

MERGER ANTITRUST LAW

LAWJ/G-1469-05
Georgetown University Law Center
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Tuesdays and Thursdays, 3:30-4:55 pm
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Classes 22-23 (November 13 and 15): Short Horizontal Case Studies

Given the time we spent reviewing the Class 20 homework assignment and discussing the outline for the formal analysis of horizontal merger cases, we need to regroup on the two upcoming classes that will finish our treatment of horizontal mergers. Here is my plan:

Tuesday: Finish the outline by discussing the downward-pricing defenses, talk about Anthem/Cigna when discussing the efficiency defense in the outline, and talk about ABI/Grupo Modelo for the maverick theory of anticompetitive harm.

What you need to do: To the extent you have not already done so, read the Anthem/Cigna materials in the Class 20 reading materials and the ABI/Grupo Modelo materials in the Class 21 reading materials.

Thursday: I will quickly review what is most important in as many of the following cases as we can cover: Heinz/Beech-Nut, Adobe/Aldus, SGI/Alias/Wavefront, Energy Solutions/Waste Control Specialists, Sirius/XM, and Boston Scientific/CVIS.

What you need to do: Read the Energy Solutions/Waste Control Specialists in the Class 22 reading materials. We will not cover Dollar General/Dollar Tree/Family Dollar, which is also in the reading materials. You should also review the class slides for Class 21 (posted) and Class 22 (to be posted early next week) on the six cases we will discuss in class to get some background.

We are only going to spend 10-15 minutes on each case, including the cases for which opinions have been assigned. It is important for you to read the *Anthem* and *Energy Solutions* opinions with some care since we will not be covering them in any detail in class. Be especially attentive to any doctrinal concepts that we have not yet covered in the course (e.g., the court's treatment of the failing company defense in *Energy Solutions*).

The graded homework assignment will be posted sometime this evening.

Dale