



Utah Pie
v.
Continental Baking Company

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Background

- Utah Pie Company is a small family run business located in Salt Lake City, Utah.
- The entered the frozen pie market in 1957 and faced competition from many large scale firms located around the United States.
- A few of the firms Utah Pie was competing against were Continental Baking Company, Pet Milk Company, and Carnation Milk Company.



More Background

- Because Utah Pie produced locally, they were able to undercut the prices of their competitors.
- In response, their competitors also cut prices on frozen pies.
- In some cases, competitors cut price to below cost levels.
- In response to Continental Baking Company's price of \$2.85 a dozen, Utah Pie cut prices even lower to \$2.75 a dozen.



Price Discrimination

- Were these large firms setting illegally discriminating prices?
- Price discrimination exists when sales of identical goods or services are transacted at different prices from the same provider.
- These firms were setting prices lower in Utah, than in other states, even if these states had nearby production facilities.
- Additionally the pies they sold in Utah were the same pies they sold elsewhere.



The Case

- Utah Pie sued Continental Baking and its competitors for price discrimination and conspiracy.
- Utah Pie charged that its competitors conspired to destroy Utah Pie's ability to compete by exclusively price discriminating in the Salt Lake City region where Utah Pie served.
- The jury found each competitor guilty of price discrimination.



The Appeal

- Court of Appeals found the behavior of Continental and other competitors not in violation of 2(a) of the Clayton Act.
- Decision was based on assumption that the nationwide sellers participating in different markets would price the same under different market conditions.



Court of Appeals Argument

- Utah Pie first used its geographical advantages to enter below its competitors' prices.
- Utah Pie maintained lower prices to claim market share from its competitors.
- The low prices set by Utah Pie prompted Continental to lower prices to remain competitive in SLC region.
- Utah Pie's sales volume continually increased from 1958 to 1961, so Continental's price cuts were determined to have minimal impact on competition.



Section 2(a) Clayton Act

- “That it shall be unlawful for any person engaged in commerce... either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality... where the effect of such discrimination may be substantially to lessen competition....”
- “A competitor who is forced to reduce its price to a new all time low in a market of declining prices will, in time, will be a less effective competitive force”



Supreme Court Ruling

- Supreme Court found Continental in violation of 2(a) of the Clayton Act as amended by the Robinson-Patman Act
- Supreme Court overturned Court of Appeals' ruling that Utah was not damaged as a competitive force since Utah's sales volume continued to climb in 1961



Supreme Court Ruling

- Court of Appeals failed to acknowledge Continental's discriminatory price caused Utah to reduce its price
- Had Utah not lowered its price, Continental would have continued its lowered price, so that Safeway would have continued to buy from Continental



Conclusion

Q & A