

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA

HOGAN, J. TFH

UNITED STATES OF AMERICA,
c/o Department of Justice
Antitrust Division
Washington, D.C. 20530

Plaintiff,

v.

GENERAL CINEMA CORPORATION,
27 Boylston Street
Chestnut Hill, Massachusetts 02167

Defendant.

91 00081

Civil Action No.

Filed: January 3, 1991

COMPLAINT FOR CIVIL PENALTY FOR VIOLATION
OF PREMERGER REQUIREMENTS OF HART-SCOTT-RODINO ACT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil action to obtain monetary relief in the form of a civil penalty against the defendant named herein, and alleges as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed and these proceedings are instituted under Section 7A of the Clayton Act, 15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements

Act of 1976 ("Hart-Scott-Rodino Act"), to recover a civil penalty for violation of the Hart-Scott-Rodino Act.

2. This Court has jurisdiction over the defendant and over the subject matter of this action pursuant to 15 U.S.C. § 18a(g) and 28 U.S.C. §§ 1331, 1337, 1345, and 1355.

3. Venue is properly based in this District under 28 U.S.C. §§ 1391(b), 1391(c), and 1395(a); and 15 U.S.C. § 22.

II.

THE DEFENDANT GENERAL CINEMA CORPORATION

4. General Cinema Corporation ("General Cinema") is made a defendant herein. General Cinema is incorporated in the State of Delaware. Its principal executive offices are located at 27 Boylston Street, Chestnut Hill, Massachusetts 02167. General Cinema is a motion picture exhibitor and department store retailer. During the relevant period of this Complaint, defendant was also in the carbonated soft drink industry.

III.

NON-PARTY CADBURY SCHNEPPES p.l.c.

5. Cadbury Schweppes p.l.c. ("Cadbury Schweppes") is incorporated in the United Kingdom, and its stock is traded through the London Stock Exchange. The principal executive offices of Cadbury Schweppes are located at 1 - 4 Connaught Place, London W2 2EX. Cadbury Schweppes is, and during the

relevant period of this Complaint was, in the confectionery and carbonated soft drink industries.

IV.

VIOLATIONS ALLEGED

6. The Hart-Scott-Rodino Act, 15 U.S.C. § 18a, prohibits certain acquisitions of voting securities or assets until after a notification and report form has been filed with the Department of Justice and the Federal Trade Commission, and a waiting period has expired.

7. Defendant General Cinema and non-party Cadbury Schweppes at all times pertinent to this proceeding have been engaged in commerce, or in activities affecting commerce, within the meaning of Section (a)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(a)(1).

8. Defendant General Cinema and non-party Cadbury Schweppes at all times pertinent to this proceeding had sales or assets above the filing thresholds established by Section (a) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(a).

9. On or about September 3, 1986, defendant began to acquire voting securities of Cadbury Schweppes. These acquisitions were accomplished by open market purchases through the London Stock Exchange. Defendant continued to acquire voting securities of Cadbury Schweppes after September 3, 1986.

10. On or about September 11, 1986, the aggregate total amount of the value of defendant's holdings of voting securities of Cadbury Schweppes exceeded \$15 million.

11. During the ensuing period from about September 12, 1986, through about January 26, 1987, defendant acquired additional voting securities of Cadbury Schweppes.

12. The transaction described in paragraph 10, and the further transactions described in paragraph 11, were subject to the notification and report and waiting period requirements of the Hart-Scott-Rodino Act and the regulations promulgated thereunder, 16 C.F.R. § 800 et seq. The Hart-Scott-Rodino Act and regulations in effect during the time period pertinent to this proceeding required that defendant file a notification and report form with the Department of Justice and the Federal Trade Commission and observe a waiting period before acquiring and holding an aggregate total amount of voting securities of Cadbury Schweppes in excess of \$15 million.

13. Defendant did not comply with the reporting and waiting period requirements of the Hart-Scott-Rodino Act and regulations in connection with the transactions described in paragraphs 10 and 11.

14. On or about January 26, 1987, defendant filed a notification and report form under the Hart-Scott-Rodino Act and regulations with the Department of Justice and the Federal Trade Commission. The waiting period relating to this filing expired on or about February 25, 1987.

15. Defendant was in violation of the Hart-Scott-Rodino Act each day during the period beginning on or about September 11, 1986, and ending on or about February 25, 1987, a total of 168 days.

16. Section (g)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(g)(1), provides that any person who fails to comply with the Hart-Scott-Rodino Act shall be liable to the United States for a civil penalty of not more than \$10,000 for each day during which such person is in violation of the Hart-Scott-Rodino Act.

V.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that defendant's purchases of voting securities of Cadbury Schweppes during the period beginning on or about September 11, 1986, and ending on or about January 26, 1987, without having filed a notification and report form and observed a waiting period, were in violation of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a, and that defendant was in violation of the Hart-Scott-Rodino Act each day during the period beginning on or about September 11, 1986, and ending on or about February 25, 1987, a total of 168 days;

2. That defendant be ordered to pay to the United States Treasury the maximum civil penalty provided by Section (g)(1) of the Hart-Scott-Rodino Act, 15 U.S.C. § 18a(g)(1);


3. That the plaintiff have such other and further relief as the Court shall deem just and proper; and

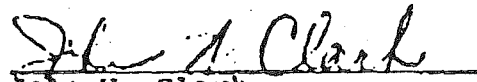
4. That the Court award plaintiff its costs of this suit.

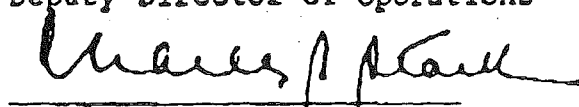
Dated: January 3, 1991

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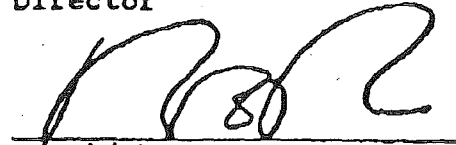
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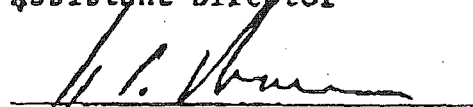
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