



Clients:	American Media Inc. and Distribution Services Inc.
Industry:	Publishing
Area of Law:	Antitrust
Venues:	U.S. District Court, Southern District of New York / Second U.S. Circuit Court of Appeals
Result:	Dismissal of a \$1.4 billion antitrust claim

Final Victory in Decade-Long Antitrust Case

The past decade has been a challenging time for the print media industry. Anderson News, the second-largest wholesaler of magazines at the time, decided to alleviate its own financial distress by imposing a surcharge on magazine publishers for every magazine it delivered. Faced with this substantial price increase, most magazine publishers took their business to other wholesalers that were not raising prices.

In response, Anderson News closed its doors—and sued magazine publishers, national distributors and other wholesalers, including our clients American Media Inc. and its subsidiary, Distribution Services Inc. The suit accused the publishers of conspiring to put Anderson News out of business through a group boycott, in violation of Section 1 of the Sherman Act. Anderson sought damages well in excess of \$1 billion.

The U.S. District Court for the Southern District of New York granted our motion to dismiss, ruling that Anderson News had failed to state a claim. But the Second U.S. Circuit Court of Appeals reversed that decision, triggering three years of fact and expert discovery.

With a full factual record before it, the district court again dismissed Anderson's claims, granting summary

judgment for our clients and the other defendants. The court was unconvinced that a refusal to pay above-market prices was anticompetitive conduct, observing, "[A]fter six years of litigation, Anderson still [could not] explain why it was in Defendants' interest to pay more per magazine, and assume substantial inventory costs." The court concluded that Anderson had failed to present enough evidence that an agreement to boycott existed. As the district court observed, Anderson was driven out of business by its "ill-conceived and badly executed plan" to raise prices.

A recent, lengthy decision by the Second Circuit upheld the district court decision. The Second Circuit, carefully parsing the record, ruled that the evidence upon which Anderson relied to show that there was an agreement to boycott was insufficient. The U.S. Supreme Court denied that petition in March 2019, closing the book in our clients' favor on this nearly decade-long battle.