

other disclosure requirements set forth in the Act. To facilitate public comment on a proposed consent judgment in a government civil antitrust case, the Tunney Act provides, in a single subsection, that the proposed decree itself must be published in the **Federal Register**, along with a CIS, which the United States must furnish to any person requesting it. 15 U.S.C. § 16(b). The next subsection, 15 U.S.C. § 16(c), requires the United States to publish, repeatedly, summaries of the proposal and the CIS in general circulation newspapers.

By contrast, the provision at issue here, Section 16(g), is a disclosure requirement aimed at informing the courts about lobbying activities. It requires *defendants* in antitrust cases to file their disclosure statements with the Tunney Act court, but there are no requirements of public notice, **Federal Register** publication, or newspaper summaries. Moreover, the statutory provisions addressing disclosure of information supporting informed public comment (Sections 16(b), (c)) appear immediately before the provisions dealing with consideration of, and response to, public comment (Section 16(d)) and the court's public interest determination (Sections 16(e), (f)). The lobbying provision comes *after* all of those Sections. Thus, the statutory structure thus makes clear the different purposes of the two different kinds of disclosure provisions.

Even if Defendants failed to satisfy the timing requirements of Section 16(g), that would not provide a basis to begin the comment period anew and further delay entry of the proposed Final Judgment. *See generally United States v. Microsoft*, 215 F. Supp. 2d 1, 18–22 (D.D.C. 2002) (discussing 16(g) standards and whether the timing of the defendant's filing is prejudicial to the parties, the Court, or the public). Here, there is no prejudice as the certifications have been made to the Court prior to its determination of whether to enter the proposed Final Judgment, and those certifications show no communications other than those involving Department of Justice employees.

V. CONCLUSION

The purpose of this proceeding is to determine whether the proposed remedy resolves the violation identified in the Complaint in a manner that is within the reaches of the public interest. The relief that would be afforded by the proposed decree is appropriate to the violation alleged. The Tunney Act and the public interest require no more. To insist on more is to impose substantial resource costs on government antitrust

enforcement, to risk the possibility of litigation resulting in no relief at all, to contravene congressional and judicial policy, and to establish a precedent that could impede enforcement of the antitrust laws in the future.

After carefully reviewing the public comments, the United States has determined that the proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint, and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after it has posted all public comments and this response on the Antitrust Division Web site and published in the **Federal Register** the Web site address at which the public comments will be posted.

Dated: August 3, 2012

Respectfully submitted,

s/Sarah L. Wagner/ _____

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,387]

Eastman Kodak Company, IPS— Dayton Location, Dayton, OH; Notice of Affirmative Determination Regarding Application for Reconsideration

On its own motion, the Department of Labor will conduct an administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Eastman Kodak Company, IPS–Dayton Location, Dayton, Ohio (subject firm). The Department's Notice of negative determination was published in the **Federal Register** on June 6, 2012 (77 FR 33494). The workers are engaged in employment related to the production of commercial color ink jet printers.

The initial investigation resulted in a denial based on the findings that there was no shift in production of commercial color ink jet printers to a foreign country; that there were no company or customer imports of articles like or directly competitive with the commercial color ink jet printers produced by the subject firm; that the subject firm are neither suppliers to nor downstream producers for a firm that employed a worker group eligible to apply for TAA; and that the subject firm was not named by the International Trade Commission, as required by Section 222(e) of the Trade Act of 1974, as amended.

Conclusion

The Department has carefully reviewed the existing record, and will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 1st day of August, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

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