U.S.C. § 16(b)-(h), as a condition for entering the proposed Final Judgment, and it is now appropriate for the Court to make the necessary public interest determination required by 15 U.S.C. § 16(e) and to enter the proposed Final Judgment.

Respectfully submitted,

/s/Craig W. Conrath
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