

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
T.I.M.E.-DC. INC.,)
)
Defendant.)

Civil Action No. 5-1063

Filed: June 30, 1972

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 to obtain equitable relief against the above-named defendant, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted against the defendant under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, commonly known as the Sherman Act, in order to prevent and restrain the continuing violations by the defendant, as hereinafter alleged, of Sections 1 and 2 of said Act (15 U.S.C. §§1 and 2).

2. The defendant T.I.M.E.-DC. Inc. maintains an office, transacts business, and is found within the Northern District of Texas, Lubbock Division.

II

THE DEFENDANT

3. T.I.M.E.-DC. Inc. is made the defendant herein. T.I.M.E.-DC. Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at Lubbock, Texas. T.I.M.E.-DC. Inc. is a corporation resulting from the merger in January 1969 of T.I.M.E., Inc., D.C. International, Inc., and L.A.S.M.E. "T.I.M.E.-DC. Inc.," as used herein, refers to T.I.M.E.-DC. Inc. and its predecessor companies, during the applicable periods.

III

TRADE AND COMMERCE

4. The defendant is a common carrier truck line which is engaged in transporting goods and merchandise between places located throughout the United States. In 1970, the defendant ranked as the sixth largest motor carrier in the United States, with revenues of approximately \$122 million, and operated through 47 terminals and over 37,000 miles of routes in 47 states and in Canada.

5. The defendant purchases substantial quantities of trucks, tractors, trailers, tires, motor fuel, lubricants, and other equipment, supplies, commodities, and services from other companies for use in its own operations. Many of the defendant's suppliers control the routing (as consignees or shippers) of substantial amounts of freight of the kinds the defendant is authorized to carry, between places served by the defendant.

6. The defendant's purchases of trucks, tractors, trailers, tires, motor fuel, lubricants, and other equipment, supplies, commodities, and services from its suppliers are made in a continuous flow of interstate commerce. Conversely, the common carrier services provided by the defendant to these suppliers and to its other customers are performed in a continuous flow of interstate commerce.

IV

VIOLATIONS ALLEGED

7. Since at least as early as 1962, and continuing to the date of this complaint, the defendant has violated Section 1 of the Sherman Act (15 U.S.C. § 1) by entering into combinations involving reciprocal purchasing arrangements with respect to a substantial amount of interstate commerce whereby the defendant has purchased products and services from various suppliers upon the understanding that those suppliers would purchase the services of the defendant, in unreasonable restraint of the aforesaid trade and commerce.

8. Since at least as early as 1962, and continuing to the date of this complaint, the defendant, through the use of its purchasing power, has violated Section 2 of the Sherman Act (15 U.S.C. § 2) by attempting to monopolize that part of the aforementioned interstate trade and commerce consisting of the requirements of actual and potential suppliers of the defendant for services of the kind provided by the defendant.

9. Pursuant to the aforesaid combinations and attempt to monopolize, the defendant has done, among other things, the following:

- (a) adopted a policy of reciprocal purchasing or of purchasing from suppliers who would purchase from the defendant;
- (b) designated from time to time trade relations managers with the specific responsibility of coordinating trade relations to facilitate and promote the practice of reciprocal dealing;
- (c) maintained comparative purchase and sales records to measure the balance of purchases from, and sales to, suppliers;
- (d) took measures to insure that actual and potential suppliers were aware of the defendant's practice of reciprocal purchasing;
- (e) discussed with actual and potential suppliers their sales and purchase positions relative to the defendant;
- (f) caused suppliers to purchase, maintain, or increase their purchases from the defendant in reciprocation for the defendant's purchases from those suppliers;
- (g) purchased goods and services from particular suppliers upon the understanding that those suppliers would purchase the services of the defendant;
- (h) refused to buy or reduced purchases from certain suppliers who did not purchase, maintain purchases, or increase purchases from the defendant; and
- (i) belonged to and took an active part in the Trade Relations Association, Inc., for the purpose of promoting the defendant's trade relations program

V

EFFECTS

10. The aforesaid violations by the defendant have had the following effects, among others:

- (a) competitors of the defendant have been foreclosed from providing substantial amounts of common carrier services to firms that are actual and potential suppliers of the defendant; and
- (b) suppliers of various goods and services required by the defendant have been foreclosed from selling substantial quantities of such goods and services to the defendant.

PRAYER

WHEREFORE, plaintiff prays:

1. That the aforesaid combinations between the defendant and its suppliers involving reciprocal purchasing arrangements be adjudged and decreed to be in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. That the aforesaid attempt to monopolize be adjudged and decreed to be in violation of Section 2 of the Sherman Act (15 U.S.C. § 2).

3. That the defendant and its officers, directors, agents, and all other persons acting on its behalf be perpetually enjoined from:

- (a) entering into or adhering to any contract, agreement or understanding with any supplier involving reciprocal purchasing arrangements;
- (b) communicating to suppliers that it will place its purchases with or give preference to suppliers who purchase from the defendant;

- (c) engaging in the practice of compiling statistics which compare the defendant's purchases of goods or services from companies with sales by the defendant to such companies;
- (d) discussing with suppliers comparative purchase and sales data of such companies relative to the defendant;
- (e) compiling lists of approved suppliers based entirely or in part on suppliers' purchases from the defendant;
- (f) transmitting to personnel with sales responsibilities information concerning purchases by the defendant from particular suppliers, transmitting to personnel with purchasing responsibilities information concerning sales by the defendant to particular companies, or otherwise implementing any program involving reciprocity; and
- (g) utilizing purchases by one of the defendant's subsidiaries, affiliated companies or divisions from particular suppliers to promote sales to such suppliers by another of the defendant's subsidiaries, affiliated companies or divisions.

4. That this Court order the defendant to abolish any duties that are assigned to any of its officials or employees which relate to the conduct or effectuation of a reciprocity or trade relations program.

5. That this Court order the defendant to advise all of its suppliers, by written notice, that the defendant no longer engages in reciprocal purchasing and to furnish a

copy of the Final Order of this Court to such suppliers.

6. That plaintiff have such other relief as the nature of the case may require and the Court may deem just and proper.

7. That plaintiff recover the costs of this action.

Richard G. Kleindienst

RICHARD G. KLEINDIENST
Attorney General

BERNARD J. O'REILLY

Attorney, Department of Justice

Walker B. Comegys

WALKER B. COMEGYS
Acting Assistant Attorney General

Baddia J. Rashid

BADDIA J. RASHID

LEWIS BERNSTEIN

Attorneys, Department of Justice

United States Attorney