

the Sentinel Star, a daily and Sunday newspaper distributed primarily in the Orlando metropolitan area, including Osceola County.

The complaint alleged that the probable effect of the Sentinel Star Company's acquisition of the the five Osceola County publications would be substantially to lessen competition in the markets for local advertising directed at Osceola County and local print advertising directed at Osceola County. The complaint sought divestiture of the unlawfully-acquired stock and assets and an injunction against further acquisitions of competing local advertising media within the Sentinel Star's primary market area. Following discovery and the Court's denial of defendants' motion to dismiss for lack of subject matter jurisdiction, which contended that the acquired publications were not engaged in activities substantially affecting interstate commerce, the parties reached an agreement settling the case.

II. THE NATURE OF THE ALLEGED VIOLATION

The Orlando Sentinel is the largest newspaper in central Florida in both circulation and advertising revenues. In 1980 it had an average daily circulation in its primary market area of 198,497 on Sundays and 168,257 on weekdays. The Sentinel Star's primary market area at the time of the acquisition consisted of Lake, Orange, Osceola, Seminole, and southwest Volusia Counties.

The Orlando Sentinel publishes zoned editions, in the form of "little sentinels," containing local news, features, and other information of special interest to its readers within each zone. The Sentinel sells advertising space in its zoned sections to retailers and others who desire to reach only the paper's readers in a particular zone or zones.

Osceola County is a retail trading area and residential community south of Orlando. It is a predominantly rural area with approximately 50,000 residents, the majority of whom live in and around the cities of Kissimmee and St. Cloud. These cities are separated from Orlando and other population centers by miles of sparsely populated ranch and farm land.

The Orlando Sentinel publishes a little sentinel for Osceola County. At the time of the complaint the Osceola little sentinel was included in all copies of the Sentinel Star distributed in Osceola County every day except Saturday and Monday. In 1980 the Sentinel Star had an average daily circulation in Osceola County of 9,835 and an average Sunday circulation of 12,199.

The five Osceola County publications -- the Kissimmee Gazette, the St. Cloud News, This Week in Osceola County, the Osceola Shopper, and the St. Cloud Shopper -- were acquired by the Sentinel Star Company in 1980 from Richard L. Luzadder and Peggy S. Luzadder.

The Kissimmee Gazette and the St. Cloud News are paid-circulation weekly newspapers published and distributed within Osceola County. In 1980 they had a combined weekly circulation of approximately 3,400 copies. This Week in Osceola County is a free-circulation weekly newspaper published and distributed within Osceola County. Its average weekly circulation was 15,200 in 1980. The Osceola Shopper, a shopping guide containing only advertising, is distributed free to all households in Osceola County on a weekly basis. Its average circulation in 1980 was approximately 22,000. The St. Cloud Shopper, at the time of the acquisition, was distributed free weekly to all households in the St. Cloud area of Osceola County. Its 1980 average weekly circulation was approximately 7,000. It has since become a zoned edition of the Osceola Shopper.

All five of the former Luzadder publications sell advertising to local retailers and others who desire to reach an Osceola County audience. Prior to the sale of these publications to the Sentinel Star Company, they were the only substantial competitors of the Sentinel Star in the sale of local print advertising directed at Osceola County.

On October 15, 1980, the Tribune Company, through its wholly-owned subsidiary, the Sentinel Star Company, acquired the Luzadder publications for \$4,139,289. The effect of the acquisition was to increase the level of concentration in

markets that were already highly concentrated. The complaint alleged that in 1979 the Sentinel Star received nearly two-thirds of the total amount spent for local print advertising directed at Osceola County residents, and the Luzadder publications accounted for substantially all of the remainder. Even including all other forms of local advertising directed at Osceola County, the complaint alleged that the Sentinel Star and the Luzadder publications accounted for well over half of the market, with the Sentinel Star having a market share of approximately 40 percent and the Luzadder publications approximately 20 percent.

The probable effect of an increase of this magnitude in the level of concentration in the markets for local advertising and local print advertising aimed at residents of Osceola County was a substantial lessening of competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

III. THE PROPOSAL FOR A CONSENT JUDGMENT AND ITS ANTICIPATED EFFECT ON COMPETITION

A. Explanation of the Proposed Final Judgment

The proposed consent decree by which the parties would settle this case requires defendants to divest their entire interest in the former Luzadder publications within twelve months, with a possible six-month extension. Divestiture must be unconditional, to a purchaser or purchasers not owned or controlled by defendants. Both the purchaser and the terms of sale must be approved by plaintiff or, failing such approval,

by the Court. Defendants must maintain a record of their efforts to sell the publications, including identification of persons to whom the publications have been offered or who have expressed an interest in acquiring the publications and the terms of each offer to sell or purchase. Defendants may divest less than all of the former Luzadder publications only if such partial divestiture is specifically approved by plaintiff as constituting substantial compliance with the terms of the judgment.

If defendants have not divested all of the publications within the specified period, the proposed final judgment establishes a procedure for the appointment of a trustee to effect the divestiture. The trustee would be authorized to sell the publications for any reasonable price and on any reasonable terms then available.

The decree provides that plaintiff and, if a trustee is responsible for the divestiture, defendants will receive advance notice and an opportunity to object to any proposed divestiture. If one of the parties objects, the proposed sale may not be consummated unless approved by the Court after a hearing.

Defendants also are enjoined by the decree from acquiring the stock or assets of any person engaged in publishing, distributing, or selling local advertising in print media in any portion of the Orlando Sentinel's primary market area. This provision expires ten years from the date of entry of the decree.

B. Competitive Effect of the Proposed Final Judgment

The proposed final judgment gives the government substantially all the relief sought in the complaint. It would undo the merger and restore competition to the market. */ The only difference between the relief provided by the decree and that requested in the complaint is that the injunction against further acquisitions is limited to print media rather than extending to all media carrying local advertising. The government believes this concession was reasonable in light of the relief obtained.

Although Osceola County is a relatively small market, the relief obtained here is important both in restoring a competitive marketplace for local advertisers and consumers affected by this acquisition and for the effect it may have in inhibiting similar acquisitions in other markets. Today there are relatively few areas with directly competing metropolitan daily newspapers. Much of the competition faced by daily newspapers comes from weeklies and shoppers. As competition between daily newspapers decreases, and the competition provided by other publications such as weekly newspapers and shoppers increases in importance, the need to protect against a

*/ Another shopping guide directed at Osceola County residents began publishing after this case was filed, but its entry into the market did not offset the anticompetitive impact of the acquisition.

substantial lessening of competition through acquisitions by daily newspapers of their weekly and shopper competitors also becomes more important.

IV. REMEDIES AVAILABLE TO PRIVATE PARTIES

Entry of the proposed consent judgment will have no effect on the rights of persons who may have been injured by the alleged violation. Private plaintiffs may sue for money damages or any other legal or equitable remedy. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a).

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

For a period of 60 days following the filing of the proposed consent judgment and its publication in the Federal Register, interested persons may submit written comments concerning the proposed judgment to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the government's response will be filed with the Court and published in the Federal Register. The government will carefully consider all comments to determine if there is any reason for withdrawing its consent to the proposed judgment, which it may do at any time before the decree is entered by the Court. The Court will retain jurisdiction over the judgment following its entry so as to permit any of the parties to apply for orders modifying or enforcing the decree.

VI. ALTERNATIVES ACTUALLY CONSIDERED

Because the decree grants substantially all the relief requested in the complaint, no alternative to the proposed decree was considered by the government.

VII. DETERMINATIVE DOCUMENTS AND MATERIALS

There are no materials or documents that the United States considered determinative in formulating this proposed final judgment. Accordingly, none are being filed with this competitive impact statement.

Respectfully submitted,

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