

Norman Familant
January 16, 2017

Econ 400 04: Topics in Antitrust

Class: Fridays, 2 PM – 4:30 PM, Tyler 113

Office hours: Fridays, 12:30 PM – 2 PM, Tyler 462

Textbook available at College Bookstore: John E. Kwoka, Jr. and Lawrence J. White, *The Antitrust Revolution: Economics, Competition, and Policy* (Sixth Edition), Oxford University Press, 2014

In addition, the publisher, through AcademicPub, is charging for access to the nine cases you'll read from *previous* editions of this text—compiled as a (supplementary) “course book.” You need to click on the AcademicPub link below, establish an account, and secure access. Access in an eBook format should be a little over \$50, and prices for various hard copy versions, which AcademicPub prepares and sends you, are somewhat higher.

http://academicpub.sharedbook.com/serve/ac/acapub/student_product_page.html?slug=1482418194_79_97474

The course will have one midterm and a final exam. There will also be two homework exercises, due in my W&M mailbox by 12 N the Wednesday following the Friday assignment. Course grading will be computed as follows:

Midterm:	30 percent
Final (cumulative):	50 percent
2 homework assignments:	10 percent each

Class topics and reading assignments – changes might be made later. Unless otherwise noted, assignments are from the text:

[Note: For additional reading clarifying vocabulary and concepts, the following two texts have been used in the past at W&M for the Government Regulation of Business course and are very good:

- a. W. Kip Viscusi, Joseph E. Harrington, Jr., and John M. Vernon, *Economics of Regulation and Antitrust* (Fourth Edition), The MIT Press, 2005
- b. Roger Sherman, *Market Regulation*, Pearson Addison-Wesley, 2008]

January 20: Course Introduction—the Big Picture

1. “Introduction,” pp. 1-6 in the textbook

Part I: Horizontal Structure – Analysis of Horizontal Mergers

2. “The Economic and Legal Context,” pp. 8-29
3. Russell Pittman, “Merger Law and Enforcement in the United States” (monograph) 2016, up to the Vertical Mergers section on p. 14, on the Blackboard course site

January 27: Analysis of Horizontal Mergers, continued – mergers with unilateral effects

1. Case 6 in the textbook: “Prices, Market Definition, and the Effects of Merger: Staples-Office Depot (1997),” up to, but not including the appendix; PLUS “FTC Closes Seven-month Investigation of Proposed Office Depot/OfficeMax Merger” (2013) on the Blackboard course site
PLUS “Staples-Office Depot Merger Collapses After Block by Judge” (2016) on the Blackboard course site
2. Case 5: “Oracle’s Acquisition of PeopleSoft: *U.S. v. Oracle* (2004);” PLUS Wall Street Journal, “Bazaarvoice Merger with Rival Is Anticompetitive,” (2014) on the Blackboard course site

February 3: Analysis of Horizontal Mergers, continued – mergers with coordinated effects

1. “Coordinated Effects Analysis: Cruise Lines Mergers (2002)” in the (supplementary) course book.
2. “Coordinated Effects and Standards of Proof: The Arch Coal Merger (2004)” in the course book.

February 10: Analysis of Horizontal Mergers, continued – other cases

1. “Efficiencies and High Concentration: Heinz Proposes to Acquire Beech-Nut (2001)” in the course book.
2. Beau W. Buffier, “Protecting Online Geese: The DOJ’s Victory in *U.S. v. H&R Block, Inc.* (2011),” *The Threshold*, Fall 2011, on the Blackboard course site

HOMEWORK #1

February 17: **Part II: Horizontal Practices**

1. “The Economic and Legal Context,” pp. 196-210

Collusion

2. Case 11: “Global Cartels Redux: The Lysine Antitrust Litigation (1996)”

February 24: Horizontal Practices -- Collusion, continued

1. “Bidding, Bid Rigging, and School Milk Prices: *Ohio v. Trauth* (1994)” in the course book
2. “Rapid Price Communication and Coordination: The Airline Tariff Publishing Case (1994)” in the course book.

March 3: Horizontal Practices -- Collusion, continued

1. “Antitrust and Higher Education: MIT Financial Aid (1993)” in the course book.

Horizontal Practices, continued -- Predatory Pricing

2. Case 10: “Predatory Pricing in the Airline Industry: *Spirit Airlines v. Northwest Airlines* (2005)”

March 10: [SPRING BREAK]

March 17: **MIDTERM**

March 24: Horizontal Practices, continued -- other cases

1. Case 7: “‘Reverse Payments’ in Settlements of Patent Litigation: Schering-Plough, K-Dur, and the FTC (2005 and 2012);” PLUS “Pay-For Delay Deals Can Be Illegal, Justices Rule,” (2013), THIS IS THE ANDROGEL CASE! Law 360 on Blackboard course site
2. “The Use of Bundled Rebates by a Dominant Firm: *LePage’s v. 3M* (2003)” in the course book; PLUS “Are the Courts Moving Toward a Consensus on Bundled Discounts and Section 2 of the Sherman Act?” (2010), AntitrustConnect Blog on Blackboard course site.

March 31: Antitrust Issues in Sports

1. Lawrence M. Kahn, “Cartel Behavior and Amateurism in College Sports,” *Journal of Economic Perspectives*, 2007
<http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.21.1.209>

Part III: Vertical and Related Market Issues

2. “The Economic and Legal Context,” pp. 370-380

Vertical Mergers

3. pp. 14-16 of Pittman, “Merger Law” (above)
4. Jonathan B. Baker, “Comcast/NBCU: The FCC Provides a Roadmap for Vertical Merger Analysis,” *Antitrust*, Spring 2011, on the Blackboard course site
[NOT THE CHAPTER IN KWOKA AND WHITE]

April 7: A Mixed Horizontal and Vertical Merger:

1. Case 2: “Rockonomics: The Ticketmaster-Live Nation Merger and the Rock Concert Business (2009)”

Vertical Restraints -- Exclusive Dealing

2. Case 16: “Exclusive Dealing and Antitrust Exclusion: *U.S. v. Dentsply* (2005)”

HOMEWORK #2

April 14: Vertical Restraints – Resale Price Maintenance

1. Case 14: “Resale Price Maintenance Wins a Reprieve: *Leegin v. PSKS* (2007)”

Part IV: Network Issues

2. “The Economic and Legal Context,” pp. 520-532

April 21: Network Issues, continued

1. Case 20: “Maintenance of Monopoly: *U.S. v. Microsoft* (2001)
2. “Links between Markets and Aftermarkets: *Kodak* (1997)” in the course book.

April 28: Network Issues, continued

1. “Regulation, Antitrust, and *Trinko* (2004)” in the course book.

Course Wrap-Up

TBA: FINAL EXAM