

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOEW'S, INCORPORATED,

Defendant.

Civil Action

No. 119-24

Filed: March 27, 1957

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the defendant named herein and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," c. 647, 26 Stat. 209, as amended, commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendant, as hereinafter alleged, of Section 1 of that Act (15 U.S.C. Sec. 1).

2. The defendant transacts business and is found within the Southern District of New York.

II.

THE DEFENDANT

3. Loew's, Incorporated, is a corporation organized and existing under the laws of the State of Delaware, with its principal place of

business at 1540 Broadway, New York, New York, and is engaged in the business of producing and distributing feature films, either directly or through subsidiary or associated companies, in various parts of the United States and in foreign nations.

III.

DEFINITIONS

4. As used herein, the term:
- (a) "Feature films" means copyrighted motion pictures four or more reels in length, including Westerns but excluding motion pictures of strictly educational, religious or industrial character;
 - (b) "Film" means all types of programs for television other than programs telecast to the audience at the time when they are being performed. Film includes both syndicated half-hour programs and feature films;
 - (c) "Block-booking" means the compulsory sale or licensing of feature films to television stations for exhibition on television in a block whereby the licensing of one feature film is conditioned by the licensor upon the licensing of one or more other feature films.

IV.

NATURE OF TRADE AND COMMERCE INVOLVED

5. Film plays a very important part in the programming of all of the 471 commercial television stations in the United States. These stations need film for use in programming a large portion of the approximately 5,000 hours per year during which they broadcast.

Commercial television stations that are affiliated with a network obtain more than half of their programs on film. Independent television stations, not affiliated with a network, obtain more than three-quarters of their programs on film.

6. All television stations use feature films. About half of all hours devoted to film is allotted to feature films. As in the case of film, the use of feature films by television stations also varies depending on whether the stations are affiliated with or independent of a network. Most of the commercial television stations in the United States are affiliated with a network. Since affiliated stations are supplied by networks with live programming, they depend to a somewhat lesser degree on feature films than do non-affiliated stations.

7. Until recent years, despite great demand for them, there were few feature films available to television. Beginning in or about January 1956, backlogs of the major motion picture producers were made available to television. Over 2500 feature films have been released to television from these sources.

8. Pursuant to instructions of defendant, positive prints of its feature films are prepared in film laboratories in numbers sufficient to meet demand, and are then shipped from said laboratories across state lines to television stations in various states of the United States. Said films are then telecast across state lines. After said films are exhibited on television, the stations return them to defendant for further circulation and transportation in interstate commerce.

9. But for the offense hereinafter described, a substantially greater number of feature films distributed by the defendant and by

its competitors would be shipped in interstate commerce and licensed to television stations throughout the country for exhibition in interstate commerce to television audiences.

10. In the course of the distribution of feature films to television stations by defendant, there is a constant, continuous stream of trade and commerce among the states, consisting, among other things, of the transportation of positive and negative prints of such films from the defendant's studios to film laboratories and from them through the local offices of the defendant to television stations which, in turn, after exhibiting the pictures, return them to the defendant.

V.

OFFENSE CHARGED

11. Beginning in the latter part of 1956 and continuously since that time, the defendant has entered into, and has refused to deal other than on the basis of, block-booking contracts, all in unreasonable restraint of the above-described trade and commerce in feature films in violation of Section 1 of the Sherman Act (15 U.S.C. §1). The defendant threatens to continue and will continue to enter into such unlawful contracts unless the relief hereinafter prayed for in this complaint is granted.

12. Commencing in 1956, defendant has licensed over 700 feature films to many television stations in many different markets and, in so doing, has required the purchase of the entire group of said films. Defendant has also offered licenses for said films to many other television stations but, in each case, has insisted that they be licensed on a block-booking basis. In at least three instances, corporations owning television stations have issued or transferred 25 percent of their voting capital stock to defendant in exchange for licenses to exhibit said films on television.

VI.

EFFECTS

13. The aforesaid offense has had the following effects:
- (a) Television stations have been forced to purchase large numbers of feature films not desired by them;
 - (b) The playing time of television stations has been arbitrarily preempted, thus preventing them from securing film from other producers and distributors;
 - (c) Television stations which are financially unable to take feature films in the large quantities required by the defendant have been prevented from obtaining any of the feature films of defendant;
 - (d) Television stations have exhibited many feature films that are inferior in quality which, except for the offense herein alleged, they would not have exhibited.

P R A Y E R

WHEREFORE, THE PLAINTIFF PRAYS:

1. That the Court adjudge and decree that the defendant has unlawfully contracted in restraint of interstate trade and commerce in the distribution of feature films in violation of Section 1 of the Sherman Act.

2. That the defendant be enjoined from refusing to license feature films to television stations on a picture-by-picture, station-by-station basis.

3. That the Court direct the defendant to offer to renegotiate the existing contracts for block-booking entered into between it and television stations in the United States so as to give any said station an opportunity to license defendant's feature films on a picture-by-picture and station-by-station basis.

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

5. That the plaintiff recover its taxable costs in this action.

Dated: March 27, 1957

/s/ Herbert Brownell, Jr.
HERBERT BROWNELL, JR.
Attorney General

/s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

/s/ Victor H. Kramer
VICTOR H. KRAMER
Attorney, Department of Justice

/s/ Leonard R. Posner
LEONARD R. POSNER
Attorney, Department of Justice