

MERGER ANTITRUST LAW

LAWJ/G-1469-05
Georgetown University Law Center
Fall 2020

Tuesdays and Thursdays, 3:00-5:00 pm
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CLASS 1 HOMEWORK ASSIGNMENT—INSTRUCTOR’S ANSWER

Instructions

OPTIONAL: Submit by email no later than 3:00 pm on Tuesday, September 1
Send to dale.collins@shearman.com
Subject line: Merger Antitrust Law: Assignment for Class 1

Assignment

Recall that the essential elements of a prima case of a Section 7 violation are:

1. The acquisition of stock or assets;
2. One or more relevant geographic markets (“section of the country”);
3. One or more relevant product markets (“line of commerce”; and
4. In each relevant market,¹ an anticompetitive effect (“the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly”)

Identify each alleged relevant market alleged in the TransDigm/Takata complaint. For each relevant market, identify the anticompetitive harm(s) alleged in the complaint and summarize the factual allegations in the complaint supporting each of these alleged harms.²

If you have any questions, send me an e-mail. See you on Tuesday, September 1.

Dale Collins

NOTE: Normally, homework assignments will receive participation grades. However, since the first week is more of a shopping period, you are not required to submit the assignments for the first two classes. I encourage you to do so, however, both because it will help you prepare for the discussion in class and it will help me better identify what I need to cover in more depth and what I can glance over in class.

¹ Recall that a “relevant market” is a line of commerce in a section of the country. In other words, the relevant market has the geographic dimensions of the relevant geographic market and the product dimensions of the associated relevant product market.

² This would be a typical assignment for an associate in a law firm

INSTRUCTOR’S ANSWER

Relevant market	Harms and supporting allegations
<p>1. Two-point lapbelts used on commercial airlines</p>	<p><i>Alleged anticompetitive harms:</i></p> <p style="padding-left: 40px;">Higher product prices</p> <p style="padding-left: 40px;">Reduced rate of innovation and product improvements</p> <p><i>Supporting allegations:</i></p> <p>Only 3 meaningful competitors premerger (Compl. ¶ 24) (a “3-to-2 merger”)</p> <ol style="list-style-type: none"> 1. AmSafe was by far the largest 2. Small, privately held firm that had been in the market for years but gained little share 3. SCHROTH, which entered the market with a new, innovative lightweight two-point lapbelt (“Airlite”), which it aggressively marketed to the major international airlines
<p>2. Three-point shoulder belts used on commercial airlines</p>	<p><i>Alleged anticompetitive harms:</i></p> <p style="padding-left: 40px;">Higher product prices</p> <p style="padding-left: 40px;">Reduced rate of innovation and product improvements</p> <p><i>Supporting allegations:</i></p> <p>Only 2 meaningful competitors premerger (Compl. ¶ 26) (a “2-to-1 merger”)</p> <p style="padding-left: 40px;">AmSafe was by far the largest</p> <ol style="list-style-type: none"> 1. “SCHROTH was aggressively seeking to grow its business at AmSafe’s expense” 2. Probably means that SCHROTH had not achieved any significant sales yet, but that efforts to penetrate the market caused AmSafe to reduce prices

<p>3. Technical restraints used on commercial airlines</p>	<p><i>Alleged anticompetitive harms:</i></p> <ul style="list-style-type: none"> Higher product prices Reduced rate of innovation and product improvements <p><i>Supporting allegations:</i></p> <p>Only 3 significant suppliers premerger (Compl. ¶ 28) (a “3-to-2 merger”)</p> <ol style="list-style-type: none"> 1. AmSafe (“leading supplier”) 2. SCHROTH (“aggressively seeking to grow”) 3. (Unnamed) international aerospace equipment manufacturer
<p>4. Inflatable restraint systems used on commercial airplanes</p>	<p><i>Alleged anticompetitive harms:</i></p> <ul style="list-style-type: none"> Higher product prices Reduced rate of innovation and product improvements <p><i>Supporting allegations:</i></p> <p>Only 2 meaningful competitors premerger (Compl. ¶ 30) (a “2-to-1 merger”)</p> <ol style="list-style-type: none"> 1. AmSafe (which developed technology—offers both inflatable lapbelts and structural mounted airbags) 2. SCHROTH (offers only structural mounted airbags), but “In recent years, SCHROTH had emerged as a strong competitor to AmSafe in the development of inflatable restraint technologies” <p>Sounds very weak to me</p> <p>May be some innovation competition (but maybe not that much)</p>