



ANTITRUST COMPETITION POLICY & TRUSTBUSTING

SUSPENSION OF ANTITRUST ENFORCEMENT DURING WWII

On March 28, 1942, the federal government released the following correspondence concerning the suspension of anti-trust proceedings for the duration of WWII.

March 20, 1942

Dear Mr. President:

The undersigned have been considering for some time the problem presented by the fact that some of the pending court investigations, suits and prosecutions under the Anti-Trust statutes by the Department of Justice, if continued, will interfere with the production of war materials.

In the present all-out effort to produce quickly and uninterruptedly a maximum amount of weapons of warfare, such court investigations, suits, and prosecutions unavoidably consume the time of executives and employees of those corporations which are engaged in war work. In those cases, we believe that continuing such prosecutions at this time will be contrary to the national interest and security. It is therefore something which we seek to obviate as quickly as possible.

On the other hand, we all wish to make sure: **1.** That no one who has committed a violation of law shall escape ultimate investigation and prosecution; **2.** That no such person shall even now be permitted to postpone investigation or prosecution under a false pretext that his undivided time is necessary to the war effort—in other words, that it must be preponderantly clear that the progress of the war effort is being impeded; and, **3.** That no one who has sought actually to defraud the government shall obtain any postponement of investigation or prosecution in any event.

Accordingly, we have worked out the following procedure, subject to your approval:

- Each pending and future Federal court investigation, prosecution or suit under the Anti-Trust Laws will be carefully studied and examined as soon as possible by the Attorney General and the Secretary of War or the Secretary of the Navy, respectively. If the Attorney General and the Secretary of War or the Secretary of the Navy come to the conclusion that the court investigation, prosecution or suit will not seriously interfere with the . . . prosecution of the war the Attorney General will proceed.
- If they agree that it will interfere, or if after study and examination they disagree, then, upon receipt of a letter from the Secretary of War or the Secretary of the Navy stating that in his opinion the investigation, suit or prosecution will seriously interfere with the war effort, the Attorney General will abide by that decision and defer his activity in that particular matter, providing, however, that he shall have the right, in such event, to lay all the facts before the President, whose determination, of course, shall be final. In each case the action finally taken will be made public.

- The deferment or adjournment of the investigation, suit or prosecution will not, however, mean the exoneration of the individual or corporation, or the discontinuance of the proceeding. As soon as it appears that it will no longer interfere with war production, the Attorney General will proceed. To make sure that no one escapes by the running of the statute of limitations, we shall request Congress to pass an appropriate extension of the statute.
- Under no circumstances will there be any suspension or (postponement of prosecution for any actual fraud committed against the government. We feel that this arrangement will adequately protect the public interest.

Respectfully yours,

FRANCIS BIDDLE, Attorney General

HENRY L. STIMSON, Secretary of War

FRANK KNOX, Secretary of the Navy

THURMAN ARNOLD [Assistant Attorney General in Charge of the Antitrust Division]

On the same day, March 20, the President in identical letters addressed to the Attorney General, the Secretary of War, the Secretary of the Navy, notified them of his approval of the procedure outlined in the above memorandum.

The President's Letter

March 20, 1942

I approve the procedure outlined in your memorandum to me dated March 20, 1942. If it is true that any substantial slowing-up of war production is being occasioned by anti-trust suits, prosecutions or court investigations then the war effort must come first and everything else must wait. **For unless that effort is successful, the anti-trust laws, as indeed all American institutions, will become quite academic.**

No one, of course, should be permitted to escape ultimate prosecution for any violation of law. I am sure that the Departments of Justice, War and Navy will all cooperate so that the needs of the war will not be hampered by these court investigations, suits or prosecutions, but that at the same time the crisis of war will not be used as a means of avoiding just penalties for any wrongdoing.

In other words, it must be made very clear that the war effort is being impeded. No right-minded person, or anyone who is conscious of what is at stake, should use the nation's extremities as an excuse to violate any statute.

Nor, indeed, should there be any deferment or adjournment of any court investigation, prosecution or suit unless, after a study and examination with the Attorney General in each specific case, the Secretary of War or of the Navy is satisfied that the war effort will be jeopardized at this time unless such course is followed.

I note from your memorandum that proper steps will be taken to avoid the running of the statute of limitations in any case; and that under no circumstances will there be any delay in the prosecution of acts involving actual fraud upon the government.

I also heartily approve your intention of making public each determination arrived at by you in accordance with your memorandum. The American People should be informed of each step in their war effort, excepting, of course, any information which may in any way help the enemy in his attempt to destroy us.

While every precaution will be taken to prevent anyone from escaping prosecution if he has violated the anti-trust statutes, whether he is now engaged in war work or not, we must keep our eyes fixed now upon the one all-important primary task—to produce more materials at a greater speed. In other words, we shall give our attention to first things first.

Very sincerely yours,

FRANKLIN D. ROOSEVELT