



STATEMENT OF  
EARL W. KINTNER, GENERAL COUNSEL,  
FEDERAL TRADE COMMISSION,  
BEFORE THE  
SENATE INTERSTATE AND FOREIGN  
COMMERCE COMMITTEE  
FEBRUARY 26, 1957.

I appear here today on behalf of the Federal Trade Commission and in accordance with your Chairman's request for information available at the Commission with respect to the newsprint industry.

First, I must emphasize that the Federal Trade Commission has made no current investigation of the newsprint industry, although there have been numerous conferences on the matter with various members of Congress, particularly Senator Potter, who have expressed their concern with the present newsprint situation. The Commission asks that I communicate its continuing desire to be of service to this Committee and to the Congress in seeking a solution to the most serious problem which faces the American users of newsprint.

We thought that we might best serve this Committee at this stage of its inquiry by reviewing the materials in our newsprint industry files (which I might add date back to 1916) and the published materials, then briefly summarizing the background information that we found.

#### First Commission Investigation.

The Federal Trade Commission was activated early in 1915. One of the very first problems dropped in the lap of the new Commission by the Congress was a study of the newsprint industry. Pursuant to a Senate resolution, the Federal Trade Commission investigated that industry during 1916 and 1917.

The Commission found that News Print Manufacturers Association (a trade association representing 80% of continental newsprint production), allocated customers to mills, prorated tonnage of new mills to prevent the creation of a competitive market, curtailed production, and prevented plant expansion.

The Federal Trade Commission investigation led to Justice Department proceedings against 45 newsprint companies and 8 individuals. The Justice Department indictment charged that defendants through News Print Manufacturers Association, had conspired to fix prices. Some of the defendants entered pleas of nolo contendere and fines were imposed. (United States v. Mead, et al., (D.C. N.Y., 1917).)

At the same time the newsprint manufacturers agreed to dissolve the News Print Paper Manufacturers Association and permit the Federal Trade Commission to fix the maximum prices for newsprint until 3 months after World War I was ended. The consent decree entered into ordered the dissolution of the trade association and enjoined further agreements among respondents to restrain trade in the sale of newsprint.

Second Commission Investigation.

In 1929-1930, another investigation of the newsprint industry was made pursuant to a Senate resolution. This investigation disclosed no one company with a sufficient portion of the business to constitute a monopoly. No discriminations against small newspapers were found. International Paper Co. was recognized as the price leader although it had only about 20% of the newsprint sales in the United States.

The 1930 investigation report also stated that the Newsprint Institute of Canada would violate United States antitrust laws if it existed in the United States, but that the United States had no jurisdiction over Canadian organizations.

This report mentions the Federal Trade Commission's investigation of the acquisition by Zellerbach Paper Co. of Crown-Willamette Paper Co. in 1928. The Commission failed to stop this acquisition. Although a complaint was issued on December 6, 1933, charging that the acquisition violated old Section 7 of the Clayton Act, the Commission dismissed the complaint without opinion on May 15, 1935. (20 F.T.C. 480.)

### Third Commission Investigation.

In 1938, at the request of the Attorney General, the Federal Trade Commission investigated compliance with the consent decree of United States v. George A. Mead, et al., (D.C. N.Y., 1917), against newsprint manufacturers. The Federal Trade Commission report, submitted to the Department of Justice on February 13, 1939, showed that by 1939 only two of the eight individual defendants and fourteen of the forty-five corporate defendants were still selling newsprint. The structure of the industry had also changed. The Commission concluded that the industry was no longer subject to the 1917 order.

But the report showed evidence of actual agreements to fix prices, and resulted in new proceedings against Crown Zellerbach Corp. and other companies selling newsprint on the West Coast. Four United States corporations, three Canadian corporations, eleven United States individuals and four Canadian individuals were indicted. Pleas of nolo contendere were filed by some defendants and fines were paid. (United States v. Crown Zellerbach, et al. (D.C. Calif., 1941)).

### Recent Commission Investigation.

Beginning in 1945 the Commission investigated the paper industry as a whole, with particular reference to the American Paper & Pulp Association. American Paper & Pulp Association was made up of 16 other trade associations of paper manufacturers and 6 affiliate members.

This investigation was a result of the Commission's order against one of the member trade associations, Book Paper Manufacturers Association, et al., Docket 3760. In that case the Commission had found that members of the trade association had adopted identical base prices, uniform trade discounts and identical zone prices. The Commission's order against Book Paper Manufacturers Association was affirmed by a U. S. Court of Appeals in 1948.

American Paper & Pulp Association's activities were limited to technical studies for the industry. In 1948, however, separate investigations were made of the 15 other trade associations that were members of the parent trade association. One of the 15 member associations was Newsprint Manufacturers Association of the United States, Inc.

Due to the fact that OPA controls had been in effect until 1946, the investigations did not go back to the NRA period but extended only to the period after OPA controls were lifted.

Only two complaints were issued against the 15 member trade associations under investigation. These were complaints against The Blotting Paper Manufacturers Association, et al., Docket 6107, and Paper Shipping Sack Manufacturers Association, et al., Docket 6476.

On January 13, 1954, the staff recommended that the Commission close the file against American Paper & Pulp Association and its members as a result of the disposition of the investigations of the member associations. The Commission adopted this recommendation on March 9, 1954.

The investigation of Newsprint Manufacturers Association of the United States, Inc. was begun in 1948 and closed in 1951.

Newsprint Manufacturers Association of the United States was incorporated in 1943 as a successor to the Code Authority for the industry under the NRA. It operated as a trade association for newsprint manufacturers of the United States and Canada, compiling statistics, until 1948 when it was succeeded by the Newsprint Service Bureau. Only five United States manufacturers and no Canadian manufacturers remained in this Bureau.

In 1929 the Commission had investigated the Newsprint Service Bureau as it was constituted prior to its reorganization in 1948. In 1929 the Bureau furnished general statistics on production, consumption, stocks, cost, accounting, and engineering to the industry. After the Bureau's

reorganization in 1948, only five United States corporations remained in the Bureau, but both United States and Canadian manufacturers continued to furnish statistics to the Bureau.

The staff of the Commission on May 17, 1951, recommended that the investigation of the Newsprint Service Bureau be closed due to lack of evidence of collusion or conspiracy with respect to prices. This recommendation was based upon examination of the files of the Newsprint Service Bureau and two of the five manufacturers who are still members of the Bureau. The file was closed by the Commission on September 20, 1951.

During the same period of time when the Commission's investigations of newspaper manufacturers were being made, an investigation of paper wholesalers was also being made. This resulted in an order against National Paper Trade Association of the United States, Inc., et al., Docket 5592, affirmed by the Second Circuit Court of Appeals on January 9, 1957. <sup>1/</sup> Here the Commission found a price fixing conspiracy involving 22 regional trade associations and a large number of distributors of fine and wrapping paper.

---

<sup>1/</sup> See also Justice Department proceedings. United States v. Blake, et al., (D.C. C 1., 1950); conspiracy among paper wholesalers to fix prices (civil and criminal). United States v. Crown Zellerbach Corp., et al. (D.C. Wis., 1955); civil action; restraint of trade, paper towel dispensers.

### Justice Department Investigations.

The history of Commission investigations in the newsprint field illustrates close cooperation between the Federal Trade Commission and the Department of Justice, which cooperation was clearly intended by the foresighted Congress which passed the Federal Trade Commission Act in 1914. The two law enforcement agencies have worked hand-in-hand since 1916. I have mentioned early Justice Department proceedings based upon Commission investigations.

Late in 1946, the FBI began an investigation of price fixing, limitations on production and allocation of supplies in the newsprint field. Companies under investigation refused to supply information from files located in Canada. A grand jury in New York issued 31 subpoenas calling for documents both in the United States and Canada. Only documents in the custody of wholly-owned Canadian subsidiaries of the United States firms or Canadian firms doing business in the United States through wholly-owned subsidiaries in the United States were requested.

After conferences with the State Department and the Canadian Government, the subpoenas were withdrawn with respect to documents physically located in Canada.

In 1947, the Province of Ontario passed a statute making it a criminal offense for any records to be taken out of the Province. This law was passed as a direct result of the Department of Justice proceedings.

Mr. Drew of the Ontario Legislature stated:

"If the Attorney-General of the United States does in fact believe that there has been any improper combination in restraint of normal trade, then the correct procedure would be for him to lay the facts in his possession before the proper authorities at Ottawa who could then take such action as was deemed advisable upon the evidence placed before them."

But under Canadian law no antitrust action will be taken unless Canadian public interest is involved.

It is my understanding that from 1947 until the present time the newsprint industry has been under almost constant surveillance by the Department of Justice.

### Congressional investigations.

In addition to the Department of Justice and Federal Trade Commission investigations, a number of Congressional committees have studied the newsprint problem in recent years.

Both the 1917 and the 1930 reports of the Federal Trade Commission on the newsprint industry were made at the request of the United States Senate.

In 1920 the Senate Committee on Manufactures held hearings on the newsprint paper industry. In the same year, the House Committee on Interstate and Foreign Commerce held hearings on the newsprint paper shortage, and a report made by the Secretary of Commerce on Distribution and Consumption of Print Paper in the United States was referred to this Committee.

From 1943 through 1946 the House Committee on Interstate and Foreign Commerce continued to investigate the use of newsprint during the war.

In 1947, the Senate Special Committee to Study Problems of American Small Business considered the newsprint industry in connection with the problems of survival of small independent newspapers. This study included the publication of the 1939 Federal Trade Commission report on the newsprint industry which had been made at the request of the Department of Justice, and had been a confidential report up to that time.

From 1947 to 1949 the Senate Special Committee to Study Problems of American Small Business made two interim reports on newsprint supply and distribution (in 1947 and 1948), and in 1949 issued a final report. This study was concerned primarily with finding new sources of supply for newsprint due to the newsprint shortage.

On May 28, 1951, the House Subcommittee on Study of Monopoly Power of the Committee on the Judiciary issued a comprehensive report on the newsprint industry. The hearings and report of this Committee, together with the Department of Commerce publication "Transportation Factors in the Marketing of Newsprint" (1952), provide an excellent picture of the pricing practices of the industry. This Committee recommended that the Department of Justice consider its report for evidence relating to price-fixing agreements and restraints of trade.

In 1954 the House Committee on the Judiciary was concerned with a Department of Commerce study on newsprint expansion, particularly newsprint production from hardwoods.

From 1955 through 1957, the House Committee on Interstate and Foreign Commerce has also studied the newsprint shortage and has issued two interim reports (1955 and 1956) and a report in 1957.

This is not an exhaustive list of Congressional investigations, but it serves to indicate Congressional concern with the industry.

Newsprint Pricing.

We have further examined our files and other available materials for pricing practices in the newsprint industry. The following is our best available information as to prevailing prices in the industry from 1860 to 1956.

AVERAGE CONTRACT PRICE DELIVERED NEW YORK CITY

1860	8.3	1911	2.25
1870	12.3	1912	2.25
1880	6.9	1913	2.25
1890	3.4	1914	43.60
1891	3.125	1915	41.78
1892	2.91	1916	51.78
1893	2.75, 2.54	1917	63.78
1894	2.25	1918	64.30
1895	2.25	1919	79.40
1896	2.25	1920	112.60
1897	1.8	1921	111.35
1898	1.8	1922	76.80
1899	1.8	1923	81.80
1900	1.8	1924	80.80
1901	1.8	1925	76.80
1902	1.9	1926	71.80
1903	2.05	1927	71.80
1904	2.00	1928	67.50
1905	2.00	1929	62.00
1906	2.00	1930	62.00
1907	2.00	1931	57.00
1908	2.10	1932	53.00, 45.00
1909	2.25	1933	45.00, 39.60
1910	2.24	1934	40.00

1935	40.00	1946	72.57
1936	41.00	1947	88.50
1937	42.50	1948	97.70
1938	50.00	1949	100.00
1939	50.00	1950	100.92
1940	50.00	1951	111.00
1941	50.00		
1942	50.00		
1943	54.66		
1944	58.00		
1945	60.63		

Source: 1. U.S. Dept. of Commerce, Transportation Factors in the Marketing of Newsprint, years 1914-1952.

2. Kellogg, Newsprint Paper in North America, years 1860-1914.

Average prices for newsprint in the United States as a whole from 1952 to 1956 were:

1952	\$120.21
1953	126.50
1954	125.75
1955	125.94
1956	130.02

Source: Yearly average computed from monthly averages of Commodity Index, Bureau of Labor Statistics.

Also, I would like to summarize what we have found with respect to the newsprint industry's pricing methods.

In 1928, International Paper Company had established zone pricing east of the Mississippi. Many other mills prior to the NRA period absorbed full freight to the destination or had absorbed freight at least up to a fixed amount.

On June 16, 1933, the National Industrial Recovery Act was passed, and immediately, the newsprint manufacturers began to consider the establishment of a newsprint code. A preliminary code of fair competition for the newsprint industry was signed by the President on November 17, 1933, but this did not provide for fixed prices for newsprint. Further recommendations were made by the code authority for the Newsprint Industry in 1934 to the NRA Administrator, but were not approved. These recommendations contained a zone system of pricing which was adopted by substantially the entire industry at that time, and appears to have been generally in use since then, at least until 1952.

This zone system consists of 10 zones in the United States. It was based on pricing

conditions existing during the NRA period, as modified by certain agreements made at that time among the manufacturers. It does not accurately reflect transportation costs; it involves phantom freight as well as freight absorption. Apart from some variations in port prices, the zone pricing system is used by substantially all the manufacturers today. The OPA adopted this zone pricing and gave it its stamp of approval from 1942 to 1946.

Prices were determined as follows: 2/

Zone 4 is the base price.  
Zone 3 is 50¢ under the base price.  
Zone 2 is \$1.00 under the base price.  
Zone 1 is \$1.50 under the base price.  
Zone 5 is \$1.00 over the base price.  
Zone 6 is \$2.00 over the base price.  
Zone 7 is \$3.00 over the base price.  
Zone 8 is \$4.00 over the base price.  
Zone 9 is \$5.00 over the base price.  
Zone 10 is \$1.00 under the base price (minimum).

The minimum zone 10 price was \$1.00 under the base price or "port price." When delivery was all rail from the mill, and freight charges exceeded \$5.00 per ton, the delivered price was base price less \$6.00 a ton f.o.b. mill plus the actual rail freight. Where delivery was made to a port, the price was the base price less \$1.00 at the port plus local freight to destination. Port prices were base price less

---

2/ Slight variations in the differentials in the zones have been made in recent years by some United States corporations.

\$1.00 per ton port allowance. Port prices were the same at all ports designated, no matter where they were located, but not all seaports were designated as "ports" for pricing purposes.

How was the base price determined? The base price, or zone 4 price, was \$1.00 more than the delivered price at New York City, or the "port price." The New York price apparently was composed of the price of newsprint f.o.b. Three Rivers, Quebec, plus the rail carload freight from Three Rivers to New York. The f.o.b. price at Three Rivers is published by the Dominion Bureau of Statistics, Ottawa, in Prices and Price Indexes. The delivered price to any United States zone from a shipping point in Canada or the United States apparently was computed on the basis of the Three Rivers price plus rail freight to New York plus or minus the applicable zone differential.

For many years the difference between the published Three Rivers price and the f.o.b. New York price has been the rail freight costs from Three Rivers to New York. In years in which this difference did not correspond exactly to rail freight charges, the differences may be explained by the fact that changes in contract prices lagged behind

changes in freight rates, and the exchange rate between United States and Canadian dollars varied from time to time.

When the zones were first established, the price differentials probably reflected average delivery cost of newsprint mills shipping to various destinations. But since that time freight rates have varied considerably, but the zones differentials have remained fixed.<sup>3/</sup> The existing zone system, therefore, does not reflect changes in transportation costs except to the extent that rate increases from Three Rivers to New York reflect rate increases elsewhere.

---

<sup>3/</sup> Except for recent changes in zone differentials by some United States corporations. Also, some United States corporations have only one delivered price for all customers.

### Conclusion.

All of the investigations which I have discussed point to the existence of two closely related factors which are of concern to domestic newspaper and magazine publishers:

(1) high prices; and (2) lack of adequate domestic supply.

What can we at the Commission suggest?

You may wish to consider the possibility of a Congressional resolution directing the Commission to make an economic survey of the newsprint industry. This survey would result in our telling you the current facts with respect to the two problems. It is also possible, as has occurred with past industrywide economic studies made by the Commission, that such an industrywide inquiry might develop facts indicating violations of the law which could be subject to corrective action by the Commission or by the Department of Justice.

The Commission might undertake another industrywide legal investigation of newsprint in the United States. However, the Commission does not now have the manpower or funds available for such a study in view of the necessity of concluding other current work.

The Commission will continue, as it has in the past, to investigate any complaints of illegal practices in the paper industry. As an indication of its concern in this respect,

<sup>Three</sup> of the eighteen merger complaints filed by the Federal Trade Commission since the 1950 antimerger amendment have been in the paper industry. These are Crown Zellerbach, <sup>Union</sup> Scott Paper, and International Paper Company.

At this time the Commission is considering additional information brought to its attention concerning newsprint zone pricing to determine if further investigation or other action is warranted with respect to such practices.

In conclusion I wish again to assure you that the Commission stands ready to cooperate with the Congress in whatever respects may be considered desirable for a solution of this important national problem.