

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

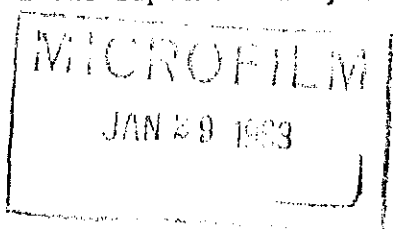


UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 119-24
	:	
LOEW'S INCORPORATED,	:	
	:	
Defendant.	:	
	:	

FINAL JUDGMENT ON REMAND

This Court having entered final judgment on February 2, 1961, and the United States Supreme Court having vacated the judgment and remanded for the entry of an amended judgment by its decision of November 5, 1962, upon consideration of the mandate of the Supreme Court, it is hereby

Ordered, Adjudged and Decreed:



I

As used in this Final Judgment:

- (A) "Person" shall mean any individual, partnership, firm, association, corporation or other legal entity;
- (B) "Feature film" shall mean a copyrighted motion picture, regardless of date of production or release, four or more reels in length which was originally produced for theatrical exhibition;
- (C) "Film" means any type of visual program, with or without aural accompaniment, recorded on motion picture film or video tape, available for exhibition on television; and
- (D) "Television station" means any station in the United States or its territories, which transmits visual images by wireless broadcast, by wire or otherwise.

II

(A) The defendant has entered into contracts for the sale or licensing of feature films for exhibition over television stations in restraint of trade and commerce in the distribution of feature films in violation of Section 1 of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, as amended.

(B) Evidence offered by the plaintiff at trial established that the following contracts resulted from the conditioning of the license of one or more feature films on the license of one or more other films, in violation of Section 1 of the Sherman Act, as amended:

1. License dated March 12, 1958, with Station KWTW of Oklahoma City, Oklahoma.

2. License dated August 28, 1958, with Station WBRE of Wilkes-Barre, Pennsylvania.

III

The provisions of this Final Judgment shall apply to the defendant, its officers, directors, agents, servants, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

The defendant is enjoined and restrained from:

(A) Conditioning or tying, or attempting to condition or tie, whether temporarily for the purpose of attempting to sell or license a group of films to another television station, or otherwise, the purchase or license of the right to exhibit any feature film over any television station upon the purchase or license of any other film, provided, however, that defendant may briefly defer licensing or selling films to a station pending the expeditious conclusion of bona fide negotiations already being conducted with a competing station on a proposal wherein the distributor has simultaneously offered to license or sell films either individually or in a package;

(B) Conditioning the purchase or license of the right to exhibit any feature film over any television station upon the purchase or license for exhibition over any other television station of that feature film, or any other film;

(C) Selling or licensing, or offering to sell or license, the right to exhibit any feature film over any television station, where the differential between the price or fee for such feature film when

sold or licensed alone and when sold or licensed in combination with one or more other films exceeds the savings to the defendant in costs of distribution, and in any other legitimate costs, resulting from selling such film in combination. In any proceeding brought under this decree, the burden of going forward with the evidence establishing that any such differential in price or fee does not exceed such savings in cost shall be upon the defendant;

(D) Selling or licensing, or offering to sell or license, the right to exhibit feature films over television stations, except in the following manner; (1) each picture offered or sold shall be individually listed, separately priced and offered or sold picture-by-picture, without discrimination in price or terms or conditions of sale between competing stations; and (2) defendant shall sell or license such film or films as a station may seek to purchase or license at the defendant's offered prices, subject however to the proviso contained in paragraph IV (A) hereof.

V

Subject to the terms of Section IV of this Final Judgment the defendant may sell or license for exhibition over any television station or group of television stations any number of films for any number of runs in a single agreement at an aggregate price or fee.

VI

Defendant is ordered and directed upon entry of this Final Judgment to advise promptly, in writing, all of its officers, directors, salesmen and other employees engaged in negotiating the sale or license of feature films to television stations of the terms of this Final Judgment and that each and every such person is subject to the provisions of this Final Judgment.

VII

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney

General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of the defendant, to the books, ledgers, accounts, correspondence, memoranda and other records or documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of defendant, to interview officers or employees of defendant, who may have counsel present, regarding any such matter.


Upon written request, defendant shall submit such reports in writing to the Department of Justice with respect to any matters contained in this Final Judgment as may from time to time be necessary for the enforcement of said Judgment. No information obtained by means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized person, 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.

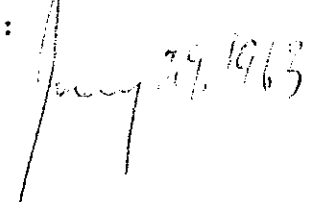
VIII

Jurisdiction is retained for the purpose of enabling any party 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, for the modification of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof, or for further relief.

IX

The defendant herein is hereby ordered to pay all costs to be taxed in this case.


United States District Judge

Dated:  July 29, 1963

Herbert A. Charlson,
Clerk.
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