

THE UNREASONABLE RULE OF REASON

David D. Schein¹

Abstract

Over the last twenty years, the United States has experienced a consolidation of major companies that has raised social and legal concerns about a movement toward monopolies in multiple industries. This paper first examines the economic background for encouraging competition and avoiding monopolies. Part II reviews federal appeals court decisions that have permitted consolidations in many cases and prevented them in a few cases. A key focus will be on the Exxon-Mobile merger approved in the late 1990s. Part III will review current proposed mega mergers, including Aetna-CVS and T-Mobile-Sprint. Part IV will present a possible approach to guide court decisions in the future.

Key Words: Anti-Trust, Rule of Reason, Sherman Act, economics, monopoly, Exxon-Mobile, Aetna, CVS, T-Mobile, Sprint

¹ Director of Graduate Programs and Associate Professor, Cameron School of Business, University of St. Thomas, Houston, TX, USA. Member of Texas and Virginia state bar associations.