

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Allied Appliance Co., U.S. District Court, D. Massachusetts, 1962 Trade Cases ¶70,381, (Jul. 30, 1962)

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United States v. Allied Appliance Co.

1962 Trade Cases ¶70,381. U.S. District Court, D. Massachusetts. Civil Action No. 62-482-F. Entered July 30, 1962 Case No. 1685 in the Antitrust Division of the Department of Justice.

Sherman Act

Resale Price Fixing—Refusal to Deal—Electrical Appliances—Consent Judgment.— A wholesaler was prohibited by a consent judgment from entering into any agreement with retail customers fixing prices, profits margins, or other terms for the sale of electrical appliances to third persons, or boycotting any retail customer. Also, the wholesaler was prohibited from refusing to sell appliances to any customer because of the customer's refusal to agree or adhere to any prohibited agreement.

For the plaintiff: Lee Loevinger Assistant Attorney General, Harry G. Sklarsky, John J. Galgay, and John D. Swartz, Attorneys, Department of Justice.

For the defendant: Joseph J. Gottlieb, Morton Steinberg, and Samuel London.

Final Judgment

FORD, District Judge [*in full text*]: Plaintiff, United States of America, having filed its complaint herein on June 29, 1962, the defendant having appeared, and the plaintiff and defendant, by their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without an admission by any party in respect of any such issue;

Now, therefore, before the taking of any testimony and upon the said consent of the parties, it is hereby:

Ordered, adjudged and decreed, as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter herein and the parties hereto, and the complaint states a claim upon which relief may be granted against the defendant under Section 1 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) "Person" shall mean any individual, partnership, firm, corporation or other business or legal entity; and

(B) "Appliances" shall include but not be limited to television receivers, phonographs, radios, air conditioners, dehumidifiers and vacuum cleaners.

III

[*Applicability*]

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

IV

[Price Fixing]

Defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering, or claiming any rights under, any contract, combination, conspiracy, agreement or understanding with any other person having the purpose or effect of:

(A) Fixing, determining, establishing, maintaining or stabilizing prices, profit margins, pricing systems, markups, discounts or other terms or conditions for the sale of appliances to any third person;

(B) Boycotting or threatening to boycott any person in connection with the sale or distribution of appliances;

Hindering, restricting, limiting or preventing any person from purchasing or selling appliances.

V

[Refusal to Deal]

The defendant is enjoined and restrained from refusing to enter into any contract or agreement with any person for the sale or distribution of appliances because of his refusal to agree or adhere to any contract, agreement or understanding contrary to any of the provisions of this Final Judgment.

VI

[Lawful Activities]

The provisions of this Final Judgment shall not restrict the right of the defendant to exercise such lawful rights which it may have, in connection with the sale and distribution of appliances, to choose and select its own customers or to enter into lawful resale price maintenance agreements with its customers.

VII

[Notice of Judgment]

The defendant is ordered and directed to place an advertisement or notice, setting forth the substantive terms of this Final Judgment, in two successive issues of each of two publications of general circulation in the retail appliance trade in Massachusetts and New Hampshire.

VIII

[Inspection and Compliance]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, shall, on written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office, be permitted, subject to any legally recognized privilege, (A) reasonable access, during office hours, to all books, ledgers, accounts, minutes, correspondence, memoranda and other records and documents in the possession or under the control of the defendant, relating to any matters contained in this Final Judgment, and (B), subject to the reasonable convenience of the defendant, and without restraint or interference from it, to interview officers and employees of the defendant, who may have counsel present, regarding any such matters. Upon such written request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of 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 the plaintiff, except, in the course of legal proceedings in 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 or termination of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.