MERGER ANTITRUST LAW

LAWJ/G-1469-05
Georgetown University Law Center
Fall 2018

Tuesdays and Thursdays, 3:30-4:55 pm

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Class 11 (October 2): 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 "price increase or other competitive harm" must be shown to 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 slides 1-46 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. I will highlight in the slides the things you need to know. However, if you can get comfortable with the notation, it 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 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 the 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? What is a parameter?
12. What is the first order condition (FOC) 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?

There are no reading materials for this unit. There will be a short homework assignment for each class.

Two final thoughts.

First, we will walk through this material in class. I will not be using slides for this class, but rather using the board. That way you can see explicitly the steps as we develop the concepts and the basic principles.

Second, the concepts in this class are fundamental to any introductory economics or industrial organization course. As a result, there is a wealth of teaching materials on the Internet. If you would like to have more explanation of a particular concept or result than is in the notes—or just want to see how another person explains the idea—just search the web.

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

Dale