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 23 Homework Assignment

Instructions

Submit by email by 3:30 pm on Thursday, November 12
Send to wdc30@georgetown.edu
Subject line: Merger Antitrust Law: Assignment for Class 23

Assignment: Calls for a memorandum to a partner (which may be sent to a client)

Raising Rivals' Costs

You are an associate at Able & Baker LLP. Dianne Lockhart, a partner in the firm's antitrust group, has sent you the following email.

From: Dianne Lockhart

Harbor/Outpost: The chief executive's argument about Ridge Retail

Our client Harbor Cooler Company has agreed to acquire Outpost Outfitters. Harbor makes soft-sided coolers. It sells them to two retailers, Outpost and Ridge Retail, which compete with each other and sell the coolers under their own labels. After the acquisition, Ridge will be buying its coolers from a company that owns its competitor.

I expect the agencies to ask whether Harbor could use its position as Ridge's supplier to disadvantage Ridge once it owns Outpost. Harbor's chief executive thinks we can dispose of that concern with a simple point:

> *"Ridge is a good customer. We would lose money if we stopped supplying it, even after buying Outpost. That means the acquisition gives us no reason to disadvantage Ridge."*

I am not sure it is that simple. Harbor's sales director has already proposed raising the price Harbor charges Ridge from $48 to $52 a cooler once the deal closes. And the company's economic consultant tells me that one of the measures the agencies use indicates Harbor should raise its price to Ridge by 12.5%, a $6 price increase.

Is the chief executive right? Even if cutting Ridge off would not pay, would owning Outpost give Harbor a reason to raise the price it charges Ridge? If so, does the sales director's $4 increase make sense? What would the combined company actually want to charge? What should I make of the consultant's claim that the agencies' measure calls for a 12.5% increase in Harbor's price to Ridge? What would a higher price to Ridge mean for Ridge and for consumers? Some of Ridge's customers would presumably switch to buy at Outpost instead, so are they hurt at all?

Ridge's purchasing manager has also told Harbor that Ridge could buy an equivalent cooler from another manufacturer for $49. Harbor's sales team doubts it, and the client's figures below assume that Ridge has no other source. If the purchasing manager is right, would it change the answer? Finally, how would the agencies and, if it comes to that, a court look at this issue, what evidence will matter, and what should I tell the client about the chief executive's argument?

I am not an economist, so please explain this in a way I can explain to the client. I may forward your memo to the chief executive. Show me the numbers behind your conclusions. Here are the facts the client has given us:

- Harbor sells these coolers only to Outpost and Ridge, and each retailer buys them only from Harbor. Each cooler a retailer sells is one it bought from Harbor, and each customer buys at most one cooler a month. The retailers differ in location and service, which is why some customers buy at Outpost even though it charges more.

Initial figure	Outpost	Ridge
Harbor's manufacturing cost per cooler	$24	$24
Harbor's wholesale price per cooler	$48	$48
Retail price per cooler	$66	$60
Other selling cost per cooler	$6	$6
Coolers sold per month	600	480

- Harbor's sales team, which has worked with Ridge for years, estimates that each $1 increase in Ridge's retail price costs Ridge about 80 sales a month, and that Ridge raises its retail price by about 50 cents for each $1 increase in what it pays for a cooler. The same holds in reverse for price cuts.
- When Ridge raises its price, about half of the customers it loses buy at Outpost instead; the rest buy coolers from third parties not supplied by Harbor or buy nothing. When Ridge cuts its price, about half of the customers it gains come from Outpost. The client expects these patterns to be the same after the acquisition.
- Harbor's sales team knows of no practical alternative supplier for Ridge. On that understanding, if Harbor stopped supplying Ridge altogether, the client expects that Ridge would stop selling soft-sided coolers entirely. About half of Ridge's 480 monthly customers would then buy at Outpost, and the rest would buy coolers from third parties not supplied by Harbor or buy nothing.
- Harbor can change the price it charges Ridge at any time; no contract locks it in. The companies deal only through per-cooler prices, with no fees, quantity discounts, or agreements about retail prices.
- Harbor's cost of making a cooler and each retailer's cost of selling one stay the same however many they make or sell, and Outpost could serve any customers who switch to it at its current cost. The acquisition will not change the coolers or the cost of making or

selling them. After the acquisition, Harbor plans to run the two businesses to maximize their combined profit.

Instructions

Write the memorandum Lockhart requests: work out what her questions require, do the analysis, and explain it so that a lawyer without economics training can follow it. Read *Analyzing Raising Rivals' Costs* before you begin, including Section 6 ("From model to evidence"). You may use the note's methods and results without proving them, but show in the memorandum itself the calculations and algebra that support your conclusions, including why your recommended wholesale price maximizes the combined company's profit.

For purposes of the assignment, assume the following. You need not restate these assumptions in your memorandum.

- Hold Outpost's retail price at $66 before and after the acquisition, and hold Harbor's premerger price to Outpost at $48. These two prices are taken as given; the exercise does not assume that either would maximize profit if it could change. Holding Outpost's retail price fixed isolates the analysis of Harbor's price to Ridge, the only price Harbor changes in this RRC analysis. The prices of coolers sold by others also stay the same.
- Harbor sets its price to Ridge first, anticipating Ridge's profit-maximizing retail response. Before the acquisition, Harbor may lawfully set separate prices for the two retailers, and no uniform-pricing requirement constrains its choices.
- Treat the client's estimates of how Ridge's retail price and sales respond to Harbor's wholesale price, and of where Ridge's lost customers go, as exact for any change in that price short of a complete cutoff. For a cutoff, use the client's separate forecast.
- For the alternative-supplier question only, assume that Ridge's purchasing manager is right: another manufacturer could supply Ridge immediately at $49, in any quantity and without switching costs. Ridge buys from Harbor today only because Harbor's $48 price is lower. Switching suppliers would not change the relationship between Ridge's retail price and its sales. Product quality and Ridge's $6 selling cost would also remain unchanged. Ridge sets its retail price based on the price it actually pays. It would stay with Harbor if Harbor matched $49 and would switch all its purchases if Harbor charged more, so in this case Ridge would not stop selling soft-sided coolers even if Harbor refused to supply it; it would buy them from the other manufacturer. For every other question, assume, as Harbor's sales team believes, that Ridge has no alternative supplier.
- Each cost is the same for every cooler, and there are no inventory changes or capacity limits. The combined company chooses its price to Ridge to maximize total profit, subject to the prices and other conditions held fixed in this exercise.

If you have any questions, send me an email. See you in class.