

IN THE MATTER OF

REUTERS AMERICA INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3632. Complaint, Dec. 18, 1995--Decision, Dec. 18, 1995*

This consent order prohibits, among other things, a New York-based distributor of fast-turnaround verbatim news transcripts from agreeing to or attempting to agree to allocate customers or divide markets with any provider of news transcripts.

Appearances

For the Commission: *Michael E. Antalics, Barry Costilo and William Baer.*

For the respondent: *Salem Katsh, Weil, Gotshal & Manges, New York, N.Y.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Reuters America Inc., a corporation (sometimes referred to as "respondent"), has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Reuters America Inc. ("Reuters") is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business at 1700 Broadway, New York, New York.

PAR. 2. Reuters has been engaged in the sale of news transcripts and other services to the media and others. The "news transcripts" are fast turnaround verbatim transcripts covering a variety of news events primarily involving the federal government. Examples of the news events covered include White House and Departments of Defense and State speeches and press briefings, press conferences by

federal agency officials, and Congressional hearings. Reuters transmitted these services over communication networks to customers located throughout the United States.

PAR. 3. Federal News Service Group, Inc. ("FNS") is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business at 620 National Press Building, Washington, D.C.

PAR. 4. Under the business name of Federal News Service, FNS sells and transmits news transcripts over communication networks to customers located throughout the United States.

PAR. 5. Respondent's acts and practices, including the acts and practices alleged in this complaint, are in or affect commerce as defined in the Federal Trade Commission Act.

PAR. 6. From 1988, when Reuters entered the news transcript business, until May 1993, Reuters and FNS directly competed with each other for news transcript customers. They were the dominant sellers of news transcripts. Each company had its own source of supply of news transcripts. Reuters relied on News Transcripts Inc. ("NTI") to provide news transcripts exclusively to it. FNS produced its own news transcripts and relied on another company to supply news transcripts to it. FNS and Reuters competed on the basis of the price, speed, accuracy, and breadth of coverage of their respective news transcripts.

PAR. 7. Soon after Reuters entered the news transcript business, FNS solicited an agreement with Reuters that would eliminate the competition that existed between FNS and Reuters. Reuters rejected the solicitation.

PAR. 8. During the period between 1989 and 1993, Reuters learned of and had concerns related to a potential tax liability of its news transcript supplier. Reuters subsequently entered into the agreements described below.

PAR. 9. As early as May 1993, FNS and Reuters agreed, among other things, that Reuters would not sell or attempt to sell news transcripts to FNS's customers; Reuters would sell FNS produced news transcripts; Reuters would not produce and sell its own news transcripts or purchase and resell any other company's news transcripts which compete with FNS's news transcripts for the term of their supply agreement plus at least five years; and the minimum price for news transcripts sold by Reuters would be at least \$500 per

month. These agreements were continued by subsequent agreements between FNS and Reuters. Reuters also acted in concert with FNS to induce NTI to enter into an agreement with FNS in June 1993 under which NTI agreed, among other things, to cease producing news transcripts and not to compete with FNS.

PAR. 10. The effect of these agreements was to unreasonably restrain competition in the production and sale of news transcripts. FNS became the sole producer of news transcripts, and by May 1994, many of FNS's customers had received price increases for news transcripts.

PAR. 11. In August 1993, Reuters was under contract to supply a database reseller with news transcripts, and under that contract Reuters could receive as part of its royalty payment a percentage of the database reseller's price. Previously, Reuters had provided this database customer with news transcripts produced by NTI. In August 1993, however, FNS was producing news transcripts for Reuters and threatened to disallow Reuters' sale of transcripts to this database reseller unless the reseller agreed to raise its prices to its database customers. In order to insure that FNS would agree to allow Reuters to continue providing FNS transcripts to this database reseller, Reuters scheduled a meeting and otherwise assisted FNS in obtaining the reseller's agreement to raise the prices of its news transcript database. The reseller acquiesced in FNS's request to raise its prices and communicated its acquiescence to Reuters and FNS.

PAR. 12. By engaging in the acts or practices described in paragraphs nine through eleven of this complaint, Reuters unreasonably restrained competition in the news transcript business in the following ways, among others:

- (a) Competition between FNS and Reuters for customers was restrained;
- (b) Price competition between FNS and Reuters was restrained;
- (c) Competition on the basis of product quality between FNS and Reuters was eliminated; and
- (d) Price competition between database resellers of news transcripts was restrained.

PAR. 13. The acts or practices of Reuters alleged herein were and are to the prejudice and injury of the public. The acts or practices constitute unfair methods of competition in or affecting commerce in

violation of Section 5 of the Federal Trade Commission Act. These acts or practices are continuing and will continue, or may recur, in the absence of the relief requested.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure described in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Reuters America Inc. ("Reuters") is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 1700 Broadway, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That, as used in this order, the following definitions shall apply:

A. "*Respondent*" means Reuters America Inc., its subsidiaries, divisions, and groups and affiliates controlled by Reuters America Inc., its successors and assigns, and its directors, officers, employees, agents, and representatives.

B. "*FNS*" means Federal News Service Group, Inc., its directors, officers, representatives, delegates, agents, employees, successors, assigns and its subsidiaries and their successors and assigns; and Federal News Service, its directors, officers, representatives, delegates, agents, employees, successors, assigns and its subsidiaries and their successors and assigns.

C. "*News transcripts*" mean full-text fast turnaround verbatim transcripts of government-related events that are usually but not always produced within three (3) hours of the event and transmitted in any manner to resellers and customers in the United States. The definition of "news transcripts" refers to the type of full-text verbatim news transcript service formerly marketed by respondent under the name "the Federal News Reuter Transcript Service." News transcripts do not include news, information or data of the type generally included in respondent's other news services which may incorporate some quotations or partial excerpts from government-related events.

D. "*News transcript provider*" means any person or entity which produces news transcripts, by itself or through an arrangement by which a third party produces news transcripts exclusively for that person or entity, and markets and sells such news transcripts as a daily service on a subscription basis.

II.

It is further order, That respondent, directly, indirectly, or through any corporate or other device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, does forthwith cease and desist from entering into, attempting to enter into,

or continuing or attempting to continue, any combination, agreement or understanding, either express or implied, with any news transcript provider to allocate or divide markets or customers with respect to news transcripts.

III.

It is further ordered, That respondent, directly, indirectly, or through any corporate or other device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, or renewing any agreement between respondent and FNS that prevents respondent from in any way competing with FNS for the production, marketing or sale of news transcripts.

IV.

It is further ordered, That, for five (5) years from either the date this order becomes final or July 31, 1995, whichever is later, respondent directly or indirectly, or through any corporate or other device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from entering into, continuing, or renewing any agreements with FNS providing for the supply of news transcripts or the purchase or sale of news transcript customer contracts or accounts.

Provided that nothing in this order shall prohibit respondent from:

A. Purchasing a subscription for news transcripts from FNS for respondent's own use but not for resale; and

B. Contracting with FNS for supplying FNS with respondent's Daybook.

V.

It is further ordered, That respondent, directly or indirectly, or through any corporate or other device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, attempting to enter into, maintaining, enforcing, or attempting to enforce, any agreements or understandings (1) with any competitor in the production,

distribution, or sale of news transcripts, that fix, establish, control, or maintain resale price levels for news transcripts, or (2) with any purchaser or reseller of news transcripts which is directly or indirectly supplied by respondent, that fix, establish, control, or maintain resale prices or resale price levels that such purchaser or reseller charges for news transcripts.

VI.

It is further ordered, That respondent shall:

A. Within thirty (30) days after the date this order becomes final, distribute a copy of this order and complaint to each of its officers and to each of its employees engaged in the production or sale of news transcripts.

B. Within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to the respondent require, file a verified written report with the Commission setting forth in detail the manner and form in which the respondent has complied and is complying with this order.

C. Maintain and make available to Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by this order.

D. Notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in respondent which may affect compliance obligations arising out of this order.

VII.

It is further ordered, That this order shall terminate on December 18, 2015.

IN THE MATTER OF

NEW BALANCE ATHLETIC SHOES, INC.

*Docket 9268. Interlocutory Order, December 18, 1995*ORDER AMENDING COMPLAINT
AND LIFTING STAY OF PROCEEDINGS

I. INTRODUCTION

By order dated July 10, 1995, the Commission directed the parties to this litigation to show cause why the complaint and notice order should not be amended or dismissed. This order was issued in conjunction with the Commission's announcement that it had rejected a consent agreement in Hyde Athletic Industries, Inc., FTC File No. 922-3236, and would conduct public proceedings to consider whether its current "made in USA" enforcement standard is appropriate in an era of global competition. The ongoing litigation was stayed pending the outcome of this show cause proceeding.

II. BACKGROUND

The complaint issued against New Balance on September 20, 1994 alleges violations of Section 5 of the FTC Act through statements made in advertising and labeling about the origin of New Balance's athletic shoes. Paragraph five alleges that New Balance:

has represented, directly or by implication, that New Balance athletic shoes are made in the United States, *i.e.*, that all, or virtually all, of the component parts of the footwear are made in the United States, and that all, or virtually all, of the labor in assembling the footwear is performed in the United States.

Paragraph six alleges that this claim is false:

In truth and in fact, a substantial amount of respondent's athletic shoes is assembled in foreign countries of foreign component parts, and in many instances respondent's athletic shoes assembled in the United States consist largely of foreign component parts. Therefore, the representation set forth in paragraph five was, and is, false and misleading.