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 11 WRITTEN ASSIGNMENT

Instructions

Submit by email by 3:00 pm on Tuesday, October 6
Send to wdc30@georgetown.edu
Subject line: Merger Antitrust Law: Assignment for Class 11

Assignment

Calls for answers to the following problems. Show your work.[1]

Part A. There are red cars, blue cars, and green cars. The cars are homogenous except for their color. There are several manufacturers of each color of car. Consumers have preferences for colors, which are captured by the residual demand curve for various product groups. Blue cars are the closest substitute for red cars and green cars are the second closest substitute. Here are the variables for current market conditions:

	Blue cars	Red cars	Green cars
Price per car	1000	1000	1000
Current sales	2500	3000	1000
Fixed costs	0	0	0
Marginal costs (constant)	700	700	700

The residual demand curves (assuming the price of other cars do not change) are:

$$q_{blue} = 8500 - 6p_{blue}$$
$$q_{red} = 8000 - 5p_{red}$$
$$q_{green} = 4000 - 3p_{green}$$
$$q_{blue+red} = 9500 - 4p_{blue+red}$$

Each hypothetical describes an independent scenario:

[1] Feel free to submit an Excel worksheet if you like.

A1. Two blue car manufacturers are going to merge. Are blue cars a relevant market under the hypothetical monopolist test using a 5% SSNIP?

A2. Two red car manufacturers are going to merge. Are red cars a relevant market under the hypothetical monopolist test using a 5% SSNIP?

A3. Two green car manufacturers are going to merge. Are green cars a relevant market under the hypothetical monopolist test using a 5% SSNIP?

A4. A blue car manufacturer and a red car manufacturer are going to merge. Are blue cars plus red cars a relevant market under the hypothetical monopolist test using a 5% SSNIP?[2]

Part B. These problems ask questions about the HHI analysis in various merger scenarios. For Problems B1-B3, please answer the following questions:

a. What is the combined share of the merging firms?
b. What is the HHI contribution of each firm in the market?
c. What is the premerger HHI?
d. What is the delta?
e. What is the postmerger HHI?
f. Where does the merger fall in the 2010 Merger Guidelines?
g. Where does the merger fall under case law precedent?
h. Looking only at the HHI analysis, should the merger be challenged? Why?

Problem 1: Firms A and C merge

	Share
Firm A	33%
Firm B	25%
Firm C	23%
Firm D	19%
	100%

[2] As you know from the class notes, the hypothetical monopolist test comes in two varieties: (1) whether the hypothetical monopolist *could* profitably raise its price by a SSNIP (profitability), and (2) whether the hypothetical monopolist *would* raise its price by a least a SSNIP (profit maximization). It is possible that a hypothetical monopolist could increase its profits by raising its price by a SSNIP, but that the profit-maximizing price increase would be less than a SSNIP. In this situation, the HMT would be satisfied under the profitability standard, but would fail under the profit-maximizing standard. For reasons explained in the class notes, it will be very rare for a candidate market to satisfy the profitability test but fail the profit maximization test. The 1982 and 1992 Merger Guidelines and most courts use the profitability test; the 2010 Merger Guidelines uses the profit maximization test. For this problem, use the profitability standard.

Problem 2: Firms A and D merge

	Share
Firm A	53%
Firm B	15%
Firm C	8%
Firm D	4%
Others (4)	20%
	100%

Problem 3: Firms A and B merge, but sell a plant to Firm C accounting for 10 percentage points of market share in a preemptive "fix-it-first" divestiture solution

	Share
Firm A	70%
Firm B	25%
Firm C	5%
	100%

Problem 4: Firms A and B merge, but are willing to sell a plant to Firm C in a "fix-it-first" divestiture solution to solve any antitrust concerns

	Share
Firm A	35%
Firm B	30%
Firm C	14%
Firm D	5%
Others (4)	16%
	100%

Does it matter whether the divested plants come from Firm A or Firm B?
What do you recommend as the minimal share point divestiture--
a. Under the 2010 Merger Guidelines (to be in a safe harbor"? Why?
b. Under the case law? Why?

If you have any questions, send me an e-mail. See you in class.