

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

OWENS-ILLINOIS, INCORPORATED,

Defendant.

Civil Action No. 72-22

Filed: January 28, 1972

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General, brings this civil action to obtain equitable relief against the above-named defendant, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, commonly known as the Sherman Act, in order to prevent and restrain the continuing violations by the defendant, as hereinafter alleged, of Sections 1 and 2 of said Act (15 U.S.C. §§ 1 and 2).

2. The defendant Owens-Illinois, Incorporated maintains an office, transacts business, and is found within the Northern District of Ohio, Western Division.

II

THE DEFENDANT

3. Owens-Illinois, Incorporated is made the defendant herein. Owens-Illinois is a corporation organized and existing under the laws of the State of Ohio, with its principal executive offices in Toledo, Ohio. For the purpose of this complaint, "Owens-Illinois" means Owens-Illinois, Incorporated, and its divisions and subsidiaries.

III

TRADE AND COMMERCE

4. Owens-Illinois is one of the leading manufacturers of packaging products in the world. Some of the packaging products it manufactures are glass and semi-rigid plastic containers, metal and plastic closures for such containers, corrugated and solid fiber shipping containers and container-board for such containers, composite fiber cans, and multiwall paper and plastic shipping sacks. These products are sold and shipped to customers located throughout the United States.

5. Owens-Illinois also manufactures numerous other glass, paper, plastic, and other products, including disposable paper and plastic cups, lids, tubs and plates, pulpwood, plywood, glass television bulbs (for picture tubes), scientific and laboratory glassware, and glass tumblers and stemware. These products are also sold and shipped to customers throughout the United States.

6. In 1970, Owens-Illinois had sales of over \$1 billion, assets of over \$1.3 billion, and shareholders' equity of over \$600 million.

7. Owens-Illinois purchases substantial quantities of numerous commodities, raw materials, equipment, supplies, and services from other companies. Owens-Illinois makes substantial purchases from corporations which are purchasers of the type of products produced by Owens-Illinois.

8. Substantial portions of the commodities, raw materials, equipment, and supplies purchased by Owens-Illinois are shipped from their places of origin across state lines to their points of use by Owens-Illinois.

IV

OFFENSES

9. Since at least as early as 1960, and continuing to the date of this complaint, Owens-Illinois has violated Section 1 of the Sherman Act (15 U.S.C. § 1) by entering into combinations involving reciprocal purchasing arrangements with respect to a substantial amount of interstate commerce whereby Owens-Illinois purchased goods and services from suppliers upon the understanding that said suppliers would purchase goods from Owens-Illinois, in unreasonable restraint of the aforesaid trade and commerce.

10. Since at least as early as 1960, and continuing to the date of this complaint, Owens-Illinois, through the use of its purchasing power, has violated Section 2 of the Sherman Act (15 U.S.C. § 2) by attempting to monopolize that part of the above described interstate trade and commerce consisting of the requirements of actual and potential supplier-customers of Owens-Illinois for packaging products and other products of Owens-Illinois.

11. Pursuant to the aforesaid combinations and the attempt to monopolize, Owens-Illinois has done, among other things, the following:

- (a) compiled and coordinated comparative purchase and sales data and other information relating to its customers and suppliers;
- (b) utilized this information to determine which suppliers should be favored and the extent to which they should be permitted to participate in supplying Owens-Illinois' requirements of goods and services;
- (c) discussed with actual and potential suppliers and customers their sales and purchase positions relative to Owens-Illinois;
- (d) purchased goods and services from certain suppliers on the understanding that such suppliers would purchase goods from Owens-Illinois;
- (e) refused to buy or reduced purchases from certain suppliers who did not purchase, maintain purchases, or increase purchases from Owens-Illinois;
- (f) used purchases from particular suppliers by one Owens-Illinois subsidiary or division to promote sales to such suppliers by another Owens-Illinois subsidiary or division;

- (g) caused or induced particular suppliers from whom it purchases to buy from certain companies which purchase from the defendant; and
- (h) caused or induced particular suppliers from whom it purchases to persuade other companies to buy from the defendant.

V

EFFECTS

12. The aforesaid violations by Owens-Illinois have had the following effects, among others:

- (a) competitors of Owens-Illinois in the sale of various goods have been foreclosed from selling substantial quantities thereof to firms that are supplier-customers of Owens-Illinois; and
- (b) actual and potential suppliers of various goods and services purchased by Owens-Illinois have been foreclosed from selling substantial quantities of such goods and services to Owens-Illinois.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the aforesaid combinations between the defendant and its suppliers involving reciprocal purchasing arrangements be adjudged and decreed to be in violation of Section 1 of the Sherman Act.
2. That the aforesaid attempt to monopolize be adjudged and decreed to be in violation of Section 2 of the Sherman Act.

3. That the defendant Owens-Illinois and its officers, directors, agents, and all other persons acting on behalf of said defendant, be perpetually enjoined from:

- (a) entering into or adhering to any contract, agreement, or understanding with any actual or potential customer or supplier involving reciprocal purchasing arrangements;
- (b) communicating to actual or potential customers or suppliers that it will place its purchases with or give preference to suppliers who purchase from the defendant;
- (c) communicating to actual or potential customers or suppliers statistics comparing purchases of goods and services by the defendant from such companies with sales by the defendant to such companies;
- (d) continuing the practice of compiling statistics which compare Owens-Illinois' purchases of goods or services from companies with sales by the defendant to such companies;
- (e) transmitting to personnel with sales responsibilities information concerning purchases by the defendant from particular suppliers, transmitting to personnel with purchasing responsibilities information concerning sales by the defendant to particular companies, or otherwise implementing any program involving reciprocity;

- (f) utilizing purchases by one Owens-Illinois subsidiary or division from particular suppliers to promote sales to such suppliers by another Owens-Illinois subsidiary or division;
- (g) causing or inducing particular suppliers from whom it purchases to purchase from certain companies which purchase from the defendant; and
- (h) causing or inducing particular suppliers from whom it purchases to persuade other companies to buy from the defendant.

4. That this Court order the defendant to abolish any duties that are assigned to any of its officials or employees which relate to the conduct or effectuation of its reciprocity or trade relations program.

5. That this Court order the defendant to advise all of its suppliers, by written notice, that the defendant's reciprocity or trade relations program has been terminated and to furnish a copy of the Final Order of this Court to such suppliers.

6. That plaintiff have such other relief as the nature of the case may require and the Court may deem just and proper.

7. That the plaintiff recover the costs of this action.



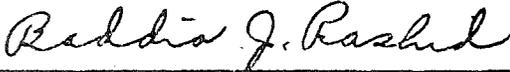
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