

**PART 48—NEWSPAPER
PRESERVATION ACT**

Sec.

- 48.1 Purpose.
- 48.2 Definitions.
- 48.3 Procedure for filing all documents.
- 48.4 Application for approval of joint newspaper operating arrangement entered into after July 24, 1970.
- 48.5 Requests that information not be made public.
- 48.6 Public notice.
- 48.7 Report of the Assistant Attorney General in Charge of the Antitrust Division.
- 48.8 Written comments and requests for a hearing.
- 48.9 Extensions of time.
- 48.10 Hearings.
- 48.11 Intervention in hearings.
- 48.12 Ex parte communications.
- 48.13 Record for decision.
- 48.14 Decision by the Attorney General.
- 48.15 Temporary approval.
- 48.16 Procedure for filing of terms of a renewal or amendment to an existing joint newspaper operating arrangement.

AUTHORITY: 28 U.S.C. 509, 510; (5 U.S.C. 301); Newspaper Preservation Act, 84 Stat. 466 (15 U.S.C. 1801 *et seq.*).

SOURCE: Order No. 558-73, 39 FR 7, Jan. 2, 1974, unless otherwise noted.

§ 48.1 Purpose.

These regulations set forth the procedure by which application may be made to the Attorney General for his approval of joint newspaper operating arrangements entered into after July 24, 1970, and for the filing with the Department of Justice of the terms of a renewal or amendment of existing joint newspaper operating arrangements, as required by the Newspaper Preservation Act, Pub. L. 91-353, 84 Stat. 466, 15 U.S.C. 1801 *et seq.* The Newspaper Preservation Act does not require that all joint newspaper operating arrangements obtain the prior written consent of the Attorney General. The Act and these regulations provide a method for newspapers to obtain the benefit of a limited exemption from the antitrust laws if they desire to do so. Joint newspaper operating arrangements that are put into effect without the prior written consent of the Attorney General remain fully subject to the antitrust laws.

§ 48.2 Definitions.

(a) The term *Attorney General* means the Attorney General of the United States or his delegate, other than the Assistant Attorney General in charge of the Antitrust Division or other employee in the Antitrust Division.

(b) The term *Assistant Attorney General in charge of the Antitrust Division* means the Assistant Attorney General in charge of the Antitrust Division or his delegate.

(c) The term *Assistant Attorney General for Administration* means the Assistant Attorney General for Administration or his delegate.

(d) The term *existing arrangement* means any joint newspaper operating arrangement entered into before July 24, 1970.

(e) The term *joint newspaper operating arrangement* means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into between two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any of the following: Printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(f) The term *newspaper* means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(g) The term *party* means any individual, and any partnership, corporation, association, or other legal entity.

§ 48.3

(h) The term *person* means any individual, and any partnership, corporation, association, or other legal entity.

§ 48.3 Procedure for filing all documents.

All filings required by these regulations shall be accomplished by:

(a) Mailing or delivering five copies of each document (two copies in the case of documents filed by the Assistant Attorney General in charge of the Antitrust Division) to the Assistant Attorney General for Administration, Department of Justice, Washington, DC 20530. He shall place one copy in a numbered public docket; one copy in a duplicate of this file for the use of officials with decisional responsibility; and (except in the case of documents filed by the Assistant Attorney General in charge of the Antitrust Division) shall forward three copies to the Assistant Attorney General in charge of the Antitrust Division; except that documents subject to nondisclosure orders under § 48.5 shall be held under seal and disclosed only in accordance with the provisions of that section; and

(b) Mailing or delivering one copy of each document filed after a hearing has been ordered to each party to the proceedings, along with the name and address of the party filing the document or its counsel, and filing in the manner provided in paragraph (a) of this section a certificate that service has been made in accordance herewith.

§ 48.4 Application for approval of joint newspaper operating arrangement entered into after July 24, 1970.

(a) Persons desiring to obtain the approval of the Attorney General of a joint newspaper operating arrangement after July 24, 1970, shall file an application in writing setting forth a short, plain statement of the reasons why the applicants believe that approval should be granted.

(b) With the request, the applicants shall also file copies of the following:

(1) The proposed joint newspaper operating agreement;

(2) Any prior, existing or proposed agreement between any of the newspapers involved, or a statement of any such agreements as have not been reduced to writing;

28 CFR Ch. I (7-1-03 Edition)

(3) With respect to each newspaper, for the 5-year period prior to the date of the application,

(i) Annual statements of profit and loss;

(ii) Annual statements of assets and liabilities;

(iii) Reports of the Audit Bureau of Circulation, or statements containing equivalent information;

(iv) Annual advertising lineage records;

(v) Rate cards;

(4) If any amount stated in paragraph (b)(3)(i) or (ii) of this section represents an allocation of revenues, expenses, assets or liabilities between the newspaper and any parent, subsidiary, division or affiliate, the financial statements shall be accompanied by a full explanation of the method by which each such amount has been allocated.

(5) If any of the newspapers involved purchased or sold goods or services from or to any parent, subsidiary, division or affiliate at any time during the five years preceding the date of application, a statement shall be submitted identifying such products or services, the entity from which they were purchased or to which they were sold, and the amount paid for each product or service during each of the five years.

(6) Any other information which the applicants believe relevant to their request for approval.

(c) A copy of the application and supporting data shall be open to public inspection during normal business hours at the main office of each of the newspapers involved in the arrangement, except to the extent permitted by nondisclosure orders under § 48.5; except that materials for which nondisclosure has been requested under § 48.5 need not be made available for inspection before the request has been decided.

§ 48.5 Requests that information not be made public.

(a) Any applicant may file a request that commercial or financial data required to be filed and made public under these regulations, which is privileged and confidential within the meaning of 5 U.S.C. 552(b), be withheld from public disclosure. Each such request shall be accompanied by a statement of the reasons why nondisclosure