



ARNE H. CARLSON
GOVERNOR

STATE OF MINNESOTA

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
SAINT PAUL 55155

RECEIVED

May 3, 1991

MAY 06 1991

The Honorable Jerome M. Hughes
President of the Minnesota Senate
State Capitol Senate Chambers
Saint Paul, Minnesota 55155

SECRETARY OF STATE

Dear Mr. President:

I have vetoed Chapter 46, Senate File 539/House File 931, a bill that would amend the Minnesota Antitrust Law as it relates to suppliers, distributors and dealers.

The bill is designed to overrule a unanimous 1984 decision of the United States Supreme Court as it applies in Minnesota. That decision held that pricing complaints followed by termination of a discounter did not raise an inference of conspiracy.

Antitrust claims would be encouraged under Senate File 539, particularly those involving supplier/dealer discussions of pricing practices of a second dealer, where the second dealer is later terminated by the supplier. In such situations, an inference of conspiracy is permitted and the case would go to the jury. Only during trial could the supplier show that the decision to terminate was based on factors such as advertising, display space or, perhaps, customer service. In order to simply make this kind of response, suppliers could well face litigation costs in the hundreds of thousands of dollars.

If allowed to become law, manufacturers all over the world would have to adopt special policies, unique to Minnesota, for choosing and not choosing dealers. Further, they would likely be very selective in their signing of dealers or choose not to have dealers in Minnesota at all. Inevitably dealers would cluster along the borders in the Dakotas and Iowa but they probably would not be inclined to do business along "main street" in greater Minnesota.

What makes this combination of concerns disturbing is that the legislation, if signed, would become effective the day after enactment. This, of course, allows absolutely no time for notification of a major reversal of a high court decision that governs the supplier, distributor, dealer relationship - one where national uniformity is important to



The Honorable Jerome M. Hughes
President of the Minnesota Senate
Veto of Chapter 46
May 3, 1991
Page 2

permit consistent application of a supplier's distribution policies. It is also important to point out that Senate File 539 turns conduct that would be innocent elsewhere into a conspiracy characterization in Minnesota. Additionally, under the bill, antitrust defendants would be subject to threat of treble damages.

I believe legislation dealing with matters as complex as evidence in antitrust claims deserves the meticulous review of the House and Senate Judiciary Committees. Unfortunately, that did not occur. Instead, the bill was referred to the Commerce Committees in both bodies. A motion on the House floor to refer it to the Judiciary Committee was defeated.

It appears that the Legislature simply did not give this measure adequate nor balanced consideration. Clearly, legislation of this magnitude should be handled more judiciously.

Sincerely,



ARNE H. CARLSON
GOVERNOR

- c: Senator Roger Moe, Majority Leader
- Senator Allan Spear, Senate Chief Author
- Patrick E. Flahaven, Secretary of the Senate
- Representative Robert Vanasek, Speaker of the House
- Representative Rich O'Connor, House Chief Author
- Mr. Edward A. Burdick, Chief Clerk of the House
- ✓ Ms. Joan Anderson Growe, Secretary of State