

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ASSOCIATION OF RETAIL TRAVEL AGENTS,

Defendant.

CASE NUMBER 1:94CV02305

JUDGE: Paul L. Friedman

DECK TYPE: Antitrust

DATE STAMP: 10/25/94

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 under Section 4 of the Sherman Act, 15 U.S.C. § 4, in order to prevent and restrain violations by defendant of Section 1 of the Sherman Act, 15 U.S.C. § 1, and 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, within the meaning of 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

II.

DEFENDANT

3. Association of Retail Travel Agents, Ltd. ("ARTA"), is a

District of Columbia nonprofit corporation with its principal place of business in Arlington, Virginia. ARTA is a trade association with over two thousand members who act as retail travel agents selling transportation and accommodations ("travel services") to the public as agents for airlines, hotels, cruise lines, rental car companies and other providers of travel services ("travel providers"). ARTA's members compete with one another both to sell travel services to the public and to act as selling agents for travel providers.

### III.

#### TRADE AND COMMERCE

4. Airlines, hotels, rental car companies, cruise lines, and other travel providers sell a significant portion of their travel services to the public through travel agents, including the members of defendant. Travel agents inform consumers about the price, availability and other details of various travel options and make reservations and sell tickets to the travellers for the travel services they choose. Roughly 80% of airline sales, 30% of hotel sales, 50% of rental car sales and 95% of cruise line sales in the United States are made through travel agents. In 1993, the amount of such sales by travel agents was in excess of \$90 billion.

5. Travel agents sell travel services to the public as agents of the travel providers. Travel agents normally do not charge travellers directly for their services; instead, travel providers pay commissions to the travel agents for the sales the

agents make on behalf of the travel providers. These commissions vary and are established between individual travel agents and travel providers. These commissions generally are included in the price the consumer pays for airline tickets, hotel accommodations, rental cars, cruises and other travel services. The lower the sales commissions established between individual travel agents and travel providers, the lower the total cost of travel services to the consumer.

6. A substantial proportion of the commissions earned by travel agents, including members of defendant, are derived from the sale of travel services that are within the flow of and substantially affect interstate and foreign trade and commerce.

7. The sale of travel services by travel agents constitutes a line of commerce and a relevant product market within the meaning of Section 1 of the Sherman Act.

8. The United States constitutes a relevant geographic market within the meaning of Section 1 of the Sherman Act.

#### IV.

#### ALLEGED VIOLATION

9. On or about October 16, 1993, the members of defendant, through its Board of Directors, adopted a statement of objectives for defendant and its members. That statement, entitled "ARTA Objectives for the Travel Agency Community," constitutes an agreement among the members of defendant's Board of Directors and among defendant's members as to the matters contained therein.

10. Included among the ARTA Objectives described in

Paragraph 9 are agreements concerning the amount of commissions that certain travel providers should pay to travel agents, including members of defendant, and agreements as to the terms under which travel providers should transact business with travel agents, including members of defendant.

11. On or about October 19, 1993, defendant held a press conference, attended by defendant's president and two members of its Board of Directors, where it announced and disseminated the contents of the ARTA Objectives. The contents of the ARTA Objectives were subsequently disseminated to travel providers, its own members and other travel agents through publications that are widely circulated among travel agents and travel providers.

12. Shortly after defendant's public announcement of the ARTA Objectives, a member of defendant's Board of Directors made a public statement, through a press release, that he and his travel agency would refuse to deal with certain travel providers who did not comply with the ARTA Objectives. In making that announcement, the defendant's director stated that he "encourage[d] owners and managers [of travel agencies] nationwide to join this effort."

13. Thereafter, at least one other member of defendant's Board of Directors made a public announcement that she and her travel agency would also refuse to deal with the travel providers who did not comply with the ARTA Objectives.

14. As a result of the actions of its president and directors described above, defendant and its members agreed on

commission levels and other terms of trade on which ARTA members and other travel agents should transact business with travel providers, and invited, encouraged and participated in a group boycott of certain travel providers to induce them to agree to those commission levels and other terms of trade.

15. The group boycott and agreement on commissions and other terms of trade described above had the effect of unreasonably restraining trade in the sale of travel services by travel agents.

16. The group boycott and agreement on commissions and other terms of trade described above constitutes a contract, combination or conspiracy in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. There is a significant likelihood that the offense will recur unless the relief hereinafter prayed for is granted.

PRAYER

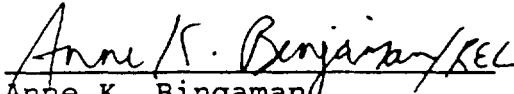
WHEREFORE, plaintiff prays:

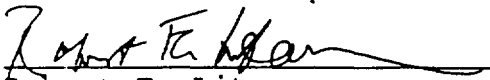
1. That defendant be enjoined from inviting or encouraging concerted action by travel agents that has the purpose or effect of specifying the commission levels paid by travel providers to travel agents, or of specifying the terms of trade between travel agents and travel providers;

2. That plaintiff have such other or further relief as the Court may deem just and proper; and

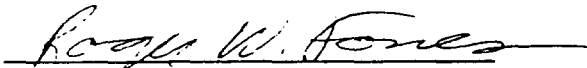
3. That plaintiff recover the costs of this action.'

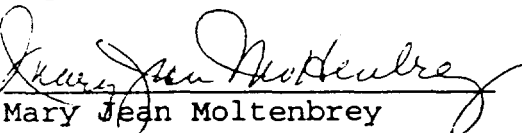
Dated: October 25, 1994

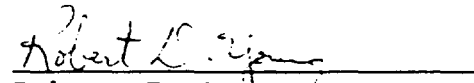
  
Anne K. Bingaman  
Assistant Attorney General

  
Robert E. Litan  
Deputy Asst. Atty. General

  
Mark C. Schechter

  
Roger W. Fones

  
Mary Jean Moltenbrey

  
Robert D. Young  
D.C. Bar # 248260

  
Nina B. Hale

Attorneys  
U.S. Department of Justice  
Antitrust Division  
Transportation, Energy, and  
Agriculture Section  
555 Fourth Street, N.W.  
Washington, D.C. 20001

(202) 307-6318