

Stephen Martin EC 361 Economics of Antitrust & Regulation Spring 2008
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494 4402 KRAN G012

Office hours: T, Th 10:30-11:30 and by appointment, 4027 Rawls.
Course web page:

<http://www.krannert.purdue.edu/faculty/smartin/courses/cm.asp>

Lecture Notes: *Industrial Organization in Context* (to be distributed).

This course will examine the economics of United States antitrust policy and European Union competition policy.

Etiquette:

- (1) Do not read newspapers or similar material during class.
- (2) Do not eat in class.
- (3) Turn off cell phones, pagers, and other electronic devices during class. If you take notes on a laptop, do not check your e-mail or cruise the internet during class.
- (4) Do not ask "Will we need to know this for the exam?"

There will be one within-term exam, on 27 February. It will account for 34 per cent of the course grade. The final exam (which will be cumulative) will account for 40 per cent of the course grade. Both exams will consist of short-answer essay questions.

The remaining 26 per cent of the course grade will be determined by your grade – pass or fail – on short summaries of antitrust and competition policy decisions, to be handed in on the dates indicated below. For the purpose of computing the course grade, a "pass" on a case summary will be considered an A and a "fail" on a case summary will be considered an F. The expected nature of the summaries is discussed below.

The indication of topics by date given below is approximate, and will become more so as the term goes on.

Week 1

Tue 8 Jan 08 **1** Background of U.S. antitrust (Chapter 3)

Thu 10 Jan 08 **2** Background of EU antitrust (Chapter 4)

Week 2

Tue 15 Jan 08 **3** Perfect competition, Monopoly (Chapter 2)

Case summaries 1 due: *Addyston Pipe & Steel* 85 F. 271 (6th Cir., 1898); 175 U.S. 211 (1899); *Northern Securities* 193 U.S. 197 (1904); *Chicago Board of Trade* 246 U.S. 231 (1918).

Thu 17 Jan 08 **4** Oligopoly (Chapter 5)

Week 3

Tue 22 Jan 08 **5** Collusion (Chapter 7)

To read on your own: Section 7.4, Cartels In Practice

Case summaries 2 due: *Appalachian Coals* 288 U.S. 344 (1933); *Trenton Potteries* 273 U.S. 392 (1927); *Socony Vacuum* 310 U.S. 150 (1940).

Thu 24 Jan 08 **6** U.S. antitrust treatment of collusion

Week 4

Tue 29 Jan 08 **7** EU competition policy treatment of collusion.

Case summaries 3 due: *Quinine cartel* Boehringer Mannheim v Commission Case 45-69 [1970] ECR 769; *Dyestuffs* Imperial Chemical Industries Ltd. v Commission Case 48-69 Judgment of the Court of 14 July 1972 [1972] ECR 1972 619 [1972] CMLR 557

Thu 31 Jan 08 **8** Trade associations (U.S.)

To read on your own: Section 7.8.1, Basing point system.

Week 5

Tue 5 Feb 08 **9** Trade associations (EU); conscious parallelism & the oligopoly problem (U.S., EU)

To be read on your own: Danish publicity case, in Section 7.8.2; Section 7.8.3, Price guarantees

Case summaries 4 due: *Interstate Circuit* 306 U.S. 208 (1939); *Theatre Enterprises* 346 U.S. 537 (1954); *Woodpulp* OJ L 85/1 26 March 1985, p. 1; A. Ahlstrom OY and others v. EC Commission [1988] 4 CMLR 901; [1993] 4 CMLR 407

Thu 7 Feb 08 **10** Conscious parallelism & the oligopoly problem, continued; cooperation

Week 6

Tue 12 Feb 08 **11** Dominant firm behavior (Chapter 8)

Case summaries 5 due: *Standard Oil* 221 U.S. 1 (1911); *U.S. Steel* 251 U.S. 417 (1920); *Alcoa* 148 F.2d 416 (2d Cir. 1945)

Thu 14 Feb 08 **12** Continued; begin U.S. antitrust: monopolization
To be read on your own: Section 8.3.2, Predation Episodes; box on predatory pricing in the refined oil market; pasta rackets box.

Week 7

Tue 19 Feb 08 **13** U.S. antitrust: monopolization, continued.

Case summaries 6 due: *Matsushita* 475 U.S. 574 (1986); *Brooke Group* 509 U.S. 209 (1993); *Aspen Skiing* 472 U.S. 585 (1985); *Trinko* 540 U.S. 398 (2004).

Thu 21 Feb 08 **14** Continued

Week 8

Tue 26 Feb 08 **15** Abuse of a dominant position

Case summaries 7 due: *Hoffmann-La Roche* *Hoffmann-La Roche & Co. AG v. EC Commission* 1979 ECR 461; *British Leyland* [1986] ECR 3263 1986 ECR 3263; *Michelin II* *Michelin v. Commission* Case 322/81 [1983] ECR 3461

Thu 28 Feb 08 **16** **Midterm**

THE MIDTERM WILL COVER MATERIAL UP TO BUT NOT INCLUDING ABUSE OF A DOMINANT POSITION.

Week 9

Tue 4 Mar 08 **17** Abuse of a dominant position

Case summaries 8 due: *AKZO* *AKZO Chemie BV v. Commission* 1991 ECR I-3359 1993 5 CMLR 215; *Hilti AG v. EC Commission* Case T-30/89 [1990] ECR II-1439; [1990] 4 CMLR 16.

Thu 6 Mar 08 **18** Microsoft

Mon 10 Mar 08 Spring break

Week 10

Tue 18 Mar 08 19 Price discrimination, economics

Case summaries 9 due: *Morton Salt* 162 F.2d 949 (1947); *Utah Pie* 386 U.S. 685 (1967); *Payne v. Chrysler* 451 U.S. 557 (1981); *Volvo v. Reeder-Simco* 546 U.S. ____ (2006), 126 S. Ct. 860 (2006).

Thu 20 Mar 08 20 Antitrust treatment of price discrimination

Week 11

Tue 25 Mar 08 21 Competition policy toward price discrimination

Case summaries 10 due: *United Brands* United Brands Company and United Brands Continental BV v. EC Commission 1978 ECR 207. Two additional cases to be specified.

Thu 27 Mar 08 22 Vertical contracts, economics; begin U.S. antitrust treatment.

Week 12

Tue 1 Apr 08 23 Vertical contracts, U.S. antitrust treatment, continued

Case summaries 10 due: *Schwinn* 388 U.S. 365 (1967); *Continental TV* 433 U.S. 36 (1977); *Jefferson Parrish* 466 U.S. 2 (1984)

Thu 3 Apr 08 24 Competition policy treatment of vertical contracts

Week 13

Tue 8 Apr 08 25 U.S. merger policy

Case summaries 11 due: *Brown Shoe* 370 U.S. 294 (1962); *Von's Grocery* 384 U.S. 270 (1966); *General Dynamics U.S. v. General Dynamics* 415 U.S. 486 (1974).

Thu 10 Apr 08 26 US merger policy, continued

Week 14

Tue 15 Apr 08 27 EU merger policy

Case summaries 12 due: *Airtours/First Choice* *Airtours v Commission* Judgment of the Court of First Instance of 6 June 2002. Case T-342/99. ECR 2002 Page II-02585; *Schneider/Legrand* *Schneider Electric SA v. Commission* T-310/01 Judgment of the Court of First Instance (First Chamber) 22 October 2002; *Tetra Laval/Sidel* *Tetra Laval BV v. Commission* Judgment of the Court of First Instance 25 October 2002 Case T-5/02

Thu 17 Apr 08 28 EU merger policy, continued

Week 15

Tue 22 Apr 08 29 Antitrust/competition policy and intellectual property

Case summaries 13 due: *Motion Picture Patents Co.* 243 U.S. 502 (1917); *General Electric* 272 U.S. 476 (1926); *Automotive Manufacturers' Association: U.S. v. Automobile Manufacturers' Association*, 1969 Trade Cas. (CCH) Para. 72,907 (C.D. Cal. 1969), modified, 1982 Trade Cas. (CCH) Para. 65,088 (C.D. Cal.).

Thu 24 Apr 08 30 Are antitrust and competition policy worth it?

Mon 28 Apr 08 Finals week begins

Case summaries: Much of the material of the course consists of an analysis of the facts and economic logic of landmark antitrust and competition policy decisions. To complete the course with a good grade you will need to learn who the parties were in these cases, what the facts were, what the issues were, how the cases were decided, and how each decision relates to those that came before and after.

There is a way to have a good command of this material at the end of the semester:

(a) read and make notes on what I say about the case in the textbook;

(b) read and make notes on the decision.

(c) summarize these notes in one-half page. This summary should indicate

--- who were the parties involved in the case;

--- what laws were alleged to have been violated;

--- the nature of the alleged violation;

--- the outcome;

--- the legal and the economic rationale for the outcome;

--- prior decisions with which the one in question is particularly related.

It is this kind of half-page *hand-written* summary that I ask you to hand in on the dates indicated on the course outline.

(d) Review your half-page summary, returning to the original material if need be to remind yourself of points you find unclear. Condense the half-page summary so that it fits on a 3-inch by 5-inch file card.

If you do this, or something like it, at the end of the semester you will have a set of file cards your can review to study for the final exam.

If you wait until the weekend before the midterm and the days before the final exam to familiarize yourself with this material, historical experience suggests that you will fail the course.

Notice: One definition of “plagiarize” is “to steal and pass off (the ideas or words of another) as one's own : use (another's production) without crediting the source” (Merriam-Webster's Online Dictionary, URL <http://www.m-w.com/home.htm>, visited 30 December 2007). If you submit a case summary that includes words copied from the decision (or from some other source), and you do not enclose them in quotation marks and cite the source, you have committed plagiarism. If you do this once, you will receive an F for that assignment. If you do this twice, you will receive an F for the course.

Sources for decisions.

From within the Purdue system, U.S. antitrust decisions can be accessed by going to the Management & Economics Library web page (<http://www.lib.purdue.edu/mel/>) and in the drop-down menu heading “Quick Access to Business Databases” going to LexisNexis Academic.

The same point may be reached by going directly to URL

<http://www2.lib.purdue.edu:2116/us/lnacademic/home/home.do?rand=0.21852896001649658>

at the Management and Economics Library web site.

Then click on the red tab in the upper left labeled “Legal”.

There is a “Legal Searches” menu on the right of the web page. The first item in the menu is “Law Reviews,” the second is “Federal & State Cases.”

Click on “Federal & State Cases”.

You will be taken to a page

(<http://www2.lib.purdue.edu:2116/us/lnacademic/search/loadForm.do?formID=AC07STCseCmnSrch&random=0.32185854610766174>)

that permits searching for U.S. court decisions. Entering the citation for a decision (as, 175 U.S. 211) and clicking search should lead the search engine to produce a copy of the decision that you can print or select, copy, and save.

Most of the decisions are quite long. You should *not* automatically print out entire decisions. It is more efficient to save the decisions, read them on the monitor first, highlight important segments, and print out only those.

Other sources:

<http://www.stolaf.edu/people/becker/antitrust/>.

<http://www.findlaw.com/casecode/supreme.html> (for access to which it will be necessary to sign up for a free account).

The Supreme Court web site is itself a source for recent decisions:

<http://www.supremecourtus.gov/opinions/opinions.html>

European Commission decisions can be accessed via the “cases” tabs on the drop-down menus at the top of the DG Competition web site,

http://ec.europa.eu/comm/competition/index_en.html,

and also by searching the Official Journal,

<http://eur-lex.europa.eu/en/index.htm>.

European Court of Justice and Court of First Instance decisions are available electronically at the ECJ web site,

<http://curia.europa.eu/en/content/aide/index.htm>

The “Legal Searches” menu at the LexisNexus Academic web site also includes a link labeled “European Union, Commonwealth & Foreign Nations” that leads to a search engine for EU decisions.

I will post material not conveniently available on the course web site.