

## Sherman Act (1890)

- Attempt to monopolize illegal
- Conspiracy to restraint trade illegal
- Standard Oil broken into 33 companies
- Fines and imprisonment for violations
- Rule of Reason
  - Do you have a pro-competitive reason?

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## Violation

- Two part test
- Did firm have monopoly power in a market?
- Did firm engage in illegal activity to extend or maintain that power?
- Legal to obtain monopoly through “a superior product, business acumen or historic accident”

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## Alcoa

- Violated law by
  - Contracts prohibiting utilities from selling power to rival smelters
  - Price-fixing with foreign producers
  - Increasing price of ingot to sheet fabricators
  - Expanding capacity to eliminate rivals
- US created competitors Reynolds, Kaiser using WWII assets

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## Clayton Act (1914)

- Adds detail to Sherman
- No criminal penalties
- Treble damages
- Section 2 (Robinson Patman) prohibits price discrimination which lessens competition
- Morton salt volume discounts illegal (1948)
- Section 7 bans mergers that lessen competition

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## Section 3

- Forbids exclusionary tactics that lessen competition, including:
  - Tying (must buy one good to get another)
  - Requirements Tying (buyer agrees to buy all its needs from the seller)
  - Exclusive Dealing (buyer agrees to deal only with seller)
  - Exclusive Territories (Buyer agrees to operate only in specified region)
  - Resale Price Maintenance (Buyer agrees to a minimum resale price)
  - Predatory Pricing (pricing below cost to eliminate a competitor)

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## FTC Act

- Permits FTC commissioners to prevent unfair and deceptive practices
- Commission is quasi-judicial
  - Issues restraining orders
- Pizza, oil treatments, and shakes

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## Vertical Restraints

- Refusal to deal
  - If access to an essential facility denied, firm cannot compete and competition harmed
- Predation
  - Price below MC, AVC
  - Ability to recoup lost profits

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## Vertical Restraints

- Once sold, good cannot be further constrained
  - Coors east of Mississippi
  - Mercedes car parts
  - Resale Price Maintenance
- Tying purchase of one good to use or non-use of another in order to lessen competition is illegal
  - Tying Kodak film to Kodak development
  - Carry 3M equipment, can't carry rivals

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## Mergers

- Horizontal
  - Product market
    - Would a hypothetical monopolist over set of products find it profitable to raise price by a SSNIP?
  - Geographic market
    - Would a hypothetical monopolist over a geographic area find it profitable to raise price by a SSNIP?
  - SSNIP = small but significant and nontransitory increase in price
    - 10% for 2 years

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## Assessing Concentration

- Hirschmann-Herfindahl Index (HHI)
  - Is the sum of the squared market shares
- <1000, unconcentrated, no concern
- 1000-1800, moderate, some concern
- >1800, concentrated, concern
- Varies with industry characteristics, history of collusion, profit margins

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## Vertical Mergers

- Raising rival's costs
- Foreclosure
- Microsoft's proposed merger of Intuit
  - Use OS to eliminate rivals to Quicken?

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