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16 UNITED STATES DISTRICT COURT  
17 WESTERN DISTRICT OF WASHINGTON  
18 AT SEATTLE

19 UNITED STATES OF AMERICA,  
20 Plaintiff,

21 v.

22 ARDEN-MAYFAIR, INC.;  
23 CARNATION COMPANY;  
24 CONSOLIDATED DAIRY PRODUCTS  
25 COMPANY; and  
26 FOREMOST-McKESSON, INC.,  
27 Defendants.

Civil No. 189-71-C 2

COMPLAINT

Filed: September 29, 1971

28 The United States of America, plaintiff, by its attorneys,  
29 brings this action against the above named defendants and alleges  
30 as follows:

31 I

32 JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Act of  
Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly  
known as the Sherman Act, in order to prevent and restrain  
continuing violation by the defendants, as hereinafter alleged,  
of Section 1 of the Act (15 U.S.C. § 1).



1 limited to pasteurized and homogenized milk, two  
2 percent milk, skim milk, buttermilk, whipping and  
3 table cream, half and half, sour cream, cottage  
4 cheese, ice cream and yogurt;

5 (c) "ingredients" means flavoring, skim milk  
6 solids, corn sugar, sweeteners, milk stabilizers,  
7 vitamins and other products (other than raw milk)  
8 used in the processing of dairy products;

9 (d) "packaging materials" means cartons, bottles,  
10 wrappers and other materials used to contain, hold or  
11 package dairy products; and

12 (e) "wholesale prices" means those prices at  
13 which dairy products are sold by processor-distributors  
14 to markets, grocery stores, restaurants and others who  
15 purchase dairy products for resale.

16 V

17 TRADE AND COMMERCE

18 6. Defendant corporations process and package substantial  
19 quantities of dairy products in the Western District of Washington.  
20 Sales of such dairy products by defendant corporations in the  
21 States of Washington and Alaska exceed seventy million dollars  
22 annually.

23 7. During the period of time covered by this complaint,  
24 defendant and co-conspirator distributors sold substantial  
25 quantities of dairy products which had been processed and  
26 packaged in the Western District of Washington to wholesale  
27 and other customers in the State of Alaska. Thus there was  
28 a continuous and substantial flow of dairy products from  
29 defendant and co-conspirator distributors in the Western  
30 District of Washington to their wholesale customers located  
31 in the State of Alaska.



1 up to and including the date of the filing of this complaint,  
2 the defendants and co-conspirators have engaged in a combina-  
3 tion and conspiracy in unreasonable restraint of the aforesaid  
4 interstate trade and commerce, in violation of Section 1 of  
5 the Act of Congress of July 2, 1890, as amended (26 Stat. 209,  
6 15 U.S.C. § 1), commonly known as the Sherman Act. Said offense  
7 is continuing and will continue unless the relief hereinafter  
8 prayed for in the complaint is granted.

9 11. The aforesaid combination and conspiracy has consisted  
10 of a continuing agreement, understanding and concert of action  
11 among the defendants and co-conspirators, the substantial terms  
12 of which have been:

13 (a) to raise, fix and maintain the wholesale prices  
14 of dairy products in the States of Washington and Alaska;  
15 and

16 (b) to allocate and divide the sale of dairy products  
17 to various school districts in the Western District of  
18 the State of Washington.

19 12. During the period of time covered by this complaint,  
20 and for the purpose of formulating and effectuating the afore-  
21 said combination and conspiracy, the defendants and co-conspirators  
22 did those things which they combined and conspired to do.

## 23 VII

### 24 EFFECTS

25 13. The combination and conspiracy alleged in this complaint  
26 has had the following effects, among others:

27 (a) wholesale prices of dairy products in the States  
28 of Washington and Alaska have been raised, fixed and  
29 maintained at artificial, noncompetitive levels;  
30

1 (b) various school districts in the Western  
2 District of the State of Washington have been deprived  
3 of receiving bids on an open competitive basis; and

4 (c) competition between and among the defendant  
5 corporations has been restrained and eliminated.

6 PRAYER

7 WHEREFORE, plaintiff prays:

8 1. That the Court adjudge and decree that the defendants  
9 and co-conspirators have combined and conspired to unreasonably  
10 restrain the aforesaid interstate trade and commerce, in viola-  
11 tion of Section 1 of the Sherman Act.

12 2. That each of the defendants, their successors,  
13 assignees and transferees, and the officers, directors,  
14 agents and employees thereof, and all other persons acting  
15 or claiming to act on behalf thereof, be perpetually enjoined  
16 and restrained from, in any manner, directly or indirectly,  
17 continuing, maintaining or renewing the aforesaid offense  
18 and from engaging in any other combination, conspiracy,  
19 contract, agreement, understanding or concert of action  
20 having a similar purpose or effect and from adopting or  
21 following any practice, plan, program or device having a  
22 similar purpose or effect.

23 3. That each of the defendants, their successors,  
24 assignees and transferees, and the officers, directors,  
25 agents and employees thereof, and all other persons acting  
26 or claiming to act on behalf thereof, be enjoined and  
27 restrained from, in any manner:

28 (a) communicating, directly or indirectly,  
29 to any processor, handler or distributor of dairy  
30 products, information concerning prices or other  
31

1 terms or conditions of sale of any dairy product,  
2 prior to the release thereof to the public or trade  
3 generally; and

4 (b) communicating, directly or indirectly,  
5 with any processor, handler or distributor of  
6 dairy products concerning the subcontracting,  
7 division or allocation of any contract to provide  
8 dairy products, prior to the award of such con-  
9 tract.


10 4. That each defendant be ordered to individually and  
11 independently review and determine its prices and other terms  
12 and conditions for the sale of dairy products, put into effect  
13 those prices, terms, and conditions so determined, and file  
14 with this Court affidavits certifying that these requirements  
15 have been fulfilled.

16 5. That the Court order each defendant to maintain  
17 records showing meetings with or communications to or from  
18 any other processor, handler or distributor of dairy  
19 products.

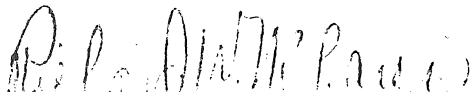
20 6. That the Court order each defendant to annex to  
21 every sealed bid or quotation on dairy products, made to  
22 a public institution or authority, a written certification  
23 by an officer of the defendant, or by the employee of the  
24 defendant having authority to determine the bid or quotation  
25 involved, that such bid or quotation was not the result of  
26 or in part due to any agreement, understanding or communica-  
27 tion between the defendant and any competitor.

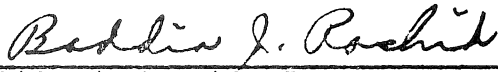
28 7. That the plaintiff have such other and further  
29 relief as the nature of the case may require and the Court  
30 may deem just and proper.

1           8. That the plaintiff recover the costs of this  
2 action.

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