

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

UNITED STATES OF AMERICA,  
Plaintiff

CIVIL ACTION

v.

No. 7634 - A

DAIRYMEN, Inc.,  
Defendant.

FINAL JUDGMENT AND INJUNCTION

The Court, having entered a judgment on April 5, 1978, and on June 28, 1978, having entered a supplemental judgment; and the United States Court of Appeals for the Sixth Circuit, having directed this Court to vacate that part of those judgments which dismissed portions of the plaintiff's complaint; and the Court, having entered findings of fact and conclusions of law on June 9, 1983, and having considered the briefs of the parties with regard to the appropriate judgment to be entered, and being fully advised in the premises,

IT IS NOW ORDERED AND ADJUDGED as follows:

Those portions of the April 5, 1978 and June 21, 1978 judgments which ordered injunctive relief against Dairymen, Inc. are hereby reaffirmed and made a part of this judgment.

IT IS FURTHER ORDERED AND ADJUDGED that the defendant, having violated Section 3 of the Clayton Act, be and it is hereby enjoined from:

(1) Requiring any buyer of milk, as a condition of receiving any milk from defendant, to enter into any

contract, agreement, or understanding to accept a supply of milk for more than thirty (30) days;

(2) Entering into or enforcing any contract, agreement, or understanding with any buyer of milk which binds such buyer to purchase a supply of milk from defendant for a period in excess of one (1) year, provided, however, that nothing in this judgment prohibits any buyer from securing an assured supply of milk from defendant for a period in excess of one (1) year through options to buy or other arrangements that do not commit such buyer to purchase milk from defendant for more than one year;

(3) Entering into or enforcing any contract, agreement, or understanding for the sale of milk unless the buyer had the opportunity to purchase from defendant under such contract, agreement, or understanding any lesser quantity of milk than was offered for sale by defendant; provided, however, defendant may require the buyer to receive milk in truckload quantities;

(4) Requiring or attempting to require any buyer of milk to purchase milk for delivery to one plant as a condition to the sale and delivery of milk to any other plant of such buyer.

IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff, United States of America, recover its costs from the defendant, Dairymen, Inc.

IT IS FURTHER ORDERED AND ADJUDGED that this injunction shall remain in effect for a period of five (5)

years from the date of its entry, provided, however, that the Court at any time during the five-year period may, upon good cause shown by the United States, extend the period.

IT IS FURTHER ORDERED AND ADJUDGED that defendant shall file with plaintiff annually for a period of five (5) years, on or before June 30th, a report setting forth the steps taken by its Board of Directors to advise its officers, directors, employees, members and all appropriate committees of its and their obligations under this final judgment.

IT IS FURTHER ORDERED AND ADJUDGED that defendant shall mail or otherwise furnish within ninety (90) days after the entry of this final judgment a copy thereof to each of its members and employees, to each person purchasing milk from or selling milk to defendant, and to any organization for which defendant acts as marketing agent, and within one hundred fifty (150) days from the aforesaid date of entry to file with the Clerk of the Court an affidavit setting forth the fact and manner of compliance with this and the following paragraph.

IT IS FURTHER ORDERED AND ADJUDGED that defendant shall publish, in a publication circulated to all its members, a copy of this final judgment once each year for two (2) years on or about the anniversary date of entry of this final judgment, and to furnish a copy of this final judgment to any person upon request.

IT IS FURTHER ORDERED AND ADJUDGED that for the purpose of determining or securing compliance with this final judgment and for no other purpose, the defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant at its principal office, subject to any legally recognized privilege:

(1) Access, during the regular business hours of defendant, who may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant which relate to any matters contained in this final judgment;

(2) Subject to the reasonable convenience of the defendant, and without restraint or interference from it, to interview any officers or employees of defendant, who may have counsel present, regarding any matters contained in this final judgment.

IT IS FURTHER ORDERED AND ADJUDGED that for the purpose of determining or securing compliance with this final judgment and for no other purpose, the defendant shall submit such reports in writing, under oath if so requested, with respect to any matters contained in this final judgment as may from time to time be requested in writing by the

Attorney General or the Assistant Attorney General in charge of the Antitrust Division.

IT IS FURTHER ORDERED AND ADJUDGED that no information obtained by the means provided in the two preceding paragraphs, this paragraph and the following paragraph shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

IT IS FURTHER ORDERED AND ADJUDGED that if at any time information or documents are furnished by defendant to plaintiff, and defendant represents and identifies in writing that the material in any such information or document is of a type described in Rule 26(c)(7), Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

IT IS FURTHER ORDERED AND ADJUDGED that jurisdiction is retained by this Court for the purpose of enabling any of the parties to this final judgment to apply to this Court at any time for such further orders and directions as may be

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necessary or appropriate for the construction of or carrying out of this final judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

This is a final and appealable judgment and there is no just cause for delay.

Dated 10-26-83



Charles M. Allen, Chief Judge

cc: Counsel of Record

ENTERED

OCT 26 1983

JESSE W. GRIDER, CLERK  
BY JESSE W. GRIDER, CLERK  
DEPUTY CLERK  
DEPUTY CLERK

