

Chronological: S. 114, Soft Drink Manufacturers

Senator Daniel K. Inouye Papers
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OPENING STATEMENT

OF U.S. SENATOR DANIEL K. INOUE

ON S.114

BEFORE THE SUBCOMMITTEE ON THE CONSUMER

OF THE SENATE COMMITTEE ON COMMERCE,

SCIENCE, AND TRANSPORTATION

FEBRUARY 28, 1990

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The bill before the Committee this morning, S.114, declares certain activities of soft drink manufacturers to be unfair for the purposes of section 5 of the Federal Trade Commission Act. This bill prohibits certain acts of any person engaged in the business of manufacturing, selling or distributing postmixed soft drink dispensing equipment, or engaged in the business of manufacturing, selling, bottling, or otherwise distributing soft drink syrup, and declares these acts to be unlawful. These acts promote monopolization, hinder fair competition and will ultimately hurt the consumer.

Over the years independent soft drink distributors have served smaller outlets that large manufacturers did not serve. These distributors supplied the equipment and syrup necessary to dispense soft drinks at bars, restaurants and fast food outlets.

However, in their efforts to further monopolize the soft drink market, large soft drink manufacturers have started to provide, at little or no cost, beverage dispensing equipment to potentially large retail customers in order to lure them away from their current independent distributors. This creates an unspoken obligation on the part of the retail customer to purchase the soft drink syrup from the large soft drink manufacturer who is providing the equipment.

Furthermore, when these large syrup manufacturers install the beverage dispensing equipment at no charge, it is usually equipped to dispense only the syrup flavors that the manufacturer produces. This leaves no room for the restaurant or tavern owner to dispense the soft drinks of a competitor.

The damaging impact on the beverage dispensing equipment industry is two-fold. First and most dramatically, it undermines the survival of those companies whose very existence is dependent upon the sale or lease of beverage dispensing equipment. When a larger retailer of soft drinks, such as a fast food chain, is faced with a choice of buying or renting the beverage dispensing equipment or receiving it free of charge, there is little difficulty in making a decision. The result is always the same -- a member of the beverage dispensing equipment industry loses another customer. Secondly, once the equipment is installed, the customer invariably purchases its syrup directly and exclusively from the big soft drink manufacturer. Thus, the beverage dispensing equipment industry is not the only victim of this anti-competitive practice. Consumers and other distributors suffer as well.

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In the waning days of the 100th Congress, I had the privilege of chairing a hearing on this legislation before this Committee. I heard a great deal of testimony from individuals who have been in the dispensing business for 20 to 30 years. Many now stand at the brink of losing their businesses. The large manufacturers gave no indication of compromising or coming up with a viable solution, saying only that this is common practice. Recently, I was contacted by an independent manufacturer who lost five contacts just in the past three weeks alone, because of this practice. It seems to me that the Cola Wars have not ended.

Unless action is taken to preserve what little competition remains in the fountain soft drink industry, these large manufacturers will totally eliminate competition and will decimate the beverage dispensing equipment industry. Currently, large manufacturers control 85 percent of the fountain syrup market, leaving 15 percent to all other manufacturers, including the other national brands. Less competition will inevitably be detrimental to the consumer in the long run.

I firmly believe that Congress must take a closer look into this matter. Both the Senate Judiciary and the Commerce, Science and Transportation Committees are studying this issue. I believe a fair assessment of the situation can be made. It is my hope that the soft drink industry will work with both Committees to find a viable solution to preserve, if not enhance competition.

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Page 3

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