

Norman Familant
January 28, 2021

Econ 400 04: Topics in Antitrust

Class: Fridays, 2 PM – 4:40 PM, Taught Remotely

Office hours: By Appointment—email me and we’ll arrange a time for a call

Textbook available in either hard copy or digital access at the College Bookstore: John E. Kwoka, Jr. and Lawrence J. White, *The Antitrust Revolution: Economics, Competition, and Policy* (Seventh Edition), Oxford University Press, 2018

In addition, the publisher, through AcademicPub/XanEdu, is charging for access to the cases you’ll read from *previous* editions of this text—compiled as a (supplementary) “course book.” You can secure either a hard copy or digital access through the College Bookstore.

The course will have one midterm and a final exam. These will not be proctored. There will also be two homework exercises, due in my W&M mailbox at an announced deadline a few days after issuance. Course grading will be computed as follows:

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

Grading will correspond closely to the usual 10-point scale, reflecting the difficulty of the test or homework.

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, see a recent edition of an Industrial Organization textbook such as:

- a. Waldman and Jensen, *Industrial Organization: Theory and Practice*
- b. Carlton and Perloff, *Modern Industrial Organization*]

January 29: Course Introduction—the Big Picture

1. “Introduction,” pp. xxi-xxvi in the textbook

Part I: Horizontal Structure – Analysis of Horizontal Mergers

2. “The Economic and Legal Context,” pp. 2-20
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

February 5: Analysis of Horizontal Mergers, continued – mergers with unilateral effects

1. Case 9 in the textbook: “Prices, Market Definition, and the Effects of Merger: *Staples, Office Depot, and Office Max* (1997, 2015, and 2016)”
2. “Oracle’s Acquisition of PeopleSoft: *U.S. v. Oracle* (2004)” in the (supplementary) course book.
PLUS *Wall Street Journal*, “Bazaarvoice Merger with Rival Is Anticompetitive,” (2014) on the Blackboard course site

Add/drop Deadline

February 12: Spring Break Day—no class

February 19: Analysis of Horizontal Mergers, continued – mergers with coordinated effects

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

February 26: 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

March 5: **Part II: Horizontal Practices**

1. “The Economic and Legal Context,” pp. 212-226

Collusion

2. “Global Cartels Redux: The Lysine Antitrust Litigation (1996)” in the course book
3. Case 14: “The LCD Conspiracy: The Sherman Act, Beyond a Reasonable Doubt, and Issues of Extraterritoriality (2014)”

March 12: 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 19: **MIDTERM**

March 26: Horizontal Practices -- Collusion, continued

1. “Antitrust and Higher Education: MIT Financial Aid (1993)” in the course book PLUS “DOJ Settles Antitrust Concerns Over College Recruitment” (2019) on the Blackboard course site

Horizontal Practices, continued -- Predatory Pricing

2. Case 16: “Predatory Pricing in the Airline Industry: *Spirit Airlines v. Northwest Airlines* (2005)”

March 29: Withdraw deadline

April 2: Horizontal Practices, continued -- other cases

1. Case 15: “Pharmaceutical Patents and Pay-for-Delay: *Actavis* (2013)” PLUS “FTC Settles with AbbVie, Ending Actavis” (2019)
<https://globalcompetitionreview.com/article/usa/1181012/ftc-settles-with-abbvie-ending-actavis>
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.

April 9: Antitrust Issues in Sports

1. Case 12: “Collusion in College Sports: *Edward C. O’Bannon, et al. v. NCAA, et al.* (2015)”

Part III: Vertical, Network, and Related Market Issues

2. “The Economic and Legal Context,” pp. 380-398

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 *COMCAST/TWC* (2015) CHAPTER IN KWOKA AND WHITE]

April 16: A Mixed Horizontal and Vertical Merger:

1. Case 8: “Rockonomics: The *Ticketmaster-Live Nation* Merger and the Rock Concert Business (2010)” PLUS “Live Nation Extends U.S. Decree and Wins UK Deal Approval” (2019)
<https://globalcompetitionreview.com/article/1212340/live-nation-extends-us-decree-and-wins-uk-deal-approval>

Vertical Restraints -- Exclusive Dealing

2. “Exclusive Dealing and Antitrust Exclusion: *U.S. v. Dentsply* (2005)” in the course book

HOMEWORK #2

April 23: Vertical Restraints – Resale Price Maintenance and Most Favored Nation Provisions (With Cartel Considerations):

1. “Resale Price Maintenance Wins a Reprieve: *Leegin v. PSKS* (2007)” in the course book
2. Case 20: “Cartel Ringmaster or Competition Creator? The *Ebooks Case against Apple* (2013)”

April 30: Network Issues, continued

1. Case 22: “Maintenance of Monopoly: *U.S. v. Microsoft* (2001)
2. “Links between Markets and Aftermarkets: *Kodak* (1997)” in the course book

May 7: Network Issues, continued: The Interface among Networks, Regulation, and Antitrust

1. “Regulation, Antitrust, and *Trinko* (2004)” in the course book
2. Case 17: “Retail Auto Sales (Networks): *Tesla v. State Vehicle Franchise Laws* (2017)”

TBA: FINAL EXAM