UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, United States Department of Justice Antitrust Division Merger Task Force 4000 City Center Building 1401 H. St. N.W. Washington, DC 20530 Plaintiff, v. CITADEL COMMUNICATIONS CORPORATION 7201 W. Lake Mead Blvd. City Center West Las Vegas, NV 89128 and TRIATHLON BROADCASTING COMPANY 750 B Symphony Towers Suite 920 San Diego, CA 92101 and CAPSTAR BROADCASTING CORPORATION 600 Congress Ave. Suite 1400 Austin, TX 78701 Defendants.	:	Civil Action No. 1:99CV01043 Filed: April 28, 1999

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to terminate a Joint Sales Agreement ("JSA") between Citadel Communications Corporation ("Citadel") and Triathlon Broadcasting Company ("Triathlon") that eliminates competition in the sale of radio advertising time on certain radio stations in Colorado Springs, Colorado and Spokane, Washington. The United States alleges as follows:

I. Nature of Violation

1. On or about December 15, 1995, Citadel and Triathlon's predecessor corporation (collectively, "the parties") entered into a JSA. Under the terms of the JSA, Citadel sells advertising time for 14 Citadel and Triathlon radio stations that otherwise would have been in competition in Colorado Springs and Spokane.

2. Under the JSA, Citadel sets prices and sells advertising time on the radio stations subject to the JSA in both Colorado Springs and Spokane. Citadel also collects payments from advertisers, makes a monthly report to Triathlon, deducts expenses, and divides the profits between the parties. Citadel and Triathlon have operated under the JSA since 1995.

3. In Colorado Springs, Citadel sells advertising on KKFM-FM and KKMG-FM -- which Citadel owns -- as well as KVUU-FM, KSPZ-FM, KVOR-AM, and KTWK-AM --

which Triathlon owns. Citadel later purchased KKLI-FM and also sells advertising on that station in Colorado Springs.

4. Citadel owns radio stations in Colorado Springs that control approximately 37% of the radio advertising expenditures directed towards listeners in Colorado Springs, while Triathlon owns stations that control approximately 21%. When Citadel combines its and Triathlon's stations under the JSA, it controls approximately 58% of the radio advertising expenditures directed towards listeners in Colorado Springs.

5. In Spokane, Citadel sells advertising under the JSA on KAEP-FM, KDRK-FM, and KGA-AM -- which Citadel owns -- as well as KKZX-FM, KEYF-FM, KEYF-AM, KJRB-AM, and KUDY-AM -- which Triathlon owns. Triathlon later acquired KNFR-FM, KISC-FM, and KAQQ-AM. Triathlon sells advertising time on these stations as well as on KCDA-FM, which it sells under a joint selling agreement with a third party.

6. Citadel owns stations in Spokane that control approximately 25% of the radio advertising expenditures directed towards listeners in Spokane, while Triathlon has placed in the JSA stations that control approximately 19%. When Citadel combines its stations with those of Triathlon's stations that it sells under the JSA, it controls approximately 44% of the radio advertising expenditures directed towards listeners in Spokane.

7. In addition to owning stations in Spokane that Citadel sells under the JSA, Triathlon also owns and sells advertising time on KNFR-FM, KISC-FM, and KAQQ-AM.

Triathlon acquired these stations after it had already entered into the JSA. Triathlon also sells radio advertising time on KCDA-FM through a joint selling arrangement with a third party. These stations control approximately 26% of the radio advertising revenue collected by radio stations selling access to listeners in Spokane. Triathlon's JSA with Citadel reduces Triathlon's incentive to compete aggressively to attract business away from the stations Citadel sells under the JSA because doing so reduces the business of the JSA for which Triathlon receives a share of the profits. Together, Citadel and Triathlon control 70% of the radio advertising expenditures directed towards listeners in Spokane.

8. Citadel, while acting pursuant to the JSA, also attempted to reach an agreement with its remaining competitors in Colorado Springs to eliminate certain discounts. Citadel developed a plan to eliminate a discount for large advertisers who buy radio advertising directly rather than through advertising agencies. In July, 1997, a Citadel representative announced its plan and distributed copies of its policy to a trade association meeting of other Colorado Springs radio stations. The Citadel representative then urged the other radio stations in Colorado Springs to adopt a similar policy, noting that they could all make more money if they were to do so. Citadel later sent a copy of its policy to another radio station that had not been represented at the meeting.

9. Capstar Broadcasting Corporation ("Capstar") has announced its agreement to acquire Triathlon, including its stations in Colorado Springs and Spokane. After it acquires Triathlon, Capstar will become a party to the JSA.

II. Defendants

10. Citadel is a Nevada corporation headquartered in Las Vegas, Nevada. According to industry estimates, it owns 107 radio stations in 20 U.S. markets.

11. Triathlon is a Delaware corporation headquartered in San Diego, California. According to industry estimates, it currently owns 31 radio stations in six U.S. markets.

12. Capstar is a Delaware corporation headquartered in Austin, Texas. According to industry estimates, it currently owns 309 radio stations in 76 U.S. markets. Chancellor Media Company, the largest operator of radio stations in the United States and a company with whom Capstar shares common owners and directors, has announced its intention to acquire Capstar.

III. Jurisdiction and Venue

13. The court has subject-matter jurisdiction over this action pursuant to Section Four of the Sherman Act, 15 U.S.C. § 4, to restrain defendants from violation of Section One of the Sherman Act, 15 U.S.C. § 1.

14. Citadel, Triathlon, and Capstar all sell radio advertising, a commercial activity that substantially affects, and is in the flow of, interstate commerce.

15. The parties have agreed to waive any objection to personal jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337.

16. The parties have agreed to waive any objection to venue in this district under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

IV. The JSA Substantially Reduces Competition for Radio Advertising in Colorado Springs and Spokane

A. The Sale of Radio Advertising Time is the Relevant Product Market In Which to Evaluate the Competitive Effect of the JSA

17. Radio stations in Colorado Springs and Spokane generate almost all of their revenue by selling advertising time to local, regional, and national advertisers.

18. The sale of radio advertising time is the relevant product market in which to evaluate the JSA in both Colorado Springs and Spokane.

19. Many local and national advertisers purchase radio advertising time in Colorado Springs and Spokane because they find such advertising preferable to advertising in other media to meet their specific needs. Reasons for this include the fact that radio advertising time is less expensive and more cost-efficient than other media at reaching certain advertisers' target audiences (individuals most likely to purchase the advertiser's products or services). Radio also reaches certain target audiences that cannot be reached as effectively through other media. Additionally, radio stations render certain services or promotional opportunities to advertisers that they cannot exploit as effectively using other media. For these reasons, many local and national advertisers who purchase radio advertising time view radio either as a necessary advertising medium for them, or as a necessary advertising complement to other media.

20. Although some local and national advertisers may switch some of their advertising to other media rather than absorb a price increase in radio advertising time,

the existence of such advertisers would not prevent all radio stations in the Colorado Springs and Spokane markets from profitably raising their prices a small but significant amount. At a minimum, stations could profitably raise prices to those advertisers who view radio as a necessary advertising medium for them, or as a necessary advertising complement to other media. Radio stations negotiate prices individually with advertisers; consequently, radio stations can charge different advertisers different prices. Radio stations generally can identify advertisers with strong radio preferences. Because of this ability to price discriminate among customers, radio stations can charge higher prices to advertisers that view radio as particularly effective for their needs, while maintaining lower prices for other advertisers.

21. As a result of these characteristics of radio, advertisers often consider one radio station, rather than an alternative form of media, to be the closest substitute for another radio station.

22. Radio stations are aware that one radio station is often the closest substitute for another radio station and thus tend to set the price of their radio advertising time based upon prices charged by other radio stations -- rather than those of alternative media.

B. Colorado Springs is a Relevant Geographic Market In Which to Evaluate the JSA

23. The first relevant geographic market for evaluating the JSA is El Paso County, Colorado, which constitutes the Colorado Springs Metropolitan Survey Area ("MSA"), because advertisers wishing to reach Colorado Springs listeners would not turn

to stations outside of the MSA for three reasons. First, radio signals from other markets do not generally reach Colorado Springs listeners. Second, the relevant industry trade services treat Colorado Springs as a distinct market. For example, Arbitron, a company that surveys radio listeners and provides data about audience size and composition to radio stations and advertisers, uses the Colorado Springs MSA to compare radio stations. Third, advertisers rely upon these industry distinctions in making their buying decisions.

C. Spokane is a Relevant Geographic Market In Which to Evaluate the JSA and Ownership Arrangement

24. The second relevant geographic market for evaluating the JSA is Spokane County, Washington, and Kootenai County, Idaho, which together constitute the Spokane Metropolitan Survey Area ("MSA") because advertisers wishing to reach Spokane listeners would not turn to stations outside of the MSA for three reasons. First, radio signals from other markets do not generally reach Spokane listeners. Second, the relevant industry trade services treat Spokane as a distinct market. For example, Arbitron, a company that surveys radio listeners and provides data about audience size and composition to radio stations and advertisers, uses the Spokane MSA to compare radio stations. Third, advertisers rely upon these industry distinctions in making their buying decisions.

D. The JSA Harms Competition

25. Prior to the JSA, the stations currently owned by Citadel competed with the stations currently owned by Triathlon in both Colorado Springs and Spokane. The

stations were good substitutes for each other within their respective geographic markets because each group of stations could reach a large number of listeners in a variety of demographic groups. During this time, advertisers could obtain lower prices by "playing off" the Citadel stations against the Triathlon stations. Advertisers used the threat to move their business between the Citadel and the Triathlon stations -- as well as to other radio stations -- to get more favorable prices and better service at all radio stations. Advertisers in Colorado Springs and Spokane thus paid less for advertising and enjoyed better service as a result of the competition between the Citadel and Triathlon radio stations.

26. Since the JSA, however, advertisers cannot play the Citadel and Triathlon stations off against each other in either Colorado Springs or Spokane. Because under the JSA Citadel controls such large shares of the markets in both Colorado Springs and Spokane, many advertisers no longer can fulfill their advertising goals by avoiding or "buying around" the JSA stations. Prior to the JSA, an advertiser could choose to buy radio advertising time on a combination of Citadel, Triathlon and independent stations that would allow them to exclude either the Triathlon or Citadel stations -- thus giving both Citadel and Triathlon an incentive to negotiate. After the JSA, however, the Citadel and Triathlon stations subject to the JSA no longer compete. Because the JSA represents a large percentage of the market, many advertisers cannot meet their goals while excluding

the JSA stations. Realizing that these advertisers cannot buy around its JSA, Citadel can raise prices to many advertisers.

27. In addition, in Spokane, the JSA reduces Triathlon's incentive to compete against the JSA using its non-JSA stations. Triathlon obtains a portion of the JSA's profit. Triathlon therefore has less incentive to compete against the JSA than it would have if it did not have an interest in the JSA. Similarly, Citadel has reduced incentives to compete against the non-JSA Triathlon stations because Triathlon is its partner in the JSA.

E. The JSA and Triathlon's Acquisition of Additional Radio Stations in Spokane Have Had Anticompetitive Effects

28. In Colorado Springs, the JSA has reduced competition for the sale of radio advertising time.

29. In Spokane, the JSA between Citadel and Triathlon, as well as Triathlon's acquisition of additional stations, have reduced competition for the sale of radio advertising time.

F. The Entry of New Radio Stations is Unlikely to Prevent Citadel From Imposing an Anticompetitive Price Increase in both Colorado Springs and Spokane

30. If Citadel and Triathlon raised prices to advertisers in Colorado Springs or Spokane, other radio stations in Colorado Springs and Spokane would not and could not mitigate the effect of the price increase by offering additional advertising inventory or changing their formats to provide access to different audiences. An advertiser wishing to reach a broad audience cannot simply run more commercials on fewer stations, because

the advertiser will not reach a broad enough audience without a range of stations. In addition, stations are constrained in their ability to play additional commercials by the tendency of listeners to avoid stations that play too much advertising and the insistence of advertisers on "separation" from similar advertisers. Thus, even if advertisers trying to avoid a price increase wanted to run additional commercials on non-Citadel and Triathlon stations, the stations likely could not accommodate them. Further, even assuming that such a station could accommodate an increase in advertisers, it would recognize an increase in demand for its product and would have an incentive to raise its prices as well. Finally, successful stations are reluctant to change formats because of the risk and costs involved in the format change and unsuccessful stations may not be able to gain a large enough audience to undermine a supra-competitive price increase.

31. New entry has not and is not likely to deter the exercise of market power in either the Colorado Springs or Spokane radio advertising markets through a non-competitive price increase by the JSA and affiliated stations.

32. The JSA violates Section One of the Sherman Act, 15 U.S.C. § 1, in both Colorado Springs, Colorado, and Spokane, Washington.

33. Triathlon's acquisition of additional stations in Spokane after it had entered into the JSA violates Section One of the Sherman Act, 15 U.S.C. § 1, in Spokane, Washington.

V. Requested Relief

34. Plaintiff requests: (a) adjudication that Citadel's JSA with Triathlon in Colorado Springs violates Section One of the Sherman Act, 15 U.S.C. § 1; (b) adjudication that Citadel's JSA with Triathlon and Triathlon's acquisition of non-JSA stations in Spokane violate Section One of the Sherman Act, 15 U.S.C. § 1; (c) entry of an injunction terminating the JSA in both Colorado Springs and Spokane and requiring Capstar to divest KEYF-FM to Citadel in Spokane; (d) entry of an injunction preventing Citadel from discussing the price of radio advertising time with competitors in Colorado Springs and Spokane; and (e) such other relief as is just and proper.

Dated: April 26, 1999

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CERTIFICATE OF SERVICE

I, Karl D. Knutsen, of the Antitrust Division of the United States Department of Justice, do hereby certify that true copies of the foregoing Complaint were served this 26th day of April, 1999, by United States mail, to the following:

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