European Union vs. Coca-Cola

Domestic Market History

- May 7th, 1998- Pepsi Co. files suit against Coca-Cola.
  - Claim- Coke monopolized the fountain-dispensed industry in movie theatres and fast food restaurants
  - Coke controlled 44% of market, Pepsi 31%
  - However- Coke controlled 90% of fountain-dispensed
  - Pepsi claimed Coke refused to deal with distributors that carried Pepsi

Domestic Market continued…

- This was supposedly in violation of the second clause in the Sherman Act.
- Result of the case:
  - Pepsi lost. The court ruled that fountain drinks were not a separate market.
  - Pepsi did not provide adequate evidence that Coke dominated the market as a whole

Sherman-Clayton Act

- Sherman Antitrust Act~ first federal law that prohibits any conspiracy in interstate or foreign trade.
  - No person or firm is allowed to monopolize, or attempt to monopolize an industry alone or in conspiracy with others
  - Result is a felony fine up to $10 million per violation

Sherman-Clayton Act Continued:

- Clayton Antitrust Act~ regulates general practices that may violate fair competition
  - Price discrimination
  - Exclusivity dealing contracts
  - Tying agreements
  - Requirement contracts
  - Mergers and acquisition

Monopolistic Pricing

Background

- Coca-Cola expanded to Europe- Pepsi followed closely
- near 50% of the market belonged to Coke. The second was Pepsi at 10%
- = $21.2 Billion in Coke Sales. Pepsi = about half of that
- Pepsi's previous challenges in US provoked investigation in European Markets

More background

- European Union Competition Commissioner, Mario Monti, filed suit and started investigation Coca-Colas distribution practices in 1999
- Best sellers were Coke and Fanta Orange
- Worst sellers were Sprite and Vanilla Coke
  - Equal proportions of these brands were carried
- Countries involved- Austria, Belgium, Denmark, Great Britain, and Germany

The Case~ 1

- The EU's Case-
  - Coke offered unfair incentives to retailers.
    - Significant promotional rebates to retailers who stocked all of Cokes brand names.
    - Coke offered rebates for sales volume as well

The Case~ 2

- Exclusivity Deals
  - Coca-Cola had many retailers sign exclusivity contracts which stated that they would only carry Coca-Cola products. This blocked out rivals and slowed sales of other products significantly

Outcomes for Coke

- 1. No exclusivity agreements (clayton)
  - In retailers and fountain-distribution, coca-cola is not allowed to make their contracts on the stipulation that the store may sell no other brand.
- 2. No target growth rebates (sherman section 2)
  - Coca-Cola is not allowed to give companies rebates for simply purchasing the same amount as the previous year. This makes retailers more free to buy other products if they wish.

More rules…

- 3. No Tying- (clayton)
  - Coca-Cola cannot use its popular brands (Coke and Fanta) and insist that retailers purchase less popular products (Vanilla Coke or Sprite) at the same time.
  - Coca-Cola cannot offer rebates to customers who purchase products together

And one more

- 4. 20% of Coca-Colas cooler space-
  - If Coke provides a free cooler and there is no other cooler in the vicinity, the retailer can use at least 20% of the cooler provided by Coca-Cola for any product. This prevents Coca-Cola from creating further exclusivity demands that block other product availability.

Results

- The outcomes are binding in EU, Norway, and Iceland
- Valid until December 31st, 2010. At this point the markets will be reevaluated.
- The rules only kick in if Coca-Cola is measured to have 40% of the market