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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, )  
11 Plaintiff, ) Civil Action No. 74-3601 EC  
12 v. ) Filed: December. 10, 1974  
13 NATIONAL BROADCASTING ) (Equitable Relief Complaint  
14 COMPANY, INC., ) for Violation of Sections  
15 Defendant. ) 1 & 2 of the Sherman Act)

16  
17 C O M P L A I N T

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

22 I

23 JURISDICTION AND VENUE

24 1. This complaint is filed and this action is instituted  
25 under Section 4 of the Act of Congress of July 2, 1890, c. 647,  
26 26 Stat. 209 (15 U.S.C. §4), as amended, commonly known as the  
27 Sherman Act, in order to prevent and restrain the continuing  
28 violation by the defendant, as hereinafter alleged, of Sections  
29 1 and 2 of said Act (15 U.S.C. §§1, 2).

30 2. The defendant, National Broadcasting Company, Inc.,  
31 whose West Coast studios and offices are in Burbank, California,  
32 transacts business within the Central District of California.

1 II

2 DEFINITIONS

3 3. As used herein:

4 (a) "Affiliate" means a television station  
5 which has an affiliation agreement with  
6 National Broadcasting Company, Inc., pur-  
7 suant to which it receives television  
8 programs and advertising messages for  
9 broadcast, and receives compensation for  
10 the use of its time and facilities.

11 (b) "Prime evening hours" are the hours from  
12 6:00 p.m. to 11:00 p.m. in the Eastern  
13 time zone of the United States.

14 (c) "Television entertainment programs" means  
15 all programs shown on television other  
16 than news, public affairs, documentary  
17 or sports programs.

18 (d) "Outside program supplier" means a  
19 producer or supplier of television  
20 entertainment programs other than a  
21 television network.

22 III

23 DEFENDANT

24 4. National Broadcasting Company, Inc. (hereinafter NBC)  
25 is hereby named as defendant. NBC is a corporation organized  
26 and existing under the laws of the State of Delaware. It is  
27 a subsidiary of the RCA Corporation. NBC owns and operates  
28 commercial television stations in five of the nation's leading  
29 television markets (New York City, Los Angeles, Chicago,  
30 Washington and Cleveland). NBC is engaged, among other things,  
31 in the operation of the NBC Television Network, which furnishes  
32 television programs and related advertising messages to

1 approximately 200 affiliates located throughout the United  
2 States and to the television stations which are owned and operated  
3 by NBC. NBC remits part of the revenues it receives from  
4 advertisers to its affiliates. NBC itself produces some of the  
5 programs broadcast on its television network. NBC also owns  
6 various financial interests in programs produced by others and  
7 broadcast on its television network.

8 5. Although NBC is primarily engaged in television and  
9 radio network broadcasting, its parent, RCA Corporation, is  
10 engaged in the following activities, among others:

11 (a) Production, distribution and sale of phono-  
12 graph records and tapes;

13 (b) Publishing through Random House, Inc., a  
14 wholly-owned subsidiary.

15 IV

16 TRADE AND COMMERCE

17 A. Interstate Commerce

18 6. Television programs and related advertising messages,  
19 filmed, taped and live, are conveyed by program suppliers and  
20 networks across State lines to television stations throughout  
21 the United States, from which stations said programs are trans-  
22 mitted across State lines to viewers. A continuous stream of  
23 interstate commerce and the use of interstate means of communi-  
24 cation results therefrom, including the collection and payment  
25 of fees, voluminous written and frequent verbal communications,  
26 and substantial amounts of advertising copy, recordings,  
27 transcriptions, films, contracts and checks.

28 7. Commercial television programs are created and produced  
29 by television networks, outside program suppliers, television  
30 stations, and by motion picture studios, which supply feature  
31 films and other programs for television broadcast. In 1973, the  
32 three nationwide commercial television networks (NBC, CBS, Inc.

1 (CBS) and American Broadcasting Companies, Inc. (ABC)) spent  
2 more than \$1,000,000,000 for television programs, of which  
3 NBC spent more than \$340,000,000. In 1973, total television  
4 broadcasting revenues for the aforementioned three networks were  
5 in excess of \$1,400,000,000, of which NBC received more than  
6 \$470,000,000.

7 B. Television Programming

8 8. There are approximately 700 television stations in the  
9 United States which broadcast commercial television programs.  
10 Of these, about 200 stations have network affiliation agreements  
11 with NBC. During prime evening hours, when television viewing  
12 is at its peak, most of these stations depend upon NBC for  
13 virtually all of their television entertainment programming. A  
14 television entertainment program generally cannot reach the  
15 audiences of such stations during prime evening hours unless it  
16 is transmitted by NBC over the NBC Television Network.

17 9. The value of any television program to its producer,  
18 and to an advertiser whose message is broadcast in conjunction  
19 with it, depends in large part on the number of television  
20 viewers who see the program and observe the commercial messages.  
21 The largest television audiences in the United States are  
22 readily available only to those producers whose programs are  
23 carried by the NBC, CBS or ABC television networks, and to those  
24 advertisers whose commercial messages are broadcast during said  
25 programs, and the right to broadcast such programs and commercial  
26 messages on any of these three television networks can be pur-  
27 chased only from them.

28 10. Many advertisers formerly were able to purchase air  
29 time from networks (including NBC) and to purchase television  
30 entertainment programs from outside program suppliers for broad-  
31 cast during such air time. Such advertisers constituted a sub-  
32

1 stantial market for outside program suppliers. Now, however,  
2 the networks (including NBC) generally will not offer to sell  
3 air time to advertisers except for their commercial messages  
4 which are broadcast in conjunction with television entertainment  
5 programs already selected and placed in schedules by the networks.  
6 As a result, the three nationwide commercial television networks  
7 (NBC, CBS and ABC) constitute the primary market for television  
8 entertainment programs.

9 11. Most of the prime time television entertainment programs  
10 broadcast on the NBC Television Network have been programs which  
11 have either been produced by NBC itself or with respect to which  
12 NBC owns a right or interest in addition to a license to broad-  
13 cast. In 1957, such programs constituted about 43 percent of the  
14 television entertainment programs broadcast on the NBC Television  
15 Network during prime time evening hours. By 1967, this figure  
16 had increased to 68 percent, or 74 percent if feature films are  
17 excluded.

18 12. The commercial value of a television entertainment pro-  
19 gram is not exhausted by its first network showing. Frequently  
20 thereafter a program is distributed to individual television  
21 stations in the United States for non-network broadcast. In  
22 addition, it may be distributed to foreign television stations  
23 while it is appearing over a domestic television network. The  
24 distribution of a television program to individual stations for  
25 non-network broadcast is known as syndication. NBC has obtained  
26 syndication and other valuable subsidiary program rights, as well  
27 as a share of the profits produced by such rights, with respect  
28 to a substantial number of television entertainment programs pro-  
29 duced by others and broadcast on the NBC Television Network. In  
30 1973, NBC sold its syndication rights to NTA Films, Inc., a  
31 subsidiary of National Telefilm Associates, Inc.

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1 has entered into contracts, in unreasonable restraint of trade  
2 and commerce in television entertainment programs exhibited  
3 on the NBC Television Network during prime evening hours, in  
4 violation of Section 1 of the Sherman Act.

5 16. For many years prior to the date hereof and continuing  
6 up to and including the date of filing of this complaint,  
7 defendant NBC has engaged in a combination with its owned and  
8 operated television stations, the NBC affiliates and others to  
9 monopolize, has attempted to monopolize and has monopolized the  
10 trade and commerce in television entertainment programs exhibited  
11 on the NBC Television Network during prime evening hours, in  
12 violation of Section 2 of the Sherman Act.

13 17. Pursuant to said offenses, defendant NBC has used its  
14 control over access to the broadcasting time of the NBC Television  
15 Network during prime evening hours:

- 16 (a) To exclude television entertainment programs  
17 in which NBC had no ownership interest from  
18 broadcast on the NBC Television Network  
19 during prime evening time;
- 20 (b) To compel outside program suppliers to  
21 grant to it financial interests in television  
22 entertainment programs produced by them;
- 23 (c) To refuse to offer program time alone to  
24 advertisers and other outside program  
25 suppliers;
- 26 (d) To control the prices paid by NBC for  
27 television exhibition rights to motion  
28 picture feature films distributed by non-  
29 network motion picture distributors;

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1 (e) To obtain a competitive advantage over other  
2 producers and distributors of television  
3 entertainment programs and of motion picture  
4 feature films.

5 18. The offenses alleged in this complaint are continuing  
6 and will continue unless the relief hereinafter prayed for is  
7 granted.

8 VI

9 EFFECTS

10 19. The effects of the aforesaid offenses, among others,  
11 have been and are as follows:

- 12 (a) Ownership and control of television enter-  
13 tainment programs broadcast during prime  
14 evening hours on the NBC Television Network  
15 has been concentrated in defendant NBC;
- 16 (b) Competition in the production, distribution  
17 and sale of television entertainment programs,  
18 including feature films, has been unreasonably  
19 restrained;
- 20 (c) Competition in the sale of television enter-  
21 tainment programs to the NBC Television Network  
22 by outside program suppliers of said programs  
23 has been unreasonably restrained;
- 24 (d) The viewing public has been deprived of the  
25 benefits of free and open competition in the  
26 broadcasting of television entertainment  
27 programs.

28 PRAYER

29 WHEREFORE, the plaintiff prays:

30 1. That the offenses described in paragraph 15 of this  
31 complaint be adjudged and decreed to be in violation of Section  
32 1 of the Sherman Act.



1           2. That the offenses described in paragraph 16 of this  
2 complaint be adjudged and decreed to be in violation of Section  
3 2 of the Sherman Act.

4           3. That the defendant NBC be prohibited from obtaining  
5 any interest (except for the first-run right of exhibition) in  
6 television entertainment programs produced by others, including  
7 feature films.

8           4. That the defendant NBC be prohibited from engaging  
9 in syndication of any television entertainment programs.

10          5. That the defendant NBC be prohibited from transmitting  
11 for exhibition over the NBC Television Network any television  
12 entertainment programs, including feature films, produced by  
13 the defendant NBC or any other commercial television network,  
14 and from allowing any television entertainment programs produced  
15 by NBC to be transmitted over any other commercial television  
16 network.

17          6. That the defendant NBC be prohibited from using its  
18 control of access to the broadcasting time of the NBC Television  
19 Network, the NBC owned and operated television stations or the  
20 NBC affiliates, to foreclose competition or obtain an unfair  
21 competitive advantage in any other field.

22          7. That the plaintiff have such other relief by way of  
23 divorcement, divestiture, reorganization and injunction with  
24 respect to the business and properties of the defendant NBC as  
25 the Court may consider necessary or appropriate to dissipate  
26 the effects of the defendant's unlawful activities as herein-  
27 before alleged in this complaint, and to restore competitive  
28 conditions to the television entertainment program industry.

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

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

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