UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, United States Department of Justice Antitrust Division Merger Task Force 1401 H Street, NW Suite 4000 Washington, DC 20530 Plaintiff, v.	CASE NUMBER 1:98CV02875 JUDGE: Colleen Kollar-Kotelly DECK TYPE: Antitrust DATE STAMP: 11/25/98
CHANCELLOR MEDIA CORPORATION 300 Crescent Court, Suite 600 Dallas, TX 75201 and WHITECO INDUSTRIES, INC. 1000 E. 80th Place, Suite 700 North Merriville, IN 46410 and METRO MANAGEMENT ASSOCIATES 1000 E. 80th Place, Suite 700 North Merriville, IN 46410 Defendants.	**COMPLAINT FOR INJUNCTIVE RELIEF AGAINST COMBINATION IN VIOLATION OF SECTION 7 OF THE CLAYTON ACT**

The United States of America, acting under the direction of the Attorney General of the United States, brings this action to prevent the proposed acquisition of Metro

Management Associates and Whiteco Industries, Inc. (Collectively "Whiteco") by Chancellor Media Corporation ("Chancellor").

I. Nature of the Action

1. Chancellor and Whiteco sell outdoor advertising space, such as on billboards, to local and national customers. They compete head-to-head to sell outdoor advertising in seven counties: (1) Hartford County, Connecticut; (2) Shawnee County, Kansas; (3) Leavenworth County, Kansas; (4) Potter County, Texas; (5) Nolan County, Texas; (6) Westmoreland County, Pennsylvania; and (7) Washington County, Pennsylvania ("the Seven Counties").

2. If Chancellor acquires Whiteco, competition will be lessened substantially in the Seven Counties. In some of these counties, the transaction would give Chancellor a virtual monopoly in some outdoor advertising markets and in others a 48 percent or higher share of the revenues.

3. Unless the acquisition is blocked, the loss of competition in the Seven Counties likely will result in advertisers paying higher prices and receiving a reduction.

II. Jurisdiction and Venue

4. This action is filed pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to obtain equitable relief to prevent a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

5. In each of the Seven Counties, Chancellor and Whiteco regularly contract with customers for the sale of outdoor advertising, a commercial activity that substantially affects, and is in the flow of, interstate commerce. The Court has jurisdiction over the subject matter of this action and over the parties pursuant to 15 U.S.C. §§ 22 and 25, and 28 U.S.C. §§ 1331 and 1337.

6. Venue in this District is proper under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

III. Defendants and the Transaction

7. Chancellor, a large nationwide operator of media businesses, including outdoor advertising, is a Delaware corporation headquartered in Dallas, Texas. Chancellor conducts some outdoor advertising business through its subsidiary, Martin Media, L.P. ("Martin"), a limited Partnership also headquartered in Dallas, Texas. Martin sells outdoor advertising in twenty-three markets throughout the United States, including in each of the Seven Counties.

8. Whiteco is a Nebraska corporation headquartered in Merrillville, Indiana. Whiteco sells outdoor advertising in thirty-two states, including in each of the Seven Counties.

9. Metro is an Indiana General Partnership headquartered in Merrillville, Indiana and sells outdoor advertising in association with Whiteco.

10. On August 30, 1998, Chancellor entered into an Asset Purchase Agreement with Whiteco. Chancellor agreed to purchase certain assets of Whiteco used or useful in the outdoor advertising business of Whiteco in the United States. The transaction is valued at approximately $930 million.

IV. Trade and Commerce

11. Outdoor advertising companies generate their revenue from the sale of advertising space to local and/or national businesses that want to promote their products and services.

12. Advertisers select outdoor advertising based on a number of factors, including, inter alia, the size of the target audience (individuals most likely to purchase the advertiser's products or services), the traffic patterns of the audience, and other audience characteristics. Many advertisers seek to reach a large percentage of their target audience by selecting outdoor advertising on highways and roads where vehicle traffic is high, so that the advertising will be viewed frequently by the target audience, or where the vehicle traffic is close to the advertiser's location. If outdoor advertising spaces owned by different firms would efficiently reach that target audience, advertisers benefit from the competition among outdoor advertising providers to offer better prices or services. Many local and/or national advertisers purchase outdoor advertising because outdoor advertising space is less expensive and more cost-efficient than other media at reaching the

advertiser's target audience with the type of advertising message that the advertiser prefers to deliver.

13. Outdoor advertising has prices and characteristics that are distinct from other advertising media. An advertiser's evaluation of the importance of these characteristics depends on the type of advertising message the advertiser wishes to convey and the price the advertiser is willing to pay to deliver that message. Many advertisers who use outdoor advertising also advertise in other media, including radio, television, newspapers and magazines, but use outdoor advertising when they want a large number of exposures to consumers at a low cost per exposure. Because each exposure is brief, outdoor advertising is most suitable for highly visual, limited information advertising.

V. Relevant Product and Geographic Markets

14. For many advertising customers, outdoor advertising's particular combination of characteristics makes it an advertising medium for which there are no close substitutes. Such customers who want or need to use outdoor advertising would not switch to another advertising medium if outdoor advertising prices increased by a small but significant amount.

15. Although some local and national advertisers may switch some of their advertising to other media, rather than absorb a price increase in outdoor advertising space, the existence of such advertisers would not prevent outdoor advertising companies in the Seven Counties from profitably raising their prices a small but significant amount.

At a minimum, outdoor advertising companies could profitably raise prices to those advertisers who view outdoor advertising as a necessary advertising medium for them, or as a necessary advertising complement to other media. Outdoor advertising companies negotiate prices individually with advertisers. During individual price negotiations between advertisers and outdoor advertising companies, advertisers provide the outdoor advertising companies with information about their advertising needs, including their target audience and the desired exposure. Outdoor advertising companies thus have the ability to charge advertisers differing prices based in part on the number and attractiveness of competitive outdoor advertising companies that can meet a particular advertiser's specific target needs. Because of this ability to price discriminate among customers, outdoor advertising companies may charge higher prices to advertisers that view outdoor advertising as particularly effective for their needs, while maintaining lower prices for other advertisers.

16. For those advertisers who desire to use outdoor advertising to reach consumers in the Seven Counties, there are no reasonable substitutes for outdoor advertising located within each of the Seven Counties; in particular, a small but significant increase in the price of outdoor advertising in each of the Seven Counties would not cause advertisers to turn to outdoor advertising in other counties or to other types of advertising media.

17. In the Seven Counties, outdoor advertising constitutes a relevant product market and a line of commerce; each county constitutes a relevant geographic market and a section of the country.

VI. Concentration

18. In each of the Seven Counties, the market for outdoor advertising is highly concentrated. Using a measure of market concentration called the Herfindahl-Hirschman Index ("HHI"), explained in Appendix A annexed hereto, a combination of Chancellor and Whiteco would increase concentration substantially in each of the Seven relevant markets.

19. In Hartford County, Connecticut, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to 100 percent. The approximate post-merger HHI would be 10000, representing an increase of about 4992.

20. In Shawnee County, Kansas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 48 percent. The approximate post-merger HHI would be 5008, representing an increase of about 1144.

21. In Leavenworth County, Kansas. Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 60 percent. The approximate post-merger HHI would be 4130, representing an increase of about 822.

22. In Potter County, Texas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 82 percent. The approximate post-merger HHI would be 6959, representing an increase of about 1050.

23. In Nolan County, Texas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 76 percent. The approximate post-merger HHI would be 6049, representing an increase of about 1920.

24. In Westmoreland County, Pennsylvania, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 71 percent. The approximate post-merger HHI would be 5454 representing an increase of about 2516.

25. In Washington County, Pennsylvania, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 88 percent. The approximate post-merger HHI would be 8888 representing an increase of about 1560.

VII. Anticompetitive Effects

26. In each of the Seven Counties, Chancellor and Whiteco compete head-to-head and, for many local and/or national advertisers buying outdoor advertising space, they are close substitutes for each other. During individual price negotiations, advertisers that desire to reach a certain audience can help ensure competitive prices by "playing off" Whiteco against Chancellor. Chancellor's acquisition of Whiteco will end this competition. After the acquisition, such advertisers will be unable to reach their desired audiences with equivalent efficiency without using Chancellor's outdoor advertising.

Because advertisers seeking to reach these audiences would have inferior alternatives to the merged entity as a result of the acquisition, the acquisition would give Chancellor the ability to raise prices and reduce the quality of its service to some of its advertisers in each of the Seven Counties.

27. New entry into the outdoor advertising market in response to a small but significant price increase by the merged parties in any of these markets is unlikely to be timely and sufficient to render the price increase unprofitable.

VIII. Violation Alleged

28. In each of the Seven Counties, the effect of the proposed acquisition of Whiteco by Chancellor would be to lessen competition substantially in interstate trade and commerce, in violation of Section 7 of the Clayton Act in the following ways, among others:

(a) actual and potential competition between Chancellor and Whiteco in the business of outdoor advertising will be eliminated;

(b) competition generally in the business of outdoor advertising would be lessened substantially; and

(c) the prices for outdoor advertising would likely increase, and services would likely decline.

IX. Requested Relief

The plaintiff requests: (a) adjudication that Chancellor's proposed acquisition of Whiteco would be a violation of Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed acquisition; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Dated: November 25, 1998

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APPENDIX A
HERFINDAHL-HIRSCHMAN INDEX CALCULATIONS

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See *Merger Guidelines* § 1.51.

<u>Certificate of Service</u>

I, Renée Eubanks, hereby certify that, on November 25, 1998, I caused the foregoing document to be served on defendants Chancellor Media Corporation, Whiteco Industries, and Metro Management Associates having a copy mailed, first-class, postage prepaid, to:

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