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The Netherlands, while achieving a lot of publicity, still had U.S. sales of only a relatively small $25 million in 1982. And estimated stems of major cuts, both imported and domestic, probably increased only about 3.2% from 1981 to 1982 and 11.3% from 1980 to 1982. Not bad, but not as good as the remainder of floriculture. We’d have to suggest that flowering plants and foliage, to some extent, are “better buys” and are therefore being substituted for cuts when desirable. In general, though U.S. per capita floriculture consumption roughly doubled in the Seventies, the opportunities for much larger per capita consumption are quite evident...maybe less so for cut flowers, but still upward.

Caveat Emptor?
Know When You Need A Written Contract
Dale A. Grossman & Jean Mackin
Cornell University, Ithaca, NY

There are times when a handshake isn’t enough. A contract, especially a written contract, can help prevent disappointment and sometimes disaster, when a deal that looked good in the beginning starts to fall through.

“Basically, a contract is an agreement between two or more people, usually to sell goods or perform a service,” says Grossman, a lawyer and lecturer in the NY State College of Agriculture & Life Sciences at Cornell University.

But when is an “agreement” actually enforceable under the law? An agreement usually must meet several requirements before it becomes a legal contract. First, an offer must be made. Say, for example, you offer to sell your lawnmower to your next-door neighbor. The offer must be accepted by your neighbor, and consideration — payment of some kind — agreed upon, before that agreement is a legally binding contract.

It is possible to make an offer and then revoke it before it has been accepted. If there is no pending offer, there is no contract.

“A lot of the technicalities and complexities of contracts have to do with timing,” Grossman says.

While a verbal agreement can constitute an enforceable contract, she says that putting a contract in writing can eliminate a lot of the questions that could arise later, and make the contract easier to enforce.

“I strongly urge that any contract be written down,” Grossman says. “It’s the best way to make it clear from the beginning what it is you are agreeing to, and what the expected payment is.” Payment does not always have to be in money. Bartering services or goods can also meet the conditions of a contract.

Under some conditions, contracts must be in writing to be enforceable. Selling any kind of real estate requires a written contract. Contracting to perform a service that cannot be completed within 1 year, an exchange of goods worth $500 or more, and agreeing to be responsible for another person’s bills or debts all require a contract to be in writing.

In addition, parties entering into a contract must be of legal age and mentally competent, or a contract probably will not be enforceable. For instance, a dealer who sells a car to a 16-year-old and a racketeer who sells the Brooklyn Bridge to a senile senior citizen can’t expect to hold their victims to any contract they may have signed.

“Traditionally, the rule was ‘buyer beware,’” Grossman says. “While state and federal laws have given a consumer protection in many areas, it still makes sense to clear up any doubts or misunderstandings before agreeing to a contract, verbally or in writing.”

“Especially with the purchase or leasing of real property, a buyer has a responsibility to know the law, and to know what he or she is buying.”

“The seller often has no obligation to volunteer a lot of different types of information unless the buyer asks questions,” Grossman warns. “If you don’t inspect the real estate or apartment before signing a contract, then you’re probably out of luck if there’s a problem with it.”

For instance, a consumer signing a lease for an apartment should be sure the lease (a written contract) contains the clauses and rules agreed on with the landlord. If the landlord says he will paint the apartment before you move in, that should be in the lease.

“Usually, when you buy land or real estate you take it as you find it,” Grossman says. However, there’s more consumer protection when buying most products from the dealers or sellers who are in the business of retail sales. Many products come with guarantees — another type of contract — but even those that don’t may have some guarantees implied.

“Even though it may not be part of a written contract, often there are things that you can imply about a consumer product, particularly if you are entering into an agreement with somebody who is in the business of selling that type of goods,” Grossman says.

“What can you do if someone breaks a contract? If you can’t compromise, or you are not willing to do so, your only option will be to sue. If it was a verbal agreement, you may have difficulty proving there was any contract at all.”

If you think you can prove your case, and the settlement you want is for less than $1,500, you can take the case to the small claims court. (Small claims court does not require that you hire a lawyer.) If more money is involved, or the case is more complicated, you will probably need a lawyer.

Prevention, in the case of contracts, is one of the best ways to avoid future problems. If it’s important to you, or complicated, get the contract in writing.

The Colombian Connection: Miami Importing Takes Effect
Lori Hoff

More cut flowers move through Miami International Airport than anywhere else in the country. Within 24 hours, 80% of the U.S. daily consumption of carnations and 33% of its rose consumption will have been flown in from South American sources and distributed throughout the U.S.

It's no wonder that in order to keep up with this rapidly growing industry, Miami importers have formed the Assn. of Floral Importers of Florida. The association, which was established in 1982, has 30 member companies and according to its director, Wendy Yanis, its priorities are to provide a unified voice for importers and to increase their visibility within the industry and in Washington.

The attention received by Miami importers recently is as much a result of the association's efforts as it is the increasing rate at which flowers from Colombia and South America are entering the U.S. marketplace.

U.S. Floral Corp. estimates that approximately 50% of the carnations sold in the U.S. are raised in Colombia; 48% of the chrysanthemums and 15% of the roses are shipped from the Bogota airport and sold in the domestic market. In fact, about 85% of the total Colombian flower crop is exported to the U.S.

Procedures In Miami

Once the cargo jets originating in Colombia have landed in Miami, the boxes of flowers must clear U.S. Customs & Plant Quarantine (the USDA method that insures that the flowers are free of insects and disease). Customs procedures have intensified over the years due to the sporadic discovery of cocaine in some flower shipments.

Although flowers are not subjected to a lengthy inspection (about ½ an hour), the customs officials are thorough. A yard-long metal rod is thrust into a random sampling of boxes. Two groves at the end of the rod will attract any white powder the box may contain.

The importers are, of course, concerned over the suspicions of customs officials, but most believe that the procedures will remain efficient and have little dramatic impact on the importing industry.

After inspection, the boxes are separated at the airport according to product and grade. At Esprit-Miami, an importer of fresh flowers, the boxes are stacked in a cooler on racks, similar to those found in a bakery, which provides extra ventilation. According to the company manager, Christine Martindale, Esprit-Miami's inventory turns over every other day. If flowers can't be sold in 2 days, they are sold to local street peddlers.

Esprit ships only to cities in the South, by either air or freight.

At other companies, such as Sunburst Farms, Inc., CFX Inc., and Sonny's Flower Importers, flowers arrive from several South American growing areas. All use pre-cooling methods to store the flowers before shipping them elsewhere, either the same or following day.

The number of shipments each company receives from South America varies with the size of the company as well as the product availability.

For example, CFX Inc. receives about 8 plane loads of flowers per day from their own farms in Colombia. Sonny's Flower Importers, on the other hand, receive approximately 4 to 5 shipments per week.

On the Colombian side, flower availability is at its peak during November and through the summer months, which means more shipments are likely to enter Miami at that time. Colombian production is also affected by the needs of the U.S. wholesalers and holidays here.

Better Quality, Cheaper Price

Most Miami importers agree that the flowers from Colombia do have an edge over those domestically grown, though through no fault of the U.S. growers.

The South American climate is consistently ideal for cultivating certain floral varieties. The soil content (organic make-up) is also a factor in producing a top quality product. Importers will also point out that this better quality merchandise is available to them at a cheaper price than what is grown domestically.

Competing Against The Odds

And so the question arises: What can domestic growers do to compete with the increasing shipments from abroad, and should they even try?

Hernan Benoit, pres. of Florida's Evergreen Inc. says, "The competition is healthy. It can lead to a better domestic product which will benefit the growers and the entire industry in the long run."

According to several importers, a better product is just part of the necessary package for successful U.S. competition.

Labors costs in Colombia are dramatically lower than in the U.S. Field workers there are paid per day what U.S. employees are paid per hour. One solution suggested by some importers was breaking unions at home.

Others, like Bill Gustin of Americas Flower Distributors Inc., says U.S. growers are at a disadvantage because of the national cost of growing in the U.S. "Heating oil prices here are sky high. Our cost of production cannot compete with Colombia's."

"Our agricultural technology may be very advanced," says Martindale, "but that is what makes it so expensive. The money Colombian growers make is funneled back to production expenses rather than to salaries."

Yet this is not the only possible solution. "Growers (in the U.S.) have to become more sophisticated and experiment with different floral varieties in order to compete," says Jim Hill, sec./treas. of CFX Inc.

Unfortunately, because of high production costs
and other factors including climate and varietal availabilities, U.S. growers alone cannot meet the demand for some of these flowers. And, whereas Mike Felsher of Sunburst Farms Inc. says importers are developing a better working relationship with domestic growers, those growers alone cannot keep up with the industry’s supply and demand.

Growers Speak Out

U.S. growers, on the other hand, have their own views on how to compete with the influx of South American flowers. Specifically, the rose growers, under the leadership of Roses Inc., the commercial rose growers assn. based in MI, introduced a petition to CA Congressman Leon E. Panetta. The petition is now in the form of a bill, known as the Panetta Bill (HR 6239), which is pending Congressional action. The bill is being considered by the House Ways & Means Subcommittee on Trade and by the Senate Finance Subcommittee on International Trade. These committees will then make recommendations to a full committee.

Basically, the bill is calling for a tariff rate hike on roses imported from Colombia equal to the tariff currently imposed on roses imported from Europe. In May 1982, James C. Krone, exec. VP of Roses Inc., testified before the House Ways & Means Subcommittee on Trade. “Since 1972 the number of rose growers has decreased from 317 to 222. Meanwhile, Colombia has increased its exports of cut roses 50% from 1980 to 1981, to 54 million a year,” Krone said.

“These importers pay only ½ the tariff rate imposed on American exports by the European Economic Community during the prime growing season. As a result, domestic rose producers must struggle to compete with underpriced and under-assessed imported roses flooding the American marketplace,” he said.

The difference between the European Community and Colombia’s, however, is yet to be proved. Recently the U.S. Dept. of Commerce International Trade Administration determined that the Israeli government unfairly subsidized fresh cut rose production from that country and has assessed an 11.69% tariff on roses entering the U.S. from Israel.

Yet, so far there has been no conclusive evidence that the Colombian growers are receiving government subsidies for their production.

Retailers And Importers Reply

U.S. importers and retailers do not support the Panetta Bill and have lobbied in Congress against it.

In testifying before the House Ways & Means Subcommittee on Trade in May 1983, Jimmy Williams of FTD said that “the scarcity of roses that would have resulted from import restrictions on roses would only have worked a substantial hardship in terms of price and availability to retailers and consumers of roses. It is important to remember in this context that it is the consumer who pays for trade restrictions in the long run. Far from hindering domestic producers, imports of roses actually serve a market sector by filling a gap between domestic availability and demand.”

Miami importers have also lobbied in Congress under the Assn. of Floral Importers of Florida’s Political Action Committee.

Mike Felsher, who serves on that association’s board of directors, says, “The bill is detrimental to (the domestic rose growers) own product. The increased tariff would create certain shortages at certain times of the year. Then the crunch would be on the domestic grower to increase a costly production process to fill the industry needs.”

Felsher, like many other importers, does not expect the Panetta Bill to receive Congressional approval.

Floraboard The Answer?

Hill sees the bill as pessimistic and detrimental to the industry as well. He says, “It’s a shame that people spend time and money to ask the government to aid them in making up for their shortcomings. Something like Floraboard is just the opposite; it shows a concerned effort to improve the industry as a whole.”

Felsher agrees that “Floraboard can help domestic growing become as profitable and widespread as importing. Production and growing in the U.S. is far from a dying business.”

Whether or not you agree with some of the ideas & premises presented above, this article from the “LINK Magazine,” November 1983, makes interesting reading. It is carried here by permission of the author & publisher. “LINK Magazine” is issued by the Wholesale Florists & Florist Suppliers of America.

Keep Smiling!

OLD SKIERS NEVER DIE — they just go downhill. ... OLD COOKING CONTESTANTS NEVER DIE — they just bake away. ... OLD GOLFERS NEVER DIE — they just lose their drive. ... OLD FIREMEN NEVER DIE — they just go to blazes. ... OLD MATH TEACHERS NEVER DIE — they just multiply. ... OLD FLORISTS NEVER DIE — they just wilt, fade & droop. ... KENTUCKY FRIED FRANCHISE HOLDERS NEVER DIE — they just chicken out.
Transient Merchants And Peddlers Curbed By New State Law

I.S.F.A. Board Member Al Easton of Mt. Vernon calls our attention to a newly enacted state law of which most of our members are probably completely unaware. It is HB-426, "An Act in relation to Retailer's Occupational Tax reported by transient merchants."

Many of you may have been distressed by peddlers and transient merchants who pull into your town, set up shop in a vacant lot or parking area, and begin selling foliage plants, cut flowers and pot plants, nursery stock, seafood, fruit, T-shirts, athletic souvenirs, small appliances, and what have you. Not only is this serious and unfair competition for your business, at least in some instances, but in the case of floriculture products, it may also mean that inferior or second-rate merchandise is being foisted upon the unwary public at so-called bargain prices.

These "today they're here — tomorrow they're gone" kind of merchants also very likely are not paying the required Illinois Retailer's Occupation Tax — which works to the detriment of everyone.

All too often local authorities have no recourse other than to allow these fly-by-night merchants to peddle their wares, because of non-existent or vague city ordinances regulating such activities, or even a lack of inclination to do anything about the situation because their "hands are tied," etc. Even more irksome are the instances where such peddlers set up shop just outside the city limits — often for obvious reasons.

Representative Terry Bruce, Al Easton and others felt that the situation was serious enough to warrant legislative action. Their efforts resulted in HB-426 which was passed by the Illinois General Assembly and signed into law by Gov. Thompson early last fall.

Easton contends, however, that to really put teeth into the concept of controlling transient merchants and peddlers in your town or city, it may be prudent to urge the City Council (or even the County Board) to pass a local ordinance covering this troublesome problem, perhaps even including appropriate license fees for doing business within the city (or county) limits.

As mentioned above, the Illinois General Assembly amended portions of the "Retailer's Occupation Tax Act." A portion of HB-426, pertaining to this Act, is given here:

"Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants as defined by Section 1 of 'An Act to license and regulate the business of transient merchants, and to provide penalties for the violation of this Act,' approved July 3, 1931, as amended, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail during the exhibition or event or other evidence of a significant risk of loss of revenue to the State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section.

Section 2. Section 3 of 'An Act to license and regulate the business of transient merchants, and to provide penalties for the violation of this Act,' approved July 3, 1931, as amended, is amended to read as follows (Ch. 121-1/2, par. 160):

Section 3. Any person desiring to engage in such business shall make and file with the county treasurer of the county, in which he intends to do business, a written application stating the applicant's name, residence, place where he intends to do business, kind of business, and evidence of having a retailer's occupation tax certificate of registration and bond under Section 2a of the Retailer's Occupation Tax Act. If said applicant is acting as agent for another person, he shall cause to be filed with such county treasurer a power of attorney appointing said county treasurer the agent of said principal on whom service of process may be made in any suit commenced against him. Said applicant shall at the same time deposit with said county treasurer, or file a surety company bond in a like amount, the sum of five hundred dollars ($500.00), and pay to him the further sum of twenty-five dollars ($25.00) as a license fee, whereupon said county treasurer shall issue to said applicant a license as herein provided, which license shall expire on December thirty-first following the date of issue."

The ordinance drawn up by the Mt. Vernon, IL, City Council to regulate the activities of transient merchants and peddlers is presented in full below. It could possibly serve as a pattern for other cities and municipalities that wish to undertake similar action.

Ordinance No. 83-33

AN ORDINANCE AMENDING ARTICLE 11, SECTION 11.7 OF ORDINANCE 66.12, THE REVISED COST OF ORDINANCES OF THE CITY OF MT. VERNON, PROVIDING FOR THE LICENSING AND REGULATION OF TRANSIENT MERCHANTS AND PEDDLERS.

WHEREAS, the City Council of the City of Mt. Vernon believes that certain transient merchants and peddlers are making sales within the City of Mt. Vernon without paying the State of Illinois Retailer’s Occupational Tax; and

WHEREAS, the City Council of the City of Mt. Vernon has determined that requiring transient merchants and peddlers to provide a State of Illinois Retailer’s Occupational Tax number prior to the issuance of a peddler or transient merchant’s license will promote the effective enforcement and collection of the State of Illinois Retailer’s Occupational Tax;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mt. Vernon, Illinois as follows:

Section 1. That Article 11, Section 11.7(a) be amended by revising the third paragraph thereof to read as follows:

Each applicant shall make a written application to the City Clerk, stating name and address, from which he shall represent, if any, the kinds of goods, wares, or merchandise which he desires to sell, and the place where he proposes to sell such goods, wares, or merchandise. Each applicant shall also provide to the City Clerk a State of Illinois Retailer’s Occupational Tax number, and no license shall issue until such number is provided. Each transient merchant shall pay for such license at the rate of Forty Dollars ($40.00) per day. No transient merchant shall advertise, represent, or hold forth the sale of goods, wares, or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, or executor, administrator, received, wholesale, manufacturer’s wholesale or closing-out sale, or any sale of any goods damaged by fire, smoke, water, or otherwise, unless he shall in his application as aforesaid, state under oath the facts supporting such description of such sale.