

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,

Plaintiff,

v.

INTERNATIONAL TELEPHONE AND
TELEGRAPH CORPORATION and
THE HARTFORD FIRE INSURANCE
COMPANY,

Defendants.

Civil Action No. 13,320

Entered: September 24, 1971

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on August 1, 1969, and the defendants having filed their answers thereto, and plaintiff and defendants, by their attorneys, having consented to the entry of this Final Judgment;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence or admission by any party with respect to any issue of fact or law, and upon consent of the parties, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction over the subject matter and the parties consenting hereto. The complaint states a

claim upon which relief may be granted against the defendants under Section 7 of the Act of Congress of October 15, 1914 (15 U.S.C. § 18), commonly known as the Clayton Act, as amended.

II.

As used in this Final Judgment:

(A) "Person" shall mean an individual, partnership, corporation or any other business or legal entity;

(B) "Subsidiary" shall mean a company which a person controls or has power to control, or in which fifty percent (50%) or more of the voting securities is owned or controlled by that person, directly or indirectly;

(C) "ITT" shall mean defendant International Telephone and Telegraph Corporation and any of its subsidiaries;

(D) "Hartford" shall mean Hartford Fire Insurance Company and any of its subsidiaries;

(E) "Avis" shall mean ITT Avis, Inc. and any of its subsidiaries;

(F) "Levitt" shall mean ITT Levitt and Sons, Incorporated and any of its subsidiaries;

(G) "Hamilton Life" shall mean ITT Hamilton Life Insurance Company and ITT Life Insurance Company of New York.

III.

The provisions of this Final Judgment applicable to any defendant shall apply also to each of its subsidiaries, successors and assigns, and their officers, directors, agents and employees, and to those persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. Any person not a party hereto who acquires any securities or assets by

means of a divestiture pursuant to this Final Judgment shall not be considered to be a successor or an assign of a defendant.

IV.

(A) ITT is ordered and directed to divest within three (3) years from the date of entry of this Final Judgment, (1) all of its interest, direct and indirect, in Levitt, Avis, and Hamilton Life, or (2) in the alternative, all of its interest, direct and indirect, in Hartford.

(B) The divestiture of Levitt, Avis and/or Hartford directed in subsection (A) hereof shall not be made as a part of the divestiture of any other of said corporations or the Fire Protection Division of Grinnell Corporation, or to any person acquiring ITT's interest in the stock or assets of any other of said corporations, or in the stock or assets of Canteen Corporation, or in the Fire Protection Division of Grinnell Corporation, except upon the consent of the plaintiff or, failing such consent, upon approval of this Court. This prohibition shall not, however, prevent joint, simultaneous, or successive public offerings of the separate stocks of any of said corporations, or the distribution of said separate stocks as dividends or in exchange offers to shareholders.

(C) Subject to the limitations set forth in this Section IV, the divestiture directed above may be carried out by any method; provided, however, that if ITT receives in connection with any such divestiture any securities from a person to whom divestiture is made, such securities (other than securities issued by ITT) (1) shall not be voted, if of a voting class, and (2) shall be disposed of no later than two hundred twenty (220) days after receiving such securities, unless plaintiff consents to a longer period, and provided further that if the divestiture

is carried out by way of disposition of assets, such divestiture shall be made in the form of one or more going and viable businesses, each such business to be capable of engaging in substantially the same operations as those previously conducted by such business.

(D) The complete details of any contemplated plan of divestiture intended to implement the provisions of subsection (A) of this Section IV (including the identification of any person, or persons, or class of persons to whom the divested property is to be transferred and all outstanding contracts involving the properties to be divested to which ITT or any of its remaining subsidiaries is a party and not to be fully executed within two (2) years from the date of submission), shall be submitted to the plaintiff by ITT. Following the receipt of any such plan, plaintiff shall have thirty (30) days in which to object thereto by written notice to ITT. If plaintiff does not so object to the proposed plan, the plan may be consummated, but if objection is so made, the proposed divestiture shall not be consummated until ITT obtains judicial approval of the plan or until the plaintiff withdraws its objection; provided, however, (1) that in the case of a plan which provides for a pro rata distribution to security holders of ITT, or an exchange with security holders of ITT or any of its subsidiaries, or a public offering not involving a prior understanding or commitment to sell a portion of the securities to any predetermined purchaser (other than an underwriter or selling dealer for the purpose of resale to the general public), prior approval of the plaintiff need not be obtained and the plan may be consummated upon the termination of the thirty (30) day period, so long as the plan prohibits any person known by ITT to own or control beneficially more than one percent (1%) of the voting securities

(including securities convertible into voting securities) of ITT from receiving any of the equity interest being divested until he has disposed of his voting securities (including securities convertible into voting securities) of ITT in excess of one percent (1%) thereof, and (2) that in the case of a plan as to which the plaintiff objects, the time period set forth in subsection (A) of this Section IV within which divestiture must be accomplished shall, unless the Court orders otherwise upon application of the plaintiff, be tolled during the pendency of any proceeding under this Final Judgment relating to the approval of a proposed plan of divestiture.

(E) If the divestiture requirements of subsection (A) of this Section IV have not been met within three (3) years from the date of entry of this Final Judgment, ITT shall, unless the Court shall on application by ITT otherwise direct, place in the control of a trustee, promptly after his appointment by this Court, upon application of the plaintiff, at the cost and expense of ITT, all of ITT's then undivested interest in Hartford, or alternatively all of ITT's then undivested interest in Levitt, Avis and Hamilton Life, vesting in the trustee full authority to manage and to dispose of such interests subject to Court supervision after hearing the parties hereto on any issue presented;

(F) Until the divestiture required by this Final Judgment is accomplished ITT shall take no action which knowingly impairs the viability of any of the businesses to be divested or ITT's ability to accomplish such divestiture, and, specifically, shall not cause or permit any of

the following as to any company remaining to be divested, except upon consent of the plaintiff:

(1) The payment of any dividends by Hartford, Levitt, Avis or Hamilton Life except out of current earnings, but this restriction shall not prohibit the payment of dividends which are not in excess of the per share rate of the last dividend declaration prior to August 1, 1971;

(2) Any disposition of any of the assets of Hartford, Levitt, Avis or Hamilton Life, other than transactions in the ordinary course of business;

(3) The encumbrance of any of the assets of Hartford, Levitt, Avis or Hamilton Life to secure the indebtedness of any other of them or of ITT or of any other subsidiary of ITT.

V.

(A) ITT is enjoined and restrained, without first obtaining the consent of the plaintiff or approval of this Court upon ITT's establishing by a preponderance of the evidence that the acquisition will not lessen competition or tend to create a monopoly in any line of commerce in any section of the country

(1) From acquiring one percent (1%) or more of the voting securities in any domestic company the assets of which are recorded on the books of such company (net of related valuation reserves recorded on such books) in an amount in excess of One Hundred Million Dollars (\$100,000,000), or from

acquiring from any one domestic person or group of persons under common control tangible or intangible assets or good will recorded on the books thereof (net of related valuation reserves recorded on such books) in an amount in excess of One Hundred Million Dollars (\$100,000,000);

(2) From acquiring one percent (1%) or more of the voting securities in any domestic company which in the calendar year prior to said acquisition had total sales in an amount in excess of Twenty-five Million Dollars (\$25,000,000) and had in said year in any section of the country in excess of fifteen percent (15%) of total sales in any line of commerce in which total sales in said section of the country exceeded One Hundred Million Dollars (\$100,000,000) and in which any four (4) companies had combined sales in excess of fifty percent (50%) of total sales in said section of the country, or from acquiring any substantial proportion of the assets of any such company used in such line of commerce in such section of the country;

(3) From acquiring one percent (1%) or more of the voting securities in any domestic company engaged in the manufacture, fabrication, installation or sale of automatic sprinkler devices or systems, or any of the capital assets of any such company for use in such activities;

(4) From acquiring one percent (1%) or more of the voting securities in any domestic insurance

company with insurance assets in excess of Ten Million Dollars (\$10,000,000), or any of the capital assets of any such company for use in the business of insurance; and

(5) From acquiring, except as contemplated by Section IV(B) of this Final Judgment or upon consent of the plaintiff, any substantial interest in any property to be divested pursuant to Section IV of this Final Judgment, or any interest in a person who acquires any property to be divested pursuant to Section IV of this Final Judgment so long as such person retains such property.

(B) The prohibitions contained in parts (1)-(4) of subsection (A) of this Section V shall not apply (1) to transactions by ITT in the regular course of its business of investing in securities (whether through Hartford or otherwise) where the acquisition of securities of any corporation covered by the provisions of said parts (1)-(4) is made solely for purposes of investment and the percentage acquired does not exceed five percent (5%), or (2) to acquisitions by ITT of securities or assets in any subsidiary of ITT.

(C) The prohibitions contained in subsection (A) of this Section V shall no longer be in effect if and when ITT divests itself of all of its interest in Hartford.

VI.

Simultaneously with the consummation of the divestiture of a company pursuant to Section IV of this Final Judgment, ITT shall take such steps as may be necessary to remove from the position as director or officer of such

company any person holding any position with ITT, unless plaintiff otherwise consents.

VII.

Defendants are enjoined and restrained, so long as ITT owns any interest in Hartford, from discriminating in favor of each other in the purchase or sale of any of ITT's insurance requirements.

VIII.

Defendants are enjoined and restrained, so long as ITT owns any interest in the Fire Protection Division of Grinnell Corporation, from using the position and influence of Hartford to assist the Fire Protection Division of Grinnell Corporation in securing sales of its products.

IX.

Defendants are enjoined and restrained, for a period of ten (10) years from the entry of this Final Judgment in connection with any purchases or sales in the interstate or foreign commerce of the United States, from:

(A) Purchasing, or entering into or adhering to any contract, agreement or understanding to purchase, products, goods or services on the condition or understanding that purchases by defendants or either of them from any actual or potential supplier will be based on or conditioned upon, in whole or in part, such actual or potential supplier's purchases from such defendants;

(B) Selling, or entering into or adhering to any contract, agreement or understanding to sell, products,

goods or services to any actual or potential customer on the condition or understanding that purchases of products, goods or services by defendants or either of them from such customer will be based on or conditioned upon, in whole or in part, such actual or potential customer's purchases from such defendants;

(C) Communicating to either defendant's actual or potential suppliers or contractors that:

(1) In purchasing products, goods or services, such defendant will give preference to any supplier or contractor based on or conditioned upon, in whole or in part, the fact, volume or dollar amount of such supplier's or contractor's purchases from such defendant;

(2) In compiling bidder lists or in awarding contracts for projects involving capital expenditures by either defendant, preference will be given to any supplier or contractor based on or conditioned upon, in whole or in part, the fact, volume or dollar amount of such contractor's or supplier's purchases from either defendant;

(3) Either defendant is entitled to receive contracts or orders for products, goods or services from any supplier or contractor based on or conditioned upon, in whole or in part, either defendant's purchases from such supplier or contractor, or based on or conditioned upon, in whole or in part, any contract award made by either defendant to any such supplier or contractor;

(D) Comparing or exchanging statistical data with any actual or potential supplier or contractor to ascertain, develop, facilitate or further any relationship between purchases by either defendant from such supplier or contractor and sales by either defendant to such supplier or contractor;

(E) Engaging in the practice of discussing with any actual or potential supplier or contractor the relationship between purchases or contract awards by either defendant involving such supplier or contractor, and sales by either defendant to such supplier or contractor;

(F) Preparing or maintaining lists or statistical compilations which compare the volume of, or dollar amount of, purchases by either defendant from suppliers or contractors, or the fact of or dollar value of contracts awarded by either defendant to such contractors, with purchases by such suppliers from either defendant or contracts awarded to either defendant by such contractors;

(G) Issuing, to personnel having responsibilities for purchasing or responsibilities for awarding contracts, lists which identify customers and the magnitude of their purchases from either defendant or which identify companies and the dollar value of contracts such companies have awarded to either defendant or which specify or recommend that purchases be made from any such customers or that contracts be awarded to such companies;

(H) Referring compilations of bids received for contracts for projects involving capital expenditures by either defendant to any department or unit of either defendant having sales responsibilities for decision or recommendation.

by such department or unit as to the identity of the firm or firms to which contracts for such projects should be awarded;

(I) Agreeing with or suggesting to particular suppliers or contractors that such suppliers or contractors purchase from certain customers of one or both defendants in order to reciprocate for purchases made by either defendant from such suppliers or contractors;

(J) Agreeing with or suggesting to particular suppliers or contractors that such suppliers or contractors will attempt to persuade other companies to buy from one or both defendants in order to reciprocate for purchases made by either defendant from such suppliers or contractors.

X.

Each defendant is ordered and directed to:

(A) Refrain from continuing or establishing any office or position the activities, programs or objectives of which are to promote trade relations involving reciprocal purchasing policies, arrangements, or practices in the interstate or foreign commerce of the United States;

(B) Withdraw from all personnel with sales responsibilities in the interstate or foreign commerce of the United States any lists or compilations which may be in existence described in subsections (F) and (H) of Section IX above, and withdraw from all personnel with purchasing or contracting responsibilities in the interstate or foreign commerce of the United States any lists or compilations which may be in existence described in subsections (F) and (G) of Section IX above;

(C) Refrain from being a member of and prohibit its officers and employees from belonging to, or participating in the activities of, or contributing anything of value to, any association whose activities, programs or objectives are in whole or in part to promote trade relations involving reciprocal purchasing policies, arrangements or practices in the interstate or foreign commerce of the United States;

(D) Issue within sixty (60) days to each of its officers and employees having sales, purchasing or contracting responsibilities in the interstate or foreign commerce of the United States a policy directive stating that:

(1) All officers and employees are prohibited from purchasing or entering into any contract, agreement or understanding to purchase products, goods or services from any actual or potential supplier on the condition or understanding that such purchases from such supplier or potential supplier will be based on or conditioned upon, in whole or in part, or influenced by, such supplier's purchases from either defendant;

(2) All officers and employees are prohibited from selling, or entering into any contract, agreement or understanding to sell products, goods or services to any actual or potential customer on the condition or understanding that either defendant's purchases of products, goods or services from such actual or potential customer will be based on or conditioned upon, in whole or in part, or influenced by either defendant's past or future sales to such customer;

(3) All officers and employees are prohibited from (i) soliciting bids from any contractor or supplier for any contract for a project involving capital expenditures by either defendant, and (ii) awarding contracts for such projects to any such contractor or supplier, on the condition or understanding that such solicitations or such awards by a defendant will be based on or conditioned upon, in whole or in part, or influenced by, such contractor's or supplier's purchases from either defendant or the dollar value of contracts awarded by such contractor or supplier to either defendant;

(4) Violation of the policy directive may subject any offending officer or employee to dismissal from his employment and to liability for violation of this Final Judgment;

(E) Furnish to each domestic supplier from which any ITT operating unit in the United States purchased Twenty Thousand Dollars (\$20,000) or more in products, goods or services during 1970, and to each domestic purchaser to which any ITT operating unit in the United States other than Hartford sold Twenty Thousand Dollars (\$20,000) or more in products, goods or services during 1970, and to each purchaser of insurance whose account was handled during 1970 by Hartford's Special Accounts Insurance Department, a statement accurately and completely describing the provisions contained in Sections IX and X of this Final Judgment, or a copy thereof, and advise each such supplier and customer, by written notice satisfactory to the Antitrust Division of the United States Department of Justice, that:

(1) All officers and employees are prohibited from purchasing or entering into any contract, agreement or understanding to purchase, products, goods or services from any actual or potential supplier on the condition or understanding that such purchases from such supplier or potential supplier will be based on or conditioned upon, in whole or in part, or influenced by, such supplier's purchases from either defendant;

(2) All officers and employees are prohibited from selling, or entering into any contract, agreement or understanding to sell, products, goods or services to any actual or potential customer on the condition or understanding that either defendant's purchases of products, goods or services from such actual or potential customer will be based on or conditioned upon, in whole or in part, or influenced by, either defendant's past or future sales to such customer;

(3) All officers and employees are prohibited from (i) soliciting bids from any contractor or supplier for any contract for a project involving capital expenditures by either defendant, and (ii) awarding contracts for such projects to any such contractor or supplier, upon the condition or understanding that such solicitations or such awards by either defendant will be based on or conditioned upon, in whole or in part, or influenced by, such contractor's or supplier's purchases from either defendant or the dollar value of contracts awarded by such contractor or supplier to either defendant;

(4) The provisions of Sections IX and X of this Final Judgment apply with full force and effect to all insurance activities of defendants, as well as to all other financial and commercial transactions of defendants.

XI.

Nothing in Sections IX or X of this Final Judgment shall prohibit either defendant:

(A) From entering into arrangements for the conversion of its products or goods into other forms thereof for its own use or resale or from converting products or goods for others;

(B) From contracting for construction work or for the manufacture or installation of equipment and facilities for its own use and not for resale on the condition that its products, goods or services are to be used in the performance of such contracts; or

(C) From complying with any requirement or request of a state or federal agency concerning the preparation, maintenance, or distribution of any compilation or list.

XII.

(A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, each defendant shall permit duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to such

defendant's principal office, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant, who may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant which relate to any matters contained in this Final Judgment;

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

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Anti-trust Division, such defendant shall submit such reports in writing, with respect to the matters contained in this Final Judgment, as may from time to time be requested.

(C) No information obtained by the means provided in this Section XII of this Final Judgment 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.

XIII.

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, modification, or termination of any of the applicable provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIV.

This Final Judgment shall remain in full force and effect for ten (10) years, and no longer, from the date of entry hereof except as to any provision herein for which a shorter term is specified therein.

/s/ M. JOSEPH BLUMENFELD

United States District Judge

Dated: September 24, 1971.