

# Table of Contents

## CHAPTER 1. RECENT DEVELOPMENTS

- § 1:1 Overview; agency developments
- § 1:2 Significant Sherman Act § 1 developments
- § 1:3 Significant Sherman Act § 2 developments
- § 1:4 Other significant recent case developments

## CHAPTER 2. SHERMAN ACT SECTION 1

- § 2:1 Statutory language
- § 2:2 Overview of Section 1
- § 2:3 Necessity of “concerted action”
- § 2:4 —In general
- § 2:5 —Dealer complaints and pretermination discussions with replacement dealers
- § 2:6 —Parallel pricing and other parallel behavior
- § 2:7 —Corporate affiliates, joint ventures, and other purported “single entities”
- § 2:8 Per se versus rule of reason analysis
- § 2:9 —In general
- § 2:10 —Rule of reason; “quick look” rule of reason
- § 2:11 Horizontal price-fixing
- § 2:12 Vertical price-fixing: price suggestions versus price maintenance; hybrid horizontal-vertical restraints
- § 2:13 Horizontal nonprice restraints
- § 2:14 Vertical nonprice restraints; dual distribution and other hybrid restraints
- § 2:15 Group boycotts
- § 2:16 —In general
- § 2:17 —Health Care Quality Improvement Act
- § 2:18 Tying arrangements
- § 2:19 Exclusive dealing
- § 2:20 Reciprocal dealing
- § 2:21 *Pick-Barth* “unfair competition” conspiracies
- § 2:22 Joint ventures; standards-setting; National Cooperative Research and Production Act

## **CHAPTER 3. SHERMAN ACT SECTION 2**

- § 3:1 Statutory language
- § 3:2 Overview of Section 2
- § 3:3 Single firm monopolization
- § 3:4 —Defining the relevant market and monopoly power
- § 3:5 —Monopolizing conduct
- § 3:6 Attempted monopolization
- § 3:7 Combinations and conspiracies to monopolize
- § 3:8 —Joint monopolization
- § 3:9 —Incipient conspiracies to monopolize
- § 3:10 Monopoly leveraging; essential facilities doctrine
- § 3:11 Monopoly leveraging
- § 3:12 Essential facilities doctrine
- § 3:13 Predatory pricing; bundled discounts and differential pricing

## **CHAPTER 4. ROBINSON-PATMAN ACT (CLAYTON ACT SECTION 2)**

- § 4:1 Statutory language
- § 4:2 Overview of the Robinson-Patman Act
- § 4:3 Discriminatory pricing
- § 4:4 Defenses: cost justification, meeting competition, availability defense, and functional discounts
- § 4:5 Illegal brokerage payments
- § 4:6 Discriminatory promotional payments, services, and facilities
- § 4:7 Buyer liability

## **CHAPTER 5. CLAYTON ACT SECTION 3**

- § 5:1 Statutory language
- § 5:2 Tying and exclusive dealing involving “commodities”
- § 5:3 —In general
- § 5:4 —Tying restraints
- § 5:5 —Exclusive dealing

TABLE OF CONTENTS

**CHAPTER 6. CLAYTON ACT  
SECTIONS 7 AND 8**

- § 6:1 Statutory language
- § 6:2 Overview of Sections 7 and 8; remedies; pre-merger filing requirements; interlocking directorates
- § 6:3 Horizontal mergers and acquisitions—Introduction
- § 6:4 —Judicial precedent
- § 6:5 —Agency guidelines
- § 6:6 Vertical and conglomerate mergers—Introduction
- § 6:7 —Judicial precedent
- § 6:8 —Agency guidelines
- § 6:9 Rebutting a prima facie case; Defenses

**CHAPTER 7. FTC ACT SECTION 5**

- § 7:1 Statutory language
- § 7:2 Unfair methods of competition

**CHAPTER 8. ANTITRUST  
EXEMPTIONS AND IMMUNITIES**

- § 8:1 Exemptions and immunities
- § 8:2 Insurance exemption
- § 8:3 Labor exemption
- § 8:4 Agricultural cooperatives exemption
- § 8:5 Export trade exemptions: Webb-Pomerene Act and Export Trading Company Act
- § 8:6 Implied immunity—Conflicting federal regulation; filed rate doctrine
- § 8:7 State action immunity; Local Government Antitrust Act; preemption of state laws
- § 8:8 Noerr-Pennington immunity
- § 8:9 Primary jurisdiction
- § 8:10 Foreign commerce—Sovereign immunity, act of state, and foreign sovereign compulsion

**CHAPTER 9. LITIGATION  
PROCEDURE**

- § 9:1 Domestic and foreign commerce requirements—Introduction

- § 9:2 —Domestic commerce
- § 9:3 —Foreign commerce; FTAIA; international comity
- § 9:4 Personal jurisdiction
- § 9:5 Standing—Introduction
- § 9:6 —Antitrust injury
- § 9:7 —Article III standing
- § 9:8 —Efficient enforcer considerations
- § 9:9 —Indirect purchaser doctrine
- § 9:10 Venue
- § 9:11 Statute of limitations and laches
- § 9:12 Res judicata; collateral estoppel
- § 9:13 Pre- and post-trial motions—Introduction
- § 9:14 —Motions to dismiss
- § 9:15 —Summary judgment motions
- § 9:16 —Motions for judgment as a matter of law
- § 9:17 Discovery
- § 9:18 —In general
- § 9:19 —Attorney-client privilege
- § 9:20 —Fifth Amendment privilege
- § 9:21 —Attorney work-product and other work-product
- § 9:22 Class actions; parens patriae actions
- § 9:23 Remedies
- § 9:24 —Statutory language
- § 9:25 —Treble damages; contribution
- § 9:26 —Injunctive relief
- § 9:27 —Attorney’s fees and costs

**Table of Cases**

**Index**