

## Contents

<i>Preface</i>	<i>page</i>	<i>xiii</i>
1	Introduction	1
1.1	Introduction	1
1.2	Some Recent Examples	2
1.2.1	Bid Rigging at Antique Auctions	2
1.2.2	Information Sharing at Treasury Auctions	3
1.2.3	American Express and the Boston Fee Party	5
1.2.4	Collusion on Campus: Financial Aid	6
1.2.5	Collusion in Baseball's Free Agent Market	8
1.2.6	The Market for College Athletes and Coaches	10
1.2.7	Monopsony and Agriculture	11
1.2.8	Upheaval in Health Care Markets	12
1.3	Plan of the Book	14
2	The Antitrust Laws and Monopsonistic Forms of Conduct	16
2.1	Introduction	16
2.2	The Sherman Act	17
2.2.1	Agreements in Restraint of Trade	17
2.2.2	Monopolization and Attempts to Monopolize	20
2.3	The Clayton Act	22
2.3.1	Price Discrimination	23
2.3.2	Tying and Exclusive Dealing	24
2.3.3	Mergers	27
2.4	A Taxonomy of Monopsony Cases	29
2.4.1	Collusive Monopsony	30
2.4.2	Single-Firm Conduct	36
2.4.3	Mergers	40
2.5	Concluding Remarks	40

Cambridge University Press

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

Roger D. Blair and Jeffrey I. Harrison

Table of Contents

[More information](#)

viii

*Contents*

3	Economic Theory of Monopsony	41
3.1	Introduction	41
3.2	A Simple Model of Monopsony	41
3.2.1	The Welfare Effects of Monopsony	43
3.2.2	The Effect of Monopsony on Output Price	45
3.3	Collusive Monopsony	48
3.3.1	The Economics	48
3.3.2	Conditions Conducive to Collusive Monopsony	49
3.3.3	Organizing and Implementing a Buyer Cartel	50
3.3.4	Problems for Collusive Buyers	51
3.4	Measuring Buying Power	53
3.4.1	The Measurement of Buying Power	54
3.4.2	The Buying Power Index: Pure Monopsony	54
3.4.3	The Buying Power Index: The Dominant Buyer	55
3.4.4	The BPI and the Department of Justice Threshold	60
3.5	Market Definition and the BPI	61
3.6	The Buying Power Index in Practice	64
3.7	Concluding Remarks	67
4	The Antitrust Response to Monopsony and Collusive Monopsony	68
4.1	Introduction	68
4.2	Judicial Assessment of Market Power	69
4.3	Monopsony Pricing	70
4.4	Abuses of Monopsony Power	78
4.4.1	Price Effects	78
4.4.1.1	Classical Model	78
4.4.1.2	Inelastic Supply and Perishable Commodities	79
4.4.1.2.1	The Role of Perishability	81
4.4.1.2.2	Welfare Consequences of Collusion in the Context of Inelastic Supply	82
4.4.1.2.3	All-or-None Supply Cases	83
4.4.2	Nonprice Abuses	85
4.4.2.1	Horizontal Market Division	85
4.4.2.2	Bid Rigging	86
4.4.2.3	Refusals to Deal	88
4.4.2.4	Monopsony Leverage and Tying	91
4.5	Monopsony and Merger Policy	93
4.5.1	Horizontal Mergers	93
4.5.2	Vertical Mergers	96
4.6	Monopsony and Price Discrimination	99

Cambridge University Press

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

Roger D. Blair and Jeffrey I. Harrison

Table of Contents

[More information](#)

<i>Contents</i>		ix
4.6.1	Monopsony and Unexploited Scale Economies	101
4.6.2	Different Supply Elasticities	103
4.7	Concluding Remarks	104
5	Cooperative Buying Efforts	106
5.1	Introduction	106
5.2	The Theory of Joint Purchasing	107
5.2.1	Efficiency-Enhancing Cooperative Buying Ventures	108
5.2.2	Enhanced Efficiency and Increased Buying Power	109
5.3	Antitrust Responses to Cooperative Buying Efforts	113
5.3.1	The Ancillary Restraints Doctrine	113
5.3.2	Application of the Ancillary Restraints Doctrine to Efficiency-Producing Buying Agreements	115
5.3.2.1	Cooperative Buying	115
5.3.2.2	Product Standardization	117
5.3.2.3	Northwest Wholesale Stationers and U.S. Department of Justice Guidelines	119
5.3.2.4	A Structural Dilemma	121
5.4	Concluding Remarks	122
6	Bilateral Monopoly	123
6.1	Introduction	123
6.2	Countervailing Market Power in Antitrust	124
6.3	The Bilateral Monopoly Muddle	126
6.4	The Correct Solution	127
6.4.1	A Simple Model of Bilateral Monopoly	128
6.5	A Formula Price Contract Solution	131
6.5.1	Difficulties with Vertical Integration	131
6.5.2	Vertical Integration by Contract	132
6.5.3	Formula Price Contracts	133
6.5.4	Performance Characteristics	134
6.6	Limitations of Countervailing Power Considerations	136
6.6.1	Transaction Costs	136
6.6.2	The Risk of Seller Collusion	138
6.6.3	Oligopoly and Oligopsony	140
6.7	Concluding Remarks	141
	Appendix: Price Determination in Bilateral Monopoly	142
7	Monopsony and Antitrust Enforcement	146
7.1	Introduction	146
7.2	Private Enforcement	146

7.2.1	Antitrust Injury	150
7.2.2	Antitrust Standing	152
7.3	Applying the Standards	156
7.3.1	Collusive Monopsony	157
7.3.1.1	Price Fixing	157
7.3.1.2	Market Division	162
7.3.1.3	Boycotts	163
7.3.2	Monopsonization	163
7.3.2.1	Nonprice Efforts	163
7.3.2.2	Predatory Pricing	164
7.4	Mergers	166
7.5	Price Discrimination	167
7.6	Concluding Remarks and Measuring Antitrust Damages	168
8	Monopsony in Action: Agricultural Markets	172
8.1	Introduction	172
8.2	The Monopsony Problem	173
8.3	Monopsony Power and Contract Power	174
8.4	Tying and Reciprocal Dealing	179
8.5	Alternative Approaches to Agricultural Buying Power	182
8.6	Concluding Remarks	187
9	Monopsony in Action: The NCAA	188
9.1	Introduction	188
9.2	Introduction to the NCAA	188
9.3	Collusive Monopsony	189
9.4	The NCAA and Collusive Monopsony	190
9.4.1	Organizing Limits on Prices and Quantities	191
9.4.2	Revenue Sharing	194
9.4.3	Sanctions for Cheating	194
9.5	Antitrust Challenges to the NCAA Monopsony	196
9.5.1	Walk-on Athletes: <i>In re NCAA I-A Walk-on Football Players Litigation</i>	197
9.5.2	Undercompensation: <i>White v. NCAA</i>	198
9.5.3	Numbers of Coaches: <i>Hennessey v. NCAA</i>	199
9.5.4	Coaches' Compensation: <i>Law v. NCAA</i>	201
9.6	Concluding Remarks	204
10	Monopsony in Action: Physician Collective Bargaining: Monopoly or Bilateral Monopoly	205
10.1	Introduction	205
10.2	Economic Rationale of the State Legislation	207

Cambridge University Press

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

Roger D. Blair and Jeffrey I. Harrison

Table of Contents

[More information](#)

<i>Contents</i>	xi
10.3 The Effect of Cooperative Bargaining	208
10.4 Reaction of the Federal Trade Commission	208
10.5 Economic Rationale of FTC Concerns	211
10.6 State Action Doctrine	211
10.6.1 Background	212
10.6.2 Clear Articulation	212
10.6.3 Active State Supervision	213
10.6.4 Information Available	215
10.7 Diagnosing Monopsony Power	215
10.7.1 Statutory Guidance	216
10.7.2 Monopsony and Monopsony Power	217
10.7.2.1 Analysis of the Relevant Product (or Service) Market	217
10.7.2.2 Analysis of the Relevant Geographic Market	218
10.7.2.3 Measuring Monopsony Power	218
10.7.2.4 Importance of Entry Barriers	220
10.7.2.5 Implications of the BPI	220
10.7.3 Calculating Market Shares	221
10.8 Postnegotiation Review	222
10.9 Concluding Remarks	222
11 Final Comments	224
11.1 Introduction	224
11.2 The Evolving Nature of Antitrust Law	224
11.3 Issues of Antitrust Injury and Standing	225
11.4 Cooperative Buying and Bilateral Monopoly	228
11.5 The Pervasiveness of All-or-None Supply	230
11.6 Single-Firm Behavior	231
<i>Bibliography</i>	233
<i>Index</i>	245