

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE HEARST CORPORATION and
GLOBE NEWSPAPER COMPANY,

Defendants.

CIVIL NO. 67 Civil 4598 (ELP)

Filed: FEB 8 1973

AMENDED COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, having brought this civil action to obtain equitable relief against defendant The Hearst Corporation on November 21, 1967, hereby amends its complaint to include as a party defendant Globe Newspaper Company, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This Complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. Section 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants of Section 1 of the Sherman Act (15 U.S.C. Section 1).

2. The defendant The Hearst Corporation maintains offices, transacts business, and is found within the Southern District of New York.

3. Defendant Globe Newspaper Company maintains offices, transacts business and is found in Boston, Massachusetts. The ends of justice require that it be brought before this Court as a party defendant.

II

THE DEFENDANTS

4. The Hearst Corporation, hereinafter referred to as Hearst, is made a defendant herein. Hearst is a corporation organized and existing under the laws of the State of Delaware with its principal office located in New York, New York. It furnishes features, as hereinafter defined, to newspapers throughout the United States through its King Features Syndicate Division, hereinafter referred to as King.

5. Globe Newspaper Company is made a defendant herein. Globe Newspaper Company is a corporation organized and existing under the laws of the State of Massachusetts, and is the publisher of The Boston Globe, a newspaper published daily and Sunday in Boston, Massachusetts.

III

DEFINITIONS

6. "Features" means literary and/or artistic products prepared for publication in newspapers.

IV

NATURE OF TRADE AND COMMERCE

7. Features are a substantial part of the makeup of most daily newspapers published in the United States. Some, such as columns, afford information and advice on a variety of subjects from a diversity of viewpoints. Other features such as comic strips and puzzles are available for the amusement of the newspaper's readers. Inability to supply

popular features significantly limits a newspaper's capacity to provide a well-rounded service to its reading public.

8. Feature syndicates similar to King were first formed around 1910 to service the needs of newspapers, authors and artists. Authors and artists may transfer all property rights in their creations to the syndicate with which they associate or, in some instances, the syndicate may receive from them only the right to distribute their creations. The syndicate in turn licenses the features to newspapers. It maintains the mechanical means of reproducing and transmitting the features and it distributes them in interstate commerce to licensee newspapers throughout the United States.

9. Syndicates such as King constantly solicit business from newspapers through various channels of interstate commerce such as the mail, sales representatives and, in certain situations, branch offices in major cities. Newspapers evaluate the popularity of their features and often seek additions and/or substitutions. Popular features are rarely terminated by a subscribing newspaper and are constantly sought by other newspapers.

10. Agreement between newspapers and syndicates for specific feature service usually follows negotiation on price, release date, term of service and other matters. Price for a feature is usually determined by considerations such as the newspaper's circulation, whether one feature or a package of features is to be supplied by the syndicate, and the type of service, such as daily, weekly or Sunday only. Sometimes involved in the determination of the price for a feature is the extent of an exclusive territory within which

the syndicate agrees not to offer or distribute the feature to other newspapers.

11. Hearst is engaged in interstate trade and commerce in that it distributes, through King, features in various forms to newspapers, including The Boston Globe, throughout the United States. King is a major syndicate and furnishes and distributes one or more of the following features, among others, to a substantial number of the more than 1700 daily newspapers in the United States:

Comic Strips -

Archie
Blondie
Bringing Up Father
Donald Duck
Flash Gordon
Henry
Katzenjammer Kids
Little King
The Lone Ranger
The Phantom
Mickey Mouse
Prince Valiant
Mandrake the Magician
Hi and Lois

Columns -

Phyllis Battelle
Jim Bishop
William Buckley
John Chamberlain
Bob Considine
Ruth Montgomery
Suzy Knickerbocker (Society)
Ralph deToledano
Walter Winchell
Jimmy Cannon (Sports)
Frank Graham (Sports)
Mary Haworth (Personal Advice)
Hints from Heloise (Advice)
Washington Column

Specialty and Variety Features -

Beauty Box
Chic and Charming (Beauty)
Crossword Puzzle
Horoscope
Investor's Guide
Mirror of your Mind
Gardengraphs
Needlecraft Pattern Features
Home Making Helps
Believe it or Not
Spanish Crossword Puzzle
T. V. Key Features

V

OFFENSES CHARGED

12. For many years past, and continuing up to and including the date of this Complaint, Hearst has been and

is now a party to unlawful contracts, agreements and understandings between itself and various newspapers, including The Boston Globe, (hereinafter referred to as contracting newspapers) in unreasonable restraint of the aforesaid interstate trade and commerce in features, in violation of Section 1 of the Sherman Act. Said offenses will continue unless the relief hereinafter prayed for is granted.

13. The substantial terms of each of the aforesaid contracts, agreements and understandings between Hearst and the contracting newspapers, including The Boston Globe, are that Hearst, in licensing features to a contracting newspaper, agrees not to license the features to any other newspaper published within an arbitrary and unreasonably broad territory surrounding the contracting newspaper's city of publication.

14. Pursuant to and in effectuation of the aforesaid offenses, Hearst has done those things which, as hereinbefore alleged, it agreed to do.

VI

EFFECTS

15. The aforesaid offenses have had, among others, the following effects:

- (a) Many newspapers throughout the United States, including those newspapers within the exclusive territory of The Boston Globe, have been deprived arbitrarily of the opportunity to obtain certain features,
- (b) Substantial numbers of the public, including many located within the exclusive territory of The Boston Globe,

have been denied reasonable access to certain features.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that Hearst has entered into contracts, agreements and understandings with The Boston Globe and with other newspapers in unreasonable restraint of interstate trade and commerce in features in violation of Section 1 of the Sherman Act.

2. That pursuant to Section 5 of the Sherman Act an order be made and entered herein requiring defendant Globe Newspaper Company to be brought before this Court in this proceeding and directing the United States Marshal of the District of Massachusetts to serve a summons upon it.

3. That defendants and their officers, directors, agents, representatives, successors, assignees and all other persons acting or claiming to act on their behalf, be perpetually enjoined and restrained from in any manner directly or indirectly continuing, maintaining or renewing the aforesaid contracts, agreements and understandings to which either is a party and from engaging in any practice having the purpose or effect of continuing, renewing or reviving the violations hereinbefore described.

4. That defendants be ordered and directed to terminate and cancel each of said contracts, agreements or understandings to which either is a party or to cause the same to be modified and amended under such terms and conditions as the Court may deem just and proper so that such contracts, agreements or understandings shall not be in conflict with the antitrust laws.

5. That the plaintiff have such other and further relief as may be just and proper.

6. That the plaintiff recover the cost of this suit.

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CERTIFICATE OF SERVICE

I, Gerald A. Connell, counsel for plaintiff, United States of America, hereby certify that I have this day served the foregoing Amended Complaint upon The Hearst Corporation by mailing a copy thereof, postage prepaid, to William J. Manning, Esquire, Simpson, Thacher & Bartlett, One Battery Park Plaza, New York, New York 10004, its counsel.

Dated: February 8, 1973


GERALD A. CONNELL,
Attorney, Department of Justice