United States v. Paramount Pictures, Inc.

United States v. Paramount Pictures, Inc.	
Supreme Court of the United States	
Argued February 9–11, 1948 **Decided May 3, 1948**	
Full case name	*United States v. Paramount Pictures, Inc. et al.*
Citations	334 U.S. 131 [1] (*more*) 68 S. Ct. 915; 92 L. Ed. 1260; 1948 U.S. LEXIS 2850; 77 U.S.P.Q. (BNA) 243; 1948 Trade Cas. (CCH) P62,244
Prior history	Injunction granted, U.S. District Court (66 F.Supp. 323)
Holding	
Practice of block booking and ownership of theater chains by film studios constituted anti-competitive and monopolistic trade practices.	
Court membership	
Case opinions	
Majority	Douglas
Concur/dissent	Frankfurter
Jackson took no part in the consideration or decision of the case.	
Laws applied	
Sherman Antitrust Act; 15 U.S.C. § 1 [2], 2	

United States v. Paramount Pictures, Inc., 334 US 131 (1948) (also known as the **Hollywood Antitrust Case of 1948**, the **Paramount Case**, the **Paramount Decision** or the **Paramount Decree**) was a landmark United States Supreme Court anti-trust case that decided the fate of movie studios owning their own theatres and holding exclusivity rights on which theatres would show their films. It would also change the way Hollywood movies were produced, distributed, and exhibited. The Court held in this case that the existing distribution scheme was in violation of the antitrust laws of the United States, which prohibit certain exclusive dealing arrangements.

The case is important both in U.S. antitrust law and film history. In the former, it remains a seminal decision in vertical integration cases; in the latter, it is seen as the first nail in the coffin of the old Hollywood studio system.

Background

The legal issues originated in the silent era, when the Federal Trade Commission began investigating film companies for potential violations under the Sherman Antitrust Act of 1890.

The major film studios owned the theaters where their motion pictures were shown, either in partnerships or outright and complete. Thus specific theater chains showed only the films produced by the studio that owned them. The studios created the films, had the writers, directors, producers and actors on staff ("under contract" as it was called), owned the film processing and laboratories, created the prints and distributed them through the theaters that they owned: In other words, the studios were vertically integrated, creating a de facto oligopoly. By 1945, the studios

owned either partially or outright 17% of the theaters in the country, accounting for 45% of the film-rental revenue.[3]

Ultimately, this issue of the studios' unfair trade practices would be the reason behind all the major movie studios being sued in 1938 by the U.S. Department of Justice. Coincidentally, the Society of Independent Motion Picture Producers a group led by Mary Pickford, Samuel Goldwyn, Walter Wanger, and others filed a lawsuit against Paramount Detroit Theaters in 1942, the first major lawsuit of producers against exhibitors.

The federal government's case, filed in 1938, was settled with a consent decree in 1940,[4] which allowed the government to reinstate the lawsuit if, in three years' time, it had not seen a satisfactory level of compliance. Among other requirements, the consent decree included the following conditions: (1) The Big Five studios could no longer block-book short film subjects along with feature films (known as one-shot, or full force, block booking); (2) the Big Five studios could continue to block-book features, but the block size would be limited to five films; (3) blind buying (buying of films by theater districts without seeing films beforehand) would now be outlawed and replaced with "trade showing," special screenings every two weeks at which representatives of all 31 theater districts in the United States could see films before they decided to book a film; and (4) the creation of an administration board to enforce these requirements.[5] The film industry did not satisfactorily meet the requirements of the consent decree, forcing the government to reinstate the lawsuit—as promised—three years later, in 1943. The case went to trial—with now all of the Big Eight as defendants—on October 8, 1945, months after the end of World War II.[6]

The case reached the U.S. Supreme Court in 1948. The verdict went against the movie studios, forcing all of them to divest themselves of their movie theater chains. In addition to Paramount, RKO Radio Pictures, Inc., Loew's, 20th Century-Fox Film Corporation, Columbia Pictures Corporation, Universal-International, Warner Bros., the American Theatres Association and W.C. Allred (the former of which no longer exists as a film studio) were named as defendants.

This, coupled with the advent of television and the attendant drop in movie ticket sales, brought about a severe slump in the movie business, a slump that would not be reversed until 1972, with the release of *The Godfather*, the first modern blockbuster.

The Paramount Case is a bedrock of corporate anti-trust law, and as such is cited in most cases where issues of vertical integration play a prominent role in restricting fair trade.

Decision

The Court ruled 7-1 in the government's favor, affirming much of the consent decree (Justice Robert H. Jackson took no part in the proceedings). William O. Douglas delivered the Court's opinion, with Felix Frankfurter dissenting in part, arguing the Court should have left all of the decree intact but its arbitration provisions.

Douglas

Douglas's opinion reiterated the facts and history of the case and reviewed the District Court's opinion, agreeing that its conclusion was "incontestable".[7] He considered five different trade practices addressed by the consent decree:

- *Clearances and runs*, under which movies were scheduled so they would only be showing at particular theatres at any given time, to avoid competing with another theater's showing;
- *Pooling agreements*, the joint ownership of theaters by two nominally competitive studios;
- *Formula deals, master agreements, and franchises*: arrangements by which an exhibitor or distributor allocated profits among theaters that had shown a particular film, and awarded exclusive rights to independent theatres, sometimes without competitive bidding;
- *Block booking*, the studios' practice of requiring theaters to take an entire slate of its films, sometimes without even seeing them, sometimes before the films had even been produced ("blind bidding"), and
- *Discrimination* against smaller, independent theaters in favor of larger chains.

Douglas let stand the District Court's sevenfold test for when a clearance agreement was a restraint of trade, as he agreed they had a legitimate purpose.[8] Pooling agreements and joint ownership, he agreed, were "bald efforts to substitute monopoly for competition ... Clearer restraints of trade we cannot imagine."[9] He allowed, however, that courts could consider how an interest in an exhibitor was acquired and sent some other issues back to the District Court for further inquiry and resolution.[10] He set aside the lower court findings on franchises so that they might be reconsidered from the perspective of allowing competitive bidding.[11] On the block booking question, he rejected the studios' argument that it was necessary to profit from their copyrights: "The copyright law, like the patent statutes, makes reward to the owner a secondary consideration".<ref name="Majority158"</ref>*Ibid.*, 158.</ref> The prohibitions on discrimination he let stand entirely.

Frankfurter

Frankfurter took exception to the extent to which his brethren had agreed with the studios that the District Court had not adequately explored the underlying facts in affirming the consent decree. He pointed to another recent Court decision, *International Salt Co. v. United States* (332 U.S. 392 [12] (1947)) that lower courts are the proper place for such findings of fact, to be deferred to by higher courts.[13] Also, he reminded the Court that the District Court had spent fifteen months considering the case and reviewed almost 4,000 pages of documentary evidence.[14] "I cannot bring myself to conclude that the product of such a painstaking process of adjudication as to a decree appropriate for such a complicated situation as this record discloses was an abuse of discretion", he said.[14] He would have modified the District Court decision only to permit the use of arbitration to resolve disputes.[15]

Consequences

Movie studios previously charged low rents to exhibitors because they were owned by the studio. When the studios were forced to sell their theaters, the result was higher rental rates charged to exhibitors (rising from an average of approximately 35% to its current level of approximately 50%), so the studios could recoup their expenses. The inability to block-book an entire year's worth of movies caused studios to be more selective in the movies they made, resulting in higher production costs, dramatically fewer movies made and, ultimately, lower quality of productions released. This also caused studios to raise the rates they charged theaters, since the volume of movies fell.

The court orders forcing the separation of motion picture production and exhibition companies are commonly referred to as the **Paramount Decrees**. Paramount Pictures Inc. was forced to split into two companies: the film company now called Paramount Pictures Corp. and the theater chain (United Paramount Theaters) which merged in 1953 with the American Broadcasting Company (which would be led, with great success, by the now-former United Paramount Theaters boss Leonard Goldenson for decades). Consequences of the decision include:

- More independent producers and studios to produce their film product free of major studio interference.
- The beginning of the end of the old Hollywood studio system and its golden age.
- The weakening of the (Hays) Production Code, since it saw the rise of independent "art house" theaters which showed foreign or independent films made outside of its jurisdiction.

It would also eventually have an adverse effect on the major studios themselves and their film libraries, especially with the rise of television—that would result in some of these libraries being sold to other entities.

References

[1] http://supreme.justia.com/us/334/131/case.html

[2] http://www.law.cornell.edu/uscode/15/1.html

[3] William O. Douglas, *United States v. Paramount Pictures Inc.*, 334 U.S. 141, 167.

[4] The Consent Decree of 1940 - The Paramount Cse (http://www.cobbles.com/simpp_archive/paramountcase_3consent1940.htm)

[5] "SHOW BUSINESS: Consent Decree" (http://www.time.com/time/printout/0,8816,849344,00.html). *Time*. November 11, 1940. . Retrieved May 27, 2010.

[6] The Hollywood Studios in Federal Court - The Paramount case (http://www.cobbles.com/simpp_archive/paramountcase_4equity1945.htm)

[7] *Ibid.*, 144.

[8] *Ibid.*, 144-49.

[9] *Ibid.*, 149.

[10] *Ibid.*, 151.

[11] *Ibid.*, 156.

[12] http://supreme.justia.com/us/332/392/case.html

[13] Felix Frankfurter, dissenting in part, *United States v. Paramount Pictures Inc.*, 334 U.S. 131, 179.

[14] *Ibid.*, 180.

[15] *Ibid.*, 181.

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