

## MERGER ANTITRUST LAW

LAW 1469  
Georgetown University Law Center  
Fall 2026

Tuesdays and Thursdays, 3:30 pm – 5:30 pm  
Dale Collins

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### Class 12 Homework Assignment

#### Instructions

Submit by email by 3:30 pm on Thursday, October 1  
Send to [wdc30@georgetown.edu](mailto:wdc30@georgetown.edu)  
Subject line: Merger Antitrust Law: Assignment for Class 12

#### Assignment

##### Part A. One-product SSNIP recapture tests

For these problems, use the profitability version of the HMT. Assume linear residual demand, constant marginal costs, and initial prices that maximize each firm's standalone profits. All prices other than the price receiving the SSNIP remain unchanged. The firms can accommodate all recaptured sales without changing their marginal costs or incurring additional fixed costs.

1. *Insulated water bottles.* Summit Bottle proposes to acquire Ridge Bottle. Each company sells a single model of a one-liter insulated water bottle. A third company, Canyon Bottle, sells a competing one-liter bottle. The products are differentiated by their designs and brand reputations. The investigating agency is considering a candidate product market consisting of the Summit, Ridge, and Canyon bottles.

Each bottle sells for \$40 and has a marginal cost of \$20. Summit currently sells 10,000 bottles per month. Reliable evidence shows that a nontransitory 5% increase in the price of the Summit bottle, with all other prices unchanged, would reduce Summit's monthly sales by 1,000 bottles. Of these lost sales, 60 would divert to Ridge and 140 would divert to Canyon. The remaining 800 would go to other brands outside the candidate market or would be purchases forgone.

Would a hypothetical monopolist controlling Summit, Ridge, and Canyon find the 5% increase in Summit's price profitable? Does this one-product SSNIP establish that the candidate market passes the HMT? Use the brute-force method, separately identifying the profit gain on Summit's inframarginal sales, the profit loss on Summit's marginal sales, and the profits earned on sales recaptured by Ridge and Canyon.

2. *Premium yogurt.* Meadow Dairy proposes to acquire Valley Dairy. Each company sells a premium yogurt, and a third company, Orchard Dairy, sells a competing premium yogurt. The products are differentiated by their flavors, textures, and brand reputations. The investigating agency is considering a candidate product market consisting of these three products.

Each product sells for \$2.00 per container and has a gross margin of 40%, calculated using the constant marginal cost of producing an additional container. Reliable evidence shows that a nontransitory 5% increase in the price of Meadow's yogurt, with all other prices unchanged,

would cause some of Meadow's sales to divert to other products or be forgone. Of the sales Meadow would lose, 7% would divert to Valley's yogurt and 9% would divert to Orchard's yogurt. The remaining 84% would go to products outside the candidate market or would be purchases forgone.

Using an appropriate one-product SSNIP recapture formula, determine whether a hypothetical monopolist controlling all three products could profitably increase Meadow's price by 5%. State the formula, calculate the critical and actual recapture rates, and explain whether this price increase establishes that the candidate market passes the HMT.

3. *Accounting software.* LedgerOne proposes to acquire BookEase. Each company sells a monthly subscription to its small business accounting software. The products are differentiated by their features and ease of use. The investigating agency is considering a candidate product market consisting of these two products, although customers also have other accounting software alternatives.

LedgerOne charges \$100 per subscription per month and has a percentage gross margin of 40%. BookEase charges \$80 per subscription per month and has a percentage gross margin of 25%. These margins are calculated using the constant marginal cost of serving an additional subscriber.

Reliable evidence shows that, if LedgerOne increased its subscription price by a nontransitory 5% while all other prices remained unchanged, 20% of the subscriptions LedgerOne lost would divert to BookEase. In a separate price experiment, if BookEase increased its subscription price by a nontransitory 5% while all other prices remained unchanged, 25% of the subscriptions BookEase lost would divert to LedgerOne. In each experiment, the remaining lost subscriptions would go to products outside the candidate market or would be purchases forgone.

Using an appropriate one-product SSNIP recapture formula, determine whether a hypothetical monopolist controlling both products could profitably impose a 5% SSNIP on LedgerOne and, separately, on BookEase. State the formula, calculate the critical recapture rate for each experiment, and compare it with the actual recapture rate. Does the two-product candidate market pass the HMT? Explain.

## **Part B. Market shares, concentration, and the *PNB* presumption**

Calls for a reasoned memorandum of law to the client.

You are an associate at Able & Baker LLP working with partner Margaret Chen. The firm represents Intelligent Ones (IO), a manufacturer of low calorie single serve frozen dinners. ConAgra Brands (ConAgra), which produces Healthy Choice low calorie single serve frozen dinners, has approached IO about a possible acquisition. Alice Long, IO's CEO, has asked the firm to assess whether the market shares and concentration resulting from the acquisition would permit the FTC to establish a presumption that the transaction would have an anticompetitive effect in violation of Section 7 of the Clayton Act. Chen has asked you to draft the memorandum.

For purposes of this assignment, assume that the relevant market is the manufacture and sale of low calorie single serve frozen dinners in the United States. The client has provided the following sales data for that market:

| <b>Firm (brand)</b>                   | <b>Sales (in millions of dollars)</b> |
|---------------------------------------|---------------------------------------|
| Nestlé (Lean Cuisine)                 | \$142.45                              |
| ConAgra (Healthy Choice)              | \$57.41                               |
| Intelligent Ones                      | \$50.00                               |
| Other/private label firms (six firms) | \$10.22                               |
| <b>Total</b>                          | <b>\$260.08</b>                       |

Assume that the table identifies all market participants, that sales revenues are an appropriate measure of their market shares, and that the six firms in the “other/private label” category are independently owned.

Chen asks that the memorandum explain the *Philadelphia National Bank* presumption, its legal significance, and the legal standards for triggering it, and then apply those standards to the proposed acquisition.

Long wants something concise yet rigorous that she can share with IO’s senior business leaders. Support your analysis with appropriate citations to authority. The client is asking only about the structural prima facie case, not for an ultimate determination whether the acquisition violates Section 7. You need not analyze market definition, other theories of anticompetitive harm, particular substantive defenses, or the merger review process.