**EC 355: CASE STUDIES IN ANTITRUST LAW AND ECONOMICS**  
**Fall 2012**  
Professor James A. Dalton

**Office Hours:** Tuesdays and Thursdays 7:30am-8:15am; 10:00am-12:30pm; or by appointment

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**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 and I will be your client. 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 an 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 intermediate microeconomics (EC 201 or EC 203). **No exceptions.** I will be using the tools developed in these courses and will not use class time to teach them again.

**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, at times, separate groups will be assigned articles for discussion.

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

- Mid-Term Exam: 30%
- Final Exam: 35%
- Outlines for Term Paper: 15%
- Term Paper: 20%

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


**Course Calendar, Assigned Reading and Communication:** The syllabus shows class assignments and I reserve the option to change assignments and exam dates during the semester. These assignments cover chapters in KW, Course Pack and additional readings will be assigned. The Course Pack contains a Table of Contents for the reading assignments not included in KW. Please study carefully the discussion for the term paper placed at the back of this document. **All** email communications must follow the instructions listed at the top of this page.
SYLLABUS and READING ASSIGNMENTS

I. Introduction and Overview of Antitrust

September 5
A. Introduction to the course and antitrust policy


September 10
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”.

C. Anatomy of antitrust litigation

Dalton, “Introduction to the Litigation Process.”

September 12
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


September 17
D.3. Causal links and a reasonable basis for opinions


September 19

D.4. Approaches to antitrust analysis: Chicago School vs. S-C-P School

KW, Introduction, pp. 1-5;

II. Market Power

September 24

A.1. Markets v. Industries


September 26

Optional: Submission of potential topics for term paper and discussion with Barbara Mento.

September 26


Case studies from instructor (Cellophane, IBM, Alcoa, baseball, news media, computer operating systems)
October 1        (No class; prep for future classes.)

October 3       A.2.  Market Power, relevant markets, relevance of market definition for antitrust cases

                B.  Analyzing market power in matters of merger

1.  Government guidelines

          KW, pp.13-26; DOJ/FTC, “Horizontal Merger Guidelines.”

October 8       Columbus Day Holiday – no class

October 10      Session with Expert from Information Services on Research Tools. Meet Barbara Mento in O’Neill Library 307 during your regular class time. There are 28 workstations available for your use but you may bring your laptops because wireless is available and there will be sufficient chairs.

October 15      First Outline of Proposed Topic for Term Paper Due


October 17      2.  Analyzing market power

October 22      3.  Role of market definition
                Dalton, “Market Definition for Analyses of Mergers and Monopolization”; and KW, Case 7 (Staples Office Depot.)

October 24      First Exam

October 29      4.  Efficiencies defense
                KW, Case 6 (Heinz-Beechnut, 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).
III. Abuses of Market Power

A. Price fixing

October 31

1. Explicit v. tacit collusion


2. Collusion: Cases

November 5

KW, Case 11 (Lysine).

November 7


November 12

3. Efficiency Defense

KW, Case 7 (Financial Aid to Students, 1993); Dalton, “Notes on ‘Justifications’ for Covert Collusion on Financial Aid by Universities.”

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

November 14


November 19

Microsoft case: Issues and Events; Gavil, “An Analysis of Some Procedural Aspects of the Microsoft Trial”, Antitrust, Summer 1999,
November 19  Detailed Revised Outline for Term Paper Due

November 21  Thanksgiving – no class

C. Monopolization: Predatory Pricing


December 3  Term Paper Due


IV. Antitrust in the “New Economy”


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

December 10  Final Exam
**Term Paper**

Each student will 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, a one-page outline of your proposed topic before the start of class on October 15, and a revision, showing substantial progress, toward completion, by the start of class on November 19; 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. The final paper is due on December 3.

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 and outlines must be submitted as an attachment to an email to my BC email 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., Wikipedias). 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”.

**Additional Matters.** (1) Save your work for submission as EC355 [space] the number 1,2 or F depending on which draft/final is being submitted and your last name – e.g., EC355 1 Dalton . (2) Use default margins. (3) Cover page, charts, graphs, notes, tables and bibliography should be imported into the body of the text – submit a single document. (4) The cover page will not count toward the “content” and should contain name, course number, title and date. (5) Have a reliable person proof read the work before submission. (5) Topics developed for class are not acceptable for a topic. You must do the analysis.

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

Academic integrity will be respected in my courses. Patrick Maney, 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 .

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.”

**Illustrative Topics for a Term Paper**

You can select a topic 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 optional readings at the end of the syllabus. (See the last optional material at the end of the syllabus for a head start.)
- 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 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 therein related to market power.
- Select an ongoing antitrust case and explain 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 KW’s Part III for examples of issues related
to vertical constraints. These cases herein are not acceptable choices for your topic as the authors of the articles have done the type of analysis required of you.)

- Analyze the implications for competition of the 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 attorney general also brought suit against Intel.)
- Contrast the approaches of the EU and US antitrust authorities regarding Oracles’ acquisition of Sun Microsystems.
- Analyze the markets for products and services related to the proposed acquisition of Cadbury either by Kraft Foods or by Hersheys.
- Analyze the competitive implications associated with a merger between Delta and Northwest.
- Evaluate efficiency aspects of the merger between: In-Bev and Annheuser Busch; the venture between Coors and Miller Brewer; or the joint venture between GM and Toyota that occurred around 1979.
- Regarding vertical restraints imposed by manufacturers on its retailers evaluate the demand by the National Football League for antitrust immunity. (See the New York Times for 1/20/10. And study Part III in KW that dealt with vertical restraints.)