MERGER ANTITRUST LAW

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Georgetown University Law Center
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Tuesdays and Thursdays, 3:30-4:55 pm
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Links to the required reading and the class notes may be found on the assignments page of Canvas and on the Merger Antitrust Law page of AppliedAntitrust.com.

Class 11 (October 3): Basic Competition Economics (Unit 2)

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, which you should review (Unit 0 reading materials p. 3 and Unit 0 class notes slides 8-11), 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 "price increase or other competitive harm" must be shown to constitute the requisite anticompetitive effect under Section 7.

We begin 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. In Classes 11 and 12, we will focus on the economics of anticompetitive effect, and in later classes we will examine the economics of relevant market definition.

The reading for Classes 11 is slides 1-49 of the slide 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 you don't, *please* do not let the mathematics notation trouble you—just ignore the notation you do not understand. However, if you can get comfortable with the notation, it will give you a large comparative advantage over much of the antitrust bar.

Here are the questions you should be able to answer after reading the first 49 slides. All of these questions are central to antitrust analysis and all of the answers can be found in the deck without reading the math.

1. What do consumers maximize (and subject to what constraint)?
2. What do producers maximize (and subject to what constraint)?
3. What is the equilibrium condition in the neo-classical market model?
4. What is a demand curve?
5. What is a linear demand curve? What is the slope of a linear demand curve? What is the significance of the slope of an inverse demand curve?
6. What is 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?
7. What does the technology of the firm tell you?
8. What is a cost function?
9. What is:
    a. Total cost?
    b. Fixed cost?
    c. Variable cost?
    d. Average total cost?
    e. Average variable cost?
    f. Marginal cost?
10. What is a revenue function? How is it calculated?
11. What is a control variable? Parameter?
12. What is the first order condition for a profit maximum? What is the explanation for this condition?
13. If the inverse demand curve is linear, what is the form of the marginal revenue curve?
14. 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?
15. What is Cournot competition?
16. What is Bertrand competition?
17. What is a perfectly competitive market? How do firms price in a perfectly competitive market?
18. What is a perfect monopoly market? How do firms price in a perfect monopoly market?
19. What is a residual demand curve?

20. What is the relationship between the firm’s residual demand curve and the aggregate demand curve in a perfect monopoly market?
21. What are the incentives for firms to coordinate their behavior?
22. What is a monopoly rent?
23. What is an inframarginal customer?
24. What is a marginal customer?
25. How do firms increase their prices by adjusting their production levels?
26. What is consumer surplus?
27. What are the modern public policy reasons for opposing monopoly?
28. How does moving from a competitive market to a monopoly market
    a. reduce output and increase prices?
    b. shift in wealth from inframarginal consumers to producers?
    c. Create a “deadweight loss” of consumer surplus from marginal customers?

Enjoy the reading! Email me if you have any questions.

Dale