

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Metro Associated Services, Inc., U.S. District Court, N.D. Iowa, 1964 Trade Cases ¶71,078, (May 4, 1964)

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United States v. Metro Associated Services, Inc.

1964 Trade Cases ¶71,078. U.S. District Court, N.D. Iowa, Western Division. Civil Action No. 1337. Entered May 4, 1964. Case No. 1730 in the Antitrust Division of the Department of Justice.

Sherman Act

Refusal to Deal—Customer Selection—Newspaper Advertising Mats—Exclusive Use by One Newspaper in a Community—Consent Judgment.—A manufacturer of newspaper advertising mats would be prohibited under the terms of a consent judgment from refusing to sell its advertising mats to any newspaper, required to stop giving exclusive use of its advertising mats to only one newspaper in a community, and required to cancel all of its existing exclusive contracts.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, William D. Kilgore, Jr., Harry G. Sklarsky, Donald E. O'Brien, United States Attorney, Earl A. Jinkinson, Francis C. Hoyt, and John J. Lannon, Attorneys, Department of Justice.

For the defendant: Stewart H. M. Lund and Maxwell E. Sparrow, New York, N. Y.

Final Judgment

HANSON, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on December 28, 1962, and defendant having appeared through its attorneys, and the parties through their respective attorneys having consented to the entry of this Final Judgment, without any admission by any party in respect to the facts or issues herein, and without trial or adjudication of any fact or law:

Now, therefore, it is hereby ordered, adjudged and decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter herein and of the parties hereto, and the complaint states a claim upon which relief may be granted against the defendant under Section I of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) "Defendant" shall mean Metro Associated Services, Inc., a corporation organized and existing under the laws of the State of New York with its principal, place of business at New York, New York.

(B) "Advertising service" shall mean a newspaper advertising mat service consisting of a catalog of illustrations, art work and suggested advertisements a newspaper may use to assist local advertisers in the preparation of some of their advertising. Such mats are a paper-like substance used to produce a substitute for a cut or engraving for the reproduction of display advertising.

(c) "Newspaper" shall mean a daily or weekly publication published under one trade name whether the publication is sold or distributed gratis.

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III

[*Applicability*]

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its subsidiaries, successors and assigns and to each of its officers, directors, agents, members and employees, and other persons in active concert or participation with said defendant who shall receive actual notice of the Final Judgment by personal service or otherwise.

IV

[*Prohibited Practices*]

Defendant is enjoined and restrained from:

- (A) Refusing to sell or license use of its advertising services on a non-discriminatory and non-exclusive basis to any newspaper making a written request therefor; or
- (B) Entering into or carrying out any agreement or understanding to grant to any newspaper the sole or exclusive right to purchase or license defendant's advertising service.

V

[*Permissive Provisions*]

Nothing contained in this Final Judgment shall be deemed to prohibit defendant from refusing to sell or license its advertising service to any newspaper where

- (A) A newspaper does not agree to pay defendant's list price, royalty, or licensing fee for the use of such advertising service by such separate newspaper in each city in which the advertising service will be used.
- (B) A newspaper has an inadequate credit rating or for other sound business reasons of a non-discriminating nature.
- (C) A newspaper refused to enter an agreement to purchase or use defendant's monthly advertising service for at least one year.

VI

[*Cancellation of Contracts*]

The defendant is ordered and directed within nine (9) months of the date of the entry of this Final Judgment to terminate and cancel all such portions of its contracts or licenses as are contrary to or inconsistent with any of the provisions of paragraph IV of this Final Judgment and to notify its subscribers, customers, and licensees of such termination and cancellation.

VII

[*Copyright Protection*]

The defendant shall be entitled to all rights and privileges accruing to it by reason of the copyright laws unless such rights and privileges be contrary to or inconsistent with any of the provisions of paragraph IV of this Final Judgment.

VIII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written

request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to defendant, at its principal office, be permitted:

(A) Access, during the office hours of defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of defendant relating to any of the matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview the officers and employees of defendant, who may have counsel present, regarding any such matters.

Defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.