LAWJ/G-1469-05 Tuesdays and Thursdays, 3:00-5:00 pm
Georgetown University Law Center Dale Collins
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READING GUIDANCE

Class 26 (December 1): Sabre/FareLogix (Unit 16)

For our last class we spend most of our time on the DOJ's challenge to the Sabre/FareLogix transaction. The reading materials start with the usual company press release and investor presentation (pp. 4-22), but feel free to skip those. I suggest that you read the DOJ press release (p. 23) to get your bearings and skim or skip the complaint (pp. 24-44). The complaint is long, but after reading the introductory sections (pp. 47-51), you can skip the findings of fact (pp. 51-112) and instead focus on the legal analysis (pp. 112-38). As you read the legal analysis, try to see why the DOJ failed to convince the court of the merits of its complaint and think about how you might have tried the case differently. As with *AT&T/Time Warner*, you can learn as much if not more by analyzing litigation failures as you can by analyzing litigation successes.

Finally, read with some care the two short excerpts from *T-Mobile/Sprint* (pp. 146-62). We have seen in *H&R Block/TaxACT*, *Sysco/US Foods*, and *Staples/Office Depot* how courts can be guided substantively by expert economic analysis. Even *AT&T/Time Warner* took the economic analysis vey seriously, although it rejected the conclusions of the DOJ's expert economist on the merits. *T-Mobile/Sprint* is one of the first modern cases to essentially reject sophisticated economic analysis as probative and to rely instead on more traditional modes of fact finding through percipient witnesses. Think the court's attitude about expert economic testimony, think about the what states could have done, if anything, to make their case more persuasive to the judge.

Have a great Thanksgiving. See you in class on Tuesday.

P.S. Do not forget that we have an optional review session on Wednesday, December 2, from 12:30 pm to 2:30 pm. You can find the link in the last entry on the class schedule in Canvas.

November 25, 2020