

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION)
600 Pennsylvania Avenue, N.W.)
Washington, DC 20580,)
)
Plaintiff,)
v.)
TOYS "R" US, INC.)
1 Geoffrey Way)
Wayne, NJ 07470,)
)
Defendant.)
_____)

Case: 1:11-cv-00635
Assigned To : Collyer, Rosemary M.
Assign. Date : 3/29/2011
Description: General Civil

MOTION FOR ENTRY OF JUDGMENT

Plaintiff, the Federal Trade Commission, having filed its Complaint in the above-captioned case, and having filed this date a Stipulation and proposed Final Judgment, hereby moves this Court for entry of the Final Judgment. By agreement of the parties, the Final Judgment against Toys "R" Us, Inc., authorized by Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), provides for the payment of one million three hundred thousand United States dollars (\$1,300,000). The parties have agreed that the Final Judgment may be entered on the motion of either party.

STATEMENT OF POINTS AND AUTHORITIES

The Complaint in this action alleges that defendant Toys "R" Us, Inc. violated the order entered by the Federal Trade Commission in FTC Docket No. 9278. Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), authorizes the imposition of civil penalties of not

more than \$16,000 per violation for violations of Federal Trade Commission orders.¹ In the case of a continuing violation, each day is considered a separate violation. Accordingly, the Complaint seeks “an appropriate civil penalty.” As the Stipulation and proposed Final Judgment indicate, defendant has agreed to pay a civil penalty of one million three hundred thousand United States dollars (\$1,300,000), payable within thirty (30) days after entry of the Final Judgment.

The Commission submits that the proposed settlement in this action is in the public interest in that it is fair, adequate and reasonable based on consideration of the factors discussed below.² These factors include, among others: the need to deter similar conduct by this defendant and others; and the need to vindicate the authority of the Commission and the rule of law.³

Here, payment to the United States Treasury by the defendant of the \$1,300,000 civil penalty set by the Final Judgment is in the public interest because it likely will have the desired deterrent effect, by signaling to the defendant, other industry participants and other respondents subject to Commission orders, that Commission orders cannot be violated without significant consequences. It will also demonstrate the Commission’s commitment to monitoring the compliance by respondents subject to its orders with the terms of such orders, as well as the

¹ For violations that occurred on or before February 9, 2009, the maximum penalty was \$11,000. *See* Debt Collection Act of 1996, Pub. L. 104-134 § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461), and FTC Rule 1.98, 16 C.F.R. § 1.98, 61 Fed. Reg. 54549 (Oct. 21, 1996), 74 Fed. Reg. 858 (Jan. 9, 2009). In this case, the maximum penalty for some of the violations alleged in the Complaint is \$16,000, and for others it is \$11,000.

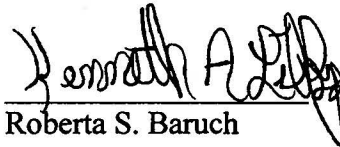
² *See Securities and Exchange Commission v. James H. Randolph, Jr., et al.*, 736 F.2d 525, 529 (9th Cir. 1984) (“[u]nless a d consent decree is unfair, inadequate, or unreasonable, it ought to be approved.”).

³ *See United States v. Boston Scientific Corp.*, 253 F. Supp. 2d 85, 98 (D. Mass. 2003).

Commission's willingness to enforce its orders. In addition, entry of the proposed Final Judgment is in the public interest because it will vindicate the authority of the Commission and the rule of law.

For the above reasons, the Federal Trade Commission asks the Court to enter the Final Judgment in this case.

Respectfully submitted,



Roberta S. Baruch
Deputy Assistant Director
D.C. Bar No. 269266
Kenneth A. Libby
Joseph Eckhaus
D.C. Bar No. 057109
Karen Espaldon
D.C. Bar No. 456714
Bureau of Competition
Federal Trade Commission

Dated: March 29, 2011