

## Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Iowa Beef Packers, Inc., U.S. District Court, N.D. Iowa, 1970 Trade Cases ¶73,089, (Mar. 20, 1970)

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United States v. Iowa Beef Packers, Inc.

1970 Trade Cases ¶73,089. U.S. District Court, N.D. Iowa, Western Division. Civil No. 69-C-3008-W. Entered March 20, 1970. Case No. 2043 in the Antitrust Division of the Department of Justice.

### Clayton Act

**Acquisition of Competitor—Beef Packers—Consent Decree.**—A beef packer was required by the terms of a final consent judgment to divest itself of the assets of a competitor that it had acquired. The decree also prohibited the packer from acquiring all or any part of the assets or stock of a competitor in a four-state area for a period of ten years without consent of the government.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen., Baddia J. Rashid, Charles D. Mahaffie, Jr., W. D. Kilgore, Jr., J. E. Waters, Robert B. Greenbaum and John J. McLoone, Jr., Attys., Dept. of Justice.

For the defendant: E. Houston Harska.

### Final Judgment

HANSON, D. J.: Plaintiff, United States of America, having filed its complaint herein on February 24, 1969, and defendant, Iowa Beef Packers, Inc., having filed its Answer thereto, and plaintiff having filed its amended complaint on December 5, 1969; and plaintiff and defendant, Iowa Beef Packers, Inc., having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with 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 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 of the parties hereto. The amended complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Act of Congress of October 15, 1914, as amended (15 U. S. C., §18), commonly known as the Clayton Act.

#### II.

[ *Definitions* ]

As used in this Final Judgment:

(A) "IBP" means defendant, Iowa Beef Packers, Inc., a corporation organized and existing under the laws of the State of Delaware, with its principal office in Dakota City, Nebraska.

(B) "Blue Ribbon" means the former Blue Ribbon Beef Pack, Inc., acquired by IBP on August 1, 1969.

(C) "Eligible purchaser" means a person which represents that it intends to operate Blue Ribbon or the Blue Ribbon facilities as an operating business in competition with other firms engaged in the slaughter and processing of fed cattle and which is approved by plaintiff, or failing such approval, by the Court.

#### III.

[ *Applicability*]

The provisions of this Final Judgment applicable to defendant shall apply to such defendant, its subsidiaries, successors and assigns and to each respective officer, agent, servant, employee and to all persons in active concert or participation with defendant who receive actual notice of this Final Judgment by personal service or otherwise. None of the provisions of this Final Judgment shall apply to any person or persons which acquires any of the assets disposed of pursuant to this Final Judgment.

IV.

[ *Divestiture*]

(A) Within two years from the date of this Final Judgment, IBP shall sell, upon terms and conditions to be approved by the Court, to an eligible purchaser or purchasers either the assets of Blue Ribbon as a going business or the Mason City and Le Mars plants of Blue Ribbon separately as going businesses.

(B) In accomplishing the divestiture ordered by paragraph IV(A), IBP shall make known the availability for sale of the Blue Ribbon assets by ordinary and usual means and it shall employ one or more brokers to assist it in such divestiture. IBP shall furnish to all bona fide prospective purchasers all necessary information, including current financial statements regarding the Blue Ribbon, assets and operations and shall permit such prospective purchasers to make such inspection as may be reasonably necessary.

(C) Pending any sale pursuant to the terms of this Final Judgment and subject to the provision of this Court's order of October 6, 1969, IBP shall continue the normal operations of Blue Ribbon and shall take no action with respect to the personnel or assets of Blue Ribbon which would impair IBP's ability to accomplish the divestiture ordered in paragraph IV(A).

(D) The divestiture ordered in paragraph IV(A) shall be made in good faith and shall be absolute and unqualified; provided, however, that IBP may accept and enforce any bona fide lien, mortgage, deed of trust or other form of security on all or any portion of the divested assets given for the purpose of securing to IBP payment of any unpaid portion of the purchase price thereof or performance of the sale transaction and may also enforce any other terms and conditions of the sale transaction as therein provided or as provided by law. In the event that IBP, as a result of the enforcement of any bona fide lien, mortgage, deed of trust or other form of security, reacquires possession of the divested assets, then IBP shall be required thereafter to divest itself of such assets in accordance with the terms of this Final Judgment.

(F) Following the entry of this Final Judgment and continuing until completion of the divestiture ordered by paragraph IV(A) IBP shall render bi-monthly reports to the Assistant Attorney General outlining in detail the efforts made by it and by its broker or brokers to accomplish the divestiture ordered in paragraph IV(A). The first such report shall be rendered within sixty (60) days after the date of entry of this Final Judgment.

V.

[ *Acquisition of Competitors*]

IBP is enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring all, or any part of the assets (other than assets acquired in the ordinary course of business) or all or any part of the stock of any individual, partnership, firm, corporation, association or other business or legal entity engaged in the business of slaughtering or processing fed cattle in the States of Iowa, Nebraska, Minnesota or South Dakota without the consent of the Department of Justice or failing such consent, the approval of the Court upon a showing that such acquisition may not substantially lessen competition or tend to create a monopoly.

VI.

[ *Compliance & Inspection*]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written

request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to the defendant made to its principal office, be permitted:

(a) access, during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of said defendant relating to any of the matters contained in this Final Judgment; and (b) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview the officers and employees of defendant, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this Final Judgment, the defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its principal offices, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VI 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.

## VII.

[ *Jurisdiction Retained* ]

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