

Herbert Dow, the Bromkonvention and Predatory Pricing



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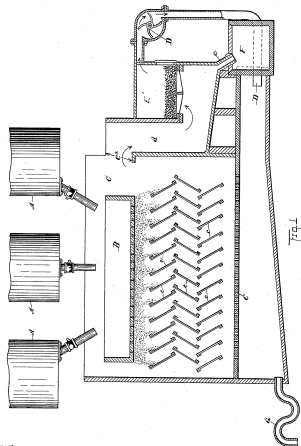
(No Model.)

2 Sheets—Sheet 1.

H. H. DOW.
PROCESS OF EXTRACTING BROMINE.

No. 460,370.

Patented Sept. 29, 1891.



Witnesses
Edw. J. Forster
Hall & Day

Inventor
Herbert H. Dow
Bygett & Bygett
Attorneys

Herbert Dow, the Bromine Convention and Predatory Pricing

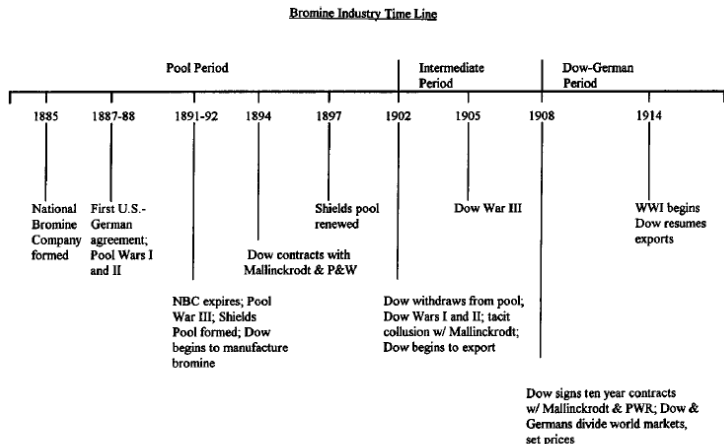


FIG. 2. Major events in the bromine industry, 1885–1914.

From Levenstein, "Do Price Wars Facilitate Collusion?", *Explorations in Economic History*, 1996

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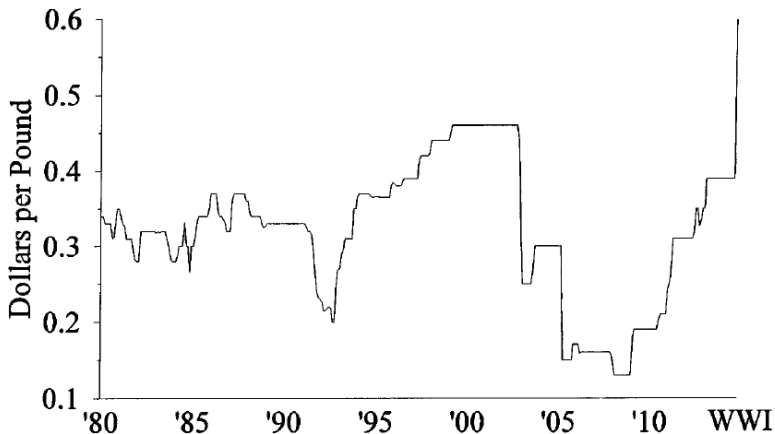
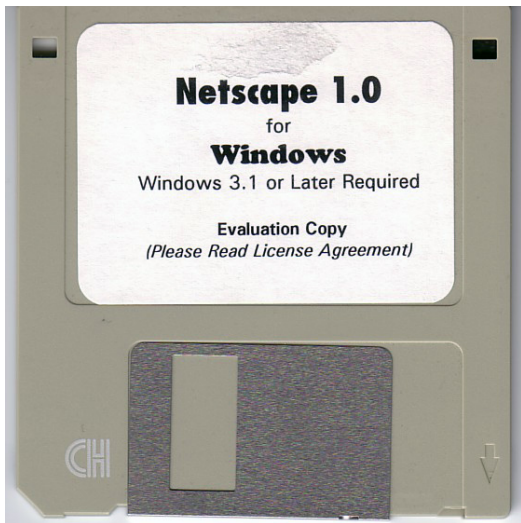


FIG. 1. Potassium bromide prices, 1880–1914. Source: *Oil, Paint and Drug Reporter*.

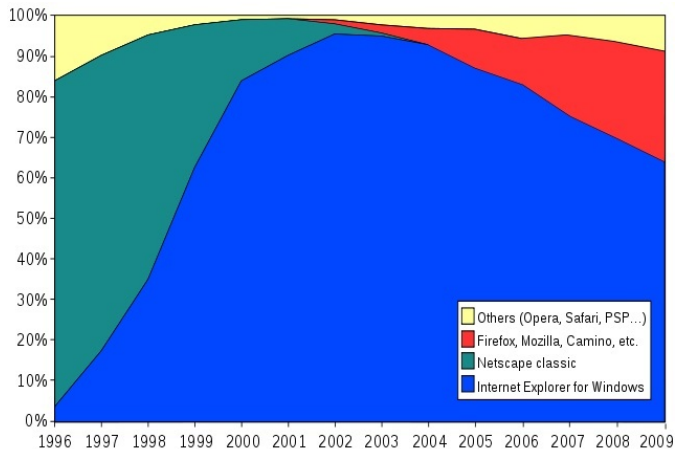
From Levenstein, "Do Price Wars Facilitate Collusion?", *Explorations in Economic History*, 1996

Microsoft and the EU



From [computerhistory.org](http://www.computerhistory.org), <http://www.computerhistory.org/timeline/?year=1994>

Microsoft and the EU








Browser market shares, 1995 to 2010

Microsoft and the EU

Information Regarding We x

www.browserchoice.eu/BrowserChoice/browserchoice_en.htm

Select your web browser(s)

 chrome A fast new browser from Google. Try it now!	 Opera browser Upgrade to a better browser. Opera is fast, smooth and easy to use.	 Windows Internet Explorer Fast, clean and trusted. The world's most popular browser on Windows... Free from Microsoft.	 Maxthon Browser Unsurpassed speed and easy-to-use with features you will only find in Maxthon 3. Take you from view to do! 600 million downloads.	 mozilla Firefox Firefox is fast, flexible and secure. Proudly non-profit, we're always innovating for you. Try the free download!
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Microsoft and the US



The purpose of the [Sherman] Act is not to protect businesses from the working of the market; it is to protect the public from the failure of the market.

The law directs itself not against conduct which is competitive, even severely so, but against conduct which unfairly tends to destroy competition itself. It does so not out of solicitude for private concerns but out of concern for the public interest.

– *Spectrum Sports, Inc. v. McQuillan*, 506 U.S. 447 (1993), Justice White in the majority opinion

But the very existence of those undefinable statutes and contradictory case law inhibits businessmen from undertaking what would otherwise be sound productive ventures. No one will ever know what new products, processes, machines, and cost-saving mergers failed to come into existence, killed by the Sherman Act before they were born. No one can ever compute the price that all of us have paid for that Act which, by inducing less effective use of capital, has kept our standard of living lower than would otherwise have been possible.

– Alan Greenspan, Antitrust in Capitalism, the Unknown Ideal (1967)

The Clayton Act and Mergers

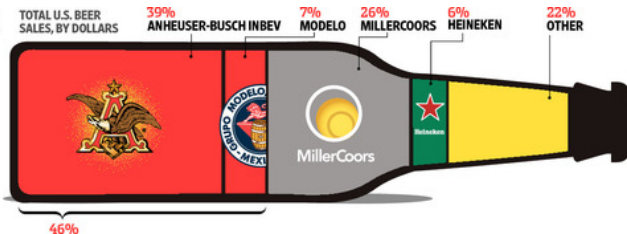
No person engaged in commerce or in any activity affecting commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another person engaged also in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

Types of Mergers: Horizontal

Half Full

Anheuser-Busch InBev and Modelo combined would have a 46% market share.

Source: Justice Department



Graphic from *The Wall Street Journal*, January 13, 2013.

Types of Mergers: Horizontal

From the Department of Justice's press release:

- ABI has implemented a conduct plan, whereby ABI hopes to establish the highest level of [price] followership by its large rivals by being as consistent, simple and transparent as possible;
- ABI believes that its conduct plan provides the highest possibility of sustaining a price increase and ensuring competition does not believe they can take share through pricing;

Types of Mergers: Horizontal

From the Department of Justice's press release:

- By contrast, Modelos pricing strategy in the United States is known as the momentum plan and aims to narrow the price gap between Modelos imports and domestic premium beers, such as ABIs Bud Light, stealing market share from ABI by enticing consumers to trade up to Modelo beer; and
- ABI executives acknowledge that Modelo has put increasing pressure on ABI competitively, and that Modelos strategy is at odds with ABIs well-established practice of leading prices upward with the expectation that its competitors will follow.

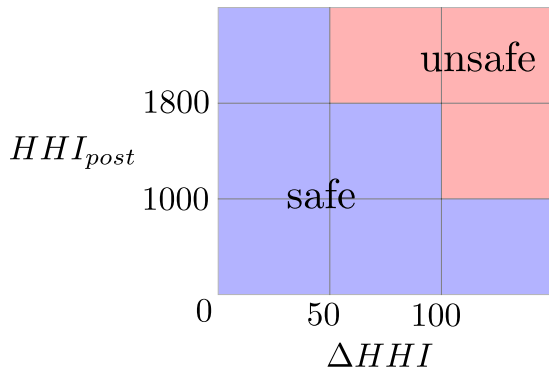
Measuring the Potential Effects of a Merger

- There are a variety of issues considered by the DOJ when evaluating the effects of a merger
- One key quantitative measure is the Herfindahl-Hirschman Index (HHI):

$$HHI = \sum_{i=1}^n (100s_i)^2$$

- n : number of firms in market
- s_i : market share of firm i
- Fewer firms will tend to increase HHI
- Greater market share for a firm will tend to increase HHI

Measuring the Potential Effects of a Merger



Measuring the Potential Effects of a Merger

<u>Pre-merger</u>			<u>Post-merger</u>		
Firm	Market Share	HHI component	Firm	Market Share	HHI component
ABI	0.39	1521	ABI (merged)	0.46	2116
Modelo	0.07	49	Modelo (gone)	0	0
Miller/Coors	0.26	676	Miller/Coors	0.26	676
Heineken	0.06	36	Heineken	0.06	36
5	0.022	4.84	5	0.022	4.84
6	0.022	4.84	6	0.022	4.84
7	0.022	4.84	7	0.022	4.84
8	0.022	4.84	8	0.022	4.84
9	0.022	4.84	9	0.022	4.84
10	0.022	4.84	10	0.022	4.84
11	0.022	4.84	11	0.022	4.84
12	0.022	4.84	12	0.022	4.84
13	0.022	4.84	13	0.022	4.84
14	0.022	4.84	14	0.022	4.84
Sum:	1	2330.4	Sum:	1	2876.4

Measuring the Potential Effects of a Merger

Some issues with measuring the effects:

- How do you define the relevant market?
- Do you combine geographical areas?
- Do you combine close (or not-so-close) substitutes?
- How do you account for the way in which firms compete?
- How do you evaluate firms' claims of improved efficiency?

AT&T and T-Mobile Merger

- In 91 of 97 cellular market areas, $\Delta HHI > 200$
- Nationally, HHI would increase from 2400 to 3100
- Potential concessions:
 - Continue T-Mobile cheap plans and devices
 - Sell up to 25% of T-Mobile (customers, spectrum access)
- Deal is now dead

From the Department of Justice complaint:

ATT&T's elimination of T-Mobile as an independent, low-priced rival would remove a significant competitive force from the market...unless this acquisition is enjoined, customers of mobile wireless telecommunications services likely will face higher prices, less product variety and innovation, and poorer quality services due to reduced incentives to invest absent the merger...

Types of Mergers: Vertical



Types of Mergers: Vertical

DOJ's conditions for the Ticketmaster - LiveNation merger:

- Ticketmaster must license its ticketing software to Anschutz Entertainment Group and either Comcast-Spectacor or another suitable company
- Ticketmaster must sell Paciolan to either Comcast-Spectacor or another suitable company
- The merged firm may not retaliate against any venue owner that chooses another company's ticketing or promotional services

Types of Mergers: Conglomerate

GE Capital
GE Capital Aviation Services
GE Energy Financial Services
GE Real Estate
GE Americas
GE Asia
GE Europe, Middle East & Africa
GE Energy Management
GE Oil & Gas
GE Power & Water
GE Home & Business Solutions
GE Appliances
GE Lighting
GE Lighting
GE Intelligent Platforms
Electric Insurance Company
GE Aviation
GE Transportation
GE Healthcare
Amersham plc
Datex Ohmeda
Whatman
NBC - National Broadcasting Company
NBC Entertainment
NBC News
TheGrio.com
Peacock Productions
NBC Sports
NBC Studios
NBCUniversal Sports & Olympics
NBCUniversal Television Group
Universal Television
NBCUniversal Television Distribution
NBCUniversal International Television
NBC Owned Television Stations
WNBC 4 - New York
KNBC 4 - Los Angeles
WMAQ 5 - Chicago
WCAU 10 - Philadelphia
KNTV 11 - San Jose/San Francisco
KXAS 5 - Dallas/Fort Worth

WRC 4 - Washington
WTVJ 6 - Miami
KNSD 39 (cable 7)
WVIT 30 - Hartford
NBC Nonstop
LXTV
EMKA, Ltd.
NBC Universal Digital Media
NBC Universal Cable
A&E Television Networks
The Biography Channel
Crime & Investigation Network
The History Channel
The History Channel en Español
History Channel International
Lifetime
Military History Channel
Bravo
Chiller
CNBC
CNBC World
MSNBC
mun2
SyFy
ShopNBC
Sleuth
USA Network
Universal HD
Weather Channel Companies
The Weather Channel
Weatherscan
The Weather Channel Interactive
weather.com
The Weather Channel Mobile
The Weather Channel Desktop
Weather Services International
Comcast Sports Group
NBCUniversal Global Networks
NBCUniversal Global Networks
LAPTV (Latin America)

Telecine (Brazil)
Universal Channel Latin America
Universal Channel Brazil
Sci Fi Channel
NBCUniversal Global Networks España.
Telemundo
KVEA/KWHY - Los Angeles
WNJU - New York
WSCV - Miami
KTMD - Houston
WSNS - Chicago
KXTX - Dallas/Fort Worth
KVDA - San Antonio
KSTS - San Jose/San Francisco
KTAZ - Phoenix
KBLR - Las Vegas
KNSO - Fresno
KDEN-TV - Longmont, Colorado
WNEU - Boston/Merrimack
KHRR - Tucson
WKAQ - Puerto Rico
Universal Studios
Universal Pictures
Focus Features
Rogue
Working Title Films
Universal Studios Licensing
Universal Animation Studios
Universal Interactive
Universal Pictures International
Universal Studios Home Entertainment
Universal Home Entertainment Productions
United International Pictures
Universal Operations Group
Universal Production Studios
Universal Parks & Resorts
qubo - Qubo Venture,LLC

I'm the reason the microwave tray rotates.
– Jack Donaghy