EC 355: CASE STUDIES IN ANTITRUST LAW AND ECONOMICS  
Spring 2010  
Professor James A. Dalton

Office Hours:  Mondays and Wednesdays 7:15am -8:15am  
10:30am-12:30am; or by appointment  
Email: jdalton7@comcast.net (for brief communications) and daltonjc@bc.edu for term papers.

**Description and Objectives:** This course examines principal issues in antitrust economics and public policy through the study of the literature, case studies and a term paper. We will approach the study of key antitrust issues using as a backdrop the assumption that you are an economist retained by a party to an antitrust case. At the conclusion of this course, students should have improved their ability to apply economic analysis to practical problems related to allegations of the exercise and impact of market power. Students should also leave with a better understanding of the reasons for antitrust policy, the role of economics in the enforcement of competition policy and the manner in which economists participate in antitrust enforcement. These lessons aim at understanding U.S. competition policy. The process of writing a term paper provides an exercise that an expert witness experiences in developing critical thinking and conducting research in an antitrust case.

**Prerequisites:** The **absolute** requirement for this course is completion of the course in intermediate microeconomics (EC 201 or EC 203). **No exceptions.** And there are also four other prerequisites that if you have not completed them leave you at a significant disadvantage.

**Method:** This course requires active participation on a class-by-class basis. Although I frequently will use the traditional lecture method, I also will call on students in each class to discuss assignments. And separate groups will be assigned articles for discussion.

**Grading:** The final grade will be based on performance in the following categories:

- Mid-Term Exam 25%
- Final Exam 30%
- Outlines for Term Paper 15%
- Term Paper 20%
- Class Participation 10%

There will be no scheduling of makeup exams; only under extreme extenuating circumstances will an **excused** absence be considered. Late submissions will be penalized.


**Course Calendar, Assigned Reading and Communication:** The syllabus shows class assignments. I reserve the option to change assignments and exam dates during the semester. These assignments cover chapters in KW, Course Pack and additional readings. **All** email communications must follow the instructions listed at the top of this page.
SYLLABUS and READING ASSIGNMENTS

I. Introduction and Overview of Antitrust

January 19  A. Introduction to the course and antitrust policy


January 24  B. Role of economics, and review of key concepts

KW, pp. 8-15; H. Petersen, “Markets are Good”; Pope John Paul II, “The Economics of Human Freedom.”

January 26  C. Anatomy of antitrust litigation

Dalton, “Introduction to the Litigation Process.”

D.1. Roles of economics and economists in antitrust litigation


D.2. Responsibilities of economists:
   (a) assisting the court;
   (b) constraints on scope of testimony


January 31  D.3. Causal links and a reasonable basis for opinions

II. Market Power

February 2
A.1. Markets v. Industries


**Group 1:** Graddy, “The Fulton Fish Market,” Jr. of Economic perspectives (JEP), Spring 2006, 207-220.

**Group 2:** Kalnins, “The U.S. Lodging Industry, ” JEP, Fall 2006, 203-218.

**Group 3:** Offenberg, “Gift Cards,” JEP, Spring 2007, 227-238.

February 7

A.2. Measurement of substitutability: “Art vs. Science” (Case studies: Cellophane, IBM, Alcoa, baseball, news media, computer operating systems)


February 9
Optional: Submission of potential topics for term paper prior to meeting with Barbara Mento.

February 9, 14

A.3. Market Power, relevant markets, relevance of market definition for antitrust cases


B. Analyzing market power in matters of mergers

1. Government guidelines


February 16

Session with Expert from Information Services regarding Research Tools.
Meet Barbara Mento in O’Neill Library 307 during your regularly scheduled class time. There are 29 workstations available for your use but you may bring your laptops because wireless is available. There will be sufficient chairs.

February 21, 23
2. Analyzing market power  
  KW, Case 5 (Cruise Lines).

February 28  
First Outline of Proposed Topic for Term Paper Due

March 2  
3. Role of market definition  
  Dalton, “Market Definition for Analyses of Mergers;” and KW, Case 7 (Staples-Office Depot).

March 7, 9  
Spring Break

March 14  
4. Efficiencies defense  
  KW, Case 6 (Heinz-Beechmut, 2001);  
  “FTC v. Heinz: Two Views of the Role of Efficiencies in Merger Analysis,”  
  Antitrust (Fall 2001), v. 16, no. 1, p. 73,  
  followed by Balto (pp. 74-81) and Kolasky (pp. 82-87).

March 16  
First Exam

March 21  
C. Analyzing market power in matters involving “Monopolization” due to bundling and network effects  

III. Abuses of Market Power

A. price fixing

March 23  
1. Explicit v. tacit collusion  
  KW, pp. 202-209;  
  Dalton, “Factors Affecting the Ease and Difficulty of Collusion”; Lande and Marvel, “Collusion Over Rules” Antitrust, Summer

March 28 2. Collusion: Cases

KW, Case 11 (Lysine).

March 30


April 4 3. Efficiency Defense

Dalton, “Notes on ‘Justifications’ for Covert Collusion on Financial Aid by Universities.”

B. Monopolization: Predatory Pricing

April 6 1. What is it?

KW, pp.209-216;

Dalton, “Distinguishing Competitive Pricing from Predatory Pricing.”

April 8 Detailed Revised Outline for Term Paper Due

April 13 Predation:

2. How does it work?

Group 1: Morton, “Entry and


April 18 Patriots Day (no class)

April 25 Easter Monday (no class)


Group 1: Red C case, 167-173; Group 2:
May 2, 4

D.4. Approaches to antitrust analysis: Chicago School vs. S-C-P School
KW, Introduction, pp. 1-5;

May 4

Term Paper Due

IV. Antitrust in the “New Economy” (Optional)

A. The relevance of antitrust policy

B. Empirical bases
Jacobson, “Do We Need a ‘New Economy’ Exception for Antitrust?”, Antitrust, Fall 2001, pp. 89-94.

May 14 (12:30) Final Exam (student to confirm date)
**Term Paper**

Each student must submit a typed paper with at least 10 and no more than 12 pages of “content” on a topic that has been approved by me; tables, graphs, “Notes” and the bibliography are to be placed after the content section of the paper. You must submit, via email attachment, an outline at least one page in length of your proposed topic by February 28, and a revision, showing substantial progress toward completion, by April 8; each outline will be graded and accorded a weight for the final grade: 5% for the first outline and 10% for the second outline. I will discuss in class more specifically my expectations for form and content.

You are welcome to meet with me before submitting the first outline, however, between the dates for submission of the first and second drafts you **must** meet with me to discuss your proposed topic. These outlines should discuss “what” you propose to do, “why” it is relevant to the course and “how” you will proceed. The “how” includes the process expected to be used (or actually used) in gathering information, and the topics for the anticipated sections in the paper. Note: The “what”, “why” and “how” are key components of the final paper.

The paper is due by May 4 and must be submitted as an attachment to an email to the address listed on the first page of this document. The paper should be typed (double-spaced) and the pages should be numbered. The paper should have a cover page with the title, the author's name and the date; this cover page will not count toward the required length of the “content.”

Students must follow accepted rules for references, footnotes and bibliographies; original sources only will be accepted (internet source material must be replaced by the original source). Beware of non-professional sources, particularly from the internet (e.g., Wikipedia is not acceptable). The grade depends not only on content but also on form and style.

The paper should be divided into sections. Each section should begin with a roman numeral and a topic heading. References to sources for information must be placed at the end of the appropriate sentence or paragraph in parentheses. Example:

As a result of the regulation there has been a 30 percent reduction in accidents (Smith, p.234).

Footnotes should only be used for further discussion of a point or argument presented in the body of the paper; these fuller expositions should be placed on a separate “Notes” page at the end of the paper before the bibliography. Graphs and tables should be placed on separate pages before the “Notes”.

The Academic Development Center tutors students with writing assignments and provides feedback on drafts of papers. Consider using the people-resources of the Center which is located on the second floor of O’Neill Library.

Academic integrity will be respected in my courses. The Dean of A&S has asked faculty to include the following statement to students in course syllabi:

> “Boston College values the academic integrity of its students and faculty. It is your responsibility to familiarize yourself with the university’s policy on academic integrity: [http://www.bc.edu/integrity](http://www.bc.edu/integrity).

If you have any questions, always consult your professor.

> “Violations of academic integrity will be reported to your class dean and judged by the academic integrity committee in your school. If you are found responsible for violating the policy, penalties may include a failing grade as well as possible probation, suspension, or expulsion, depending on the seriousness and circumstances of the violation.”

**Additional matters.** (1) When you save your work, “save as”: EC355 Your last name and 1,2 or F [depending on whether it is your first draft, second draft or Final paper]. (2) Use
default margins. (3) Submit the work in Word, and charts and graphs should be imported into Word. (4) Have a reliable person carefully proofread each of your papers before submission. (5) Insure that your version of Word can be opened by my computer. (For example, Microsoft eliminated “backward compatibility” such that a recent Office 2007 cannot be opened by an older version of Word.)

**Illustrative Topics for Term Paper**

You can select a topic of your choosing *with my approval*; more than one student can work on the same topic, but team projects will not be accepted. Possible topics include:

- Define the product and geographic boundaries for a relevant market in the context of an antitrust case.
- Given rapid technological change in high tech industries, discuss the analyses in the published literature that have discussed the impact of antitrust enforcement on the ability of innovators to capture the gains from successful innovation. Does the “New Economy” require a relaxation of antitrust enforcement (see the last set of materials listed on the syllabus)?
- Examine the relationship between market structure and innovation, and tie it into competition policy.
- Many regulatory commissions have deregulated the generation of electricity. Contrast the reasons for original decision to regulate with the decisions recently to deregulate. What, if anything, had changed such that regulators and legislatures have decided to deregulate?
- Given the decision in *Matter of DOJ vs. Microsoft*, analyze how the settlement by the US and EU authorities with Microsoft would mitigate the expected abuse of market power as presented by Judge Jackson of the U.S. District Court.
- Consider using the recent suit brought by RealNetworks against Microsoft to see if Microsoft is again employing alleged predatory tactics.
- Analyze the recent decision in Europe that Microsoft has illegally monopolized its markets. Compare this decision with the settlement in the U.S between Microsoft and the Department of Justice and various states attorneys general.
- “Network effects” have been key competition issues in antitrust cases (e.g., AT&T and Microsoft). Evaluate this issue in the context of an industry that exhibits this characteristic.
- Contrast the opinions, the reasons and factual bases for the opinions of economists in a major antitrust case (e.g. Microsoft; Kodak, AT&T, IBM, Kodak, Alcoa).
- Pick an adjudicated antitrust case (e.g. involving price fixing, predatory pricing) or a decision by the EU competition commission and analyze the issues related to market power.
- Select an ongoing antitrust case and analyze the economic issues related to the complaint.
- Contrast the approaches by the Antitrust Division of the Department of Justice to antitrust enforcement employed during the tenure of two or more U.S. Presidents.
- Vertical restraints (e.g., resale price maintenance, exclusive dealing) involve relationships between retailers and manufacturers. Some allegedly adversely affect competition. Pick a case and analyze this issue – e.g., the main economic issue decided by the *Schwinn* case was essentially overturned in the *Sylvania* case. See also the cases in KW’s Part III.
- Analyze the implications for competition of the proposed alliance among American Airlines, British Airways, and Spain’s Iberia Lineas Aereas.
• Evaluate the aspects for allocative efficiency deriving from the EU’s allegation that Intel threatened retaliation against PC makers using chips from rivals of Intel. (New York’s AG also brought suit against Intel.)
• Contrast the approaches of the EU and the US antitrust authorities regarding Oracle’s acquisition of Sun Microsystems.
• Analyze the markets for products and services related to the likely acquisition of Cadbury either by Kraft Foods or Hersheys.
• Analyze the competitive implications associated with a merger between Delta and Northwest Airlines.
• Evaluate the efficiency aspects of merger between In-Bev and Anheuser Busch or the venture between Coors and Miller brewing.
• Analyze the competitive implications associated with the impact of the American Medical Association when setting the supply of medical schools.
• Evaluate the competitive implications of the constraints by professional associations on member behavior (e.g., the national association of realtors and American Bar Association.)