



Department of Justice

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JUSTICE DEPARTMENT PUTS AN END TO THE TWO LARGEST SOLID WASTE HAULING AND DISPOSAL COMPANIES' MONOPOLISTIC PRACTICES

WASHINGTON, D.C. --The world's two largest solid waste hauling and disposal companies--Waste Management Inc. and Browning-Ferris Industries Inc.--agreed today to end unlawful monopolistic practices after the Department of Justice charged that the companies blocked smaller trash haulers from entering markets in Georgia, Louisiana, Tennessee and Iowa.

Waste Management, with \$5.8 billion in revenues last year, and two of its subsidiaries agreed today to stop using long-term contracts with dumpster customers where the two subsidiaries have large market shares--the Savannah, Georgia and Central Louisiana areas.

Browning-Ferris, with more than \$4 billion in revenues in fiscal year 1994, and two of its subsidiaries also agreed today to stop using long-term contracts with dumpster customers where the two subsidiaries have large market shares--Memphis, Tennessee and Dubuque, Iowa.

In the proposed consent decrees filed today, the companies agreed to settle antitrust complaints by modifying their contracting practices in those four markets.

"Waste Management's and Browning-Ferris' large market shares and use of long-term contracts with automatic renewal provisions locked out smaller trash haulers in these markets and allowed them to keep their market power," said Anne K. Bingaman, Assistant Attorney General in charge of the Department's Antitrust Division.

Bingaman said that the Antitrust Division is examining other industries for the type of practices challenged here and will continue to monitor developments in this industry.

The civil antitrust complaint and proposed consent decree involving Waste Management were filed today in U.S. District Court in Savannah, Georgia. The suit and proposed settlement against Browning-Ferris were filed today in U.S. District Court in Washington, D.C. Both consent decrees, if approved by the court, would settle the suits. Until approved, both companies have agreed to abide by the terms of the settlement.

The Department alleged that Waste Management of Georgia Inc., which does business as Waste Management of Savannah and Waste Management of Louisiana Inc., which does business as Waste Management of Central Louisiana had market power in the Savannah and Central Louisiana markets. The Department also alleged that Browning-Ferris Industries Inc., through its subsidiaries Browning-Ferris of Iowa Inc. and Browning Ferris Industries of Tennessee Inc., had market power in the Memphis and Dubuque markets.

Both companies used and enforced the following contract terms to maintain their market power:

- The exclusive right to collect and dispose of all of a customer's waste.

- A three year initial term.

- The automatic renewal of the contract for additional three year terms unless the customer cancels by certified mail, return receipt requested, at least 60 days from the end of any term or renewal term.

- A "liquidated damages" provision that requires a customer to pay six times its prior monthly charge (or its prior monthly charge times the remaining number of months of the contract, if the remaining term is less than 6 months) to cancel the contract at any other time.

The Department also alleged that Waste Management used and enforced a "right to compete" clause that requires a customer to tell Waste Management of a competing offer and allows the companies to make a counter-offer.

In addition, the Department alleged that the appearance of the contracts enhanced Waste Management's and Browning-Ferris' ability to use them to maintain their market power. The contracts are not labeled "Contract," and the terms that restrict a customer's ability to switch from both defendants to a competitor are in small print on the back of the contracts.

The settlements require Waste Management and Browning-Ferris to eliminate these terms from contracts in use in the Savannah, Central Louisiana, Memphis and Dubuque markets where their subsidiaries have large market shares and they can be used to harm competition.

In particular, the settlements prohibit the companies from using any contract with dumpster customers in the Savannah, Central Louisiana, Memphis and Dubuque markets that:

- Have an initial term longer than two years (unless a longer term is requested by the customer and other conditions are met).

- Have any renewal term longer than one year.

- Requires the customer give notice of termination more than 30 days prior to the end of a term.

- Requires the customer to pay liquidated damages over three times the greater of its prior monthly charge or its average monthly charge during the first year it is a customer of Waste Management and Browning-Ferris, or over two times the greater of its prior monthly charge or its average monthly charge thereafter.

- Is not labeled "Service Contract" in the case of Waste Management or "Contract for Solid Waste Services" in the case of Browning-Ferris and is not easily readable.

- Requires a customer to give Waste Management and Browning-Ferris the right to provide hauling services for all solid wastes and recyclables, unless the customer affirmatively indicates that is its desire.

Waste Management is also prohibited from requiring the customer to give it notice of any offer by a competitor or requires the customer to give it the right to respond to such an offer.

The settlements also require that Waste Management and Browning-Ferris notify customers in the four relevant markets of these changes and prohibits the companies from enforcing terms in existing contracts that are inconsistent with the settlement in those markets.

The proposed consent decrees conclude the Antitrust Division's investigations of Waste Management and Browning-Ferris.

The settlements are effective immediately and will be in effect for ten years.

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