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978-0-521-74608-3 - Monopsony in Law and Economics

Roger D. Blair and Jeffrey L. Harrison

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MONOPSONY IN LAW AND ECONOMICS

Most readers are familiar with the concept of a monopoly. A monopolist is the only seller of a good or service for which there are not good substitutes. Economists and policy makers are concerned about monopolies because they lead to higher prices and lower output. The topic of this book is monopsony, the economic condition in which there is one buyer of a good or service. It is a common misunderstanding that if monopolists raise prices, then monopsonists must lower them. It is true that a monopsonist may force sellers to sell to them at lower prices, but this does not mean consumers are better off as a result. This book explains why monopsonists can be harmful and the way law has developed to respond to these harms.

Roger D. Blair is Walter J. Matherly Professor of Economics at the University of Florida, where he has taught since 1970. He received his Ph.D. from Michigan State University. Professor Blair is the author or coauthor of numerous books, including *Antitrust Economics* (with David Kaserman), *Law and Economics of Vertical Integration and Control* (with David Kaserman), *Monopsony: Antitrust Law and Economics* (with Jeffrey Harrison), *Intellectual Property: Economic and Legal Dimensions of Rights and Remedies* (Cambridge University Press, with Thomas Cotter), *The Economics of Franchising* (Cambridge University Press, with Francine Lafontaine), and Volume II of *Antitrust Law* (with Herbert Hovenkamp, Christine Durrance, and the late Philip Areeda). He is also the editor or coeditor of many volumes, including *Proving Antitrust Damages*. Professor Blair has written more than 170 articles or chapters in professional economics journals, law reviews, and books.

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and

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To the memory of my parents –
Duncan and Eleanor – who gave me so much.

–Roger D. Blair

For Sarah, McCabe, Casey, and Connor

–Jeffrey L. Harrison

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Preface

In 1993, we published a relatively short book, *Monopsony: Antitrust Law and Economics* (Princeton University Press). At that time, although monopsony had been a mainstay in the study of economics, the courts addressed it only rarely. No doubt, this neglect was due at least in part to two things. First, plaintiffs (and their lawyers) focused their attention on sellers, and, therefore, monopsony did not come up. Second, the ill effects of monopsony are somewhat counterintuitive. There was a mistaken belief among some that if monopsony power is used to lower prices, this must ultimately be beneficial to consumers. In most instances, this is faulty economic reasoning. This state of affairs was particularly difficult to understand since monopsony conditions and behavior abounded even then. Moreover, monopsony results in the same types of distributive and allocative issues raised by the exercise of monopoly power.

In the past eighteen years, much of this has changed. Increasingly, courts have decided cases that deal with the behavior of buyers. These cases arise in markets ranging from agriculture to health care to college and professional athletes. In addition, the number of contributions of other legal scholars to the monopsony literature has exploded since our initial effort. This focus on buyer behavior gives rise to complex issues. For example, when is a buying cooperative an illegal collusive monopsony? Does bilateral monopoly represent a “solution” to the problems monopsony presents? In addition, when the antitrust theory involves monopsony, how are the concepts of antitrust standing and injury to be applied?

We believed that these changes warranted our revisiting monopsony. This book represents far more than a new edition of our 1993 offering. It includes a number of additional chapters, applying monopoly theory and law to specific industries: agriculture, health care, and sports. In some

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measure, it also represents a reexamination of some of our own ideas as presented in our earlier book.

As the final chapter of this book indicates, there is still work to be done. This is, in part, a direct result of the nature of antitrust law more generally. As it evolves, it is important that the legal treatment of monopsony also evolve.

A work of this nature is never the product of the efforts of the authors alone. Thus, the authors would like to thank Kristine Coffin, Christine Durrance, Jessica Haynes, Jill Herndon, and John Lopatka for past collaboration. Sarah Goldberger, Casey Harrison, Jessica Haynes, and Corinne Turcotte all helped in various ways in manuscript preparation. Scott Parris, our editor at Cambridge, was supportive and encouraging throughout the process. Naturally, all errors and omissions are our own. We sincerely invite comments from interested readers.

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