

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA
c/o Department of Justice
Washington, D.C. 20530,
Plaintiff,

v.

BERKSHIRE HATHAWAY INC.
3555 Farnam Street
Omaha, NE 68131
Defendant.

Civil Action No.

PLAINTIFF'S MOTION FOR ENTRY OF FINAL JUDGMENT

Plaintiff, the United States of America, having filed its Complaint in the above-captioned case, and having filed on this date a Stipulation and proposed Final Judgment, hereby moves this Court for entry of a Final Judgment against defendant Berkshire Hathaway Inc. By agreement of the parties, the Final Judgment provides for the payment of a civil penalty of \$896,000 by defendant Berkshire Hathaway Inc. pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1).

STATEMENT OF POINTS AND AUTHORITIES

The Complaint in this action alleges that the defendant violated Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act" or "Act"), Section 7A of the Clayton Act, 15 U.S.C. § 18a, which requires certain acquiring persons and certain persons whose voting securities or assets are to be acquired to file notification with the Department of Justice and the Federal Trade Commission ("the antitrust enforcement agencies") and to observe a waiting period before consummating certain acquisitions of voting securities or assets. The Complaint

whether it is in the public interest. Key features of the APPA are preparation by the United States of a competitive impact statement explaining the proceeding and the proposed judgment, and the consideration by the court of the proposed judgment's competitive impact and its impact on the public generally as well as individuals alleging specific injury from the violation set forth in the complaint.

Because the Complaint seeks, and the proposed Final Judgment provides for, only the payment of civil penalties, the procedures of the APPA are not required in this action.² A consent judgment in a case seeking only monetary penalties is not the type of consent judgment contemplated by the APPA. Civil penalties are intended to penalize a defendant for violating the law, and, unlike injunctive relief, have no competitive impact, and no effect on other persons or on the public generally, within the context of the APPA. The legislative history of the APPA does not contain any indication that Congress intended to subject settlements of civil penalty actions to its competitive impact review procedures. For the above reasons, the United States asks the Court to enter the Final Judgment in this case.

Dated: August 20, 2014

Respectfully Submitted,

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/s/

Kenneth A. Libby
Special Attorney

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