

Lorain Journal Co. v. United States

342 U.S. 143 (1951)

Mr. Justice BURTON delivered the opinion of the Court.

The principal question here is whether a newspaper publisher's conduct constituted an attempt to monopolize interstate commerce, justifying the injunction issued against it under [Section 2] of the Sherman Antitrust Act. For the reasons hereafter stated, we hold that the injunction was justified.

This is a civil action, instituted by the United States in the District Court for the Northern District of Ohio, against The Lorain Journal Company, an Ohio corporation, publishing, daily except Sunday, in the City of Lorain, Ohio, a newspaper here called the Journal.

The complaint alleged that the corporation, together with four of its officials, was engaging in a combination and conspiracy in restraint of interstate commerce in violation of § 1 of the Sherman Antitrust Act, and in a combination and conspiracy to monopolize such commerce in violation of § 2 of the Act, as well as attempting to monopolize such commerce in violation of § 2. The District Court declined to issue a temporary injunction but, after trial, found that the parties were engaging in an attempt to monopolize as charged. Confining itself to that issue, the court enjoined them from continuing the attempt. They appealed to this Court under the Expediting Act of 1903, and the issues before us are those arising from that finding and the terms of the injunction.

The appellant corporation, here called the publisher, has published the Journal in the City of Lorain since before 1932. In that year it, with others, purchased the Times-Herald which was the only competing daily paper published in that city. Later, without success, it sought a license to establish and operate a radio broadcasting station in Lorain.

The court below describes the position of the Journal, since 1933, as 'a commanding and an overpowering one. It has a daily circulation in Lorain of over 13,000 copies and it reaches ninety-nine per cent of the families in the city.' Lorain is an industrial city on Lake Erie with a population of about 52,000 occupying 11,325 dwelling units. The Sunday News, appearing only on Sundays, is the only other newspaper published there.

[The Journal] publishes not only Lorain news but substantial quantities of state, national and international news. It pays substantial sums for such news and for feature material shipped to it from various parts of the United States and the rest of the world. It carries a substantial quantity of national advertising sent to it from throughout the United States.

...

From 1933 to 1948 the publisher enjoyed a substantial monopoly in Lorain of the mass dissemination of news and advertising, both of a local and national character. However, in 1948, [a company] was licensed by the Federal Communications Commission to establish and operate in Elyria, Ohio, eight miles south of Lorain, a radio station whose

call letters, WEOL, stand for Elyria, Oberlin and Lorain. Since then it has operated its principal studio in Elyria and a branch studio in Lorain. Lorain has about twice the population of Elyria and is by far the largest community in the station's immediate area. Oberlin is much smaller than Elyria and eight miles south of it.

... Substantially all of the station's income is derived from its broadcasts of advertisements of goods or services. About 16% of its income comes from national advertising under contracts with advertisers outside of Ohio. . . .

A substantial number of Journal advertisers wished to use the facilities of the radio station as well. . . . [When] WEOL commenced broadcasting, appellants had executed a plan conceived to eliminate the threat of competition from the station. Under this plan the publisher refused to accept local advertisements in the Journal from any Lorain County advertiser who advertised or who appellants believed to be about to advertise over WEOL. The court found expressly that the purpose and intent of this procedure was to destroy the broadcasting company.

The court characterized all this as 'bold, relentless, and predatory commercial behavior.' To carry out appellants' plan, the publisher monitored WEOL programs to determine the identity of the station's local Lorain advertisers. Those using the station's facilities had their contracts with the publisher terminated and were able to renew them only after ceasing to advertise through WEOL. The program was effective. Numerous Lorain County merchants testified that, as a result of the publisher's policy, they either ceased or abandoned their plans to advertise over WEOL. . . .

The conduct complained of was an attempt to monopolize interstate commerce. It consisted of the publisher's practice of refusing to accept local Lorain advertising from parties using WEOL for local advertising. Because of the Journal's complete daily newspaper monopoly of local advertising in Lorain and its practically indispensable coverage of 99% of the Lorain families, this practice forced numerous advertisers to refrain from using WEOL for local advertising. That result not only reduced the number of customers available to WEOL in the field of local Lorain advertising and strengthened the Journal's monopoly in that field, but more significantly tended to destroy and eliminate WEOL altogether. Attainment of that sought-for elimination would automatically restore to the publisher of the Journal its substantial monopoly in Lorain of the mass dissemination of all news and advertising, interstate and national, as well as local. It would deprive not merely Lorain but Elyria and all surrounding communities of their only nearby radio station. . . .

To establish [a] violation of § 2 as charged, it [is] not necessary to show that success rewarded appellants' attempt to monopolize. [An injunctive relief might] forestall that success. While appellants' attempt to monopolize did succeed insofar as it deprived WEOL of income, WEOL has not yet been eliminated.

[We, therefore, hold] that a single newspaper, already enjoying a substantial monopoly in its area, violates the 'attempt to monopolize' clause of § 2 when it uses its monopoly to destroy threatened competition. . . .

The judgment accordingly is affirmed. *Affirmed.*

