

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Civil Action No. 4-78-357
)
 v.) Filed: December 13, 1982
)
 BRITISH COLUMBIA FOREST)
 PRODUCTS LIMITED AND THE)
 MEAD CORPORATION,)
)
 Defendants.)

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment ("Judgment") submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On August 17, 1978, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. §25, alleging that the acquisition of the Blandin Paper Company ("Blandin") of Grand Rapids, Minnesota by British Columbia Forest Products Limited ("BCFP") of Vancouver, British Columbia, Canada, violated Section 7 of the Clayton Act, 15 U.S.C. §18. At the time of the complaint, The Mead Corporation ("Mead") of Dayton, Ohio, and Noranda Mines Limited ("Noranda") of Toronto, Ontario, Canada each owned, directly or indirectly, 28.5 percent of the outstanding common shares in BCFP for a combined majority of 57 percent. Part of Mead's ownership in BCFP is based on its 50 percent ownership interest in Brunswick Pulp and Paper Company ("BP&P"), which owns 26 percent of the outstanding common shares in BCFP.

Mead and Noranda along with BCFP were named defendants. The complaint alleged that the effect of the acquisition may be substantially to lessen competition in the manufacture and sale of coated groundwood paper throughout the United States. The complaint sought divestiture of Blandin by BCFP or, in the alternative, that Mead and Noranda divest themselves of their respective stock in BCFP.

Plaintiff and defendants have stipulated that the Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the Judgment, and to punish violations of the Judgment. This action was previously terminated against defendant Noranda on January 28, 1982, when Noranda was dismissed without prejudice following the sale by Noranda on November 30, 1981, of all its stock interest in BCFP.

II. EVENTS GIVING RISE TO THE ALLEGED VIOLATION

Coated groundwood paper is a type of printing paper used primarily in the publication of magazines and catalogues. It is also used in book publishing, commercial printing, and for converting purposes. In 1976, approximately 2.2 million tons of coated groundwood paper, having a value of approximately \$1 billion, were sold in the United States. In 1978, there were a total of twelve domestic producers of coated groundwood paper of which the top four accounted for 56.47 percent of total shipments from United States plants and the top eight accounted for 84.40 percent. The complaint alleged that the production and sale of coated groundwood paper is a relevant product market under Section 7 of the Clayton Act.

Blandin, Mead and Noranda are direct competitors in the manufacture and sale of coated groundwood paper. In 1978, Blandin was the third largest producer of coated groundwood paper with 12.23 percent of total shipments from United States plants; Mead was the seventh largest with 6.38 percent; and Noranda, through Fraser, Inc., a 55 percent owned subsidiary of Noranda, was the tenth largest with 3.89 percent.

The United States would have contended that Mead and Noranda, through their joint ownership of a majority of the outstanding BCFP shares, had the power to control and influence the policies and activities of Blandin.

The complaint alleged that the effect of the acquisition of Blandin by BCFP may be substantially to lessen competition in the manufacture and sale of coated groundwood paper in the United States.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendants have stipulated that the Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The Judgment states that it does not constitute any evidence against, or any admission by, any party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the Judgment is conditioned upon a determination by the Court that the Judgment is in the public interest.

The Judgment is designed to restore and maintain competition between Blandin and Mead in the manufacture and sale of coated groundwood paper. The Judgment orders that Blandin be maintained as a separate and distinct corporate entity, with its own board of directors and management. In addition, the Judgment enjoins Mead from owning or acquiring

any securities, or the voting rights to such securities, of Blandin; from owning or acquiring all or substantially all of the assets of Blandin; from exercising or attempting to exercise any control, supervision, or influence over any policy, decision, or action regarding any aspect of Blandin's coated groundwood paper operations; from voting or participating at any BCFP board meeting which deals with any matter relating to Blandin's coated groundwood paper operations; from designating or participating in the selection of officers, directors, or employees of Blandin; from designating more than three nominees for election to membership on BCFP's board of directors; from acquiring additional stock in BCFP without first giving the plaintiff ten (10) days notice of such acquisition; */ and from taking any action to obtain any competitively sensitive information concerning Blandin. Any information concerning Blandin given to Mead by Blandin or BCFP shall be provided only in writing, and Mead and BCFP shall provide the plaintiff with copies of all such information at the end of each twelve (12) month period from the date of entry of the Judgment.

Moreover, officers, directors, employees, and representatives of Mead are enjoined from serving as officers, directors or employees of Blandin. After April 30, 1983, no member of BCFP's board of directors can also be a director of Mead.

The Judgment requires Mead and BCFP to establish a program

*/ On December 7, 1982, pursuant to an offer by BCFP to sell 16,940,894 additional common shares, Mead purchased directly 2,533,132 shares of BCFP common stock and indirectly through BP&P 2,203,881 shares. Mead purchased a sufficient number of shares under the new offering to maintain its current ownership interest in BCFP at approximately 28 percent.

to insure compliance with the Judgment. Mead and BCFP must submit periodic reports to the plaintiff describing the steps that they have taken to comply with the Judgment.

The Judgment will remain in effect for ten (10) years from its date of entry and applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendants who have received actual notice of the Judgment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. §15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the Judgment will neither impair nor assist the bringing of any private antitrust damage actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. §16(a)), the Judgment has no prima facie effect in any private lawsuit that may be brought against the defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person wishing to comment upon the Judgment may within the statutory 60-day comment period submit written comments to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, United States Department of Justice, Washington, D. C. 20530. These comments and the Department's responses will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department, which remains free to withdraw its consent to the Judgment at any time prior to

entry. The Judgment provides that the Court retains jurisdiction over this action, and any of the named parties may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

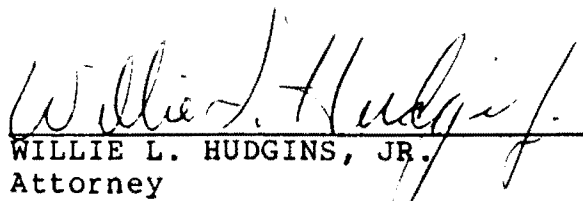
The sale by Noranda of all its stock interest in BCFP provided a major portion of the relief sought by the complaint in this case. Divestiture by Mead of its BCFP stock was the only remaining objective necessary to fulfill completely the alternative form of relief sought in the complaint. A trial on the merits to obtain divestiture by Mead was considered by the United States as an alternative to the Judgment. However, the United States elected, for three reasons, not to pursue this alternative and to accept, instead, the relief obtained in this Judgment. First, the outcome of such a trial was uncertain since the anticompetitive effects would now have to be based on Mead's minority stock interest in BCFP. Second, a trial would have consumed a substantial portion of the Antitrust Division's resources, thereby diverting those resources from other important activities. Third, given Mead's minority stock interest in BCFP, the Noranda divestiture, and the decline in concentration in the manufacture and sale of coated groundwood paper that has occurred since the filing of the complaint, the injunctive relief accomplished by this Judgment should ameliorate the threat to competition posed by BCFP's acquisition of Blandin. For these reasons, the United States believes that the Judgment is a reasonable alternative to a trial on the merits seeking divestiture by Mead and that entry of the Judgment is in the public interest.

VIII. DETERMINATIVE MATERIALS AND DOCUMENTS

The Department did not consider any materials or documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act in formulating the Judgment. Consequently, no such materials or documents are being filed with this Competitive Impact Statement.

Dated: December 13 , 1982

Respectfully submitted,


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CERTIFICATE OF SERVICE

I, WILLIE L. HUDGINS, JR., counsel for the plaintiff, United States of America, hereby certify that a copy of the attached Competitive Impact Statement has been served this day of Decemeber, 1982, by first class mail, postage prepaid, upon the following:

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