OUTSIDE THE COURTS

PROPOSALS ANNOUNCED TO RETARD FURTHER CONCENTRATION OF NEWSPAPER OWNERSHIP

Secretary of State for Multiculturism James Fleming, in a speech at the University of Western Ontario on May 25, announced the Government's proposals for action in response to the recommendations made last August by the Royal Commission on Newspapers chaired by Tom Kent. The following measures to retard further concentration in newspaper ownership are proposed by the Government:

- "Pariament will be asked to pass a Canadian newspaper act and amendments to other acts, which will prohibit any one owner from gaining control, through acquisition or merger, of newspapers whose total circulation would exceed 20 percent of the average Canadian circulation of daily newspapers. This limit will not be retroactive for the two owners who now exceed the limit but it will not allow them to acquire any additional papers so long as they are in excess of the 20 percent level. This legislative action will not prohibit an increase in circulation of newspapers already owned."

- "...Parliament will be asked to require any non-media company - that is, a company whose non-media industry assets exceed the value of its media industry assets - to demonstrate to the Restrictive Trade Parctices Commission that any newspaper which the company seeks to acquire will be managed independently of and free from the influence of the company's other interests.

- ...The Cabinet agreed that the Governor in Council direct the Canadian Radio-Television and Telecommunications Commission (CRTC) when considering licence renewals or applications to prohibit newspapers as a class of applicants from holding controlling interest in companies holding federal broadcasting licences in the same market area.

  "This would be subject only to overriding public interest considerations and/or consequences that would create exceptional and unreasonable hardship. The strictures on cross-media ownership in a particular market would also take into consideration existing competition and dominance by a corporate owner in that area, the decision resting with the CRTC.

> "In simple language, this decision means that, with clear exceptions, a company will not be allowed to control a newspaper and a television or radio station in the same locale..Given the nature of the marketplace, of course, there may be cities where there is so much cross-media competition that the CRTC would have no justifiable reason to prohibit specific instances of cross-ownership; the directive will take account of this reality. Moreover, there may be very unusual situations where the CRTC feels that a diverstiture would create exceptional hardship upon an owner; the directive will also take account of this reality but in such a case would insist on clear proof of independent and competitive news services."

In addition, two non-structure measures to promote higher newspapers are proposed. One is the establishment of a Canadian Advisory Council on Newspapers to deal with complaints about newspapers that are not members of voluntary press councils, to carry out research and to report biennially on the state of the industry. The other is financial assistance to help newspapers to set up bureaus in other provinces or abroad.

The proposals do not go as far as the recommendations of the Kent Commission, whose recommendations included retroactive legislation which would have required some divestiture by Thomson, Southam and Irving. Thomson accounts for slightly over 20 percent of total daily circulation and Southam for about 28 percent, while Irving has regional monopoly of the English language daily press in New Brunswick. The Kent Commission also recommended the prohibition of any new chains involving more than five percent of total Canadian circulation; however, the effects of that proposal would have been limited by the fact that in most cities there is already an English language newspaper monopoly. Other recommendations of the Kent Commission would have involved much more state intervention in the conduct of newspaper publishers than is proposed by the Government.

Press reactions to the Government's proposals, while critical, have been markedly less so than to the Kent recommendations. There appears to be at least tacit acceptance of the need for some control over increased concentration, although a number of editors have expressed a preference for achieving it through amendments to the Combines Investigation Act rather than by separate legislation directed at newspapers as the Government proposes. Criticisms have been directed more to the non-structural proposals, the fear being expressed that the enactment of a newspaper act will start a trend towards increased state intervention.

According to press reports, a leaked Cabinet document discussing the proposals expresses concern that the proposal to empower the RTPC to rule on newspaper acquisitions by non-media companies may be struck down by the courts, presumably as exceeding the legislative authority of the federal government.

RTPC CONTINUES HEARINGS ON PETROLEUM INQUIRY

Public hearings on the international aspect of the Petroleum Inquiry were held by the Restrictive Trade Practices Commission during March, April and May, 1982. Most of the time was devoted to evidence by witnesses introduced by the Director of Investigation and Research, and some witnesses were also called by the Commission.

The Commission had expected the Director's international evidence to be concluded in May or June, to be followed by that of the oil companies. However, the Director has experienced delays in receiving and analyzing data from the Petroleum Compensation Board relating to the post 1973 period, and does not expect it to be ready before September. As a consequence, the June and July hearings were expected to deal with marketing.

The Chairman at the hearings in May, expressed concern about the delay and asked what the Director is trying to prove in respect of the post 1973 period. Mr. Gordon Kaiser, Counsel for the Director, said he was making no post 1973 allegations yet and was hoping that the hearings would bring an updating. With regard to the P.C.B. data which is being collected, he described the issue as follows:

> "...is there a continuing overcharge, and if so, does the current regulatory environment provide a satisfactory protection to the public against any possible continuing overcharge."

He expressed the hope that the P.C.B. data would provide part of the answer, and explained:

> "...the Director proposes to do what the P.C.B. is not doing, that is to say, go behind the invoice, proposes to compare prices paid by those Canadian subsidiaries as reported by them to the P.C.B. with an estimate of what the parent paid for that crude on that date."

As reported in the March issue of Canadian Competition Policy Record, a draft paper by the Commission dated March 3 set out the questions and topics it wishes to address and proposed the order in which they should be dealt with at the hearings. The paper is to be issued in final form after receipt of comments.

INTRODUCTION OF COMPETITION LAW REFORMS NOW PLANNED FOR AUTUMN

Consumer and Corporate Affairs Minister André Ouellet, appearing before the House of Commons Standing Committee on Health, Welfare and Social Affairs on May 11, revealed that revisions to the Combines Investigation Act will not be introduced until the next session of Parliament next autumn.

FOREIGN AND INTERNATIONAL

U.S. SUPREME COURT UPHOLDS FTC ORDER GIVING DOCTORS THE RIGHT TO ADVERTISE

The United States Supreme Court, in a four to four decision on March 23, 1982, upheld a lower court judgment which found largely in favour of a Federal Trade Commision cease and desist order against the American Medical Association's advertising and solicitation standards for doctors (American Medical Ass'n v. FTC, No. 80-1960, U.S. Sup. Ct., 3/23/82). The equally divided decision had the effect of affirming the May, 1980 decision of the United States Court of Appeal for the Second Circuit.

The order was issued by the FTC in 1979 after it found that the AMA's ethical standards on advertising and soliciting violated s. 5 of the FTC Act banning unfair methods of competition. The order, as amended by the Second Circuit Appeal Court, has the effect of limiting the AMA's authority over advertising to representations that it reasonably believes would be false or deceptive within the meaning of s. 5 of the FTC Act.

WOOD PULP CASE BRINGS CLARIFICATION OF EEC POLICY ON EXPORT ASSOCIATIONS

The European Community's Director General of Competition has underlined to United States Government officials that export associations whose activities have substantial anticompetitive effects in the Common Market may violate Community competition law even if the activities are authorized in the association's home country. The comment arose in connection with the current EEC case against wood pulp producers in which an American Webb-Pomerene export association is involved.

It became known in September, 1981 that the Competition Directorate had launched a major case against Canadian, American, Nordic and other pulp producers and that an American Webb-Pomerene export association,

the Pulp, Paper and Paperboard Association (KEA) was involved. The U.S. Government initiated a consultation with EEC competition authorities in January because of concern by other Webb-Pomerene associations that the pulp case might be the start of a broad attack on the activities of their associations in the Common Market. Mr. Charles S. Stark, Chief, Foreign Commerce Section, Antitrust Division, in an address on May 20 to the World Trade Institute, quoted at length from a summary of the consultation which had been prepared by U.S. officials and which EEC officials had agreed could be released. It is as follows in part:

> "Manfred Caspari, Director-General of the EC's Directorate-General for Competition, assured U.S. officials that:
>
> - The EC had no intention to proceed automatically against any Webb-Pomerene association engaged in export trade in Europe, either on the basis of their status as Webb-Pomerene associations or because of information exchange activities of a type that do not facilitate price fixing.
>
> - The EC case against world wood pulp exporters is for price-fixing among a multinational group of producers; it is specifically aimed at an alleged pattern of price announcements and other price communication for wood pulp involving North American and European producers. The involvement of the KEA as an export association is significant in the Commission's view, because it provides a mechanism for price collusion which might otherwise be impossible in a market with so large a number of sellers.
>
> - Exchange of information and the use of joint selling agents are not per se violations of EC law. The legality of an information exchange depends on the nature of the information, the purpose of the exchange, and its effect on competition. Also the EC will carefully scrutinize the use of joing selling agents where it does not contribute to competition by facilitating access to the market by smaller firms which dod not have the ability to market independently.
>
> . . . .
>
> "The Commission considers that export associations whose activities have substantial anticompetitive effects in the Common Market may violate Community competition law, even if the activities are authorized in the association's home country."

EEC COMMISSION RESPONDS TO ATTACKS ON ITS COMPETITION ENFORCEMENT PROCEDURES

The recently released Eleventh Report on Competition Policy by the Commission of the European Communities for the year 1981, proposes a number of changes in its competition enforcement procedures. The changes are intended to meet widespread complaints of legal uncertainties stemming from delays in obtaining decisions from the Commission and of an alleged lack of objectivity in some of its procedures. However, judging from the Eighth Report of the British House of Lords Select Committee on the European Communities, which was released at about the same time, it is unlikely that the Commission's proposals will silence all its critics.

Agreements and practices falling into broad classes must be notified to the Commission for rulings as to whether or not they qualify for exemption from the application of Article 85 (restrictive agreements) or 86 (abuse of dominant position) as the case may be. Failure to notify makes a firm liable to penalties, as does operation of a notified agreement or practise which is subsequently ruled not to be exempt. The difficulty is that it normally takes years to obtain a decision. In 1981, for example, only eleven such decisions were made and there were 3,882 cases pending at the end of the year. In an effort to reduce the uncertainty, the Commission sends so-called comfort letters in cases which at first sight raise no objections. However, the European Court has ruled that these comfort letters do not bind the Commission, so they do little to remove the uncertainty. The Lords Select Committee suggests an automatic exemption unless the Commission makes a decision within a specified period of time. More fundamentally, it suggests a review of staffing with a view to coping with the workload and improving the quality of decisions.

Other complaints about which the Lords Select Committee makes suggestions include the following:

- There are alleged conflicts in the Commission's roles as investigator, prosecutor and judge of the first instance. The Committee suggests the appointment of an additional director to the Competition Directorate who would not act as investigator or prosecutor. He would preside at the final oral hearing and draft the Commission's decision. He would also approve searches of company premises.

- There are complaints, whether justified or not, about lack of objectivity in some of the Commission's proceedings. The Committee suggests that the case files should be more open to those under investigation. More important, the Committee suggests the creation of a Competition Court to which appeals from the Commission's decisions would go in the first instance.

It would deal both with questions of law and fact. The Committee also found that the European Court is overloaded and that more judges should be appointed to it.

In its Eleventh Report on Competition Policy, the Commission takes note of the "wide-ranging discussion" of its procedures. While it considers they have stood the test of time and are basically fair, it does propose some changes to improve legal certainty and to ensure that its assessment of cases is objective:

- The Commission is examining ways of speeding up the handling of cases and "is already working on a system for dealing more efficiently with two types of cases".

- With regard to comfort letters, "To increase the legal value of these letters, it envisages prior publication of a Notice in the Official Journal, to give interested third parties the opportunity to submit comments."

- "The Commission proposes to settle cases which obviously satisfy the tests of Article 85(3) by means of simplified exemption decisions, which would solve in particular the problem of the numberous cases having common features." Article 85(3) provides in effect for individual or block exemptions of agreements which contribute towards improving the production or distribution of goods or promoting technical or economic progress.

- The Commission favours the suggestion for something like a competition court and confining the European Court to questions of law. "The Commission therefore favours the introduction of a two-tier system of judicial review; a court of first instance dealing with questions of both fact and law, the court of second instance merely re-examining questions of law."

- With regard to procedures during inspections of company premises, the Commission states in part:

> "Undertakings regard the inspections which the Commission is empowered to undertake ... as serious interference with their private sphere of activity. For this reason the Commission intends, within the context of existing rules, to improve understanding of its action in this connection by assuring firms that the exercise of these powers is strictly lawful, by specifying the scope of their legitimate rights and by guranteeing that the information thus obtained will be used objectively ... The

purpose of inspection is therefore now defined more precisely than in the past ...

"The Commission's officials responsible for carrying out inspections have also been instructed to inform the firm concerned of the scope and limits of their powers ... and of its right to consult its legal advisers. Such consultation may not, however, unduly delay the investigation or impede its progress ...

"A number of difficulties stem from the fact that Community competition law has no specific rule of 'legal professional privilege'. The Commission does recognize this principle. It accepts that in practice documents seeking or giving legal advice on competition rules or on the defence of a company will not be used as evidence in establishing infringements of the competition rules. The officials authorized by the Commission to carry out inspections have been instructed not to take copies of these documents. Nevertheless, the Commission believes that, subject to review by the Court of Justice, it has the right to decide whether certain documents fall into this category. The Commission is now awaiting the decision of the Court in Case 155/79 AM & S (Europe) Ltd. v Commission."*

- Regarding access by a firm under investigation to the Commission's case file, the Commission states it is considering such access "in principle". However, it points to the need for consering the business secrets of other firms and of its own internal working documents.

- With regard to the procedures at oral hearings, the Commission states in part:

"Although the Commission has no reason to believe that they are not conducted fairly at present it intends to emphasize the objectivity of the hearing. With this in mind it envisages appointing hearing officers, duly authorized to chair hearings, vested with genuine autonomy and the right of direct access to the responsible Member of the Commission. They would provide an even better guarantee that the Commission, when stating its view on an individual case as a decision-making authority, would be fully informed of all features of the case whether favourble or unfavourable to the undertakings."

*The decision of the European Court of Justice was rendered on May 18 and was at variance with the position of the Commission. Basically, it ruled that a firm which disagrees with a decision of the Commission respecting privilege may ask for a temporary suspension of the Commission's decision and apply to the European Court for a ruling.

The Commission emphasizes, however, that it does not favour suggestions which have been made for the appointment of autonomous administrative law judges with powers of investigation and decision.

EEC COMMISSION EXPLAINS HOW ITS COMPETITION RULES APPLY TO FOREIGN AND MULTINATIONAL FIRMS

The recently released Eleventh Report on Competition Policy by the Commission of the European Communities contains an authoritative analysis of the application of the Communities' competition law to non-community and multinational enterprises. It is reproduced in full below except for Paragraph 37 which deals with the Commission's involvement in efforts by other international agencies to develop competition rules.

> "1 - **General remarks**
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> 34. The EEC Treaty's rules on competition apply to restrictive or abusive practices by undertakings situated in non-member countries where their conduct has an appreciable impact within the common market.
>
> 35. The Commission was one of the first antitrust authorities to have applied the internal effect theory[1] to foreign companies, both to their advantage and to their detriment. Putting the theory into practice can, it is true, have repercussions outside the Community: but that is not a reason for regarding it as an inadmissible exercise of extra-territorial jurisdiction. To assert the contrary would be tantamount to preventing public or judicial authorities from effectively dealing with competition cases falling within their jurisdiction.
>
> The Court of Justice held in Béguelin v G.L. Import Export: 'The fact that one of the undertakings which are parties to the agreement is situated in a third country does not prevent application of that provision since the agreement is operative on the territory of the common market.'.[2]

1 Decision of 11.3 1964, Grosfillex-Fillistorf, OJ of 9.4. 1964 and Commission notice on the importation of Japanese products, OJ C 111, 21.11.1972.
2. Case 22/71 (1971) ECR 959

The Béguelin case does not, however, constitute a strict application of the internal effect theory, since one of the parties to the exclusive dealing agreement in question concluded between Béguelin (Belgium-France) and Oshawa (Japan) for the sale of pocket cigarette-lighters was established in the Community. In all the cases with which the Commission and the Court of Justice have so far dealt, there has been a link with the Community in the form of subsidiaries or contracting parties situated in the common market.[3]

36. As a result of the large economic area which the common market represents for the Commission's investigations into anti-competitive practices and the importance attached by large international companies to the establishment there of manufacturing or marketing subsidiaries, the Commission finds as a rule a substantive connection with, and even active participation in such practices within, the Community for the purpose of pursuing forms of behaviour of external origin. In the light of the questions of procedure or degree of responsibility arising in individual cases, the Commission and the Court have developed, alongside the effect theory, the concept of the imputation of behaviour of a subsidiary to its parent and the economic entity theory for structured groups of undertakings. These concepts come into play in particular where subsidiaries in the common market act on instructions from a decision-making centre located abroad."

"2 - **Application to multinational undertakings**

38. The administrative practice of the Commission, as confirmed by the judgements of the Court of Justice, has established a number of principles governing fair conduct with which business circles are now conversant and which apply fully uniformly and in a non-discriminatory manner to all undertakings or groups of undertakings operating within the common market. Out of some 160 substantive decisions taken to date by the Commission, more than a third concern undertakings known as 'multinationals', of both European and foreign origin.

This section deals principally with decisions concerning foreign multinationals, since undertakings of Community origin have no particular features that would distinguish them from other European undertakings for the purposes of competition law.

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3. Sixth Report on Competition Policy, point 37.

39. Foreign multinationals have benefited from negative clearance decisions declaring the prohibition on restrictive practices laid down in Article 85(1) to be inapplicable. The best-known case is that of the Kodak decision concerning standardized general conditions of sale for the whole common market.[1] Multinationals have also obtained derogations from that prohibition in accordance with Article 85(3). Examples of this are Colgate-Palmolive in respect of research and development in collaboration with Henkel,[2] and de Laval International, controlled by Transamerica Corporation, in respect of the formation of a joint venture with the Dutch company Stork.[3]

40. Prohibitions pursuant to Article 85(1) have affected, inter alia, Ciba-Geigy, Sandoz and ICI in respect of concerted price-fixing practices;[4] Pittsburg Corning Europe in respect of a concerted discriminatory pricing practice;[5] W.E.A. Fillipacchi Music SA,[6] 51% of which is owned by Warner Brothers Inc., and Miller International,[7] a subsidiary of MCA Records Inc., for imposing in both cases on record retailers export bans to other Member States; Kawasaki,[8] Pioneer[9] and Johnson & Johnson[10] for preventing their retailers from making deliveries from common market countries where their products were sold cheaply to countries with higher prices.

41. Lastly, multinational undertakings have been subject to the prohibition on the abuse of a dominant position. The Commission considered that Continental Can Company,[11] through its subsidiary Euro-emballage Corporation, had abused its dominant position by acquiring a company which was the largest manufacturer of metal containers in the Benelux countries. It also found Commercial Solvents Corporation[12] guilty of an abusive practice because its subsidiary in Italy stopped supplying an Italian pharmaceuticals company with raw materials, in which the American company has a world-wide monopoly, needed for the manufacture of a medicinal product intended for the treatment of tuberculosis.

1. Decision of 30.6.1970, OJ L 147, 7.7.1970.
2. Decision of 23.12.1971, OJ L 14, 18.1.1972.
3. Decision of 25.7.1977, OJ L 215, 23.8.1977.
4. Decision of 24.7.1969, OJ L 195, 7.8.1969.
5. Decision of 23.11.1972, OJ L 272, 5.12.1972.
6. Decision of 22.12.1972, OJ L 303, 31.12.1972.
7. Decision of 1.12.1976, OJ L 357, 19.12.1976
8. Decision of 12.12.1978 OJ L 16, 23.1.1979.
9. Decision of 14.12.1979, OJ L 60, 5.3.1980.
10. Decision of 25.11.1980, OJ L 377, 31.13.1980
11. Decision of 9.12.1971, OJ L 7, 8.1.1972.
12. Decision of 14.12.1972, OJ L 299, 31.12.1972.

United Brands Company[13] was found guilty of refusing to sell, and discriminatory pricing practice regarding, its Chiquita brand bananas. Finally, Hoffmann-La Roche[1] was proceeded against in respect of the exclusive or preferential supply agreements it had concluded with several major purchasers of vitams in bulk, themselves for the most part multinational groups, which thus covered their total world requirements.

42. Until now the Commission has not experienced any particular difficulties in applying the competition rules to multinationals. Clearly, it is not as a rule applications for negative clearance or notifications with a view of obtaining exemption under Article 85(3) which give rise to problems, but proceedings which can lead to the imposition of a fine or prohibition. The fact that the Commission now pursues a policy of imposing heavy financial penalties in cases of flagrant infringement of Treaty provisions might increase the difficulties which can result from the involvement of undertakings situated outside the Community in the implementation of the competition rules within the common market. Although Article 15(4) of Regulation No. 17 stipulates that they are not of a criminal law nature, the fines are now large enought to prompt the undertakings concerned to deploy, more than in the past, every means of defence open to them, including arguments derived from the so-called extraterritoriality of the jurisdiction the Commission is exercising. It is nevertheless now firmly established in Community case law that it is no defence for an undertaking seeking to evade the jurisdiction of Community authorities to argue, first, that the allegedly unlawful conduct of a subsidiary in the common market cannot be imputed to the foreign parent company because of the separate legal personality of the subsidiary, and, secondly, that since the subsidiary is not economically independent, the proceedings against the foreign parent company and its subsidiary in the common market constitute an inadmissible extra territorial application of Community competition law."

13. Decision of 17.12.1975, OJ L 95, 9.4.4.1976.

1. Decision of 9.6.1976, OJ L 223, 16.8.1976.

BOOKS AND ARTICLES NOTED

Irving Brecher, Canada's Competition Policy Revisited: Some New Thoughts on an Old Story, The Institute for Research on Public Policy, Montreal, 1981. Professor Brecher reviews the initiatives since the 1950's directed towards revising Canadian competition law and finds little satisfaction. For him, a satisfactory outcome would have been a revised version of Ron Basford's Bill C-256 of 1971 or else Bill C-42 of 1977, the first of the Stage II bills. He acknowledges that businessmen had some real public interest grounds for concern about Bill C-256 but considers that coverage could have been trimmed, major drafting errors corrected and appellate procedures expanded.

He has harsh words for most of the actors in the drama. The Government lacked leadership, will and communication skills. Senior public servants were indifferent or unsympathetic. Businessmen "and their lawyer associates" applied pressures which were very effective. The academic community was only marginally helpful. However, he praises "a handful of officials in the Department of Consumer and Corporate Affairs" who "fought long and hard ... to produce a viable competition policy".

Walter Block, "A Response to the Framework Document for Amending the Combines Investigation Act, Fraser Institute, 1982. The author expresses total opposition to the proposals circulated by Consumer and Corporate Affairs Minister André Ouellet in April, 1981 for competition law reforms. He holds that the proposals are mistakenly based upon the view that statistically high levels of concentration indicate insufficient competition. Rather, he contends, concentration and competition go hand in hand; rigorous competition normally results in only a few "winners" and is perfectly compatible with vigorous rivalry. He adds the proviso that government must not maintain statutory barriers to entry such as industry regulation and trade restrictions.

Julian O. von Kalinowski, General Editor, World Law of Competition, Unit A. North America, Volume A3, Canada, by Gordon Kaiser, published by Matthew Bender, New York, 1982. This loose leaf volume of some hundreds of pages is part of a multi-volume reference work. The first two volumes, covering the United States, appeared last year and there are others covering a number of countries in South America and Western Europe.

John M. Magwood, Competition Law of Canada, Carswell, Toronto, 1981. This book had its origin in a thesis which the author wrote at the University of Toronto in the 1930's.

J.C. Gilson, Evolution of the Hog Marketing System in Canada, Working Paper E/12, Economic Council of Canada and The Institute for Research on Public Policy, Ottawa, 1982. The author notes that, with hog marketing boards now firmly established except in Quebec while meat packers are subject to the Combines Investigation Act, there is now an;

> "...an apparent anomaly that hog producers, by virtue of public legislation and policy, are encouraged to prevent or lessen competition among themselves in order to achieve greater bargaining power in the market place while the buyers of their product must not, according to the provisions of the Combines Investigation Act, conspire, collude or arrange to 'prevent, limit or lessen unduly' competition in the market place."

He believes that equality of bargaining power has been achieved and that a new framework may have to be developed to deal with bilateral oligopoly. He recommends that provincial governments consider developing general guidelines and procedures to cover bargaining or negotiations between hog marketing boards and meat packers. They would include provision for formal third-party intervention to bring agreement on irreconcilable differences.

Thomas L. Brewer, International Regulation of Restrictive Business Practices, Journal of World Trade Law, Vol. 16 No. 2. A useful survey of the current state of play in United Nations agencies, the OECD and GATT.

James R. Atwood, International Antitrust Issues in the Courts and Congress, Antitrust Law Journal, Vol. 50 Issue 2. A good analysis of the current stance of the government and courts in the United States in respect of extraterritorial antitrust situations. He finds that the spread of blocking legislation and other hostile reactions abroad to assertions of U.S. extraterritoriality such as in the uranium cartel case have been followed by some softening of both official and judicial positions.

Peter Braund and Terrance Sweeney, Reviewable Trade Practices: Is The Legislation Working? Examines why so few applications for remedial orders have been made to the Restrictive Trade Practices Commission by the Director of Investigation and Research.

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