

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

<p>UNITED STATES OF AMERICA, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>TICKETMASTER ENTERTAINMENT, INC., <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>Case: 1:10-cv-00139 Assigned to: Collyer, Rosemary M. Assign. Date: 1/25/2010 Description: Antitrust</p>
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**UNITED STATES’ 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.¹ The Plaintiff States and Defendants have stipulated to entry of the proposed Final Judgment without further notice to any party or other proceedings. No party or member of the public has requested a hearing. The Competitive Impact Statement (“CIS”) and Response to Public Comments, filed by the United States on January 25, 2010 and June 21, 2010, respectively, explain why entry of the proposed Final Judgment is in the public interest. The

¹ The proposed Final Judgment attached to this Motion is the same as the one originally filed on January 25, 2010 with one exception: in the first paragraph, the clause “and whereas the States of New Jersey and Washington joined as Plaintiff States pursuant to an Amended Complaint filed January 28, 2010” has been added to account for the fact that New Jersey and Washington joined the complaint and the proposed settlement after it was originally filed with the Court. All parties consented to the addition of New Jersey and Washington to the case and the settlement.

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 periods have expired.

I. BACKGROUND

On January 25, 2010, the United States and the States of Arizona, Arkansas, California, Florida, Illinois, Iowa, Louisiana, Nebraska, Nevada, Ohio, Oregon, Rhode Island, Tennessee, Texas, and Wisconsin, and the Commonwealths of Massachusetts and Pennsylvania (the “Plaintiff States”) filed the Complaint in this matter, alleging that the merger of Ticketmaster Entertainment, Inc. and Live Nation, Inc., if permitted to proceed, would substantially lessen competition in the market for primary ticketing services to major concert venues in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. An Amended Complaint was filed on January 28, 2010, solely to add the States of New Jersey and Washington as Plaintiff States.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order (“Hold Separate Order”) and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the merger, and a CIS. The proposed Final Judgment is designed to preserve competition in the market for primary ticketing services to major concert venues in the United States by requiring divestitures of assets and mandating certain conduct remedies. First, the proposed Final Judgment creates a new, vertically integrated primary ticketing company and bolsters another company to compete against the merged firm in ticketing. Second, the conduct restraints in the proposed Final Judgment supplement these divestitures to ensure that competitive ticketing firms will not be improperly foreclosed from the market by the merged firm’s conduct.

The Hold Separate Order provides that the proposed Final Judgment may be entered by the Court 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 proposed 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 a CIS in this Court on January 25, 2010; published the proposed Final Judgment and CIS in the *Federal Register* on February 10, 2010, *see* 75 Fed. Reg. 6,709 (2010); and published a summary of the terms of the proposed Final Judgment in *The Washington Post* for seven days from February 26, 2010 through March 4, 2010. The 60-day period for public comments ended on May 3, 2010, and twelve comments were received. The United States filed its Response to Public Comments and the comments themselves with this Court on June 21, 2010, and published the Response and the public comments in the *Federal Register* on June 29, 2010. *See* 75 Fed. Reg. 37,652 (2010).² The Certificate of Compliance filed with this Motion as Exhibit B recites that all the requirements of the APPA have now 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.

² As approved by the Court in a Minute Order dated June 15, 2010, the United States published the Response and the comments without attachments or exhibits in the Federal Register. The United States posted complete versions of the comments with attachments and exhibits on the Antitrust Division's website at <http://www.justice.gov/atr/cases/ticket.htm> on June 21, 2010, the date the Response and the comments were filed with the Court.

III. STANDARD OF JUDICIAL REVIEW

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment “is in the public interest.” *See* 15 U.S.C. § 16(e). 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).

In its CIS filed on January 25, 2010 and its Response to Public Comments filed on June 21, 2010, 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, the proposed Final Judgment is within the range of settlements consistent with 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 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: June 29, 2010

Respectfully submitted

FOR PLAINTIFF UNITED STATES:

/s/

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