Antitrust Basics #3 — Monopolization

Even though a monopoly lowers consumer welfare compared to competition, in the United States being a monopolist is not illegal. What is illegal under the antitrust laws is for a firm to monopolize. Monopolization involves engaging in conduct that is not “competition on the merits” in order to obtain market power and reduce competition even further. Section 2 of the Sherman Act therefore bans certain types of unilateral conduct by firms with a large enough share of the market to be successful. Monopoly maintenance is also covered by the Sherman Act. But the conceptual line between legal competition and illegal monopolization can be hard to define. As a result, unilateral-conduct antitrust cases can be challenging for enforcement agencies.

Along with this reading, you may want to view the economics module on predatory pricing.

**Reading**

**Required reading**

Monopoly basics


  *United States v. Aluminum Co. of America*, 148 F. 2d 416 (2d Cir. 1945)

Exclusion


Predatory pricing


Tying


  *United States v. Microsoft Corp.*, 253 F.3d 34 (D.C. Cir. 2001)

  (Note: There is an entire module on this essential case! This is just a preview.)

Refusing to deal

  *Otter Tail Power v. United States*, 410 U.S. 366 (1973)


Price Squeezes

Loyalty Rebates

*Le Page’s Inc. v. 3M Co.*, 324 F.3d 141 (3rd Cir. 2003)

**Recommended reading**


**Background reading**

Robinson-Patman Act, 15 U.S.C. § 13(a)


*Utah Pie Co. v. Continental Baking Co.*, 386 U.S. 685 (1967)


*United States v. Colgate & Co.*, 250 U.S. 300 (1919)

*Cascade Health Solutions v. Peacehealth*, 515 F.3d 883 (9th Cir. 2008)

*Intel litigation saga on loyalty rebates in the EU: Cleary Gottleib Summary* (2017)