IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. PLAYMOBIL USA, INC. 11 E. Nicholas Court Dayton, NJ 08810, Defendant.	)))))))))))	CASE NUMBER 1:95CV00214 JUDGE: James Robertson DECK TYPE: Antitrust DATE STAMP: 01/31/95

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 above-named defendant and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Sherman Act, as amended (15 U.S.C. § 4), in order to prevent and restrain violations, as hereinafter alleged, by the defendant of Section 1 of the Sherman Act (15 U.S.C. § 1). This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1337.

2. Defendant transacts business and is found in the District of Columbia.

II.

DEFINITIONS

3. "Person" means any individual, corporation, partnership, company, sole proprietorship, firm or other legal entity.

4. "Dealer" means any person not wholly owned by defendant who has at any time purchased or acquired Playmobil products for resale, excluding any person who did not purchase or acquire Playmobil products directly from Playmobil or its agents.

5. "Playmobil product" means any product sold or distributed by defendant for resale in the United States.

III.

DEFENDANT AND CO-CONSPIRATORS

6. Playmobil USA, Inc. ("Playmobil") is made a defendant herein. Playmobil is a corporation headquartered in the District of New Jersey, organized and existing under the laws of the State of New Jersey.

7. Various companies and individuals who are dealers, not made defendants in this complaint, have been induced to participate by and have participated with the defendant in the offense charged herein and performed acts and made statements in furtherance of it.

IV.

TRADE AND COMMERCE

8. Playmobil is a prominent seller of specialty toys for children in the United States. Playmobil products are manufactured by Playmobil's parent company, Geobra Brandstatter GmbH & Co. KG., in Germany and sold and distributed in the United States by Playmobil.

9. Playmobil sells substantial quantities of Playmobil products to dealers throughout the United States, which in turn resell Playmobil products to consumers.

10. During the period covered by this complaint, there has been a continuous and uninterrupted flow in interstate commerce of Playmobil products from Playmobil's facilities in New Jersey to dealers throughout the United States. The activities of the defendant and its co-conspirators, as hereinafter described, have been within the flow of, and have substantially affected, interstate commerce.

V.

VIOLATION ALLEGED

11. Beginning at least as early as February, 1990, and continuing at least through August, 1994, the exact dates being unknown to the United States, the defendant and its co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, as amended (15 U.S.C.

§ 1). This unlawful combination and conspiracy will continue or may be renewed unless the relief prayed for herein is granted.

12. The combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and its co-conspirators to fix and maintain the resale price of Playmobil products at the amount set by the defendant, Playmobil.

13. In furtherance of this combination and conspiracy, the defendant did the following things, among others:

(a) established and communicated to dealers minimum resale prices for Playmobil products;

(b) threatened to terminate dealers for selling or advertising Playmobil products at prices below defendant's minimum resale prices;

(c) used threats of termination to secure dealers' adherence to defendants' minimum resale prices and to limit the duration of promotional sales by dealers;

(d) enforced adherence to minimum resale prices at the behest of dealers in order to stop "price wars" among them; and

(e) agreed with dealers on the retail prices for Playmobil products to be charged by the dealers.

VI.

EFFECTS

14. The aforesaid combination and conspiracy has had the following effects, among others:

(a) resale prices of children's toys have been fixed and maintained; and

(b) competition in the sale of children's toys by dealers has been restrained, suppressed, and eliminated.

VII.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant has combined and conspired to restrain interstate trade and commerce of Playmobil products in violation of Section 1 of the Sherman Act.

2. That the defendant, its officers, directors, agents, employees and successors and all other persons acting or claiming to act on their behalf be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination, conspiracy, contract, agreement, understanding or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

3. That plaintiff have such other relief as the Court may deem just and proper.

4. That plaintiff recover the costs of this action.

Dated:

ANNE K. BINGAMAN
Assistant Attorney General

BRUCE K. YAMANAGA

ROBERT E. LITAN

ANDREW S. COWAN

MARK C. SCHECHTER

STEVEN SEMERARO
D.C. Bar No. 419612

REBECCA P. DICK

Attorneys, U.S. Department of Justice
Antitrust Division
Civil Task Force
1401 H Street, N.W., Room 3700
Washington, D.C. 20530
(202) 514-8368