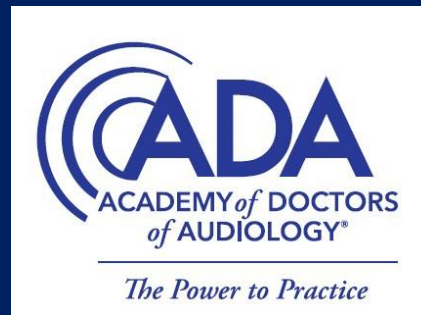


Antitrust Primer

for ADA Association Members

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The Academy of Doctors of Audiology and Antitrust

- ADA is a 501 (c) 6 Trade Association
- ADA is comprised professional audiologists...who are competitors
- ADA and its members should expect to be scrutinized because of the potential for antitrust violations



Underlying Antitrust Principles

- Prevent higher prices and lower quality and service
- Competitive market yields optimal prices, quality and service
- Protect competition, not competitors



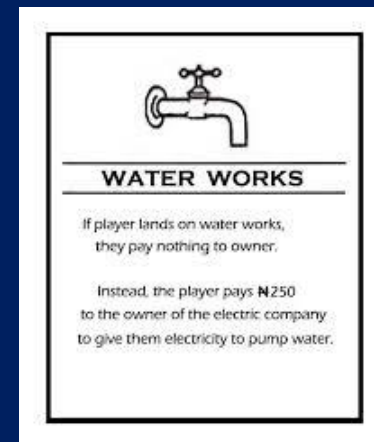
Antitrust Statutes

- Almost entirely governed by Federal law, in Federal courts
- States generally have parallel statutes, but State cases are very rare



Sherman Act

- Section 1: Agreements in restraint of trade
- Section 2: Monopolization




Clayton Act

- Section 3: Exclusive dealing and tying
- Section 7: Mergers and acquisitions



Robinson-Patman Act



READING RAILROAD

Rent	\$25.00
If 2 R.R.'S are owned	50.00
If 3 " " "	100.00
" " "	200.00
Value	100.00



TITLE DEED BOARDWALK

RENT \$50.

With 1 House	\$ 200.
With 2 Houses	600.
With 3 Houses	1400.
With 4 Houses	1700.
With HOTEL	\$2000.

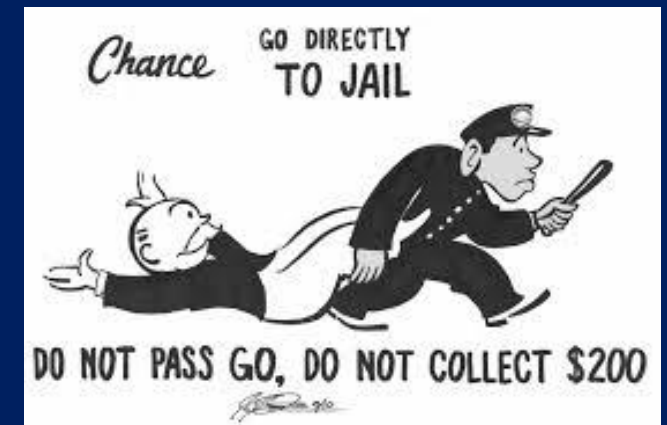
Mortgage Value \$200.
Houses cost \$200. each
Hotels, \$200. plus 4 houses

If a player owns All the Lots of any Color Group, the rent is Doubled on Unimproved Lots in that group.

Section 2: Price discrimination

Civil and Criminal Enforcement

- Civil Enforcement
 - Private civil actions: injunctions, treble damages and attorney fees
 - Government civil actions: Department of Justice and Federal Trade Commission
 - Almost always for injunctions, not damages
- Criminal Enforcement
 - Department of Justice criminal actions
 - Prison and fines
 - Intent required; reasonable doubt standard



Interpretation by the Courts

- Per Se (assumed) violations
- Per Se now limited almost entirely to “horizontal” price-fixing agreements between competitors
- Rule of Reason
- Applies to virtually all antitrust claims
- Anticompetitive effect or the threat of it must be proven
- Involves complex economic analysis
- Market power – ability to control prices and/or quality – must be shown



Specific Issues

- Horizontal agreements between competitors to fix prices, allocate customers, etc.
- Vertical agreements between suppliers and distributors
- Boycotts, exclusions from membership and refusals to deal
- Industry self-regulation/Codes of ethics
- Surveys
- Tying of products
- Price differentials, esp. better prices to larger customers



Questions & Answers

