
**Dissenting Statement of Commissioners
Orson Swindle and Thomas B. Leary**

Hearst Trust and Hearst Corporation's Acquisition of J.B. Laughrey, Inc.,

File No. 991 0323

We have reason to believe that the proposed defendants in this matter have engaged in particularly egregious violations of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. Accordingly, we would have supported an administrative complaint to address these issues. We also believe, based on the evidence currently before us, that substantial civil penalties are appropriate for Hearst's apparent violations of Section 7A of the Clayton Act.

We dissent, however, from the Commission's decision to file its own complaint in federal court at this time. We believe that continued negotiations with the respondents would likely result in an agreement on substantial penalties for the apparent violations of Section 7A and a prompt divestiture that would help to restore competition in the market, as well as other appropriate relief that would reduce the prospect of continuing consumer harm.

We particularly dissent from the Commission's decision to seek disgorgement in this situation. Without expressing a view on whether that extraordinary remedy should ever be available in an antitrust case, we believe that, if a violation is proved, existing private remedies are adequate to ensure that respondents do not benefit from any possible wrongdoing and that their customers can be made whole.