Norman Familant

January 19, 2023

[Watch for updates]

**Econ 400 01: Topics in Antitrust**

Class: Fridays, 2 PM – 4:40 PM, Chancellors 113

Office hours: By Appointment—email me and we’ll arrange a time to talk in person, by Zoom, or by phone

Textbook available in either hard copy or digital access through 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. There will also be two homework exercises, due 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. Strict adherence to the Honor Code is required; ask me to resolve any question you have. We will take a break halfway through each class. Refrain from smart phone use during class time. If you need to miss class because of illness, email me to discuss options for keeping up.

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 Waldman and Jensen, *Industrial Organization: Theory and Practice*.]

January 27: Course Introduction—the Big Picture

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

**Part I: Horizontal Structure** – Analysis of Horizontal Mergers

1. “The Economic and Legal Context,” pp. 2-20
2. 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 3: 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 10: 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 17: 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 Blackboard course site

**HOMEWORK #1 issued after class**

February 24: **Part II: Horizontal Practices**

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

Collusion

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

March 3: **MIDTERM**

March 10: 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 17: **SPRING BREAK**

March 24: 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

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

March 29: Withdrawal Deadline

March 31: Horizontal Practices, continued -- other cases

1. Case 15: “Pharmaceutical Patents and Pay-for-Delay: *Actavis* (2013)”
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 7: 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**

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

Vertical Mergers

1. pp. 14-16 of Pittman, “Merger Law” (above)
2. 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 14: A Mixed Horizontal and Vertical Merger:

1. Case 8: “Rockonomics: The *Ticketmaster-Live Nation* Merger and the Rock Concert Business (2010)”

Vertical Restraints -- Exclusive Dealing

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

**HOMEWORK #2 issued after class**

April 21: 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 28: 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 5: 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**