

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Chicago Tribune-New York News Syndicate, Inc. and Globe Newspaper Co. (No. 67 Civ. 4596 (ELP)); United States v. Field Enterprises, Inc. and Globe Newspaper Co. (No. 67 Civ. 4597 (ELP)); United States v. The Hearst Corp. and Globe Newspaper Co. (No. 67 Civ. 4598 (ELP))., U.S. District Court, S.D. New York, 1975-1 Trade Cases ¶60,185, (Jul. 17, 1975)

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United States v. Chicago Tribune-New York News Syndicate, Inc. and Globe Newspaper Co. (No. 67 Civ. 4596 (ELP)); United States v. Field Enterprises, Inc. and Globe Newspaper Co. (No. 67 Civ. 4597 (ELP)); United States v. The Hearst Corp. and Globe Newspaper Co. (No. 67 Civ. 4598 (ELP)).

1975-1 Trade Cases ¶60,185. U.S. District Court, S.D. New York. Entered July 17, 1975. (Competitive impact statement and other matters filed with settlement: 40 *Federal Register* 12687, 14343, 31882). Case Nos. 1973-1975, Antitrust Division, Department of Justice.

Sherman Act

Exclusive Territories—Newspaper Syndicated Features—Consent Decree.—A Boston newspaper was required to end its exclusive rights to newspaper syndicated features in certain areas of New England under the terms of a consent decree. The decree allows agreements between the newspaper and syndicates to bar the licensing of features to other newspapers that meet the following requirements: a weekday circulation of more than 11,750 copies; publication in a county where the defendant paper's combined daily circulation is at least 5,000 copies; and publication in a county where the defendant paper's combined daily circulation equals at least 20 percent of the households in that county. Lists of newspapers meeting these requirements must be maintained, and exclusive rights are lost if the defendant fails to publish features that are subject to a permissible agreement.

For plaintiff: Bruce B. Wilson, Actg. Asst. Atty. Gen., Baddia J. Rashid, Bernard M. Hollander, Jill Nickerson, Gerald A. Connell, Alan L. Marx, Charles S. Stark, Attys., Dept. of Justice, Antitrust Div., Washington, D. C. **For defendants:** Bingham, Dana & Gould and Willkie, Farr & Gallagher, for Globe Newspaper Co.

Final Judgment

PALMIERI, D. J.: Plaintiff, United States of America, having filed its amended complaints herein on February 8, 1973, and the plaintiff and defendant Globe Newspaper Company, 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 this Final Judgment constituting evidence of an admission by any party with respect to any such issue:

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the plaintiff and defendant:

It Is Hereby Ordered, Adjudged and Decreed As Follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states claims against the defendant Globe Newspaper Company under Section 1 of the Act of Congress of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act.

II

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[*Definitions*]

As used in this Final Judgment:

- (A) "Person" means any individual, partnership, firm, association, corporation, or other legal or business entity.
- (B) "Newspaper" means a daily and a daily and Sunday newspaper of general circulation.
- (C) "Feature" means a literary and/or artistic product which is usually copyrighted, and includes but is not limited to columns on topics such as politics, religion, business, sports, medicine, society, fashions, personal advice, gardening and handicraft and other materials such as opinion surveys or polls, cartoons, comic strips, puzzles, needle patterns and serialized books. The term "Feature" shall not include a supplemental news service or material received as part of a supplemental news service.
- (D) "Syndicate" means any person who licenses a feature for publication in a newspaper.
- (E) "Circulation" means the average daily paid circulation of a newspaper, such circulation to be determined from the applicable Audit Bureau of Circulations annual audit report or, for non-ABC newspapers, from the "Statement of Ownership, Management and Circulation" filed with the U. S. Postal Service.
- (F) "Combined daily Circulation" means the sum of the defendant Globe Newspaper Company's morning and evening Circulation.
- (G) "License" means a contract or agreement for the publication of a feature.
- (H) "Households" shall be determined from the applicable Audit Bureau of Circulations' Annual Audit Report for Globe Newspaper Company.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to the defendant Globe Newspaper Company (hereinafter "Globe") and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

[*Licensing Restrictions*]

Globe is enjoined from licensing any feature from any syndicate with a condition, agreement or understanding limiting the territory within which or the persons to whom such feature may be licensed; provided, however, that Globe and a syndicate may agree that the syndicate will not license the feature to any other newspaper not then licensing it, having a Circulation in excess of 11,750 copies, and published in a county where the defendant Globe (1) has a Combined daily Circulation equal to at least 20% of the Households in the county, and (2) has a Combined daily Circulation equal to at least 5,000 copies.

V

[*List of Restricted Newspapers*]

Globe is ordered and directed, within thirty (30) days from the date of entry of this Final Judgment and thereafter between December 1 and December 31 of each year, to compile a list of those newspapers that, consistent with the provisions of Section IV of this Final Judgment, may be prevented from licensing a feature licensed to Globe as a result of an agreement between Globe and a syndicate. In compiling such list Globe shall use the most current Circulation and Household data, as defined in Section II of this Final Judgment. A copy of such list shall be furnished to plaintiff and to each syndicate from whom Globe licenses any feature. The initial list shall remain in effect until January 1, 1976. Thereafter each subsequent list shall determine the compliance of Globe's

licenses with the provisions of Section IV of this Final Judgment for a period of one calendar year, regardless of any changes in Circulation or Household data in the interim.

VI

[*Failure to Publish Features*]

(A) Globe is enjoined from enforcing, or claiming any right to enforce, those provisions of any license that limit the territory in which or the persons to whom a feature may be licensed if, for a period of two (2) consecutive calendar months, it has failed to publish that feature at least once.

(B) Globe is ordered and directed to maintain records sufficient to show whether each feature licensed by it has been published at least once within each period of two (2) consecutive calendar months. In any instance in which it has failed to publish, at least once in a period of two (2) consecutive calendar months, a feature licensed by it, it is further ordered and directed promptly to inform the syndicate from whom it licenses the feature (1) of the fact of such non-publication, and (2) that the syndicate is released from the provision in the license limiting the territory in which or the persons to whom the feature may be licensed.

(C) The provisions of this Section VI shall have no application where Globe fails, for a period of two (2) consecutive calendar months, to publish at least once a feature licensed by it if the feature was not made available to it by the syndicate for more than two weeks during such period.

VII

[*Notice*]

(A) Globe is ordered and directed, within sixty (60) days from the date of entry of this Final Judgment, to send a copy of it to each syndicate, not a defendant in these cases, from whom it licenses any feature, and, at the earliest possible date to modify those licenses to conform with the terms of this Final Judgment.

(B) Globe is ordered and directed within sixty (60) days from the date of entry of this Final Judgment to modify any license with any defendant syndicate to conform with the terms of this Final Judgment.

(C) Globe is ordered to file with the Court and serve on Plaintiff, within ninety (90) days from the date of entry of this Final Judgment, a report stating the manner of its compliance with the provisions of subparagraphs (A) and (B) of this Section VII.

VIII

[*Inspections*]

(A) For the purpose of determining or 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 written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Globe at its principal office, be permitted:

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

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

(B) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, Globe, upon the written request of the Attorney General or of 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 may, from time to time, be requested. 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 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

[*Retention of Jurisdiction*]

Jurisdiction is retained for the purpose of enabling any of the parties of 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, carrying out or modification of this Final Judgment and for the enforcement of compliance therewith and the punishment of the violation of any of the provisions contained therein.