

## Don't Stop The Presses: Canadian Newsprint Tariffs Axed

By **Suzanne Monyak**

*Law360 (August 29, 2018, 6:44 PM EDT)* -- The U.S. International Trade Commission on Wednesday scrapped proposed tariffs on Canadian imports of newsprint, handing a win to the American newspaper industry in their fight to avert a price hike on the cost of paper.

The ITC commissioners voted unanimously to find that the U.S. newsprint industry is not materially harmed by Canadian imports of uncoated groundwood paper — newsprint — the agency said Wednesday.

As a result, the government will not move forward with its plans to impose countervailing and antidumping duties on the imports following the U.S. Department of Commerce's investigations, which had prompted an outcry from domestic publishers and lawmakers over the possible threat to local newspapers and the commercial printing sector.

"Today is a great day for American journalism. The ITC's decision will help to preserve the vitality of local newspapers and prevent additional job losses in the printing and publishing sectors," David Chavern, president and CEO of the News Media Alliance, a trade association representing 2,000 newspapers, said in a statement.

Washington-based North Pacific Paper Co. had asked the government to investigate the Canadian newsprint imports in August 2017, prompting the ITC and Commerce to initiate probes into the Canadian newsprint industry last year.

After its investigations, Commerce's International Trade Administration determined that the Canadian newsprint exporters were dumping their products on the U.S. market at below fair market value and were receiving unfair subsidies from the Canadian government.

Earlier this month, the agency called for countervailing duties on the Canadian paper producers' imports ranging from a 0.82 percent de minimis rate for White Birch Paper to rates of 9.81 percent and 9.53 percent on Canadian companies Resolute and Kruger Inc., respectively.

The agency also recommended in its final determinations a countervailing duty of 3.83 percent on Canadian paper company Catalyst and a duty of 8.54 percent on all other relevant exporters.

On the antidumping side, Commerce calculated a 16.88 percent rate for Catalyst, while sparing the other Canadian paper producers from the antidumping duty.

Craig Anneberg, CEO of North Pacific Paper, said in a statement on Wednesday that the company will review the ITC's full written determination when it is released next month and "assess our options at that time."

"We are very disappointed in the USITC's negative determination, given that the record clearly shows that the domestic industry has been materially injured by dumped and subsidized imports from Canada," Anneberg said.

Attorneys representing the Canadian producers praised the ITC's decision as a victory both for the foreign producers as well as for the American press.

"This is really a win-win both for newspapers in the U.S. and for the paper mills who supply them," said Shara Aranoff of Covington & Burling LLP, who is representing both Kruger and the News Media Alliance. She also added that unanimous negative determinations at the ITC are relatively rare.

Elliot Feldman of Baker & Hostetler LLP, who is representing Resolute, told Law360 that it is an "important day for the trade law, common sense, and for freedom of the press."

Since the investigations were instituted, more than 100 lawmakers have publicly opposed the tariffs. Members of the U.S. Senate and U.S. House voiced their concerns in joint letters addressed to Commerce Secretary Wilbur Ross and U.S. Trade Representative Robert E. Lighthizer, both urging the government to "consider the possible negative impact" the tariffs could have on the U.S. newspaper and printing industries.

The lawmakers also blamed the newsprint industry's grievances on the decline in demand for print newspapers in favor of digital alternatives, not unfair trade practices, and asked Commerce not to cut off the "local news lifeline of rural and small-town America."

The publishing industry also joined in on the opposition to the proposed tariffs. In formal comments submitted last week, media giant Gannett Co. accused North Pacific Paper of peddling a "false narrative" and slammed the duties as "an unconstitutional tax on the press."

Jeffrey Grimson of Mowry & Grimson PLLC, who represents Gannett, told Law360 they were pleased with the ITC's negative determination of injury.

"This has been an unwelcome roller coaster ride for our client, Gannett, and its 109 newspapers in 34 states and Guam. We hope that some normalcy can now be restored to the U.S. newsprint market," Grimson said.

Michael Makin, president and CEO of Printing Industries of America, added in a statement that "small businesses that are part of the printing industry can breathe a sigh of relief."

An attorney for White Birch Paper declined to comment.

Counsel for Catalyst did not immediately respond to a request for comment on Wednesday.

Chairman David S. Johanson and Commissioners Irving A. Williamson, Rhonda K. Schmidlein, Meredith M. Broadbent, and Jason E. Kearns unanimously voted to find that the foreign imports are not harming the domestic newsprint industry.

North Pacific Paper is represented by Stephen A. Jones and Benjamin J. Bay of King & Spalding LLP.

Resolute is represented by Elliot J. Feldman of BakerHostetler.

White Birch Paper is represented by Donald B. Cameron of Morris Manning & Martin LLP.

Kruger and News Media Alliance are represented by Shara L. Aranoff, Peter Lichtenbaum, Brian Smith, James M. Smith, Catherine Gibson, Shelby Anderson and Vivian Choi of Covington & Burling LLP.

Gannett is represented by Jeffrey Grimson and Kristin H. Mowry of Mowry & Grimson PLLC.

Catalyst is represented by Richard Weiner of Sidley Austin LLP.

The investigation is Uncoated Groundwood Paper from Canada, investigation numbers 701-TA-584 and 731-TA-1382, in the U.S. International Trade Commission.

--Additional reporting by Alex Lawson.