

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of

**U-Haul International, Inc.
a corporation, and**

**AMERCO
a corporation.**

DOCKET NO. C-

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41, *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that U-Haul International, Inc., and AMERCO (hereinafter sometimes collectively referred to as “Respondents” or “U-Haul”), have violated the provisions of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint stating its charges as follows:

NATURE OF THE CASE

1. U-Haul is the largest consumer truck rental company in the United States. On multiple occasions, U-Haul invited its closest competitor, Avis Budget Group, Inc. (“Budget”), to join with U-Haul in a collusive scheme to raise rates for one-way truck rentals. U-Haul invited collusion employing both private communications and public statements. These actions endanger competition, and violate Section 5 of the FTC Act.

PRELIMINARY ALLEGATIONS

2. Respondent AMERCO is a corporation organized, existing, and doing business under and by virtue of the laws of Nevada, with its corporate headquarters located at 1325 Airmotive Way, Ste. 100, Reno, Nevada 89502.
3. Respondent U-Haul International, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of Nevada, with its corporate headquarters located at 2727 North Central Avenue, Phoenix, Arizona 85004. U-Haul International, Inc. is a direct subsidiary of AMERCO.

4. Edward J. Shoen serves as Chairman, President, and Director of AMERCO, and as Chief Executive Officer and Chairman of U-Haul International, Inc.
5. The primary business of U-Haul is renting trucks to consumers for use in “do-it-yourself” moves, typically of household goods. U-Haul has a fleet of over 100,000 trucks, and operates a network of approximately 1,450 company-operated moving centers and 14,000 independent U-Haul dealerships located throughout the United States.
6. U-Haul offers customers the option of a “one-way move,” meaning that the customer may pick up a truck at one U-Haul location and drop the truck off at a different U-Haul location. Any person may visit the U-Haul web-site, input a town of origin and town of destination, and secure a computer-generated rate quote.
7. AMERCO is a publicly traded corporation, and holds conference calls with securities analysts on a quarterly basis. Any person may listen to the call live over the internet, or obtain a transcript of the call. During these “earnings conference calls,” U-Haul executives provide information and answer questions about recent business developments.

JURISDICTION

8. At all times relevant herein, respondents U-Haul International, Inc. and AMERCO, have been, and are now, corporations as “corporation” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
9. The acts and practices of Respondents, including the acts and practices alleged herein, are in commerce or affect commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

LINE OF COMMERCE

10. U-Haul is the largest competitor in the one-way truck rental business in the United States – the company with the most trucks, the most truck rental locations, the greatest revenues, and the highest market share. U-Haul’s closest competitor, and the principal competitive constraint upon U-Haul’s pricing power, is the next largest truck rental company, Budget. U-Haul and Budget together account for 70 percent of one-way truck rental transactions in the United States. Acting together, U-Haul and Budget could profitably impose higher prices upon consumers.

PRIVATELY COMMUNICATED ATTEMPTS TO COLLUDE

11. Edward J. Shoen is the Chairman of both AMERCO and U-Haul International, Inc. Over several years up to and including 2006, Shoen was aware that price competition from Budget was forcing U-Haul to lower its rates for one-way truck rentals.

12. In 2006, Shoen developed two complementary strategies to eliminate this competition and thereby to secure higher rates. U-Haul regional managers and dealers were instructed by Shoen to implement these strategies.
- a. The U-Haul regional manager should raise one-way rates. Then, the regional manager should contact Budget, inform Budget of U-Haul's conditional rate increase, and encourage Budget to follow - lest U-Haul's rates be reduced to the original level.
 - b. An alternative, pre-collusion strategy was available if the U-Haul regional manager judged that Budget would not presently follow a U-Haul rate increase. In this circumstance, the U-Haul regional manager should lower his one-way rates – below those of Budget. Then, the regional manager should contact Budget and inform Budget of this rate reduction. In this way, U-Haul would teach Budget that its low-price policy was fated to be ineffective. This would prepare the ground for the future implementation by U-Haul of the basic, collusive strategy.
13. In October 2006 and November 2006, U-Haul instructed its regional managers to implement one or the other of the above-described strategies. This plan was described in memoranda authored by Shoen and distributed to the regional managers:

Budget continues in some markets to undercut us on One-Way rates. Either get below them or go up to a fair rate. Whatever you do, LET BUDGET KNOW. Contact a large Budget Dealer and tell them. Contact their company store and let the manager know. Rates of 20¢ a mile One-Way, do not even cover the cost of the truck, let alone, repair, maintenance, license, insurance and Dealer commissions. Either get under their BS rate or get up in a cents per mile range where you might make a profit. . . .

We have been up on transactions and down on gross two months in a row. We are either matching stupid rates or we are above them, but not enough to make a profit.

My direction is either get up to a fair rate or get down below the competitor. EITHER WAY, LET THEM KNOW.

(Emphasis in original).

14. In addition, in October 2006, November 2006, and December 2006, Shoen instructed local U-Haul dealers to communicate with their counterparts at Budget and Penske, re-enforcing the message that: (i) U-Haul has raised its rates, and (ii) competitors' rates should now be raised to match the U-Haul rates. Shoen's memoranda offer U-Haul dealers a script for these inter-firm conversations:

We are successfully meeting or beating our Budget and Penske competitors. However, their rates are WAY TOO LOW. When you and your MCP [regional manager] decide it is time to bring some One-Way rates back up above a money loosing [sic] 35¢ mile, have your Dealers let the Budget and Penske Dealers know. Try “Are you tired of renting 500 miles for \$149 and a \$28 commission? Then, tell your Budget/Penske rep that U-Haul is up and they should be too.” Dealers know how to have this conversation and who to call to have it . . . [W]e should be able to exercise some price leadership and get a rate that better reflects our costs.

(Emphasis in original).

15. In late 2006 and thereafter, U-Haul representatives contacted Budget and invited price collusion as instructed by Shoen.
16. Robert Magyar is U-Haul’s regional manager for the Tampa, Florida area. In October 2006, Magyar received from Shoen, his boss, the instructions described in Paragraphs 13 and 14, above.
17. In response to Shoen’s directive, in October 2006, Magyar increased U-Haul’s rates for one-way truck rentals commencing in the Tampa area. Next, Magyar telephoned Budget and communicated to Budget representatives that U-Haul had raised its rates in Tampa and that the new rates could be viewed on the U-Haul web-site. Implicit in the conversation, and intended by Shoen and Magyar, was the message that if Budget did not raise its rates, then U-Haul would lower its rates to their original level.
18. Later that month, Magyar sent an email to Shoen describing his communication with Budget representatives. Shoen responded by instructing Magyar to contact Budget again before lowering rates.
19. One year later, in October 2007, Magyar again contacted local Budget locations. Magyar communicated to Budget that U-Haul had increased its one-way truck rental rates, and that Budget should increase its rates as well. In an e-mail message addressed to U-Haul’s most senior executives, Magyar related the conversations:

I have also called 3 major Budget locations in Tampa and told them who I am, I spoke about the .40 per mile rates to SE Florida and told them I was killing them on rentals to that area and I am setting new rates to the area to increase revenue per rental. I encouraged them to monitor my rates and to move their rates up. And they did.

PUBLICLY COMMUNICATED ATTEMPT TO COLLUDE

20. In late 2007, Shoen determined that U-Haul should attempt to lead an increase in rates for one-way truck rentals across the United States. Shoen understood that this rate increase could be sustained only if Budget followed.
21. On November 19, 2007, Shoen instructed U-Haul regional managers to raise prices:

Stop **setting** MCO [regional] rates based on Budget's rate. Set the correct rate Budget will come up. Let them.

(Emphasis in original).
22. Budget did not immediately match U-Haul's higher rates. U-Haul instructed its regional managers to maintain the new, higher rates for a while longer – in case Budget should take note and decide to follow.
23. U-Haul held its third quarter fiscal year 2008 earnings conference call on February 7, 2008. Shoen was aware that Budget representatives would monitor the call. (A complete transcript of the earnings conference call is annexed hereto as Exhibit A.)
24. Shoen opened the earnings conference call with a short statement noting, *inter alia*, U-Haul's efforts "to show price leadership." When asked for additional information on industry pricing, Shoen made the following points:
 - a. U-Haul is acting as the industry price leader. The company has recently raised its rates, and competitors should do the same.

[W]e're very, very much trying to function a price leader and not give away share And even in several corridor markets that are highly competitive, I'm trying to exhibit some price leadership because, as I think you have found on your own, there are markets that are being priced well below the cost of providing the service. And I don't really believe the customer wants us to do that on any consistent basis So we've been trying to force prices

So we're pushing for it we're going to continue to push for it. I believe the customer wants us to push for it.

And so by, as I talked about earlier, me trying to get us to exercise price leadership every time we get what we consider to be an opportunity, it's another indicator to them [Budget] as to, hey, don't throw the money away. Price at cost at least.

- b. To date, Budget has not taken notice of, and has not matched, U-Haul's higher rates. This is unfortunate for the entire industry.

I think our competitors have a hard time seeing what we do just because the pricing matrix is so vast and any one decision-maker who does some pricing analysis has a hard time really saying in a way that they could fairly represent to their company the trend is up or the trend is down or more likely U-Haul is holding the line, we don't need to just cut, cut, cut. As a strategy I believe the Budget Truck Rental Company is trying to take U-Haul's price in every single corridor and drop it 1 or 2 or 3 or 4, whatever number they can, percent so that they can just price off of us but down.

Budget appears to be continuing as undercut as their sole pricing strategy

And of course classically this is an industry with three major competitors, the one-way truck businesses, Budget, Penske and U-Haul. Classically you get some price leadership and it manages itself okay. It's when somebody decides they have to gain share from somebody that you get this kind of turbulence that results in no economic gain for the group, in fact probably economic loss. So I remain encouraged and the official position of Budget is that they're not doing this. I didn't listen in on their most recent conference calls, but over the last year I'm sure I listened to two or three of them and their official position is they're not doing this. But many a slip between the cup and the lip If they cave on prices the net effect is we got less money.

- c. U-Haul will wait a while longer for Budget to respond appropriately.

[F]or the last 90 days, I've encouraged everybody who has rate setting authority in the Company to give in more time and see if you can't get it to stabilize. In other words, hold the line at a little higher.

And if they [Budget] perceive that we'll let them come up a little bit, I remain optimistic they'll come up, and it has a profound affect on us.

- d. In order to keep U-Haul from dropping its rates, Budget does not have to match U-Haul's rates precisely. U-Haul will tolerate a small price differential, but only a small price differential. Specifically, a 3 to 5 percent price difference is acceptable.

I'm focusing my people on the overall customer service issues. Okay, what can we do to justify a price difference given that in many cases we're going to be above them? But it's not that hard in the economy to justify 3 or 5% with service in my belief. Now you have to really do it, but I believe we have it and I believe we can really do it. And so that's where I'm driving my people who are delivering the product. I'm not driving them hard on match, match, match.

- e. For U-Haul, market share is more important than price. U-Haul will not permit Budget to gain market share at U-Haul's expense.

[I]f it starts to affect share I'm going to respond, that's all. If the customer doesn't care -- if it's \$10 and the customer doesn't care. But on the other hand, the only reason they do it is if they thought it affected share. So in a way I'm kind of forced to respond

So if we stand still on that they will make share, Budget is a legitimate company. They own lots of facilities and have lots of employees and I'm sure they're fine people if you knew them. But we're not going to just stand still and let that go through.

25. U-Haul acted with the specific intent to facilitate collusion and to achieve market power.
26. Each and all of U-Haul's invitations to collude, if accepted by Budget, would likely result in higher one-way truck rental rates and reduced output.

VIOLATION CHARGED

- 27. As set forth in Paragraphs 11 through 26 above, U-Haul invited its competitor to collude with U-Haul in violation of Section 5 of the Federal Trade Commission Act, as amended.
- 28. The acts, policies and practices of Respondents, as alleged herein, constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended. Such acts, policies and practices of Respondents will continue or recur in the absence of appropriate relief.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this day of , 2010, issues its complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

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