

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. New Orleans Ice Delivery Corporation, et al., U.S. District Court, E.D. Louisiana, 1952-1953 Trade Cases ¶67,252, (Mar. 25, 1952)

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United States v. New Orleans Ice Delivery Corporation, et al.

1952-1953 Trade Cases ¶67,252. U.S. District Court, E.D. Louisiana, New Orleans Division Civil Action No. 2745. Dated March 25, 1952. Case No. 1017 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Practices Enjoined in the Manufacture and Distribution of Ice— Dissolution of Delivery Corporation Ordered.—Manufacturers of ice are enjoined by a consent decree from entering into any agreement to fix prices or other terms and conditions of sale for the sale of ice or the furnishing of icing services; to allocate or limit production of ice or the furnishing of icing services; to allocate customers for the sale of ice or the furnishing of icing services; to restrict any person from importing ice into the New Orleans Area or from exporting ice from the Area; to refrain from competition in any market; to exchange among themselves any information relating to sales, orders, costs, prices, discounts, or other terms and conditions for the sale of ice, or the furnishing of icing services, with the effect of violating this decree; to sell or distribute ice or furnish icing services to or through any sales agent or agency which serves as a common sales agent; and to create any plan or program whereby production or distribution of ice or furnishing of icing services is shared. The manufacturers also are enjoined from selling or furnishing ice or icing services upon any condition that the purchaser will purchase other ice or icing services from the seller, or that the purchaser will refrain from purchasing ice and icing services from any other person; acquiring any stock or financial interest in any other person engaged in such business; and being a member of any association the purposes of which are inconsistent with the purposes of this decree.

The manufacturers are ordered to terminate all operations of an ice delivery corporation, to effectuate the dissolution of the corporation, and to file a report of compliance.

For the plaintiff: H. G. Morison, Assistant Attorney General; Horace L. Flurry, Chief, Southwest Office Antitrust Division; Sigmund Timberg, Special Assistant to the Attorney General; and Harry N. Burgess, Trial Attorney.

For the defendants: William J. Guste.

Final Judgment

CHRISTENBERRY, District Judge [*In full text*]: The plaintiff, United States of America, having filed its Complaint herein on April 28, 1950; and all of the parties hereto; by their respective attorneys, having appeared and severally consented to the entry of this Final Judgment without trial and without adjudication of any issue of fact or law herein, and without this Judgment constituting any evidence or admission in respect of any such issue; Now, therefore, without adjudication of any issue of fact or law herein, and upon the consent as aforesaid of all of the parties hereto, and not upon evidence, it is hereby

Ordered, adjudged and decreed:

I

[*Cause of Action Under Sherman Act*]

That this Court has jurisdiction of the subject matter herein and of all of the parties hereto, and 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", as amended, commonly known as the Sherman Act.

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II

[*Applicability of Judgment*]

The provisions of this Judgment applicable to any defendant shall apply to such defendant and to each of its officers, directors, agents, employees, successors and assigns and to all other persons acting under, through, or for such defendant.

III

[*Definitions*]

As used in this Judgment:

- (1) "New Orleans Area" means the City of New Orleans, Louisiana, and the area immediately adjacent thereto.
- (2) "Person" means an individual, partnership, firm, association, corporation, or other legal entity. For the purposes of this Final Judgment any persons which, on the date of the entry of this Final Judgment, occupy the relationship of parent and subsidiary, or which are affiliated through common ownership and control, shall be considered to be one person.

IV

[*Dissolution of Corporation Ordered*]

The defendants are jointly and severally ordered and directed:

- (a) Subject to subsections (b) and (c) of this Section, forthwith to take such steps as may be necessary to terminate, within ninety (90) days after the date of the entry of this Judgment, all of the operations of the defendant New Orleans Ice Delivery Corporation;
- (b) To effectuate, within four (4) months after the date of the entry of this Judgment, the dissolution of the defendant New Orleans Ice Delivery Corporation;
- (c) To file with this Court, and with the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, within five (5) months after the date of the entry of this Judgment, a report setting forth the fact and manner of compliance with subsections (a) and (b) of this Section.

V

[*Practices Prohibited*]

Subject to the provisions of Section IV of this Final Judgment, the defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under, any contract, agreement, understanding, plan or program with any other person, directly or indirectly:

- (a) To fix, determine, stabilize or agree upon the price or prices or other terms and conditions for the sale of ice or the furnishing of icing services;
- (b) To divide, allocate or limit the production of ice or the furnishing or [of] icing services;
- (c) To divide, allocate, or agree upon customers for the sale of ice or the furnishing of icing services;
- (d) To restrict, limit, prevent or hinder any person from importing ice into the New Orleans Area or from exporting ice from the New Orleans Area;
- (e) To refrain from competition or to leave any person free from competition in any territory, field or market;
- (f) To exchange among themselves any information relating to sales, orders or commitments, costs, prices, discounts, or other terms and conditions for the sale of ice, or the furnishing of icing services, with the intent, or effect, of violating any of the provisions of this Final Judgment;

- (g) To sell or distribute ice or furnish icing services to or through any sales, service or distribution agent or agency which serves as a common sales, service or distribution agent or agency for two or more persons;
- (h) To create or participate in any plan or program whereby the production, sale or distribution of ice or the furnishing or [of] icing services is shared, divided, limited, discontinued or prorated.

VI

[Allocation of Manufacture, Conditional Sales, etc., Prohibited]

The defendants are jointly and severally enjoined and restrained from directly or indirectly:

- (a) Formulating, promoting or participating in any plan or program to allocate, apportion or prorate the manufacture, sale or distribution of ice or the furnishing of icing services;
- (b) Selling or furnishing, or causing to be sold or furnished ice or icing services upon any condition, contract, agreement, or under standing, that the purchaser will purchase other ice or icing services from the seller, or that the purchaser will refrain from purchasing ice or obtaining icing services from any person other than the seller thereof;
- (c) Hindering, restricting or preventing, or attempting to hinder, restrict or prevent any person from engaging in the manufacture, sale, or distribution of ice or the furnishing of icing services;
- (d) Acquiring or holding any stock or other financial interest, in, or control over, any other person who manufactures, sells or distributes ice or furnishes icing services for any two or more persons who are also engaged in the manufacture, sale or distribution of ice or the furnishing of icing services.
- (e) Being a member of, participating in the activities of, or contributing anything of value to, any association or organization the purposes or activities of which are in consistent with the purposes and provisions of this Final Judgment.

VII

[Compliance and Visitation]

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 an Assistant Attorney General, and upon reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege,

- (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 of the matters contained in this Judgment, and
- (2) subject to the reasonable convenience of said defendant, and without restraint or interference from it, to interview officers and employees of said defendant, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this Judgment any defendant upon the written request of the Attorney General or an Assistant Attorney General and upon reasonable notice to its principal office, shall submit such reports with respect to any of the matters contained in this 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 shall be divulged by any representative of the Department of Justice to any persons 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.

VIII

[Jurisdiction Retained]

Jurisdiction of this cause 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 or for the modification of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.