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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

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TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

DAILY GAZETTE COMPANY,

and

MEDIANEWS GROUP, INC.

*Defendants.*

Civil Action No. 2:07-cv-0329

Filed:

**COMPLAINT**

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain equitable and other relief to prevent and restrain defendants Daily Gazette Company ("Gazette Company") and MediaNews Group, Inc. ("MediaNews Group") from continuing to violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 & 2, as amended. The United States complains and alleges as follows:

**I. NATURE OF THE ACTION**

1. This lawsuit challenges a series of transactions in 2004 that extinguished competition between Charleston's two daily newspapers by combining *The Charleston Gazette* and the *Charleston Daily Mail* under the common ownership of Gazette Company as part of a

television news, Internet news, or any other media to be adequate substitutes for the two local daily newspapers serving the Charleston area. Thus, in the event of a small but significant increase in the price of local daily newspapers, the number of readers who would switch to other sources of local news and information, and would stop buying any daily local newspaper, would not be sufficient to make such a price increase unprofitable.

25. Advertising in the *Charleston Gazette* and the *Charleston Daily Mail* allows advertisers to reach a broad cross-section of consumers in the Charleston metropolitan area with a detailed message in a timely manner. A substantial portion of advertisers seeking to reach Charleston area consumers do not consider other types of advertising, such as that in weekly newspapers, on radio, on television, or on the Internet to be adequate substitutes for advertising in a local daily newspaper. Thus, in the event of a small but significant increase in the price of daily newspaper local advertising, the number of advertisers seeking to reach Charleston area consumers that would substitute these other types of advertising for advertising in a local daily newspaper, or would reduce their purchase of advertising in a local daily newspaper, would not be sufficient to make such a price increase unprofitable.

26. Accordingly, the sale of local daily newspapers to readers, and the sale of access to those readers to advertisers in those newspapers, each constitutes a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act and for purposes of Sections 1 and 2 of the Sherman Act.

**B. The Relevant Geographic Market**

27. The *Charleston Gazette* and the *Charleston Daily Mail* are both produced, published, and distributed to readers in the Charleston, West Virginia area (primarily Kanawha

and Putnam Counties). Both newspapers provide news relating to the Charleston area in addition to state and national news.

28. Local daily newspapers that serve areas outside of the Charleston area do not regularly provide local news specific to the Charleston area. From a reader's standpoint, local daily newspapers serving areas outside of the Charleston area are not acceptable substitutes for the *Charleston Gazette* and the *Charleston Daily Mail*. For this reason, local daily newspapers outside of the Charleston area do not have any significant circulation or sales in Charleston. In the event of a small but significant increase in the price of local daily newspapers in Charleston, the number of readers who would substitute local daily newspapers outside of the Charleston area, and would stop buying any daily local newspaper, would not be sufficient to make such a price increase unprofitable.

29. The *Charleston Gazette* and the *Charleston Daily Mail* allow advertisers to target readers in the Charleston area. From the standpoint of an advertiser selling goods or services in the Charleston area, advertising in local daily newspapers serving areas outside of the Charleston area is not an acceptable substitute for advertising in the *Charleston Gazette* and the *Charleston Daily Mail*. In the event of a small but significant increase in the price of advertisements in local daily newspapers serving the Charleston area, the number of advertisers that would substitute local daily newspapers outside of the Charleston area, and would reduce their purchase of advertising in a local daily newspaper, would not be sufficient to make such a price increase unprofitable.

30. Accordingly, the Charleston, West Virginia area is a section of the country and a relevant geographic market within the meaning of Section 7 of the Clayton Act and for purposes of Sections 1 and 2 of the Sherman Act.

#### **VI. ANTICOMPETITIVE EFFECTS**

31. The May 7 transactions have and will continue to substantially lessen competition in the local daily newspaper market in the Charleston, West Virginia area by giving Gazette Company a monopoly in the Charleston local daily newspaper market. These transactions gave Gazette Company control over and the power to weaken or eliminate the *Charleston Daily Mail* and have already had, and will continue to have, among others, the following adverse effects on competition:

- (a) reduced output (both quantity and quality) of newspapers; and
- (b) increased prices to readers and advertisers.

#### **VII. ENTRY**

32. Entry by local daily newspapers into the Charleston, West Virginia, area is time-consuming and difficult, and is not likely to prevent the anticompetitive effects of the May 7 transactions by constraining Gazette Company's market power in the foreseeable future. Local daily newspapers incur significant fixed costs, many of which are sunk. Examples of these sunk costs include building or gaining access to a printing facility, establishing a distribution network, hiring reporters and editors, news gathering, and marketing the very existence of the new paper, all of which take substantial time. These costs often are termed "first copy" costs because they are costs that newspaper companies must incur before they print the first copies of their newspapers. In the event that the entrant fails or exits the newspaper industry, it cannot recover