

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 TRIBUNE COMPANY AND)
 SENTINEL STAR COMPANY,)
)
 Defendants.)

Civil No. 82-260-ORL-CIV-R

Filed: 5/26/82

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to restrain the continued violation by the defendants, as hereinafter alleged, of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

2. The Tribune Company, through its wholly-owned subsidiary, the Sentinel Star Company, transacts business, maintains offices, and is found within the Middle District of Florida.

3. The Sentinel Star Company has its principal place of business, transacts business, and is found within the Middle District of Florida.

DEFINITIONS

4. As used herein:

a. The term "newspaper" means a publication printed on newsprint in broadsheet or tabloid format containing advertising and editorial matter, consisting of news of current events, feature articles, and other information, which is published on a regular schedule, usually at least one day per week.

b. The term "shopper" means a publication printed on newsprint in broadsheet or tabloid format similar to that of a newspaper, containing advertising and little or no editorial content, which is published on a regular schedule, usually at least one day per week.

c. The term "retail advertising" means advertising placed by a merchant or business offering to sell a product or service to the public through one or more retail stores or offices in or near the area to which the advertising is directed.

d. The term "classified advertising" means advertisements, such as those for employment, sale of real estate, sale of automobiles, purchase or sale of other services or merchandise, and personal messages, that commonly appear in the classified advertising section of a newspaper.

e. The term "local advertising" means retail and classified advertising collectively.

f. The term "local print advertising" means local advertising printed on paper and physically delivered to individual readers.

g. The term "local print advertising media" means mass communications media, including newspapers and shoppers, that carry local print advertising.

h. The term "Luzadder publications" means the Kissimmee Gazette, St. Cloud News, This Week in Osceola County, Osceola Shopper, and St. Cloud Shopper.

i. The term "Luzadder enterprises" means Osceola Publishing Company, Inc., This Week in Osceola County, Inc., Osceola Shopper, Inc., and the Richard L. Luzadder sole proprietorship that until October 15, 1980, published the St. Cloud News.

III

THE DEFENDANTS

5. The Tribune Company, a corporation organized and existing under the laws of Delaware, with its principal offices located in Chicago, Illinois, is made a defendant herein. The Tribune Company is primarily engaged, directly and through subsidiaries, in newspaper publishing and radio and television broadcasting. It publishes eight daily newspapers, including the Chicago Tribune, the New York Daily News, the Fort Lauderdale News, the Fort Lauderdale Sun-Sentinel, and the Orlando Sentinel, and more than twenty-five weekly newspapers and shoppers located in several states. The Tribune Company also owns five radio stations, three television stations, cable television systems, and Ontario Paper Company, Ltd., a producer of newsprint and forest products.

6. The Sentinel Star Company, a wholly-owned subsidiary of the Tribune Company, organized and existing under the laws of Delaware, with its principal place of business in Orlando, Florida, is made a defendant herein. The Sentinel Star Company publishes the Orlando Sentinel, a daily and Sunday newspaper of general circulation distributed primarily in the Orlando metropolitan area. It also publishes approximately seventeen weekly newspapers and shoppers in several locations within the state of Florida. The Tribune Company formed the Sentinel Star Company in 1965 to acquire the Orlando Sentinel and the Orlando Evening Star. In 1973 the Sentinel and the Evening Star were consolidated to form the Sentinel Star. In April 1982 the name of the newspaper was changed to the Orlando Sentinel.

TRADE AND COMMERCE

7. Within its primary market area of Orange, Lake, Osceola, Seminole, and southwest Volusia Counties, the Orlando Sentinel publishes zoned sections, in the form of "little sentinels," which contain local news, features, and other information of special interest to its readers within each zone. The Orlando Sentinel also sells advertising space in each of its zoned sections to retailers and others who desire to reach only the paper's readers in a particular zone or zones and are unable or unwilling to pay the higher rates charged for advertising in or accompanying the more widely distributed main body of the paper.

8. Osceola County is and at all times pertinent to this complaint has been a little sentinel zone. The Osceola little sentinel, which contains local news and advertising for Osceola County, currently is included in all copies of the Orlando Sentinel distributed in Osceola County every day except Saturday and Monday. In 1980 the Sentinel Star, predecessor of the Orlando Sentinel, had an average daily circulation in Osceola County of 9,835 and an average Sunday circulation of 12,199. The Sentinel Star's average daily and Sunday circulations for its entire primary market area during 1980 were 168,257 and 198,497, respectively.

9. The Kissimmee Gazette and the St. Cloud News are paid-circulation weekly newspapers published and distributed within Osceola County. In 1980 they had a combined weekly circulation of approximately 3,400 copies. This Week in Osceola County is a free-circulation weekly newspaper published and distributed within Osceola County. Its average weekly circulation was 15,200 in 1980. The Osceola Shopper and the St. Cloud Shopper are shoppers published and distributed in Osceola County. The Osceola Shopper is distributed free to all households in Osceola County on a weekly basis. Its average circulation in 1980 was approximately 22,000. The St. Cloud Shopper is distributed free weekly to all households in the

St. Cloud area of Osceola County. Its 1980 average weekly circulation was approximately 7,000. The Kissimmee Gazette, the St. Cloud News, and This Week in Osceola County contain news stories, feature articles, and other information about Osceola County that are of special interest to Osceola County residents. All five of the Luzadder publications sell advertising to local retailers and others who desire to reach an Osceola County audience.

10. Prior to October 15, 1980, the Kissimmee Gazette and the St. Cloud News were owned and published by Osceola Publishing Company, Inc.; This Week in Osceola County was owned and published by This Week in Osceola County, Inc.; the Osceola Shopper was owned and published by Osceola Shopper, Inc.; and the St. Cloud Shopper was owned and published by a sole proprietorship owned by Richard L. Luzadder. All of the issued and outstanding stock of Osceola Publishing Company, Inc., This Week in Osceola County, Inc., and Osceola Shopper, Inc., was owned by Richard L. Luzadder and Peggy S. Luzadder, his wife, residents of Osceola County, Florida.

11. Local advertising differs from other types of advertising in its functions, characteristics, users, price, and the vehicles by which it is transmitted. Newspapers and other advertising media distinguish between local and national advertising and commonly maintain separate rates for national, retail, and classified advertising.

12. Local advertising is a product distinct from other forms of advertising, and the sale of local advertising is a separate line of commerce.

13. Osceola County is a retail trading area and residential community distinct from surrounding areas, and it constitutes a geographic market for the dissemination of local advertising.

14. Local advertising directed at Osceola County appears in a variety of media, including newspapers, shoppers, magazines, direct mail, radio, television, and billboards. Prior to the Sentinel Star Company's acquisition of the

Luzadder publications, as alleged in paragraph 20 of this complaint, the Sentinel Star, including the Osceola little sentinel, and the Luzadder publications competed in the sale of local advertising directed at Osceola County. In 1979 the Sentinel Star accounted for approximately 40 percent and the Luzadder publications approximately 20 percent of all such advertising.

15. In addition to the market for local advertising directed at Osceola County, there is a market consisting of local print advertising directed at Osceola County. Print advertising media differ from other advertising media in their physical characteristics, cost, effectiveness, and ability to convey certain kinds of advertising messages. Print media are particularly well suited to communicating detailed information of the sort commonly contained in retail and classified advertisements.

16. The Orlando Sentinel and the Luzadder publications are the only significant print media carrying local advertising directed at residents of Osceola County. Prior to the Sentinel Star Company's acquisition of the Luzadder publications, as alleged in paragraph 20 of this complaint, the Sentinel Star, including the Osceola little sentinel, and the Luzadder publications competed in the sale of local print advertising directed at Osceola County. In 1979 the Sentinel Star accounted for approximately 64 percent and the Luzadder publications approximately 36 percent of all local print advertising directed at Osceola County.

17. At the time of the acquisition hereinafter alleged, the Tribune Company and the Sentinel Star Company were engaged in the sale of advertising and the dissemination of news in interstate commerce. At the time of the acquisition hereinafter alleged, Richard L. Luzadder, Peggy S. Luzadder, and the Luzadder enterprises were engaged in the sale of advertising and the dissemination of news in interstate commerce. The sale of advertising in interstate commerce

includes the transmission of contracts, copy, and payments across state lines. The dissemination of news in interstate commerce includes the sale of newspapers across state lines.

18. At the time of the acquisition hereinafter alleged, the Tribune Company and the Sentinel Star Company were engaged in activities substantially affecting interstate commerce. At the time of the acquisition hereinafter alleged, Richard L. Luzadder, Peggy S. Luzadder, and the Luzadder enterprises were engaged in activities substantially affecting interstate commerce. Activities substantially affecting interstate commerce include the purchase of supplies and equipment in interstate commerce and the publication of advertising used by sellers of goods and services to develop, maintain, and extend their markets. Most goods sold in Osceola County are produced outside Florida and shipped to Florida for sale to consumers. The price and availability of advertising in the Orlando Sentinel and the Luzadder publications substantially affect the quantity of goods sold in Osceola County, and thereby substantially affect the quantity of goods shipped in interstate commerce.

19. The markets for local advertising directed at Osceola County and local print advertising directed at Osceola County are in interstate commerce and substantially affect interstate commerce.

V

VIOLATION ALLEGED

20. On October 15, 1980, the Tribune Company, through its wholly-owned subsidiary, the Sentinel Star Company, acquired for \$4,139,289 all issued and outstanding capital stock of Osceola Shopper, Inc., Osceola Publishing Company, Inc., and This Week in Osceola County, Inc., as well as the sole proprietorship owned by Richard L. Luzadder that published the St. Cloud Shopper.

21. The effect of the acquisition alleged in paragraph 20, may be substantially to lessen competition in interstate commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

a. actual and potential competition between the Sentinel Star, and its successor, the Orlando Sentinel, and the Luzadder publications in the markets for local advertising and local print advertising directed at Osceola County has been eliminated; and

b. concentration in the already highly concentrated markets for local advertising and local print advertising directed at Osceola County has been substantially increased, as a result of which competition generally in the markets for local advertising and local print advertising directed at Osceola County may be substantially lessened.

VI

PRAYER

WHEREFORE, plaintiff prays:

1. That the acquisition of the Luzadder publications by the defendants be adjudged a violation of Section 7 of the Clayton Act;


2. That under such terms and conditions as the Court may prescribe the defendants be required to divest the unlawfully acquired stock and assets in order to restore the Luzadder publications to their pre-acquisition competitive posture;

3. That the defendant Tribune Company, its subsidiaries, officers, directors, and agents, and all other persons acting on its behalf be enjoined from acquiring the stock or assets of any firm engaged in publishing, distributing, or selling local advertising in any portion of the Orlando Sentinel's primary market area;

4. That the plaintiff have such other and further relief as the nature of this case may require and as this Court may deem just and proper; and

5. That the plaintiff recover the costs of this action.

Dated:


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