

APPENDIX 2: TIME LINE

TIME LINE OF SELECTED DEVELOPMENTS IN AMERICAN ANTITRUST LAW	
1890	Congress enacts the Sherman Act , prohibiting agreements in restraint of trade, monopolization, and attempts and conspiracies to monopolize.
1895	The first Sherman Act case to reach the U.S. Supreme Court involved the Sugar Trust. <i>United States v. E.C. Knight Co.</i> , 156 U.S. 1 (1895). The Court adopted a narrow view of what comprised “interstate commerce,” effectively rejecting the government’s argument that acquisition of manufacturing capacity was illegal monopolization. The Court also suggested that an acquisition of stock of one corporation by another to control the second corporation was not interstate commerce.
1904	In <i>Northern Securities Co. v. United States</i> , 193 U.S. 197 (1904), a railroad industry case, the Supreme Court ruled that mergers and acquisitions could violate the Sherman Act, effectively ending a loophole that allowed corporations to evade the Sherman Act by owning other corporations instead of using trusts.
1911	Twenty-one years after the Sherman Act was passed, the U.S. Supreme Court forced the breakup of the holding company that succeeded the former oil trust in <i>Standard Oil Co. v. United States</i> , 31 U.S. 502 (1911). The Court held that the Sherman Act was intended to prohibit “undue” or unreasonable restraints on trade, as opposed to each and every agreement that restrained trade in any way. The Court found that combining the ownership of virtually the entire capacity for refining and distributing oil in the United States easily fell within the prohibitions of Section 1 and Section 2 of the Sherman Act. The Court ordered Standard Oil broken into 34 independent companies, several of which are now part of today’s ExxonMobil.
1914	The Clayton Act was enacted by Congress to strengthen antitrust enforcement powers. The Act prohibits anticompetitive price discrimination and tying, as well as mergers and acquisitions that are likely to substantially lessen competition or tend to create a monopoly. It also provides a right for persons injured by violations of the Sherman or Clayton Act to sue in federal court for treble damages, injunctive relief, and recovery of attorneys’ fees if they win.
1914	Congress creates the Federal Trade Commission (FTC) by passing the Federal Trade Commission Act . The FTC has the power to enter cease-and-desist orders to enforce antitrust laws, as well as to enforce the prohibition against unfair and deceptive trade practices and unfair methods of competition established in Section 5 of the act.
1918	In its decision in <i>Chicago Board of Trade v. United States</i> , 246 U.S. 231 (1918), the Court articulated the Rule of Reason , which has become the standard by which agreements and restraints are evaluated under Section 1 of the Sherman Act. The Rule of Reason tells courts to consider the circumstances of the agreement and restraint, and ultimately, whether benefits to competition outweigh harm to competition.
1927	In <i>United States v. Trenton Potteries</i> , 273 U.S. 392 (1927), the Supreme Court explained that price-fixing by competitors was per se illegal . This meant that when defendants were alleged to have fixed prices, they would not be able to use the Rule of Reason to attempt to show that the price set was reasonable.
1936	Congress passes the Robinson-Patman Act , amending and strengthening the price discrimination provisions in the Clayton Act.

TIME LINE OF SELECTED DEVELOPMENTS IN AMERICAN ANTITRUST LAW	
1945	In <i>United States v. Aluminum Company of America</i> , 148 F.2d 416 (2d Cir. 1945), the Court of Appeals ruled that the Aluminum Company of America, now Alcoa, violated the Sherman Act by monopolizing the market for aluminum ingot. The court suggested that a 90 percent market share indicated a monopoly and that even after taking some measures to eliminate antitrust violations, Alcoa willfully engaged in conduct to maintain its monopoly. Because the Sherman Act prohibited the conduct of monopolization, even though Alcoa did not make unreasonable profits, its conduct still created a monopoly, and was therefore illegal.
1948	The decision in <i>United States v. Paramount Pictures, Inc.</i> , 334 U.S. 141 (1948), forever changed the movie industry and how everyday Americans viewed movies. The U.S. Supreme Court ruled that Paramount Pictures had engaged in both horizontal and vertical price-fixing. The Court also held that the collective ownership of distribution and exhibition facilities by multiple production studios and deals favoring larger, entrenched firms and excluding smaller competitors from more favorable deals and business violated the Sherman Act. Thus, the major movie studios had to give up ownership of the theaters in which their movies were shown and could no longer control every aspect of movie production, distribution, and exhibition, opening up those aspects of the business for greater competition.
1950	<i>Celler-Kefauver Amendments</i> strengthen Section 7 of the Clayton Act, making it applicable to asset acquisitions in addition to acquisitions of stock and to acquisitions likely to substantially lessen competition in any line of commerce in any section of the country. That meant that Section 7 of the Clayton Act could be applied against vertical mergers, as well as mergers between competitors.
1962	The <i>Brown Shoe Co. v. United States</i> , 370 U.S. 294 (1962), decision, following the 1950 amendments to Section 7 of the Clayton Act, created the test to determine the “market,” relevant for purposes of applying the antitrust law. The relevant market has a geographic scope (section of the country) and may include a range of close substitute products or services (line of commerce). In defining the relevant geographic market and the relevant product market, the Court must consider the view of consumers and the alternatives available to them in the marketplace is key. Thus the relevant product market includes not only the products or services offered by the company in question, but also any other products or services offered by other companies that could be reasonably substituted for those products or services. Similarly, the geographic market includes areas to which the consumer may reasonably turn for alternatives.
1964	The Department of Justice (DOJ) issued its first Merger Guidelines to clarify enforcement policy and provide guidance on how laws were enforced.
1976	Congress passed the Hart-Scott-Rodino Antitrust Improvements Act of 1976 , which requires a person acquiring significant assets or voting securities to report the transaction to the FTC and DOJ before proceeding. This allows the agencies to investigate the potential impact on competition and determine whether to seek an injunction to stop the transaction.
1977	In <i>Continental TV, Inc. v. GTE Sylvania Inc.</i> , 433 U.S. 36 (1977), the Supreme Court held that vertical territorial restraints were not per se illegal but were subject to the Rule of Reason. Since this decision, the trend in Supreme Court decisions has been to limit the types of conduct that are treated as per se illegal.

TIME LINE OF SELECTED DEVELOPMENTS IN AMERICAN ANTITRUST LAW	
1982	In a case brought by the DOJ, <i>United States v. AT&T</i> , 552 F.Supp. 131 (D.D.C. 1982), the telephone service giant AT&T, “Ma Bell,” which had operated as a regulated monopoly subject to an earlier consent decree limiting the scope of its business, agreed to split AT&T long distance and Bell Labs Research from the local companies operating local telephone lines and switching. These were split into seven independent regional companies known as “Baby Bells.” In the 1990s, AT&T split into three companies (AT&T, Lucent Technologies, and NCR). The long distance company later merged with one of the remaining Baby Bells, which is using the AT&T name today. The breakup of AT&T is believed to have helped push forward innovation in the telecommunications industry without destroying the systems that had previously operated as a regulated monopoly.
1992	The FTC and DOJ adopted Horizontal Merger Guidelines , updating and combining separate guidelines that had been issued by the FTC in 1982 and the DOJ in 1984. These guidelines, along with others issued by the FTC and DOJ, describe the enforcement policy of those agencies to provide consistency and guidance to parties. The FTC and DOJ are reevaluating the Horizontal Merger Guidelines in 2010 for possible revisions.
2001	The DOJ brought a Sherman Act case against Microsoft. After a trial, judgment, appeal, and remand, <i>United States v. Microsoft Corp.</i> , 253 F.3d 34 (D.C.Cir.2001) (en banc), a negotiated consent decree was approved by the court in 2002. <i>United States v. Microsoft Corp.</i> , 231 F.Supp.2d 144 (D.D.C. 2002). The company was accused of unfairly restricting the market for competing web browsers when it bundled the Windows operating system with Internet Explorer and then sold bundles to computer manufacturers for use by consumers. In what was criticized as a “slap on the wrist,” Microsoft agreed to share programming interfaces with third party companies, as well as appoint a three-person panel to ensure compliance with antitrust laws.
2007	The Supreme Court issued four antitrust opinions in 2007. These included <i>Leegin Creative Leather Products v. PSKS, Inc.</i> , 551 U.S. 877 (2007), which held that vertical minimum price agreements were not per se illegal, overruling prior holdings. In addition, in <i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544 (2007), the Court held that plaintiffs asserting a conspiracy in violation of the Sherman Act had to allege sufficient specific facts to establish that the conspiracy was plausible before the courts would allow expensive discovery proceedings to go forward. At issue in <i>Twombly</i> were claims that the regional Baby Bells (see 1982 above) conspired not to compete in each other’s territories.
2010	The U.S. Supreme Court hears the case <i>American Needle v. National Football League</i> , a case looking at whether the 32 NFL teams function as a “single entity,” rather than multiple “separate entities” governed by antitrust laws.



ONLINE RESOURCES

Student versions of the glossary and time line (both complete versions and versions with spaces for student answers) can be downloaded at www.abanet.org/publiced.