

Michael D. Whinston , LECTURES ON ANTITRUST ECONOMICS

MIT Press (2006), 249 pages

Professor Michael Whinston of Northwestern University is a well known industrial organization economist who has contributed both theoretical and empirical research on various aspects of competition analysis. He intends this book to serve as an introduction to the economics behind antitrust law. It is based on a series of lectures, and is not a comprehensive treatment of all areas of competition policy. In particular, the book presents theoretical analyses and a review of empirical research on price fixing, horizontal mergers, and exclusionary vertical contracts in the context of U.S. antitrust laws. The target audience is primarily economists, but the author hopes that it will also be of interest to “sophisticated antitrust lawyers”.

The clear strengths of the book are its summary of much of the important theoretical and empirical economic research relevant to the three topics it discusses, and the interesting way the author attempts to tie the existing research together. Given the state of the economic literature and the book being based on a series of lectures, it is perhaps not surprising that its treatment of the three areas studied is somewhat uneven.

Each chapter begins with a very brief summary the author’s interpretation of the relevant U.S. antitrust law or policy, moves to an analysis of what he believes to be the most relevant economic models, and ends with a summary of the existing empirical research. In certain areas, the book delves deeply into economic models -- complete with many equations and graphs. In others, the book is more a summary of various economic articles and the author’s take what the U.S. courts and antitrust agencies actually do in investigating and enforcing antitrust laws.

The book’s presentation of price fixing (an area where there has been a consensus on the merits of antitrust enforcement) is not highly technical and should be understood by his target audience. It does a nice job summarizing the empirical evidence on the effects of price fixing, and concludes that empirical work is limited and mixed in its findings. This chapter also raises some interesting conceptual questions. For example, Whinston highlights that most price fixing cases revolve around proving an agreement,

but he concludes that economic theory has done little to develop tests that can separate explicit from tacit collusion. His review does not expressly cover, however, the recent economic literature that proposes inferring explicit agreements by identifying firms' actions that are contrary to their unilateral self interests.¹

The chapter on horizontal mergers begins with a discussion of the Williamson trade off between productivity improvements and reductions in competition from mergers,² and moves on to a somewhat simplified presentation of Farrell and Shapiro's Cournot model of mergers with cost savings.³ It then describes the various steps of the U.S. Department of Justice and Federal Trade Commission *Horizontal Merger Guidelines* and discusses econometric techniques for answering some of the questions posed by the *Guidelines*. Whinston also critiques three approaches for analyzing mergers that he believes do not require sharp market definitions and share analysis: merger simulation, residual demand estimation, and stock price event studies. The author favors the first technique, in part because it is based on formal models that can predict price increases with a merger. He does not adequately address some of the potential shortcomings of this approach, such as the often untested assumptions required for such an analysis or the fact that setting up these models often implicitly defines a relevant market.

The chapter on exclusionary vertical contracts begins with discussion of the Chicago School view that exclusive contracts are almost always efficient, and illustrates the argument with an economic model. It then presents some of the formal models in the literature that show when exclusive contracts can be anticompetitive and analyses the types of pro-competitive justifications for such contracts. This chapter's extensive use of economic models will present the most challenges for a non-economist. The chapter ends with a discussion of the relatively scarce empirical literature attempting to test the net effects of exclusive contracts on foreclosure and other issues of competitive concern.

¹ See, e.g., Gregory J. Werden, *Economic Evidence on the Existence of Collusion: Reconciling Antitrust Law with Oligopoly Theory*, 71 *Antitrust Law Journal* 719 (2004).

² O. E. Williamson, *Economies as an Antitrust Defense: The Welfare Trade Off*, 58 *American Economic Review* 407 (1968).

³ J. Farrell and C. Shapiro, *Horizontal Mergers: An Equilibrium Analysis*, 80 *American Economic Review* 107 (1990).

Whinston recognizes that this is an area active debate in economics and competition policy, but leaves the reader to determine on balance what to make out of the research.

Substantial portions of the book will be of interest to most of Whinston's target audience. It often provides interesting insights into the economic basis for the three areas covered, and contains particularly good summaries of many relevant theoretical and empirical articles. It would be a good addition to the library of interested economists and many sophisticated competition lawyers.

James Langenfeld, PhD

LECG and

Loyola University Chicago School of Law