

Econ 4200: Antitrust Policy, Spring 2016

Mondays, 3:30 p.m.-6:00 p.m.

Monroe Hall Rm. 111

Instructor: Anthony W. Swisher

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I am only in Charlottesville on Mondays, but *please* feel free to e-mail me or call my mobile at any time with questions. If I can't talk when you call, we can arrange a convenient time.

Goals of the Course

The goals of the course are to provide an understanding of the federal antitrust laws, how they incorporate economic theory, and how they are enforced through federal government enforcement and private litigation. We will examine federal antitrust statutes passed by Congress and read cases in which they have been interpreted by the federal courts. We will see how the evolution of economic thinking has influenced the interpretation of the antitrust laws by the courts and the enforcement decisions of the federal antitrust enforcement agencies. The course will also train students to think clearly and to explain their thoughts before others. I will teach the course primarily using the Socratic method, with occasional lecturing. For students considering law school, the course will provide a useful introduction to the study of the law generally, and to the Socratic teaching method often employed in law school courses. Students will have the option to research and write a term paper.

Text

The course will use a casebook: Breit and Elzinga, The Antitrust Casebook (Third Edition). There will be additional photocopied material distributed during the semester.

Preparation and Class Participation

Socratic instruction demands full and careful preparation by both the instructor and the students. Unlike more lecture-oriented courses, the students will be active participants in each class. You have my commitment that I will be fully prepared for each class, and I expect the same commitment from each student.

Grading

There will be a comprehensive final examination worth 100% of the final grade. A recommended option is to write a term paper on a selected topic in antitrust. For students writing term papers, the final exam will count for 50% of the final grade, and the term paper will count for 50%. Although I will not assign a grade for class participation, I reserve the right to adjust a student's final grade up or down up to a half letter grade based on class participation.

The term paper is due at **the beginning of class on Monday, March 28, 2016**. A two-page paper proposal describing the topic and its importance to antitrust law is due at **the beginning of class on Monday, February 29, 2016**. (See below for potential paper topics.) The proposal is required but will not be separately graded. The term paper must be a minimum of 15 pages, double-spaced, and adhere to the following guidelines:

- 15 pages of text, not including cover page or end notes
- end notes, not footnotes
- 12 point font type
- one inch margins left/right and top/bottom
- numbered pages

If you intend for this class to satisfy the Second Writing Requirement, the paper proposal and the term paper must total at least 4,000 words.

CLAS Drop Date: Thursday, February 4, 2016

CLAS Withdraw Date: Wednesday, March 16, 2016

The final exam date is TBD.

Course Outline for Econ 4200

The course outline will generally follow the table of contents of the casebook.

- I. The Essential Antitrust Statutes
 - A. Sherman Act
 - B. Clayton Act
 - C. Federal Trade Commission Act
- II. Horizontal Price Fixing and Market Division
 - A. “Naked” vs. “Ancillary” Price Fixing
 - B. Exchange of Price Information
 - C. Conscious Parallelism and Shared Monopoly
 - D. Horizontal Restrictions on Distribution
- III. Mergers of Competitors: Actual and Potential
- IV. Monopolization and the Dominant Firm
- V. Exclusionary Practices
 - A. Vertical Integration
 - B. Exclusive Dealing
 - C. Tying
 - D. Boycotts and Refusals to Deal
 - E. Predatory Pricing and Price Discrimination
- VI. Vertical Price Fixing and Market Division
- VII. Monopolization Through Abuse of Governmental Procedures

Possible Term Paper Topics for Econ 4200

1. AT and a particular industry [e.g., computers, steel, beer, soft drinks, healthcare]
2. AT and a particular firm [e.g., Kodak, GE, IBM, Microsoft, Google, Apple]
3. An AT Supreme Court opinion
4. AT and a particular merger [e.g., Staples/Office Depot; Whole Foods/Wild Oats; AT&T/tMobile; Anheuser Busch/Modelo; Anthem/Cigna]
5. Merger remedies
6. Legislative history of an AT statute or exemption from AT [e.g., insurance, agriculture, baseball]
7. AT and some business strategy [e.g., exclusive dealing, predatory pricing, tying, bundling]
8. Federal vs. state AT enforcement
9. AT enforcement in the 60s, 70s, 80s, 90s, and today
10. Economic expert testimony
11. AT and labor nexus: unions; professional sports; professions
12. AT enforcement at the DOJ or the FTC
13. AT and foreign commerce [e.g., sovereign immunity doctrine; dumping]
14. AT and trade associations
15. Foreign AT enforcement [e.g., European Union, Mexico, China]
16. AT and a particular Supreme Court Justice [or judge] [e.g., Marshall, Bork, Posner]
17. AT and the health care sector
18. AT and “public utilities” [e.g., telecommunications; elec. power; natural gas pipelines]
19. AT and state/local govt. exemptions [Parker v. Brown issues]
20. An AT personality [e.g., William Baxter, Richard Posner, Mark Whitacre]
21. AT and intellectual property law [e.g., patents]
22. AT and franchising
23. AT and remedies/penalties [e.g., criminal penalties; amnesty/leniency]
24. AT and joint ventures/strategic alliances
25. International cooperation in AT enforcement

Note: These are just suggestions; there are many other potential topics. I am happy to discuss them.