MERGER ANTITRUST LAW

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Georgetown University Law Center
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Tuesdays and Thursdays, 3:30-5:30 pm
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Class 11 (October 8): Foundations of Competition Economics (Unit 8)

Having finished the Hertz/Avis Budget/Dollar Thrifty case study, we now move to the more formal aspects of antitrust violations and defenses.

Section 7 of the Clayton Act makes unlawful acquisitions of stock and assets "where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." By its terms, the plaintiff must prove three essential elements to make out a Section 7 violation:

(1) the product dimensions of the affected relevant market ("line of commerce," commonly called the relevant product market),

(2) the geographic dimensions of the affected relevant geographic market ("section of the country," commonly called the relevant geographic market), and

(3) the requisite anticompetitive effect ("may be substantially to lessen competition, or to tend to create a monopoly") in the relevant market.

As we have discussed numerous times in class, the operational test for a Section 7 violation is whether the transaction is likely to result in a price increase or other competitive harm to any identifiable customer group. To make out a violation formally using this operational test, the "identifiable customer group" must be translated into the product and geographic dimensions of the relevant market and the threatened "price increase or other competitive harm" must be shown to occur in the relevant market and constitute the requisite anticompetitive effect under Section 7.

We begin the more formal analytical part of the course with a discussion of basic competition economics. Antitrust law is an unusual legal discipline: it requires lawyers trained in common law approach to apply economic methods to prove both the dimensions of the relevant product market and the requisite anticompetitive effect of the transaction.

The reading for Classes 11 is Part 1 of the Unit 8 deck on basic competition economics. Economics is often said to be common sense made difficult, and the key in reading the deck is to focus on the common sense. As many of you will recall (hopefully not painfully), economists like to use a little math and competition economics is no different. If you remember your economics or your math, these sections will be easy. If not, try to get through as much of the deck as you can and turn to YouTube or other materials on the Internet to supplemental your understanding. Knowing this material will give you a large comparative advantage over much of the antitrust bar (and many attorneys in the antitrust enforcement agencies).

Here are the questions you should be able to answer after reading Part 1 of the deck. All of these questions are central to antitrust analysis and all of the answers can be found in the deck. I will assume that you know these concepts by the end of class and I will freely use them in the reminder of the course.

1. What is a demand curve?
2. What is a linear demand curve? What is the slope of a linear demand curve? What is the significance of the slope of the demand curve?
3. In economics, what does the Greek letter Δ (delta) symbolize?
4. What is the difference between movement along a demand curve from a shift in demand?.
5. What is an aggregate demand curve? A residual demand curve?
6. In economics, what does the Greek letter Σ (sigma) symbolize?
7. What is an inverse demand curve? What is the difference between a demand curve and an inverse demand curve? What is the slope of an inverse demand curve? What is the significance of the slope of an inverse demand curve?
8. What is a revenue function? How is it calculated? How can the revenue at a particular price and quantity be depicted on a demand or inverse demand curve?
9. What is incremental revenue? How is it calculated?
10. What is marginal revenue? What is its relationship to incremental revenue? What is the formula for calculating marginal revenue when demand is linear?
11. What is a cost function?
12. What is:
    a. Total cost?
    b. Fixed cost?
    c. Variable cost?
    d. Average total cost?
    e. Average variable cost?
    f. Marginal cost?
13. What is profit? What is the relationship of profit to prices, fixed costs, and variable costs at a production level q?
14. What is the first order condition (FOC) for a profit maximum? What is the explanation for this condition?
15. When a firm increases its prices, where does it make a gross profit gain and where does it make a gross profit loss? How does a firm decide whether to increase or lower its prices?
16. If the firm finds its marginal revenue greater than its marginal costs, what should it do? What if the firm finds its marginal revenue less than its marginal costs?

There are no reading materials for this unit, although there is a homework assignment that will test your understanding of the basic concepts. Enjoy the reading! Email me if you have any questions.