

Trade Regulation Reporter - Trade Cases (1932 - 1992), U. S. v. Korean Hair Goods Association of America, Inc., U.S. District Court, S.D. New York, 1976-1 Trade Cases ¶60,773, (Feb. 24, 1976)

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U. S. v. Korean Hair Goods Association of America, Inc.

1976-1 Trade Cases ¶60,773. U.S. District Court, S.D. New York. Civil Action No. 75-3069 (R JW). Entered February 24, 1976. (Competitive impact statement and other matters filed with settlement: 40 Federal Register 57696). Case No. 2464, Antitrust Division, Department of Justice.

Sherman Act

Price Fixing—Wig Importers—Agreements Between Competitors—Selling Prices—Exchange of Information—Consent Decree.—A wig importers' trade association was enjoined by a consent decree from entering into or maintaining, directly or indirectly, any agreement or understanding, or acting unilaterally, to fix or influence prices, discounts or other terms or conditions for sale of wigs, and from publishing or otherwise communicating to any person any information relating to any such agreement or understanding.

Supply Controls—Resale Restraints—Wig Importers—Agreements and Practices—Refusal to Deal—Consent Decree.—A wig importers' trade association was enjoined by a consent decree from preventing or restricting any person from obtaining wigs for resale or from selling wigs to any person or class of persons.

Price Fixing—Wig Importers—Exchange of Information—Customer Lists, Sales Practices and Credit Information—Consent Decree.—A wig importers' trade association was enjoined by a consent decree from furnishing or communicating directly or indirectly to a foreign manufacturers' and exporters' trade association any list of the importers' trade association's members or information concerning pricing or sale practices of any person. However, the wig importers' trade association was not prohibited from supplying credit information relating to U. S. customers upon written request, provided that such information is accompanied by a statement that it is for credit information purposes only and that discretion as to whether to deal with the person about whom credit information is given is solely with the requesting member.

Customer Relations—Refusal to Deal—Supply Selection—Consent Decree.—A wig importers' trade association was directed by a consent decree to admit to membership any applicant who meets reasonable and nondiscriminatory requirements not inconsistent with said decree.

Business Practices—Wig Importers—Records to Be Maintained—Price Fixing Consent Decree.—A wig importers' trade association was directed to require that committee minutes be maintained for each meeting relating to the following matters: trade association members' complaints or commercial disputes; market conditions, distribution channels, advertising policies and sales practices concerning wigs; trade practices in the U. S. or Korea; and relations between the U. S. and Korean wig industries.

For plaintiff: Thomas E. Kauper, Asst. Atty. Gen., Baddia J. Rashid, Charles F. B. McAleer, Joel Davidow, Stephen P. Kilgriff, C. Forrest Bannan, and Mary K. Smith.

For defendant: H. Allen Dochner, of Rogers & Wells.

Final Judgment

WARD, D. J.: Plaintiff, United States of America, having filed its Complaint herein on June 24, 1975, and the parties hereto, 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 admission by any party in respect to any such issue:

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon said consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I.

[*Jurisdiction*]

This Court has jurisdiction of the subject matter of this action and the parties hereto. The Complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U. S. C., § 1), commonly known as the Sherman Act.

II.

[*Definitions*]

As used in this Final Judgment:

- (A) "Defendant" means the Korean Hair Goods Association of America, Inc., ("KWA");
- (B) "KEA" means the Korean Hair Goods Export Association, an organization whose regular membership is composed of manufacturers and exporters of wigs in the Republic of Korea and any successor thereof;
- (C) "Wigs" means goods designed to resemble human hair worn by men and women as replacements or substitutes for, or additions to, their natural hair; the term includes wigs, toupees, chignons and related products;
- (D) "Person" means any individual, partnership, firm, association or corporation, or other business or legal entity;
- (E) "Member" means any person who was or is a participant in Defendant.

III.

[*Applicability*]

The provisions of this Final Judgment shall apply to Defendant, its officers, directors, agents and employees and to its subsidiaries, affiliates, successors and assigns, and to all persons, including Members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

[*Prices; Resales*]

Defendant, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

- (A) Entering into, adhering to, maintaining, furthering or enforcing, directly or indirectly, any agreement, understanding, plan, program, rule or regulation to raise, fix, stabilize, maintain, suggest, or influence prices, discounts, mark-ups or other terms or conditions for the sale of wigs;
- (B) Preventing, restricting, limiting, or attempting to prevent, restrict, or limit any person or Member from obtaining wigs for sale or from selling wigs to any person or class of persons;
- (C) Publishing or distributing any bulletin or disseminating to its members or to any person any information relating to any agreement, understanding, plan, program, regulation or rule to raise, fix, stabilize, maintain, suggest or influence prices, discounts, markups or other terms or conditions of sale for wigs, or to prevent, restrict or limit the persons or class of persons to whom wigs may be sold.

V.

[*Information*]

Defendant is enjoined and restrained from furnishing or communicating directly or indirectly to KEA any list indicating the Members of Defendant, and from furnishing or communicating to any person any information concerning the pricing of wigs or sales practices of any other person, except that Defendant, upon written request of a Member, may solicit and collect information relating to the credit standing of a United States customer or proposed customer of such requesting Member, provided such information is disseminated with an accompanying statement that the material is furnished for credit information purposes only and it is solely in

the discretion of the requesting Member whether to deal with the person with respect to whom the information is furnished.

VI.

[Membership]

Defendant is ordered and directed to admit to membership any applicant who meets reasonable and nondiscriminatory requirements which are not inconsistent with this Final Judgment.

VII.

[Conformity of Rules]

(A) Defendant is ordered and directed within sixty (60) days from the date of entry of this Final Judgment to conform its rules, regulations, by-laws, practices and policies to the terms of this Final Judgment.

(B) Defendant is ordered and directed to file within ninety (90) days of the date of entry of this Final Judgment with the Plaintiff a true copy of its by-laws, rules and regulations as amended.

VIII.

[Committee Minutes]

Defendant is ordered and directed to require each committee established by it, or under its auspices, which is empowered to consider any of the following matters, to maintain minutes of each meeting of such committee:

(A) Members' complaints or commercial disputes to which any Member is a party;

(B) Market conditions, distribution channels, advertising policies and sales practices concerning wigs;

(C) Trade practices in the United States or Korea;

(D) Relations between the Korean and United States wig industries.

IX.

[Notification]

(A) Defendant is ordered and directed to mail to each of its members a conformed copy of this Final Judgment within sixty (60) days from the entry thereof.

(B) Defendant is ordered and directed to distribute a copy of this Final Judgment to each person upon its admission to membership to Defendant.

X.

[Inspection and Compliance]

For the purpose of securing or determining compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege:

(A) Any authorized representative 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, or of the authorized representatives of either, and on reasonable notice to Defendant made to its principal office, be permitted:

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

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

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of either of their authorized representatives, made to Defendant's principal office, Defendant shall submit such reports in writing under oath if requested, with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided 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 Executive Branch of the United States 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.

XI.

[Retention of Jurisdiction]

Jurisdiction is retained by this Court for the purpose of enabling 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 of or carrying out of this Final Judgment, for the modification of any of the provisions of this Final Judgment, for the enforcement of compliance therewith and for the punishment of the violations thereof.

XII.

[Public Interest]

Entry of this Final Judgment is in the public interest.