UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA
U.S. Department of Justice
Antitrust Division
450 Fifth Street, N.W., Suite 4000
Washington, DC 20530,

STATE OF ILLINOIS
Office of the Attorney General
State of Illinois
100 West Randolph Street
13th Floor
Chicago, Illinois 60601,

STATE OF COLORADO
Office of the Colorado Attorney General
1525 Sherman St., Seventh Floor
Denver, Colorado 80203,

and

STATE OF INDIANA
Consumer Protection Division
Office of the Indiana Attorney General
Indiana Government Center South
302 W. Washington, 5th Floor
Indianapolis, IN 46204,

Plaintiffs,

v.

AMC ENTERTAINMENT HOLDINGS, INC.
920 Main Street
Kansas City, Missouri 64105

Civil Action No:

Case: 1:10-cv-00846
Assigned To : Kennedy, Henry H.
Assign. Date : 5/21/2010
Description: Antitrust

and

KERASOTES SHOWPLACE
THEATRES, LLC
224 North Des Plaines, Suite 200
Chicago, Illinois, 60661

Defendants.

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, and the States of Illinois, Colorado, and Indiana, acting through their Attorneys General, bring this civil antitrust action to prevent AMC Entertainment Holdings, Inc. ("AMC") from acquiring most of the assets of Kerasotes Showplace Theatres, LLC ("Kerasotes"). If the acquisition is permitted, it would combine under common ownership the two leading, and in some cases only, mainstream movie theatres showing first-run commercial movies in certain parts of the metropolitan areas of Chicago, Denver, and Indianapolis. The transaction would substantially lessen competition and tend to create a monopoly in mainstream theatres in these markets in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

I. JURISDICTION AND VENUE

1. This action is filed by the United States pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to obtain equitable relief and to prevent a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. The States of Illinois, Colorado and Indiana bring this action under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent the

defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

2. Defendants have consented to personal jurisdiction in this District. In addition, defendant AMC, through its subsidiary, AMC Entertainment, Inc., operates theatres in this District. The licensing and exhibition of first-run, commercial films is a commercial activity that substantially affects, and is in the flow of, interstate trade and commerce. Defendants' activities in purchasing equipment, services, and supplies as well as licensing films for their theatres substantially affect interstate commerce. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties pursuant to 15 U.S.C. §§ 22, 25, and 26, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in this District is proper under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

II. DEFENDANTS AND THE PROPOSED TRANSACTION

4. Defendant AMC is a Delaware corporation with its headquarters in Kansas City, Missouri. It is the holding company of AMC Entertainment, Inc. AMC owns or operates 304 theatres containing 4,574 screens in locations throughout the United States and four foreign countries. Measured by number of screens, AMC is the second-largest theatre circuit in the United States.

5. Defendant Kerasotes is a Delaware corporation with its principal place of business in Chicago, Illinois. It owns or operates 96 theatres with 973 screens in various states. Kerasotes is the sixth-largest theatre circuit in the United States.

6. On January 19, 2010, AMC and Kerasotes signed a purchase and sale agreement, under which AMC acquired Kerasotes (with the exception of three theatres that will be retained

by the Kerasotes family) for approximately $275 million.

III. BACKGROUND OF THE MOVIE INDUSTRY

7. Theatrical exhibition of feature length motion picture films ("movies") provides a major source of out-of-home entertainment in the United States.

8. Viewing movies in the theatre is a popular pastime. Over 1.4 billion movie tickets were sold in the United States in 2009, with total box office revenue exceeding $10.6 billion.

9. Companies that operate movie theatres are called "exhibitors." Some exhibitors own a single theatre, whereas others own a circuit of theatres within one or more regions of the United States. Established exhibitors include Regal, Carmike, and Cinemark, as well as AMC and Kerasotes.

10. Exhibitors set ticket prices for each theatre based on a number of factors, including the presence and competitive decisions of nearby comparable theatres.

IV. RELEVANT MARKETS

A. Product Market

11. Movies are a unique form of entertainment. The experience of viewing a movie in a theatre differs from live entertainment (*e.g.*, a stage production), a sporting event, or viewing a movie in the home (*e.g.*, on a DVD or via pay-per view).

12. Home viewing of movies is not a reasonable substitute for viewing movies in a theatre. When consumers watch movies in their homes, they typically lose several advantages of the theatre experience, including the size of screen, the sophistication of sound systems, the opportunity to watch in 3-D, and the social experience of viewing a movie with other patrons.

Additionally, the most popular, newly released or "first-run" movies are not available for home viewing.

13. Differences in the pricing of various forms of entertainment also reflect their lack of substitutability in the eyes of consumers. Ticket prices for movies are generally different from prices for other forms of entertainment. Tickets for most forms of live entertainment are typically significantly more expensive than movie tickets. Renting a DVD for home viewing is usually significantly less expensive than viewing a movie in a theatre.

14. AMC and Kerasotes operate movie theatres that exhibit first-run, commercial movies ("mainstream theatres"). Mainstream theatres typically are multi-plex movie theatres that show a wide variety of first-run, commercial movies in order to attract all ages of moviegoers, from children to seniors. Mainstream theatres typically offer basic concessions, such as popcorn, candy and soft drinks.

15. Mainstream theatres do not compete significantly with "sub-run" theatres specializing in exhibiting movies after the four-to-five-week first run has ended, with theatres specializing in art movies or foreign language movies, or with "premiere" theatres which typically offer full-service dining, alcoholic beverages, an adults-only environment, and other luxury services and amenities not found in mainstream theatres.

16. Tickets at mainstream theatres usually cost significantly more than tickets at sub-run theatres. Movies exhibited at sub-run theatres are no longer new releases, and moviegoers generally do not regard sub-run movies as adequate substitutes for first-run movies.

17. Theatres that show art movies and foreign language movies are also not reasonable substitutes for mainstream theatres. Commercial movies typically appeal to different

patrons than other types of movies, such as art movies or foreign language movies. For example, art movies tend to appeal more universally to mature audiences. Theatres that primarily exhibit art movies often contain auditoriums with fewer seats than mainstream theatres. Typically, art movies are released less widely than commercial movies.

18. Premiere theaters do not typically serve as a competitive constraint on mainstream theaters. Premiere theatres often show first-run, commercial movies, but typically have more restrictive admission policies (*e.g.*, minors must be accompanied by adults for all movies), charge higher ticket prices (sometimes as much as double the admission charged by typical first-run theatres), serve alcoholic beverages, and often offer full-service restaurants or in-service dining. Premiere theatres also differ from mainstream theatres in the luxury items and amenities they offer to their guests. For instance, in addition to expanded food and beverage offerings, premiere theatres often feature reserved seating, leather and reclining seats, wait service, and complimentary refills of popcorn and sodas. Because of these differences, premiere theatres attract an audience that is distinct from the audience for mainstream theatres.

19. The relevant product market within which to assess the competitive effects of this transaction is the exhibition of first-run, commercial movies in mainstream theatres.

B. Geographic Markets

20. Moviegoers typically are not willing to travel very far from their homes to attend a movie. As a result, geographic markets for mainstream theatres are relatively local.

Chicago, Illinois Area

21. AMC and Kerasotes account for a substantial portion of the mainstream theatre screens and ticket sales in three areas of the Chicago metropolitan area – the North Suburban

Chicago area, the Upper Southwest Suburban Chicago area, and the Lower Southwest Suburban Chicago area.

22. The North Suburban Chicago area, in and around the communities of Glenview and Skokie, encompasses AMC's Northbrook Court 14, Kerasotes' Glen 10, AMC's Gardens 13, Kerasotes' Village Crossing 18, and Kerasotes' Showplace 12 (Niles) theatres. There are no other mainstream theatres in this North Suburban Chicago area.

23. The Upper Southwest Suburban Chicago area, in and around the city of Naperville, encompasses AMC's Cantera 30 and Kerasotes' Showplace 16 (Naperville) theatres. There are no other mainstream theatres in this Upper Southwest Suburban Chicago area.

24. The Lower Southwest Suburban Chicago area, in and around the village of Bolingbrook, encompasses AMC's Woodridge 18 and Kerasotes' Showplace 12 (Bolingbrook) theatres. There is only one other non-party mainstream theatre in this Lower Southwest Suburban area – a 16-screen Cinemark.

25. Moviegoers who reside in these three suburban Chicago, Illinois areas are reluctant to travel significant distances out of each of these areas to attend a movie except in unusual circumstances. The relevant geographic markets in which to assess the competitive effects of this transaction are the North Suburban Chicago, Upper Southwest Suburban Chicago, and Lower Southwest Suburban Chicago areas.

Denver, Colorado Area

26. AMC and Kerasotes account for a substantial portion of the mainstream theatre screens and ticket sales in two areas of the Denver metropolitan area.

27. The Upper Northwest Denver area, in and around the cities of Louisville and

Broomfield, encompasses Kerasotes' Colony Square 12 and AMC's Flatiron Crossing 14 theatres. There are no other mainstream theatres in this Upper Northwest Denver area.

28. The Lower Northwest Denver area, in and around the cities of Westminster and Arvada, encompasses AMC's Westminster Promenade 24 and Kerasotes' Olde Town 14 theatres. There are no other mainstream theatres in this Lower Northwest Denver area.

29. Moviegoers who reside in these two Denver, Colorado areas are reluctant to travel significant distances out of each of these areas to attend a movie except in unusual circumstances. The relevant geographic markets in which to assess the competitive effects of this transaction are the Upper Northwest Denver and Lower Northwest Denver areas.

Indianapolis, Indiana area

30. AMC and Kerasotes account for a substantial portion of the first-run movie screens and ticket sales in two areas of the Indianapolis metropolitan area.

31. The North Indianapolis area, in and around the community of Glendale, encompasses AMC's Castleton Square 14 and Kerasotes' Glendale Town 12 theatres. There is only one other non-party mainstream theatre in this North Indianapolis area – a Regal theatre with 14 screens.

32. The South Indianapolis area, in and around the city of Greenwood, encompasses AMC's Greenwood 14 and Kerasotes' Showplace 16 and IMAX. There are no other mainstream theatres in this South Indianapolis area.

33. Moviegoers who reside in these Indianapolis, Indiana areas are reluctant to travel significant distances out of each of these areas to attend a movie except in unusual circumstances. The relevant geographic market in which to assess the competitive effects of this

transaction are the North Indianapolis and the South Indianapolis areas.

C. The Relevant Markets

34. A small but significant post-acquisition increase in movie ticket prices at mainstream theatres in the relevant geographic markets would not cause a sufficient number of customers to shift to other alternatives, including to other forms of entertainment, to non-mainstream theatres, or to mainstream theatres outside the relevant geographic markets described above in sufficient numbers to make such a price increase unprofitable for the newly combined entity. Therefore, the relevant markets in which to assess the competitive effects of this transaction are the mainstream theatres in the North Suburban Chicago, Upper Southwest Suburban Chicago, Lower Southwest Suburban Chicago, Upper Northwest Denver, Lower Northwest Denver, North Indianapolis, and South Indianapolis areas.

V. COMPETITIVE EFFECTS

35. Exhibitors compete on multiple dimensions to attract moviegoers to their theatres over the theatres of their rivals. They compete over the quality of the viewing experience. They compete to offer the most sophisticated sound and viewing systems, best picture clarity, nicest seats with best views, and cleanest floors and lobbies for moviegoers. Exhibitors also compete on price, knowing that if they charge too much (or do not offer sufficient discounted tickets for matinees, seniors, children, etc.), moviegoers might visit rival theatres.

36. In the geographic markets of the North Suburban Chicago area, the Upper Southwest Suburban Chicago area, the Lower Southwest Suburban Chicago area, the Upper Northwest Denver area, the Lower Northwest Denver area, the North Indianapolis area, and the South Indianapolis area, AMC and Kerasotes compete head-to-head for moviegoers. These

geographic markets are concentrated, and in each market AMC and Kerasotes are the other's most significant competitor, given their proximity to one another and similarity in size and quality of viewing experience. Competition between AMC and Kerasotes spurs each to improve its quality and keeps prices in check.

Chicago, Illinois area

37. In the North Suburban Chicago area, the proposed transaction would give the combined entity control of all five mainstream theatres in that area, with 83 out of 83 total screens and a 100% share of 2009 box office revenues, which totaled approximately $24.9 million. Using a measure of market concentration called the Herfindahl-Hirschman Index ("HHI"), explained in Appendix A, the transaction would yield a post-transaction HHI of approximately 10,000, representing an increase of 4,856.

38. In the Upper Southwest Suburban Chicago area, the proposed transaction would give the newly combined entity control of the only two mainstream theatres in that area, with 46 out of 46 total screens and a 100% share of 2009 box office revenues, which totaled approximately $16.4 million. The transaction would yield a post-transaction HHI of approximately 10,000, representing an increase of 4,875.

39. In the Lower Southwest Suburban Chicago area, the proposed transaction would give the newly combined entity control of two of the three mainstream theatres in that area, with 30 out of 46 total screens and a 53.0% share of 2009 box office revenues, which totaled approximately $12.3 million. The transaction would yield a post-transaction HHI of approximately 5,017, representing an increase of 1,221.

Denver, Colorado area

40. In the Upper Northwest Denver area, the proposed transaction would give the newly combined entity control of the only two mainstream theatres in that area, with 26 out of 26 total screens and a 100% share of 2009 box office revenues, which totaled approximately $5.3 million. The transaction would yield a post-transaction HHI of approximately 10,000, representing an increase of 4,356.

41. In the Lower Northwest Denver area, the proposed transaction would give the newly combined entity control of the only two mainstream theatres in that area, with 38 out of 38 total screens and a 100% share of 2009 box office revenues, which totaled approximately $13.3 million. The transaction would yield a post-transaction HHI of approximately 10,000, representing an increase of 3,669.

Indianapolis, Indiana area

42. In the North Indianapolis area, the proposed transaction would give the newly combined entity control of two of the three mainstream theatres in that area, with 26 out of 40 total screens and a 76.1% share of 2009 box office revenues, which totaled approximately $9.3 million. The transaction would yield a post-transaction HHI of approximately 6,357, representing an increase of 2,689.

43. In the South Indianapolis area, the proposed transaction would give the newly combined entity control of the only two mainstream theatres in that area, with 30 out of 30 total screens and a 100% share of 2009 box office revenues, which totaled approximately $10.1 million. The transaction would yield a post-transaction HHI of approximately 10,000, representing an increase of 4,838.

44. The proposed transaction would likely lessen competition significantly in the

relevant markets. Today, if AMC or Kerasotes were to increase its prices at a theatre in one of the relevant markets, and the other did not follow, the theatre that increased its prices might lose business to the other. The proposed transaction would eliminate this pricing constraint and is therefore likely to lead to higher prices for moviegoers, which could take the form of a higher adult evening ticket price or reduced discounting, *e.g.*, for matinees, children, seniors, and students.

45. The proposed transaction would also eliminate competition between AMC and Kerasotes over the quality of the viewing experience in each of the geographic markets at issue. The combined entity would have reduced incentives to maintain, upgrade, and renovate its theatres in the relevant markets, and to improve those theatres' amenities and services, thus reducing the quality of the viewing experience for a moviegoer.

46. The presence in some of the relevant geographic markets of other non-party mainstream theatres would be insufficient to replace the competition lost due to the transaction and thus render unprofitable post-transaction increases in ticket prices or decreases in quality by the newly combined entity.

VI. ENTRY

47. Sufficient and timely entry that would deter or counteract the anticompetitive effects alleged above is unlikely. Exhibitors are reluctant to locate new mainstream theatres near existing theatres unless the population density, demographics, or the quality of existing theatres makes new entry viable. Those conditions do not exist in any of the relevant geographic markets.

VII. VIOLATION ALLEGED

48. The plaintiffs hereby reincorporate paragraphs 1 through 47.

49. The effect of the proposed transaction would be to lessen competition substantially in the relevant geographic markets in violation of Section 7 of the Clayton Act, 15 U.S.C. §18.

50. The transaction would likely have the following effects, among others: (a) prices for first-run, commercial movie tickets in mainstream theatres would likely increase to levels above those that would prevail absent the transaction; and (b) the quality of mainstream theatres and the mainstream theatre viewing experience in the relevant geographic areas would likely decrease below levels that would prevail absent the transaction.

VIII. REQUESTED RELIEF

51. The plaintiffs request: (a) adjudication that the proposed transaction would violate Section 7 of the Clayton Act; (b) permanent injunctive relief to prevent the consummation of the proposed transaction; (c) an award to each plaintiff of its costs in this action; and (d) such other relief as is proper.

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APPENDIX A
DEFINITION OF HHI AND
CALCULATIONS FOR MARKET

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 =$ 2,600). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1,000 and 1,800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1,800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Merger Guidelines. See *Merger Guidelines* 1.51.