Federal Pricing Acts

Sherman Antitrust Act- 1890, first measure passed by the U.S. Congress to prohibit trusts. This Act authorized the federal government to institute proceedings against trust (Monopoly) in order to dissolve them. Prior to this Act many states have passed similar laws, but they were limited to interstate business.

Clayton Antitrust Act- 1914, passed by the U.S. Congress to clarify and supplement the Sherman Antitrust Act of 1890. This act prohibited exclusive sales contracts, local price cutting to freeze out competitors, rebates, and intercorporate stock holdings.

Robinson-Patman Act 1936, passed by the U.S. Congress to supplement the Clayton Antitrust Act. This act made it illegal for any person to engage in interstate commerce to discriminate in price to different purchasers of the same commodity when the effect would be to lessen competition or to create a monopoly. (Sometimes called “Anti-Chain-Store Act”)

Must include all of the 10 basic elements or else the law does not apply

1. There must be discrimination in price.
2. There must be at least two consummated sales
3. There must be a difference in price quoted by the “same seller.”
4. The alleged price discrimination must involve sales to two different purchasers.
5. At least one of the sales must cross state lines.
6. The sales must be contemporaneous or occur within a relevant period of time
7. The sales must relate to “commodities.”
8. The goods must be of “like grade and quality”
9. The Robinson-Patman Act only applies to sales of products that will be used, consumed, or resold within the United States or any territory.
10. For the Act to apply, there must be a showing of an adverse effect on competition.

Defenses for Robinson-Patman Act

1. Cost-Justification – discounts can only be given due to allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are sold or delivered to the purchaser

2. Meeting-Competition – can offer lower prices if a business can show that the lower price was made in good faith to meet an equally low price of a consumer

3. Changed-Conditions – discount in price if there are special conditions including deterioration of perishable goods, obsolescence, distress sales, or sales in good faith in discontinuance of a business.

4. Availability Defense – seller may offer two prices – a normal price and a reduced price is REALISTICALLY “available” to all customers. If a consumer had a realistic opportunity to take advantage of the lower price, but chose not to take advantage, then there is no price discrimination.

5. Functional Discounts – sellers can grant discounts to customers or a class of customers based on the distributional functions performed by the customer. (i.e. storing inventory). Discount must be in reasonable relation to the savings by the seller.