

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. National Automotive Parts Association, et al., U.S. District Court, E.D. Michigan, 1954 Trade Cases ¶67,749, (May 6, 1954)

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United States v. National Automotive Parts Association, et al.

1954 Trade Cases ¶67,749. U.S. District Court, E.D. Michigan, Southern Division. Civil Action No. 9559. Dated May 6, 1954. Case No. 1056 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Practices Enjoined—Permissive Provisions—Exclusive Dealing—Trade Associations.—Distributors of automotive parts and their trade association were enjoined, jointly and severally, from: (A) entering into or claiming any rights under any agreement with each other or any other person to purchase automotive parts exclusively from any manufacturer thereof, or refraining from purchasing automotive parts from any dealer thereof, but not from jointly selecting lines of automotive parts designated as such by members of the association, nor from agreeing with the manufacturer of any such line to purchase that line; and (B) persuading any manufacturer of automotive parts to sell such parts exclusively to any of the defendant distributors or to refrain from selling them to any other person, but not from agreeing with a manufacturer of a line of automotive parts, designated as such by the association and sold under a specific trade name or trade-mark developed by the association, that such line will not be sold to any other person under such specified trade name or trade-mark.

Consent Decree—Practices Enjoined—Agreements To Allocate Markets—Trade Associations.—The allocation or division of territories, markets, or customers for the sale of automotive parts by distributors of such parts and their trade association, jointly and severally, was enjoined by a consent decree.

Consent Decree—Practices Enjoined—Permissive Provisions—Price Fixing—Trade Associations.—Distributors of automotive parts and their trade association were jointly and severally enjoined from fixing or maintaining prices or other terms or conditions of sale of automotive parts sold to third persons, but were not deprived of any of their rights under the Miller-Tydings Act or the McGuire Act.

Consent Decree—Practices Enjoined—Uniform Selection of Jobbers Trade Associations.—Automotive parts distributors and their trade association were enjoined, jointly and severally, from engaging with any one to adhere to, any uniform policy in selecting jobbers or determining the number or location of jobbers or entering into arrangements with jobbers.

Consent Decree—Applicability of Provisions.—A consent decree provided that the provisions of the decree applicable to a defendant shall apply to such defendant, its members, officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons acting, or claiming to act, under, through, or for such defendant.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; William D. Kilgore, Jr.; John W. Neville; Charles F. B. McAleer.

For the defendants: Barnes, Hickam, Pantzer & Boyd (Hubert Hickam, Alan W. Boyd), Indianapolis, Indiana; Bodman Longley, Bogle, Armstrong & Dahling (Frederick C. Nash), Detroit, Michigan; Harold T. Halfpenny, Chicago, Illinois.

For a prior opinion of the U. S. District Court, Eastern District of Michigan, see [1950-1951 Trade Cases ¶ 62,803](#).

Final Judgment

ARTHUR A. KOSCINSKI, District Judge [*In full text*]: Plaintiff, the United States of America, having filed its complaint herein on June 30, 1950, and the defendants herein having filed their answer thereto on March 20, 1951; and

plaintiff and said defendants by their 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 admission by any of the parties hereto in respect to any such issue; and the Court having considered the matter and being duly advised.

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby.

Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a cause of action against the defendants 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 an individual, partnership, trust, corporation or any other form of legal or business entity;
- (B) "NAPA" shall mean the defendant, National Automotive Parts Association;
- (C) "Defendant distributors" shall mean each and all of the following defendants:

Genuine Parts Company

Campbell Motor Parts Company

Unit Parts Corporation

The Automotive Parts Company, Inc.

NAPA Des Moines Warehouse, Inc.

NAPA Jacksonville Warehouse, Inc.

Colyear Motor Sales Company

Standard Unit Parts Corporation (Minnesota)

Brittain Brothers, Inc.

Motor Parts Company

Quaker City Motor Parts Company, Inc.

NAPA Pittsburgh Warehouse, Inc.

NAPA Richmond Warehouse, Inc. (sued as Motor Parts Corporation)

Mendenhall Auto Parts Company, Inc.

NAPA Syracuse Warehouse, Inc.

Authorized Motor Parts Corporation

Automotive Parts Company, Inc.

General Auto Parts Company

Grand Rapids Automotive Supply Corporation

Central Motor Parts Company

Motor Parts Depot, Inc. (Texas)

Motor Parts Depot, Inc. (Kentucky)

Standard Unit Part Corporation (Indiana)

T. L. McGonagle d.b.a. Denver Gear & Parts Company

(D) "Automotive parts" shall mean separable portions of an automotive vehicle manufactured and sold for use in the repair of automotive vehicles;

(E) "NAPA line" shall mean a line of automotive parts designated as such by the members of NAPA, which, under an agreement entered into with the manufacturer thereof through NAPA, the defendant distributors purchase, stock and distribute;

(F) "Jobber" shall mean any person who purchases automotive parts from manufacturers or distributors and resells the same to operators of repair shops, service stations, or to the owners of automotive vehicles.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment applicable to a defendant shall apply to such defendant, its members, officers, directors, agents, employees, subsidiaries, successors and assigns and to all other persons acting, or claiming to act, under, through or for such defendant.

IV

[*Exclusive Dealing Prohibited*]

Defendants are jointly and severally enjoined and restrained from:

(A) Entering into, adhering to, furthering or claiming any rights under any contract, agreement or understanding with any defendant or any other person to (1) purchase or distribute automotive parts exclusively from any manufacturer thereof, or (2) refrain from purchasing automotive parts from any manufacturer thereof; provided, however, that this subsection (A) shall not be construed to prohibit defendants from (1) jointly selecting NAPA lines, or (2) agreeing with the manufacturer of a NAPA line to purchase, stock and distribute that NAPA line;

(B) Persuading or inducing, or attempting to persuade or induce, any manufacturer of automotive parts to sell such parts exclusively to distributor defendants, or any of them, or to refrain from selling automotive parts to any other person; provided, however, that this subsection (B) shall not be construed to prohibit defendants from agreeing with a manufacturer of a NAPA line which is sold under a specific trade name or trade-mark (developed by NAPA or not being used, in connection with automotive parts, by any other person at the time of its adoption by NAPA) that such NAPA line will not be sold to any other person under such specified trade name or trade-mark;

[*Agreements To Allocate Markets Enjoined*]

(C) Entering into, adhering to, furthering or claiming any rights under any contract, agreement, understanding, plan or program to allocate or divide territories, markets or customers for the distribution or sale of automotive parts;

[*Price Fixing*]

(D) Entering into, adhering to, furthering or claiming any rights under any contract, agreement, understanding, plan or program with any other person to fix, maintain, stabilize or adhere to prices, discounts or other terms or conditions of sale of automotive parts sold to third persons; provided, however, that this subsection (D) shall not be construed to prohibit any defendant from availing itself of its rights, if any, under the Act of Congress of August 17, 1937, commonly known as the Miller-Tydings Act, or the Act of Congress of July 14, 1952, commonly known as the McGuire Act;

[*Selection of Jobbers*]

(E) Entering into, adhering to, furthering or claiming any rights under any contract, agreement or understanding with any defendant or any other person to adhere to any uniform policy in selecting jobbers or determining the number or location of jobbers or in entering into arrangements with jobbers.

V

[*Publication*]

Defendant NAPA shall, within ninety days after the entry of this Judgment, mail to all manufacturers listed in the November 1953 issue of "Chilton Automotive Buyer's Guide" who sell automotive parts in competition with any line designated as a NAPA line, a letter in a form first approved by the plaintiff herein explaining the substantive provisions of subsection IV(A).

VI

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office be permitted (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Final Judgment; and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this Final Judgment any defendant upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice 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 purpose of enforcement of this Final Judgment. No information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, 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.

VII

[*Retention of Jurisdiction*]

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 necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of its provisions, for the enforcement of compliance therewith, and for the punishment of violations thereof.

At any time following five years from the date of entry of this Final Judgment the plaintiff may apply to this Court for other and further relief, including modification or termination of any provision herein, and the relief may be granted upon the plaintiff's establishing to the satisfaction of this Court that the proportion of sales of automotive parts by the distributing defendants, to the total industry sales, has increased to an extent justifying the relief requested.