

**GEORGETOWN UNIVERSITY LAW CENTER
EXAMINATION IN MERGER ANTITRUST LAW
TAKE HOME EXAM
(5 HOURS)**

Professor Dale Collins

Date Exam Opens: Tuesday, December 5, 2023, at 8:30 am. ET
Date Exam Closes: Thursday, December 14, 2023, by 6:30 pm. ET

INSTRUCTIONS:

1. This is a TAKE HOME mode exam.
2. This five (5) hour exam will be available beginning at 8:30 am ET on Tuesday, December 5, 2023, and must be submitted five (5) hours after it is downloaded but no later than 6:30 pm ET on Thursday, December 14, 2023. The exam must be downloaded and submitted via www.exam4.com. Do **not** use the Exam4 software to type and submit your answers. **Write your answers to both questions as a *single Word document*.** When you are ready to submit your exam, you will upload the document via the www.exam4.com website where you downloaded the exam. Once an examination is submitted for grading, no amendments or supplements will be permitted or accepted.
3. This exam is final. No clarifications or corrections will be provided. If you are convinced that there is an error, inconsistency, or omission in the exam, please identify the problem, give your reasons why you believe there was a mistake, provide what you believe the correct information should be, and write your answer accordingly. If you have good reasons for believing there was a mistake in the problem (even if I disagree) and provide a sensible correction in the context of the hypothetical as a whole, I will accept the correction and grade your paper accordingly.
4. Exams at the Law Center are graded on an anonymous basis. The Student Disciplinary Code provides that the “unauthorized breach of anonymity in connection with a blind-graded examination” is a disciplinary violation. Therefore, be sure that you do not reveal your identity as the author of an examination in your answers themselves, in any communications with the professor, or otherwise discuss the substance of the exam with your professor(s) or with any other student from the time the exam is first administered until after grades are published.
5. You may consult any written source, including the reading materials, class notes, cases, outlines (commercial or otherwise), books, treatises, the Internet, Westlaw, and Lexis-Nexis. You may use Ctrl-F or search engines on your computer. Citations to cases or other primary sources are not required or particularly desired, although you may find reference to a case that we covered helpful at times to make your analysis more compelling or to shorten the exposition. Citations to secondary sources will *not* be helpful or appreciated. You may use calculators or spreadsheets as well as any spreadsheet templates you have prepared in advance.
6. As we discussed in class, you may cut and paste short passages ***from materials you have collected in a single document*** to introduce a concept, a rule of law, a legal principle, or an economic proposition or formula (“boilerplate”). You may include quotes from cases in the materials you create for this purpose, but if you do so, prepare the quote and cite the case (in proper Blue Book form) as you would in a brief. You are prohibited from

- copying/cutting and pasting any other prewritten text (written before starting your exam) into your take-home exam responses, regardless of who authored the text.
7. Students who elect to print out take-home exam questions must destroy all exam documents after they have submitted their exam responses.
 8. This exam consists of one question. The question presents a hypothetical fact situation that you are asked to analyze from a particular perspective (e.g., a special assistant to the Assistant Attorney General making a recommendation on the disposition of an investigation, a private practitioner providing advice on the antitrust risks and likely outcome of a proposed transaction, a law clerk preparing an initial analysis of the application of the law to the evidence for a judge). Be sure that you write from the assigned perspective *and* answer the question(s) asked.
 9. Grading will be on the completeness, coherency, and persuasiveness of your answers to the questions presented and not on whether you reach the same conclusion as I did. Ideally, your answer to the question will persuade me that you have correctly identified the issues, properly analyzed them in the context of the prevailing legal standards and the facts presented, and advised a sensible course of action. I have no doubt that some of you will persuade me to go one way on a question, while others of you will equally persuade me to go a different direction on the same question.
 10. Present your analysis in a well-organized, linear, and concise manner. Think about your answers before writing. *Remember Pascal's apology*: "I am sorry that this was such a long letter, but I did not have the time to write you a short one." Clarity of thinking and exposition are much more important than throwing in the kitchen sink. Penalties will be levied for excessive length, verbosity, lack of organization, or the inclusion of irrelevant boilerplate.
 11. If asked to write a memorandum in any capacity, you may start the answer with the first sentence of the memorandum. There is no need to include a privilege legend, "To" and "From" lines, or a subject line. Also, you may refer to a table in your answer by the table number in the question.
 12. If you are asked to write a memorandum as an attorney in a law firm at a confidential phase of the transaction, it is *not* necessary or desirable to use code names for the transaction or the parties. This is an exception to the usual rules of practice.
 13. You should assume that federal subject matter jurisdiction exists and that it is unnecessary to address any jurisdictional questions in your answers. Also, in the areas of interest all demand curves are linear and all marginal costs are constant.
 14. If the hypothetical gives prices or costs for a group of products as being "around" a given number, you should treat that number as the arithmetical average with only small variations around the mean, and use that number in any formula. (This is designed to simply the math and substitutes for the less realistic assumption that all prices have coincidentally converged to the same number, notwithstanding their differentiation.)¹
 15. If there is an inconsistency between a number given in a table and supposed the same number given in the text, use the number in the table.
 16. It should go without saying that, outside of this examination, you should not believe everything (or anything) in the statement of any hypothetical fact situation. I have taken considerable liberties in fashioning the problems and have totally ignored reality whenever it

¹ When the average has only small variations around the arithmetical mean, the formulas work reasonably well in practice using the average.

was convenient. It will be in your best interest to unlearn the “facts” in the questions as soon as possible after you finish the examination.

17. The hypothetical facts should be complete in the sense that they present what is known at the time the analysis is requested. As in life, some information you would like to have may simply not be available. Analyze the facts as they are presented in the question.
18. Since this is an examination, I will not hold out hope that you find it enjoyable, but I do hope that you find it intellectually stimulating. I have sought to make the questions challenging, but you should be well-prepared to tackle them.

This exam consists of XXX (XX) pages, including these three (3) cover pages. Please be sure your exam is complete.

Please be sure that you use your exam number (not your student ID number or social security number).

HONOR STATEMENT

BY SUBMITTING THIS EXAM THROUGH EXAM4, I AFFIRM ON MY HONOR THAT I AM AWARE OF THE STUDENT DISCIPLINARY CODE, AND (I) HAVE NOT GIVEN NOR RECEIVED ANY UNAUTHORIZED AID TO/FROM ANY PERSON OR PERSONS, (II) HAVE NOT USED ANY UNAUTHORIZED MATERIALS IN COMPLETING MY ANSWERS TO THIS TAKE-HOME EXAMINATION, AND (III) HAVE NOT WORKED MORE THAN FIVE (5) HOURS ON THIS EXAM.