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PREVALENCE OF PRICE CUTTING OF
MERCHANDISE MARKETED UNDER
PRICE-MAINTENANCE AGREEMENTS

MAY 28 THROUGH JUNE 25, 1951

STUDY PREPARED

FOR THE

JOINT COMMITTEE ON THE ECONOMIC REPORT

AND

SELECT COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE



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LETTER OF TRANSMITTAL

JULY 18, 1951.

To Members of the Joint Committee on the Economic Report, and
Members of the Select Committee on Small Business, United States
Senate:

For the information of members of the two above-mentioned committees and others interested, there is transmitted herewith a report on the prevalence of price cutting of merchandise marketed under price-maintenance agreements, prepared by Dun & Bradstreet. When, following the Supreme Court decision in *Schwegemann Bros. v. Calvert Corporation*, interpreting the Miller-Tydings Act, the R. H. Macy Co. of New York began the sale of selected merchandise at prices below the resale schedule prepared by manufacturers, Nation-wide interest was aroused, particularly among small-business dealers who were concerned as to the effect of the decision on price-maintenance practices under the Miller-Tydings law. At a conference with the respective chairmen of the Joint Committee on the Economic Report and the Senate Select Committee on Small Business with Mr. A. D. Whiteside, president of Dun & Bradstreet, Inc., the undersigned were advised that the facilities of Dun & Bradstreet would be used to make a survey of the extent to which the price cutting initiated by R. H. Macy was being followed throughout the country.

Of special concern was the possible adverse effect on small independent companies, unable to absorb losses, of the widespread use of price cutting by large distributors. It also seemed desirable to determine the areas in which price cutting of items covered by the Miller-Tydings Act was taking place, the number of stores in each community involved, and the lines of merchandise in which reductions were being made so that there might be a record for future consideration of the reaction throughout the country to the Supreme Court decision under present market conditions.

The results of the study speak for themselves, but it is fair to say that in general the price cutting took place in a rather narrow area, both geographically and by way of commodities. The managers of the Dun & Bradstreet offices which cooperated in the study have indicated that the price-cutting campaign has waned.

JOSEPH C. O'MAHONEY,

Chairman, Joint Committee on the Economic Report.

JOHN SPARKMAN,

Chairman, Select Committee on Small Business, United States Senate.

SUMMARY

PRICE CUTTING OF "FAIR-TRADED" MERCHANDISE, MAY 28 TO JUNE 16

Price cutting of "fair-traded" merchandise was reported from 43 of 123 leading trading centers included in this survey. Reportedly, 825 stores cut prices below those set by manufacturers under price-maintenance agreements. However, three cities, Denver, Detroit, and New York, accounted for 575, or 70 percent of the total number of stores cutting prices. Most commonly, only three or less stores were reported engaged in cutting prices on fair-traded merchandise in any one city. Furthermore, in the 123 cities covered by the survey, there were approximately 77,000 stores which most probably handled one or more of the merchandise lines subject to this type of price cutting.

Merchandise lines subject to price cutting of fair-traded goods, in order of relative frequency of mention are—

- Light electric household appliances.
- Cosmetics, drug specialties.
- Heavy electric household appliances.
- Men's wear.
- Alcoholic beverages.

DEVELOPMENTS SINCE JUNE 17

A follow-up survey, conducted on June 25 in the 123 cities covered in the initial survey on price cutting, indicates no significant changes have occurred with respect to the number of cities or stores involved. Five cities which had experienced no price cutting prior to June 16 were reported, as of June 25, to have one or more stores cutting prices on fair-traded merchandise. In only two of these cities, however, was more than one store involved. Conversely, price cutting of fair-traded merchandise was discontinued in three cities after June 17. Comments of managers of Dun & Bradstreet offices in several communities have indicated a waning of activity and interest in price cutting of fair-traded merchandise in their communities.

THE PREVALENCE OF PRICE CUTTING OF MERCHANDISE MARKETED UNDER PRICE-MAINTENANCE AGREEMENTS

May 28 through June 25, 1951

I. PRICE CUTTING ON FAIR-TRADED MERCHANDISE MAY 28 THROUGH JUNE 16, 1951

Effective May 28, the R. H. Macy Co., of New York, set prices on selected merchandise below the resale prices authorized by manufacturers of the merchandise, under price-maintenance agreements. This action, given extensive advance publicity, was taken a week after the United States Supreme Court's decision in *Schwegemann Brothers v. Calvert Corporation*. These developments, especially the temporary buying hysteria in New York, were widely publicized in the various media of mass communication in this country. Similar price wars were subsequently reported from other communities.

This Dun & Bradstreet survey indicates that, from May 28 to June 16, some 825 stores in 43 of 123 trading centers of the Nation had set prices on one or more items of merchandise below the resale price recommended or set by manufacturers of the merchandise. With few exceptions, only a small number of stores were reported engaged in price cutting in any one of these 43 cities. Thus, only 8 cities reported 10 or more stores cutting prices below the manufacturers' resale prices; 20 cities reported less than 4 stores engaged in such price cutting.

Number of cities reporting	Number of stores in each city pricing merchandise below manufacturers' resale price
20.....	Less than 4.
6.....	4 to 5.
9.....	6 to 9.
2.....	10.
6.....	More than 10.

The lines of merchandise in which retailers were reported to have set some prices below the resale prices set or suggested by manufacturers were—

Line of merchandise	Cities reporting price cutting
Light electric household appliances.....	29
Cosmetics and drug specialties.....	23
Heavy electric household appliances.....	14
Men's wear.....	4
Alcoholic beverages.....	4

It should be noted that, although a total of 825 stores were reported to have cut prices on "price-maintained" merchandise, there were approximately 77,200 stores in these cities which might, on a conservative basis, be said to handle 1 or more of the lines of merchandise affected by the type of price cutting reported in this survey, as shown in the following table:

Kind of business	Number of stores
Department stores.....	988
Variety stores.....	5,723
Men's and boys' clothing.....	9,648
Family clothing.....	3,294
Furniture.....	9,184
Household appliances.....	6,381
Hardware.....	8,081
Drug and proprietary.....	20,662
Liquor.....	13,280
Total.....	77,241

Source: U. S. Census of Business, 1948: Retail Trade.

There appears to be no clear-cut geographic clustering of communities which reported price cutting on price-maintained merchandise. It is particularly noteworthy, in this respect, that a number of communities near New York (such as Boston, Albany, Hartford, Trenton, and Philadelphia) reported no such price cutting between May 28 and June 16.

Detailed results of the survey covering the period from May 28 to June 16 are shown in appendix A. Further, appendix B and appendix C report comments made by managers of some Dun & Bradstreet offices with regard to the attitudes of merchants, in their communities, toward the recent flurry of pricing merchandise below resale prices set by manufacturers under price-maintenance agreements.

II. DEVELOPMENTS FROM JUNE 17 THROUGH JUNE 25, 1951

A second telegraphic survey, conducted on June 25 and 26 in the same 123 cities covered in the first survey of price cutting, indicates that since June 16 there has been no significant increase in the cutting of prices below resale prices set by manufacturers.¹ Five cities in which no price cutting had been reported as of June 16, reported one or more stores engaged in such price cutting since June 16. Two additional cities reported increases in the number of stores participating in price cutting, but the total number of stores involved in each city is only two. Conversely, it was reported that price cutting, reported as of June 16, had been discontinued in three cities and, in three additional cities, the number of stores engaged in such practices had been reduced. Details on these developments are reported below:

¹ It should be remembered that this survey is concerned only with the pricing of merchandise below prices set by manufacturers under price-maintenance agreements. It is not concerned with the usual seasonal promotions, such as May "white goods" sales, or with customary preinventory clearances commonly held in June.

INCREASED ACTIVITY IN PRICE CUTTING IN THE PERIOD JUNE 17 TO 25

1. *Charleston, S. C.*—Some reductions below manufacturers' resale prices are reported in men's wear. Twelve stores are involved.

2. *Fort Wayne, Ind.*—One store has cut prices on heavy and light electric household appliances. No other activity has been reported.

3. *Columbus, Ohio.*—One rather large installment furniture house has cut prices on both heavy and light household appliances. In addition, one store has cut prices on heavy, and one store on light appliances.

4. *Roanoke, Va.*—One store has begun price cutting on men's suits.

5. *Saginaw, Mich.*—One store has cut prices on heavy electric household appliances.

6. *Phoenix, Ariz., and Tulsa, Okla.*—In each of these cities the number of stores engaged in price cutting has increased to two during the period.

DECREASED ACTIVITY IN PRICE CUTTING IN THE PERIOD JUNE 17 TO 25

Reports indicate that there has been a cessation of price cutting on fair-traded merchandise in the following three cities:

1. *Charlotte, N. C.*
2. *Sioux City, Iowa.*
3. *Harrisburg, Pa.*

The number of stores engaged in price cutting in San Francisco has dropped from six to two since June 17.

In the following two cities, such price-cutting practices have been greatly reduced. Reportedly, any such activity in these cities, as of June 25, is on a decidedly minor scale:

1. *Allentown, Pa.*
2. *Newark, N. J.*

PREVALENCE OF PRICE CUTTING

APPENDIX A

Price cutting of fair-traded merchandise, May 28 to June 16, 1951

[In 123 cities of the United States and for 5 classes of merchandise]

City	Total number of stores cutting prices	Merchandise lines in which prices were reduced				
		Heavy electric household appliances	Light electric household appliances	Men's wear	Cosmetics and drug specialties	Alcoholic beverages
Akron, Ohio	8				X	
Albany, N. Y.	0					
Albuquerque, N. Mex.	7		X		X	
Allentown, Pa.	4	X	X	X	X	
Amarillo, Tex.	0					
Asheville, N. C.	0					
Atlanta, Ga.	0					
Austin, Tex.	0					
Baltimore, Md.	7		X		X	
Bangor, Maine	0					
Billings, Mont.	0					
Birmingham, Ala.	0					
Boston, Mass.	0					
Buffalo, N. Y.	0					
Butte, Mont.	7				X	
Canton, Ohio	0					
Cedar Rapids, Iowa	8	X	X			
Charleston, S. C.	0					
Charleston, W. Va.	0					
Charlotte, N. C.	2				X	
Chattanooga, Tenn.	0					
Chicago, Ill.	0					
Cincinnati, Ohio	3				X	
Cleveland, Ohio	0					
Columbia, S. C.	0					
Columbus, Ga.	0					
Columbus, Ohio	0					
Dallas, Tex.	0					
Davenport, Iowa	0					
Dayton, Ohio	0					
Denver, Colo.	300	X	X		X	X
Des Moines, Iowa	0					
Detroit, Mich.	175	X	X			
Dubuque, Iowa	0					
Duluth, Minn.	2				X	
El Paso, Tex.	0					
Erie, Pa.	0					
Evansville, Ind.	0					
Fargo, N. Dak.	0					
Fort Wayne, Ind.	0					
Fort Worth, Tex.	0					
Fresno, Calif.	0	X				
Grand Rapids, Mich.	1					
Green Bay, Wis.	0					
Greensboro, N. C.	0					
Greenville, S. C.	4	X	X			
Harrisburg, Pa.	4		X		X	
Hartford, Conn.	0					
Houston, Tex.	0					
Huntington, W. Va.	0					
Indianapolis, Ind.	0					
Jackson, Miss.	0					
Jacksonville, Fla.	0					
Kansas City, Mo.	4		X			
Knoxville, Tenn.	0					
La Crosse, Wis.	0					
Lincoln, Nebr.	4		X			
Little Rock, Ark.	1		X			
Los Angeles, Calif.	0					
Louisville, Ky.	2		X	X		
Macon, Ga.	0					
Madison, Wis.	0					
Manchester, N. H.	0					
Memphis, Tenn.	0					
Miami, Fla.	4		X			
Milwaukee, Wis.	0					
Minneapolis, Minn.	0					
Mobile, Ala.	2		X			
Nashville, Tenn.	0					
Newark, N. J.	3		X		X	

APPENDIX A—Continued

Price cutting of fair-traded merchandise, May 23 to June 16, 1951—Continued

City	Total number of stores cutting prices	Merchandise lines in which prices were reduced				
		Heavy electric household appliances	Light electric household appliances	Men's wear	Cosmetics and drug specialties	Alcoholic beverages
New Haven, Conn.	0					
New Orleans, La.	21				X	X
New York, N. Y.	100	X	X	X	X	
Norfolk, Va.	1		X			
Oklahoma City, Okla.	30		X		X	
Omaha, Nebr.	10	X	X		X	
Peoria, Ill.	0					
Philadelphia, Pa.	0					
Phoenix, Ariz.	1	X	X			
Pittsburgh, Pa.	0					
Portland, Maine	0					
Portland, Oreg.	8	X	X	X	X	
Providence, R. I.	2		X			
Raleigh, N. C.	0					
Richmond, Va.	0					
Roanoke, Va.	0					
Rochester, N. Y.	0					
Rockford, Ill.	0					
Sacramento, Calif.	8		X		X	
Saginaw, Mich.	0					
St. Louis, Mo.	0					
St. Paul, Minn.	0					
Salt Lake City, Utah	0					
San Antonio, Tex.	0					
San Diego, Calif.	3				X	
San Francisco, Calif.	6		X		X	
Savannah, Ga.	2	X	X			
Scranton, Pa.	3	X	X			
Seattle, Wash.	0					
Shreveport, La.	10				X	X
Sioux City, Iowa	1		X			
Sioux Falls, S. Dak.	1	X				
South Bend, Ind.	0					
Spokane, Wash.	9		X		X	
Springfield, Ill.	3				X	
Springfield, Mass.	0					
Springfield, Ohio	0					
Syracuse, N. Y.	0					
Tacoma, Wash.	0					
Tampa, Fla.	50					X
Terre Haute, Ind.	0					
Toledo, Ohio	0					
Topeka, Kans.	0					
Trenton, N. J.	0					
Tulsa, Okla.	1		X			
Waco, Tex.	0					
Washington, D. C.	0					
Wheeling, W. Va.	0					
Wichita, Kans.	2				X	
Wilmington, Del.	0					
Winston-Salem, N. C.	0					
Worcester, Mass.	0	X				
York, Pa.	1					
Youngstown, Ohio	0					
Total	825	14	29	4	23	4

APPENDIX B

COMMENTS REGARDING PRICE-CUTTING DEVELOPMENTS PRIOR TO
JUNE 17

A number of comments made by Dun & Bradstreet personnel responsible for surveying price-cutting activities in their respective communities are transcribed below.

Cincinnati, Ohio.—Price cutting on fair-traded merchandise in this area practically nonexistent. Three drug chains offered, on certain days, tooth paste and baby food at cut rates. There is no indication of price cutting on a large scale.

Trenton, N. J.—Investigation in this city fails to disclose any dealers in this locality selling merchandise at cut prices or below resale prices authorized by manufacturers on fair-traded merchandise.

Savannah, Ga.—After checking practically all the wholesalers and many of the retailers in Savannah, I have been able to locate only two concerns cutting prices below the resale recommended by the manufacturer; both are selling household appliances * * *. Locally we have no experience with price cutting beyond those mentioned above, and it is the opinion of most of the local merchants that we will have no trouble of consequence in that connection. Inventories are heavy in this section, and I believe a determined effort will be made to prevent price slashing on fair-traded merchandise * * *.

Peoria, Ill.—There has not been any price cutting by local stores. Moreover, none of the leading stores expect to make any such reductions. One small hardware store did put a card in the window to the effect that some merchandise had been reduced in price, but an investigation showed that none of the merchandise was of the fair-traded kind, and the owner was just trying to clean out a rather heavy inventory situation. The merchants apparently have decided that this price cutting will not do them any good, in the long run, so there is little chance of Peoria getting on the price-cutting wagon.

Norfolk, Va.—Price cutting on light household appliances by one dealer is an isolated case. No wholesaler or retailer to whom we have talked thinks the practice will become general here.

Minneapolis, Minn.—No price cutting to date, but have obtained some information that a price war may develop in the furniture and appliance lines next week.² Leading local merchants are trying to discourage such price cutting.

New Haven-Bridgeport-Waterbury, Conn.—Many stores have tried to capitalize on the publicity received by Macy's and other price-cutting stores in the New York City area, but fair-traded merchandise has been left strictly alone, and special promotions cover store-wide clearances of floor samples, demonstrators, or obsolete models. There has been customer opposition to prices charged locally for light household appliances such as toasters, mixers, and Lewyt vacuum cleaners. As a result, sales in these items have been below normal but merchants are not cutting prices.

Manchester, N. H.—There is no price cutting in retail lines anywhere in Vermont or New Hampshire. Merchants everywhere in this territory consider this very silly.

Louisville, Ky.—There has been price cutting in only two low-priced department stores to this has posed no problem in Louisville. Only light appliances and men's wear were affected. There has been no excitement buying in Louisville.

Milwaukee, Wis.—We interviewed all the larger department stores here plus key personnel of the leading newspapers, the Downtown Merchants' Association as well as some small merchants and executives of merchants' associations of outlying business districts. It was the general opinion that no price cutting of fair-traded merchandise has come into metropolitan Milwaukee * * * the larger and more substantial merchants are not planning any drastic reductions in prices. It is reported, however, that some merchants have been offered items from out-of-State manufacturers, to be sold at reduced prices, as promotional leaders. There is some thought that if a sufficient number of manufacturers make this offer to a large number of merchants here, price cutting may develop. Up to now, some merchants reported that they have refused the offers of these manufacturers.

² This price war did not develop in the period June 17 to 25. See comments in appendix C.

Greensboro, N. C.—There has been no price cutting here below authorized resale prices. It is not expected that there will be price cuts resulting from Macy's action. The stores in this section expect to maintain their regular prices.

Fresno, Calif.—Although one local furniture store had advertised price cuts on fair-traded merchandise on two different occasions, it has discontinued the practice within the past 2 days. All local merchants are standing pat on price-maintained merchandise, and there is no evidence of any unrest among them.

Duluth, Minn.—Only two chains have cut prices below manufacturers' retails, and that only on two items: 6-12 Squito dope and Bayer aspirin. The other merchants do not intend to enter into price cutting because this is our busiest tourist retail season.

Columbus, Ohio.—The price cutting of fair-traded merchandise initiated in the New York area has had no effect on this local market. Most of the businessmen consulted were of the opinion that the price-cutting policies established in New York recently would not affect this area at least in the immediate future.

Atlanta, Ga.—A check of Atlanta's retail merchants indicates that there have been no price cuts on fair-traded merchandise in Atlanta, or this area. These merchants doubt seriously if any such price war will break out in the foreseeable future.

Albany, N. Y.—Numerous stores consulted were all aware of Macy's action and were observing results, but no inclination yet to follow suit.

APPENDIX C

COMMENTS REGARDING PRICE-CUTTING DEVELOPMENTS, JUNE 17 TO 25*

Allentown, Pa.—Price cutting in the Allentown area seems to have petered out almost completely. There has been little evidence of price cutting since about June 22.

Baltimore, Md.—We have had no new instances of price cutting here. It appears that interest in it is drying up.

Chicago, Ill.—There has been no change in the situation in Chicago, all stores continuing to refrain from any price cutting on fair-traded merchandise.

Cleveland, Ohio.—The feeling locally continues to be that there will be no such price cutting so long as the department stores hold the line, and to date there appears every indication that they will hold it.

Columbus, Ohio.—Only one rather large installment furniture house has cut prices on both heavy and light household appliances. This house has also instituted a sale on all lines of furniture, the only such sale of any consequence going on at this time. One retailer of appliances has cut prices on heavy appliances and another has cut on light appliances. The last two retailers are comparatively small operators. Otherwise, there has been no change in the local price picture.

Harrisburg, Pa.—Two weeks ago we had a small flurry of price cutting on small electrical appliances, cosmetics, and patent medicines. This has died out. At present there is no evidence of price cutting and I doubt if any will develop.

Minneapolis, Minn.—The impending price war in furniture and appliances, which I reported on June 16, has not developed to date. Furniture dealers now are of the opinion that no price war will develop.

Newark, N. J.—As of Saturday, June 23, all major department stores reported all prices previously reduced below resale prices authorized by manufacturers have been restored to manufacturers' resale prices. Some local drug stores still have a few items on proprietaries and cosmetics, but even this is dying out.

Pittsburgh, Pa.—A thorough check of the trade as of June 25 reveals that there has been no change in the situation in Pittsburgh since the date of our last wire. Informed sources here express the opinion that there has been no price cutting whatever on fair-traded items since the recent Supreme Court decision.

Spokane, Wash.—There has been no material change in the number of stores engaged in price cutting here. However, consumer interest is waning.