

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Machine Chain Manufacturers Association, et al., U.S. District Court, D. Rhode Island, 1955 Trade Cases ¶68,009, (Mar. 18, 1955)

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United States v. Machine Chain Manufacturers Association, et al.

1955 Trade Cases ¶68,009. U.S. District Court, D. Rhode Island. Civil Action No. 1816. Dated March 18, 1955. Case No. 1219 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Price Fixing—Consent Decree—Practices Enjoined —Pricing Practices —Machine-Made Chain.—Manufacturers of machine-made chain were enjoined by a consent decree from entering into any understanding with any other such manufacturer or with any association or central agency for such manufacturers to (1) fix or maintain prices, pricing methods, discounts, or other conditions used by any person, (2) circulate or exchange any price lists in advance of publication to customers, or (3) circulate or exchange any statistics representing costs of operation for the purpose of fixing prices.

Each manufacturer was ordered to cease utilizing any cost or pricing formula, which has not been independently determined, as a means of determining the price at which the manufacturer will sell any style, size, or design of machine-made chain; and ordered to withdraw its presently effective price lists, to individually review the prices withdrawn on the basis of its individual cost figures and individual judgment as to profits, and to issue a new price list on the basis of such review.

Combinations and Conspiracies — Trade Association — Consent Decree — Practices Enjoined—Circulating Cost or Price Information.—An association of manufacturers of machine-made chain was prohibited by a consent decree from circulating, reporting, or recommending to any manufacturer any costs or averaged costs of manufacture or sale of machine-made chain, any prices or terms used or to be used in the sale of such chain, or any formulae for computing such costs or prices. Manufacturers of machine-made chain were prohibited from being a member of, knowingly contributing anything of value to, or participating in any of the activities of, any trade association or central agency for machine-made chain manufacturers, the activities of which are inconsistent with any of the provisions of the decree.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; George L. Derr, W. D. Kilgore, Jr., and Richard B. O'Donnell, Special Assistants to the Attorney General; Jacob S. Temkin, United States Attorney; and John S. James, Elliott H. Feldman, E. Winslow Turner, and Stanley Blecher, Trial Attorneys.

For the defendants: Francis J. Kiernan for Machine Chain Manufacturers Assn.; American Jewelry Chain Company; Automatic Chain Co.; Chain Craft Co.; Concord Manufacturing Corporation; Federal Chain Company; Kunzmann Chain Company; Sweet Manufacturing Company, Inc.; Universal Chain Company, Inc.; Annie L. Jaegle; William H. Jaegle; Wiesner Manufacturing Company; and Armbrust Chain Company. Hale and Dow, Samuel S. Dennis, III, and George H. Foley for M. S. Co., Inc. Christopher Del Sesto for Prochain, Inc.

Final Judgment

EDWARD W. DAY, District Judge [*In full text*]: The plaintiff, United States of America, having filed its complaint herein on March, 18, 1955, and each of the defendants signatory hereto having appeared herein and the plaintiff and the said defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or admission of any criminal or civil culpability by any such defendant in respect of any such issue;

Now, therefore, before any testimony or evidence has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all the parties signatory hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

[*Sherman Act*]

The Court has jurisdiction of the subject matter herein and all the parties signatory hereto. The complaint states a cause of action against the defendants and each of them 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) "Defendant Association" means the defendant Machine Chain Manufacturers Association;
- (B) "Consenting defendants" means each and all of the defendants signatory hereto;
- (C) "Person" means an individual, partnership, firm, corporation, association or other business or legal entity.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to any defendant shall apply to each such defendant and to his or its officers, agents, servants, employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with any defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

[*Costs of Manufacture and Prices*]

The defendant Association is enjoined and restrained from collecting from or circulating, reporting, or recommending to any manufacturer of machine-made chain any costs or averaged costs of manufacture or sale of machine-made chain, any prices or terms used or to be used in connection with the sale of machine-made chain, or any formulae for computing such costs or prices.

V

[*Concerted Pricing Practices*]

The consenting defendants are jointly and severally enjoined and Restrained from entering into, adhering to, or maintaining, or claiming any rights under any contract, combination, agreement, understanding, plan, or program with any other defendant, with any other manufacturer of machine-made chain, or with any association or central agency of or for manufacturers of machine-made chain:

- (A) To fix, determine, establish or maintain prices, pricing methods, discounts or other terms and conditions used or to be used by such defendant or by any other person in connection with the manufacture or sale of machine-made chain;
- (B) To circulate or exchange, directly or indirectly, any price lists or price quotations applicable to machine-made chain with any other machine-made chain manufacturers in advance of the publication, circulation or communication of such price lists or price quotations to the customers of such defendant;
- (C) To circulate or exchange, directly or indirectly, any statistics representing costs of operation with any other machine-made chain manufacturer, for the purpose or with the effect of fixing prices, or otherwise restraining trade.

VI

[*Individual Pricing Practices*]

The consenting defendants are jointly and severally enjoined and restrained from:

- (A) Urging, influencing or suggesting, or attempting to urge, influence or suggest, to any other manufacturer of machine-made chain the price or prices, or other terms or conditions charged or to be charged by such other manufacturer for machine-made chain;
- (B) Circulating, exchanging or using, in any manner, any price list or purported price list containing or purporting to contain any prices, terms or conditions for the sale of machine-made chain, which have been agreed upon or established pursuant to agreement between two or more manufacturers of machine-made chain; and
- (C) Being a member of, knowingly contributing anything of value to, or participating in any of the activities of, any trade association or central agency for machine-made chain manufacturers, the activities of which, are inconsistent in any manner with any of the provisions of this Final Judgment.

VII

[*Cost or Pricing Formula*]

Within sixty (60) days following the date of the entry of this Final Judgment, each of the consenting defendants, other than the defendant Association, is ordered and directed to cease utilizing any cost or pricing formulae or part thereof which has not been independently arrived at by such consenting defendant, and which has been theretofore furnished to such defendant by the defendant Association, or by any other manufacturer of machine-made chain, as a means of determining in whole or in part the price or prices at which such consenting defendant will sell any style, size or design of machine-made chain.

VIII

[*Withdrawal of Price Lists—Review*]

Within sixty (60) days following the date of the entry of this Final Judgment, each of the defendants, other than the defendant Association, and the consenting defendant M. S. Co., Inc., is ordered and directed:

- (A) To withdraw his or its presently effective price lists for machine-made chain (or, where no price list has been issued, withdraw his or its presently prevailing prices); and
- (B) To individually review the machine-made chain prices withdrawn in conformity with Section VIII (A) herein, on the basis of his or its individual cost figures and individual judgment as to profits, and issue a new price list (or, where no price list has been issued, issue new prices) on the basis of such independent review.

IX

[*Notice of Judgment*]

The defendant Association is ordered and directed, within ten (10) days after the date of its entry, to furnish to each of its present members a conformed copy of this Final Judgment and to file with this Court, and with the plaintiff herein, a report setting forth the fact and manner of its compliance with this Section IX, together with the names and addresses of each person to whom a copy of this Final Judgment shall have been furnished in compliance herewith.

X

[*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 any consenting defendant made to its principal

office, be permitted, subject to any legally-recognized privilege, (a) reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this Final Judgment, and (b) subject to the reasonable convenience of such defendant, and without restraint or interference, to interview officers and employees of such defendant who may have counsel present regarding any such matters. For the purpose of securing compliance with this Final Judgment, the defendants, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, 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 purpose of enforcement of this Final Judgment. No information obtained by the means permitted in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings for the purpose of securing compliance with this Final Judgment in which the United States is a party, or as otherwise required by law.

XI

[*Jurisdiction Retained*]

Jurisdiction of this Court is retained for the purpose of enabling any of the parties to this Final Judgment to apply to the 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 punishment of violations thereof.