

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

GENERAL CINEMA CORPORATION,

Defendant.

Civil Action No. 4-71-Civ-473

Filed: September 13, 1971

Equitable Relief Sought

COMPLAINT

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

I

JURISDICTION AND VENUE

1. This complaint is filed under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. § 25), commonly known as the Clayton Act, in order to prevent and restrain violation by the defendant, as hereinafter alleged, of Section 7 of the Act, as amended (15 U.S.C. § 18), and for equitable relief.

2. Defendant General Cinema Corporation transacts business and is found within the District of Minnesota, Fourth Division.

II

THE DEFENDANT

3. General Cinema Corporation (hereinafter referred to as "General Cinema") is made the defendant herein. General Cinema is a Delaware corporation with its principal place of business at 500 Boylston Street in Boston, Massachusetts. Each reference herein to "General Cinema" includes General Cinema Corporation, its subsidiaries, affiliates and any other companies directly or indirectly controlled by it.

III

DEFINITIONS

4. As used herein, the term "Minneapolis and St. Paul Metropolitan Area" shall refer to the area within a radius of about 15 miles from the center of the City of Minneapolis, including the following municipalities in the State of Minnesota: Minneapolis, St. Paul, Bloomington, Edina, Hopkins, St. Louis Park, Wayzata, Robinsdale, Brooklyn Center, Columbia Heights, Falcon Heights, White Bear Lake, South St. Paul, Anoka, and intervening areas.

5. As used herein, the term "Mann Theatres" shall refer to the motion picture theatres owned and operated in whole or in part by Theodore Mann, including the following indoor motion picture theatres in the Minneapolis and St. Paul Metropolitan Area: Academy, Mann, Minneapolis World, Minneapolis Orpheum, St. Louis Park, Minneapolis Uptown, Southtown, Strand, Valley West, Har-Mar I, Har-Mar II, St. Paul World, Varsity, Campus, St. Paul Orpheum, Suburban, Westgate, Edina, Grandview, and Highland.

IV

TRADE AND COMMERCE

6. Operators of motion picture theatres compete for licenses to exhibit feature motion pictures. Such competition is most intense for pictures that are most popular with the consuming public and can be expected to return the most revenues to the exhibitor. Large motion picture theatre circuits, which can offer distributors extensive exhibition of their motion pictures in numerous regional markets throughout the United States, have an advantage over smaller theatre circuits and individual theatres in competing for exhibition licenses, particularly licenses to exhibit the most popular and most profitable feature motion pictures in a particular locality. Where the difference between offers submitted by competing exhibitors is marginal, which is not uncommon, the distributor has a strong incentive to award the license to the largest circuit bidding.

7. At the time it acquired Mann Theatres in August 1970, General Cinema operated one of the largest motion picture theatre circuits in the United States. As of November 1970, General Cinema operated approximately 246 theatres and had revenues of approximately \$157 million in fiscal 1970, most of which was accounted for by its theatre operations.

8. At the time they were acquired by General Cinema in August 1970, Mann Theatres operated as a large regional motion picture theatre circuit of approximately 21 theatres. In 1969, Mann Theatres had total revenues of approximately \$5.4 million, substantially all of which was attributable to its theatre operations.

9. There were approximately 62 indoor motion picture theatres in the Minneapolis and St. Paul Metropolitan Area in August 1970. Mann Theatres, with 20 indoor theatres, accounted for approximately 32.4 percent, and General Cinema, with 2 indoor theatres, accounted for about 3.2 percent of all indoor motion picture theatres in the Minneapolis and St. Paul Metropolitan Area at that time. Combined, Mann Theatres and General Cinema accounted for approximately 35.6 percent of all such theatres operating in the Minneapolis and St. Paul Metropolitan Area in August 1970..

10. In January 1971, General Cinema acquired the State Theatre, the second largest indoor motion picture theatre in the Minneapolis and St. Paul Metropolitan Area, with a seating capacity of 2,237. Previously this theatre was operated by ABC North Central Theatres, Inc., the circuit with the second largest share of the Minneapolis and St. Paul Metropolitan Area market. As a result of this acquisition, its share of the market was reduced from approximately 10 percent to approximately 8 percent.

11. Prior to the acquisition of Mann Theatres by General Cinema, the four largest theatre circuits in the Minneapolis and St. Paul Metropolitan Area, including Mann Theatres, accounted for about 53 percent of all indoor motion picture theatres in that area. Subsequent to the consolidation of the Mann Theatres, the State Theatre, and General Cinema's theatres into a single circuit, the four largest motion picture theatre circuits in the area operated approximately 57 percent of such theatres.

12. It is the distributors of feature motion pictures who determine the total number of film prints to be released

in the Minneapolis and St. Paul Metropolitan Area. Hence, the motion picture exhibitors within this area actively compete to obtain the most popular and most profitable of the limited number of pictures available from such distributors.

13. Most new theatres are built by real estate developers and leased to theatre operators. These developers frequently use such leases as collateral to obtain financing necessary to build the theatre. Most real estate developers and their creditors would prefer, all other things being equal, a lease from a financially sound large national corporation than from a small local firm.

14. Motion picture film prints exhibited by General Cinema, Mann Theatres, and ABC North Central Theatres, Inc. have been continuously distributed and shipped in interstate commerce to and from the offices and motion picture theatres of these firms. Payment of rental and fees by these firms in connection with the exhibition of motion picture film prints have been continuously made in interstate commerce to distributors of such film prints.

V

OFFENSE ALLEGED

15. On or about August 5, 1970, General Cinema acquired substantially all of the assets of Mann Theatres.

16. On or about January 1, 1971, General Cinema acquired the assets of the State Theatre from ABC North Central Theatres, Inc.

17. The effect of the acquisitions described in paragraphs 15 and 16 above may be substantially to

lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act in the following ways, among others:

(a) actual and potential competition between General Cinema and Mann Theatres in the acquisition of exhibition licenses for feature motion pictures in the Minneapolis and St. Paul Metropolitan Area has been eliminated;

(b) actual and potential competition generally in the acquisition of exhibition licenses for feature motion pictures in the Minneapolis and St. Paul Metropolitan Area has been substantially lessened;

(c) concentration in the acquisition of exhibition licenses for feature motion pictures in the Minneapolis and St. Paul Metropolitan Area has been substantially increased; and

(d) General Cinema's bargaining power with motion picture distributors has been significantly enhanced to the detriment of smaller theatre circuits and individual theatres with which it competes for licenses to exhibit feature motion pictures.

PRAYER

WHEREFORE, plaintiff prays:

1. That the aforesaid acquisitions by General Cinema of substantially all of the assets of Mann Theatres and the State Theatre assets be declared to be in violation of Section 7 of the Clayton Act.


2. That General Cinema be required to divest itself of all assets acquired from Mann Theatres and also the State Theatre assets.

3. That the Court, pending final adjudication of this litigation, issue a preliminary injunction enjoining General Cinema and all persons acting on its behalf from taking any action that would impair its ability to comply with any Court Order which may be issued requiring General Cinema to divest itself of the assets acquired from Mann Theatres and the State Theatre assets.

4. That, for a period of ten years, except with the prior approval of the plaintiff or the Court, General Cinema, its affiliates, successors and assigns, its officers, directors, agents, employees and all other persons acting or claiming to act on its behalf, be enjoined from acquiring the stock or assets of any person, company or corporation operating a motion picture theatre in the Minneapolis and St. Paul Metropolitan Area.

5. That plaintiff have such other, further and different relief as the Court may deem just and proper.

6. That plaintiff recover its costs of this action.


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