

# Marketing & Competition in Pricing Strategy

Week 1: Understanding the Playing Field



## Three Pricing Lenses

## Three lenses of pricing

### Economics



## Three lenses of pricing

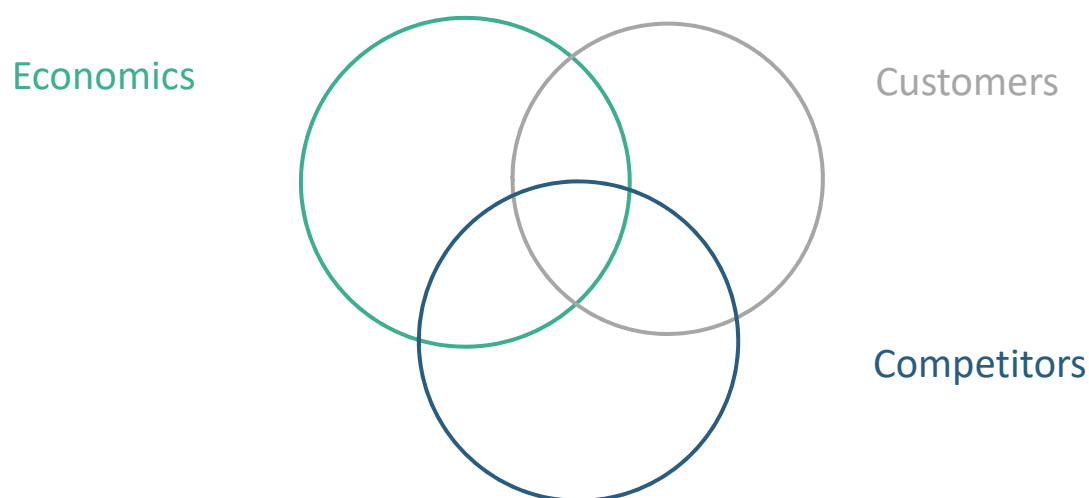
### Customers



## Three lenses of pricing

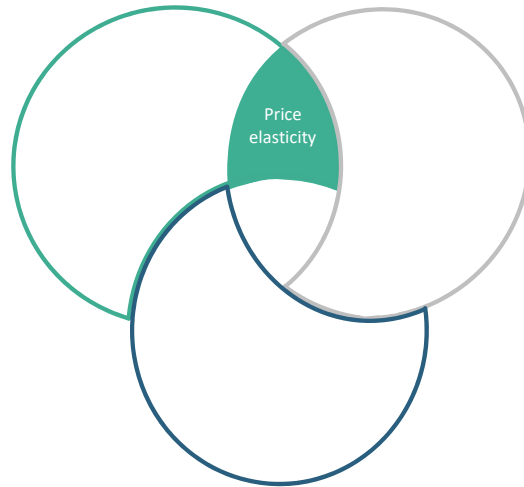


## Three lenses of pricing



## Three lenses of pricing

Economics

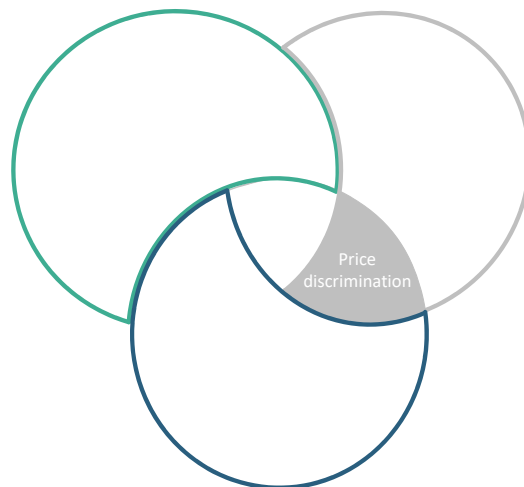


Customers

Competitors

## Three lenses of pricing

Economics

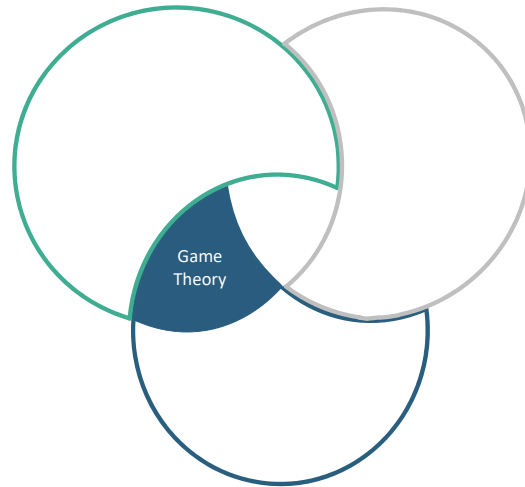


Customers

Competitors

## Three lenses of pricing

Economics

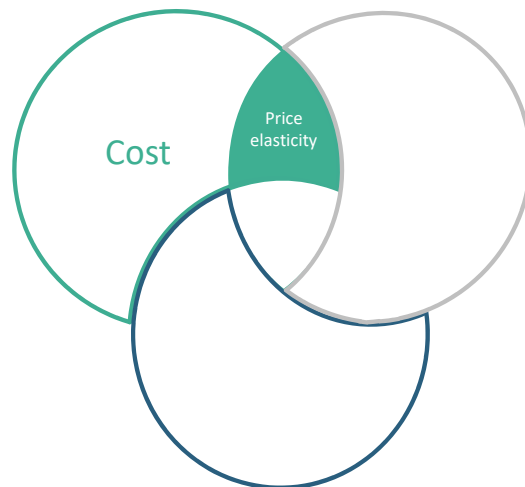


Customers

Competitors

## Three lenses of pricing

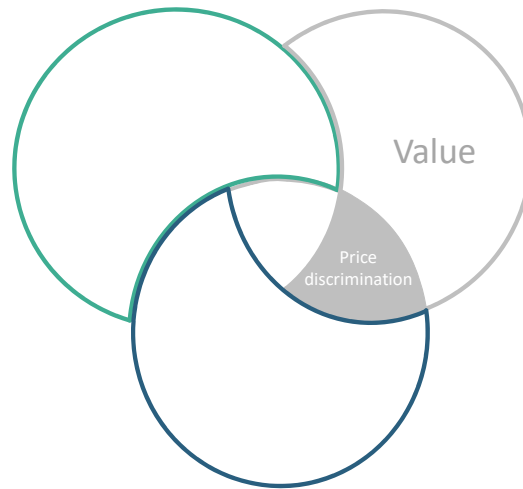
Economics  
Course #1



Cost

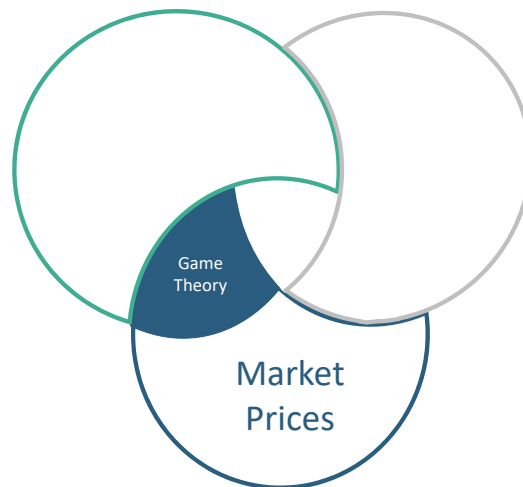
Price  
elasticity

## Three lenses of pricing



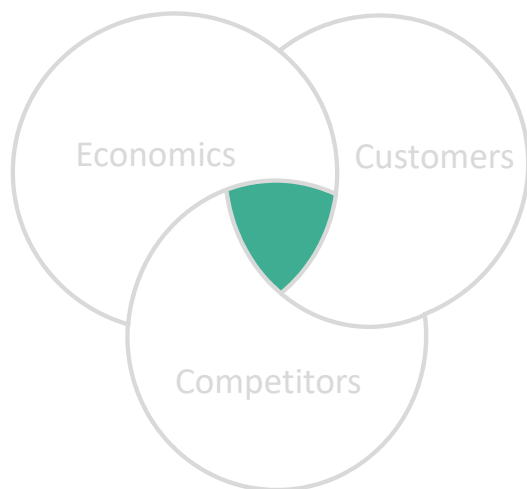
Customers  
Course #2

## Three lenses of pricing



Competitors  
Course #3

## Three lenses of pricing

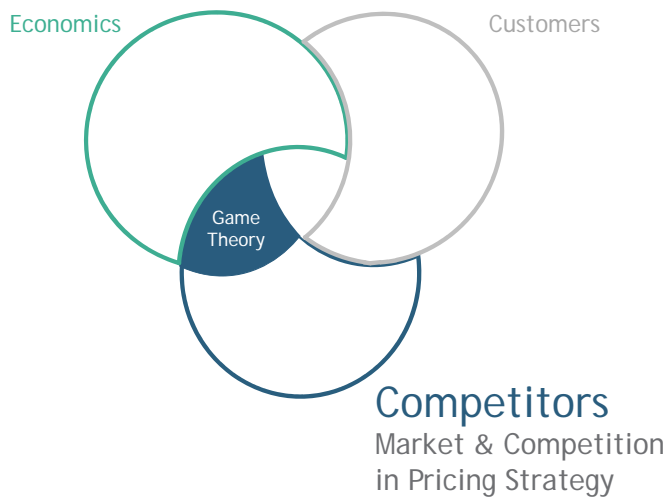


### Pricing strategy optimization

Course # 4 explains how these lenses intersect and work together to determine an optimal pricing strategy

## Course Introduction

## Three Lenses of Pricing



## Market and Competition in Pricing Strategy

- Week 1: Understand the playing field
  - Legal aspects of pricing
  - The competitive framework
- Week 2: Predict competitive reactions
  - Value mapping
  - Game theory



## Market and Competition in Pricing Strategy

- Week 3: Disrupt markets and engage in “coopetition”
  - Competitor pricing models
  - Pricing the product lifecycle
- Week 4: Implement price discrimination in competitive markets
  - Product line pricing
  - Bundle pricing

## By the end of this course you'll be able to...

- Apply knowledge of markets and competition to price products
- Utilize game theory to influence market pricing
- Leverage competitor pricing models and knowledge of the product life cycle to price products
- Apply strategies for price discrimination in competitive markets



Maximize margins in competitive markets

## What you'll learn about this week...

- Legal aspects that impact pricing
  - Sherman-Antitrust Act
  - Clayton Act
  - Robinson-Patman Act
- Competitive framework
  - Price to competition
  - Price to elasticity

## By the end of this week you'll be able to...

- Recognize when pricing strategies may or may not be legal
- Implement a pricing strategy that complies with general legal principles
- Utilize a competitive framework to determine whether to price to elasticity or price to competition



Understand the playing field

# Legal Aspects of Pricing

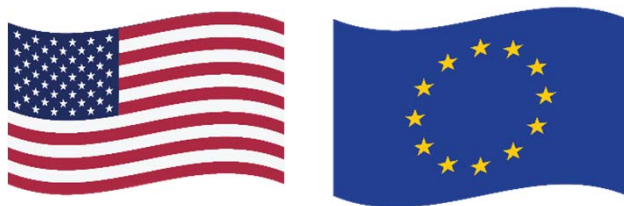
Disclaimer: I'm not a lawyer



## Why Antitrust Laws Exist



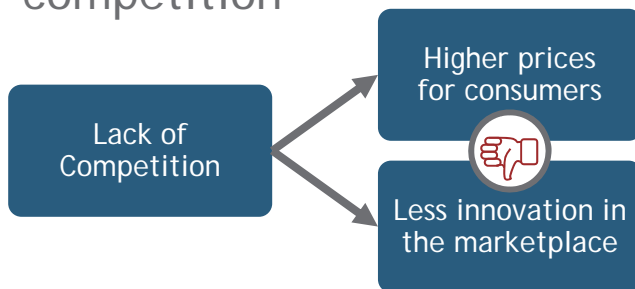
## US and EU Law are Similar



 Know the law in your country.

## Legal Philosophy of Regulatory Structure

- Competition is good.
- Allowing one company to have too much power stifles competition



## Three Major Antitrust Laws

**SHERMAN  
ANTITRUST ACT**

**1890**



**CLAYTON ACT**

**1914**



**ROBINSON-  
PATMAN ACT**  
**1936**

## Enforcement

Tied to the political cycle



## The Clayton Act

**SHERMAN  
ANTITRUST ACT  
1890**

CLAYTON ACT  
1914

ROBINSON-  
PATMAN ACT  
1936

## Sherman Antitrust Act

Prohibits

“agreements, conspiracies or  
trusts in restraint of trade”

## Sherman Antitrust Act

Prohibits



"agreements, conspiracies or trusts in restraint of trade"

## Sherman Antitrust Act Violations

- *Per se* violations
  - Price fixing
  - Territorial divisions (if done by independent businesses)
- Rule of reason violations
  - Any agreement that the court might find will ultimately end up causing higher prices to consumers (i.e. predatory pricing)



## Dept. of Justice v. Deere & Company

- Background

- Deere trying to acquire Precision Planting from Monsanto



Photo by aiko vanhulsen  
(Wikimedia Commons)

## Dept. of Justice v. Deere & Company

- Background

- Deere trying to acquire Precision Planting from Monsanto

- Allegation

- The acquisition would reduce competition for high-speed planting equipment

## Dept. of Justice v. DirecTV

- Background
  - DirecTV exchanged non-public information with three competitors to gain bargaining leverage and reduce risk of lost subscribers while negotiating rights to Dodgers games



Photo by Adam Kutzko  
(Wikimedia Commons)

## Dept. of Justice v. DirecTV

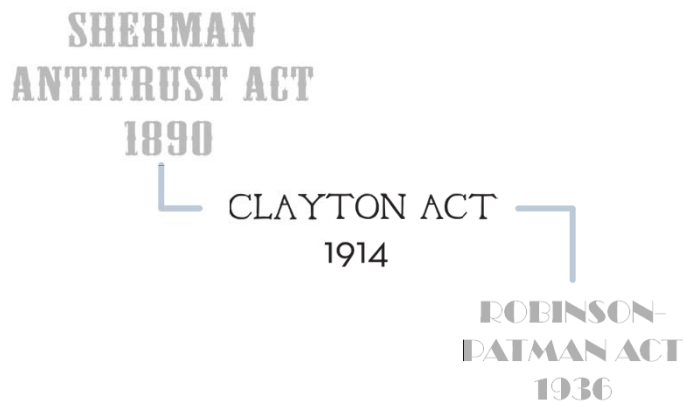
- Background
  - DirecTV exchanged non-public information with three competitors to gain bargaining leverage and reduce risk of lost subscribers while negotiating rights to Dodgers games
- Allegation
  - This information sharing reduced competition to broadcast the Dodgers channel and denied Dodgers fans a competitive process

## Sherman Antitrust Act Takeaways

- Big
- Broad
- Gives the government a lot of prosecutorial authority

 So be careful!

## The Clayton Act



## The Clayton Act

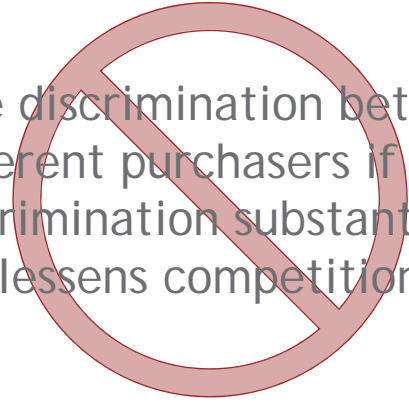
### Prohibits

price discrimination between  
different purchasers if such  
discrimination substantially  
lessens competition

## The Clayton Act

Prohibits

price discrimination between  
different purchasers if such  
discrimination substantially  
lessens competition



## The Clayton Act

- Generally interpreted as price discrimination in B2B markets
- State laws can prohibit consumer price discrimination (although few do)

## The Clayton Act

- Prohibits tying arrangements
  - An agreement to sell one product but only on condition that the buyer purchases an additional product—or at least won't purchase it from a competitor

## Enforcement Provisions of Clayton

1. Two separate products or services are involved
2. The purchase of the tying product is conditioned on the additional purchase of the tied product
3. The seller has sufficient market power in the market for the tying product



## Enforcement Provisions of Clayton

1. Two separate products or services are involved
2. The purchase of the tying product is conditioned on the additional purchase of the tied product
3. The seller has sufficient market power in the market for the tying product
4. A not insubstantial amount of interstate commerce in the tied product market is affected

## Dept. of Justice v. Microsoft Corporation



- Background
  - Microsoft tied its web browser to its operating system, such that to use the browser, one had to purchase the operating system



## Dept. of Justice v. Microsoft Corporation

- Background
  - Microsoft tied its web browser to its operating system, such that to use the browser, one had to purchase the operating system
- Verdict
  - Anti-trust violation

## Clayton Act Takeaways

-  Avoid “tying” your pricing
-  Be careful with price discrimination in B2B markets



## The Robinson-Patman Act

**SHERMAN  
ANTITRUST ACT  
1890**

└─ **CLAYTON ACT**  
1914

└─ **ROBINSON-  
PATMAN ACT**  
1936

## Robinson-Patman Act

- Refines the Clayton Act
  - Makes price discrimination in B2B markets explicitly illegal

## Robinson-Patman Act

- Exceptions granted if you...
  - Can prove cost differences in servicing one business versus another
  - Lower your price in order to meet a competitor's price (competitor must be servicing only a subset of the businesses you service)

## Ron's Hot Sauce



## Woodman's Market v. The Clorox Company

- Background
  - Clorox stopped supplying Woodman's Market with larger-sized packages available at big-box stores (Sam's, Costco, BJ's, etc.)



## Woodman's Market v. The Clorox Company


- Background
  - Clorox stopped supplying Woodman's Market with larger-sized packages available at big-box stores (Sam's, Costco, BJ's, etc.)
- Allegation
  - Clorox's failure to allow Woodman's Market to purchase large-sized packages constituted unlawful price discrimination


## Robinson-Patman Cases

- Difficult to win
- Courts broadly interpret the "cost differences" provision

## Robinson-Patman Act Takeaways

- Do not charge different prices to different customers unless...

 It can be justified based on cost differences

 It is needed to meet a local competitor's price

## Common Practices & Shifts in Interpretation

## Common Practices

- Quantity discounts
  - Not specifically addressed by Robinson-Patman
  - Can be found illegal if only a few buyers are practically able to obtain the discount



## Common Practices

- Quantity discounts
- Diverting
  - Buying an item which is available at a low price in one geography and selling it another where the low price is not available
  - Common in international markets

## Shifts in Interpretation

- Resale price maintenance
  - Setting a retail price floor for a product you have sold to a retailer
  - Generally viewed as illegal behavior
  - A *per se* violation for about a century

## Shifts in Interpretation

- Resale price maintenance
- Criticism: restrains reasonable contracting behavior
  - May need to guarantee margins (dampen retail competition) in order to incent retailers to engage in promotional and high service behavior
  - Dampened price competition may yield better overall utility to the customer

## The Supreme Court Agrees

2007—Moved resale price maintenance from a *per se* to a rule of reason violation



## Unresolved: Slotting Allowances

- Charged by retailers for access to shelf space



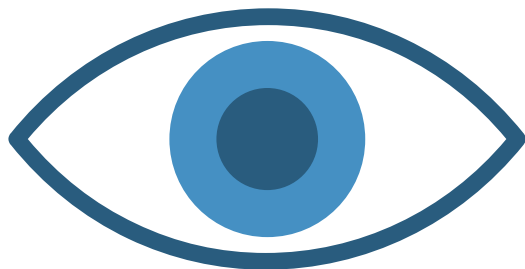


## Unresolved: Slotting Allowances

- Charged by retailers for access to shelf space
- Retailers view it as reasonable compensation for a scarce resource
- Some people believe it is potentially anticompetitive

## Unresolved: Privacy

- Access to data growing exponentially



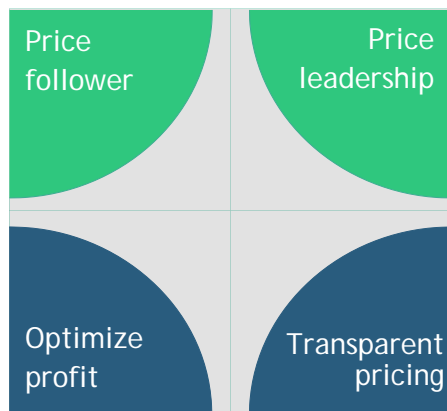
## In closing...

- Be aware of the law where you do business
- In the US and EU, know your anti-trust regulations and keep up with recent cases



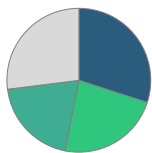
Competitive framework: pricing to competition or pricing to elasticity

## Businesses leverage four general pricing strategies

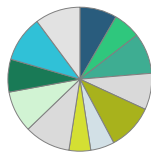


The number of competitors in a market and how much volume each captures will suggest the best pricing strategy

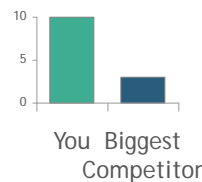
## How to think about competitors when setting prices?



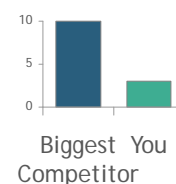
Several established players, each with market share between 25-40%



Many players, no-one has more than 10% market share



Your business is the market share leader by a wide margin

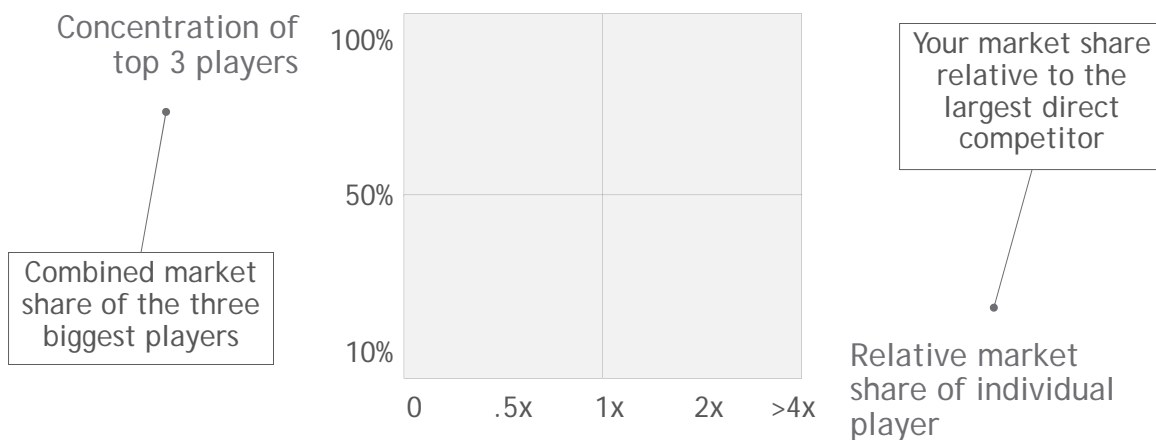


Your biggest competitor is at least 4-times larger than your business

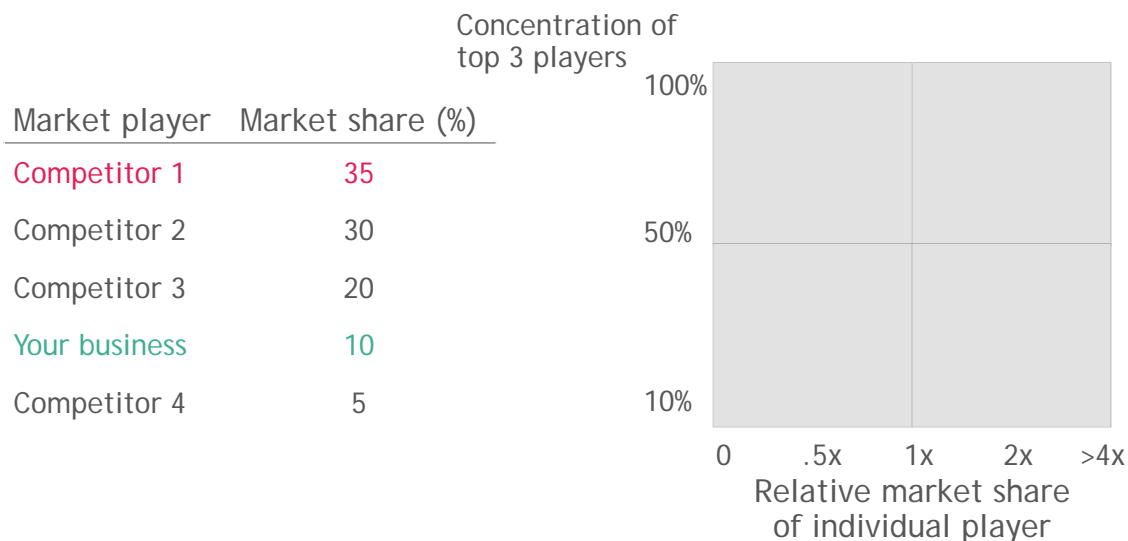
✓  
**Market concentration matters**  
 ... it indicates whether you should price to competition or to elasticity

✓  
**Relative market share matters**  
 ... it indicates whether you can move the price in the industry

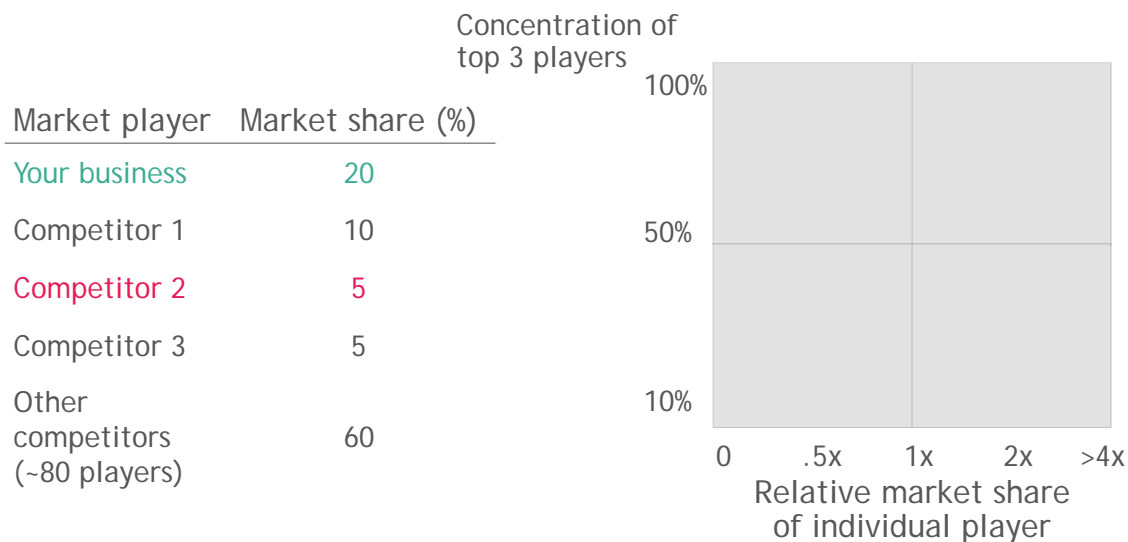
## Competitive pricing framework



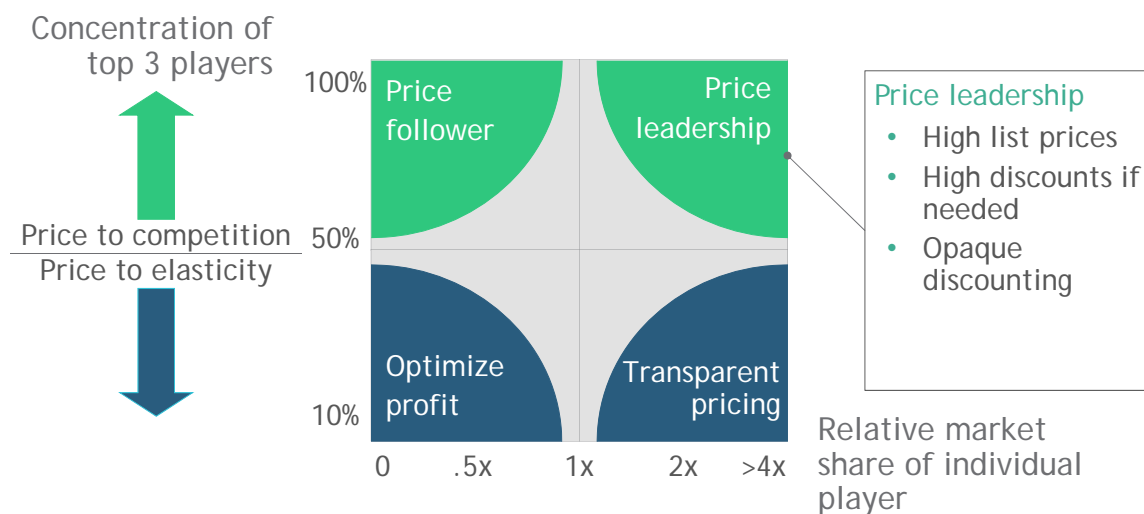
## Example 1: Concentration and Relative Share



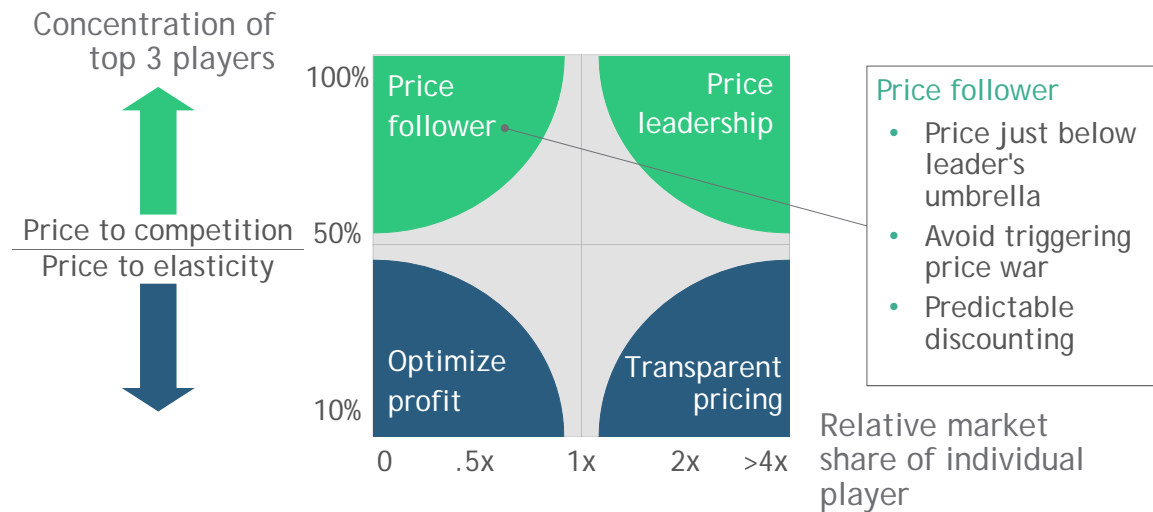
## Example 2: Concentration and Relative Share



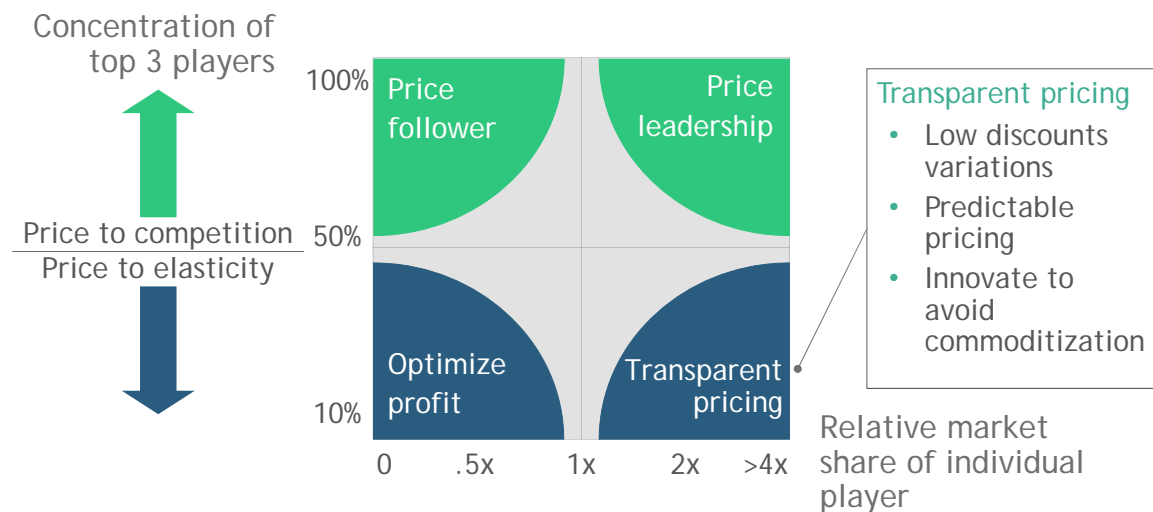
## Competitive pricing framework explains basic pricing strategies



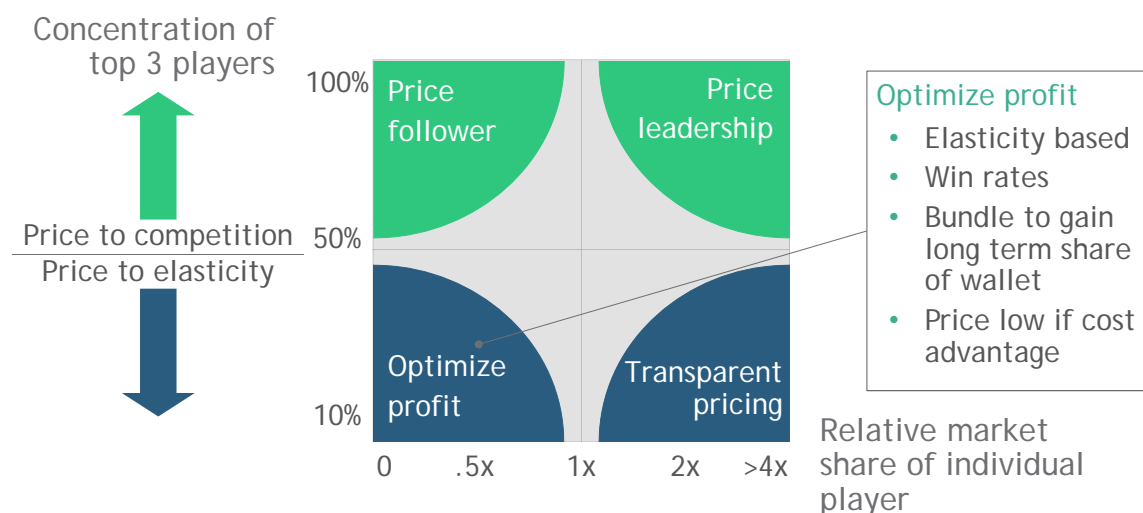
## Competitive pricing framework explains basic pricing strategies



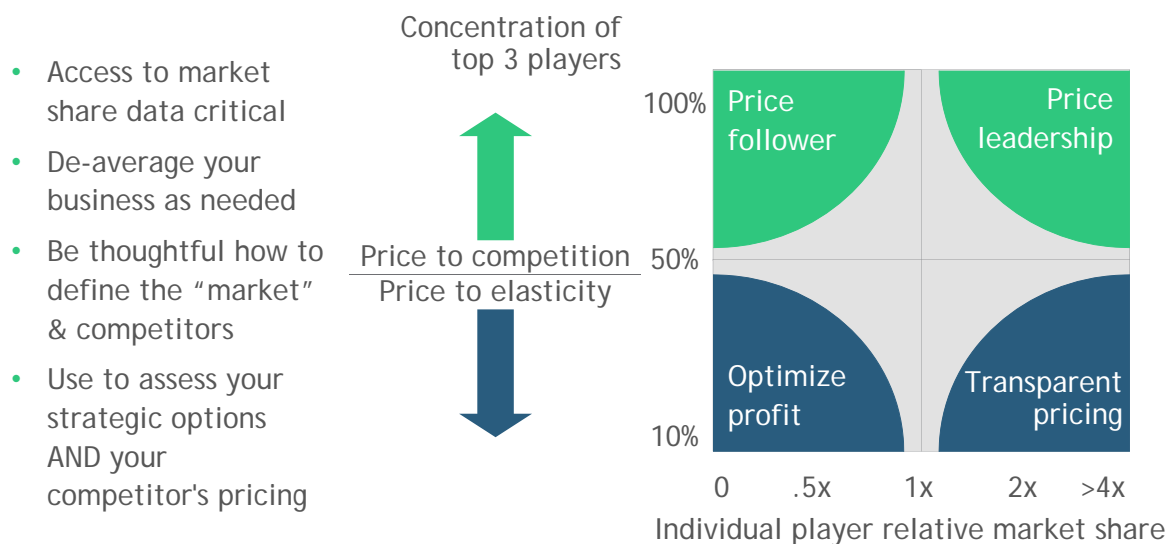
## Competitive pricing framework explains basic pricing strategies



## Competitive pricing framework explains basic pricing strategies



## Competitive pricing framework: closing thoughts



## Week 1 Conclusion

### What we talked about this week...

- Legal aspects that impact pricing
  - Sherman-Antitrust Act
  - Clayton Act
  - Robinson-Patman Act
- Competitive framework
  - Price to competition
  - Price to elasticity



## Now you're able to...

- Recognize when pricing strategies may or may not be legal
- Implement a pricing strategy that complies with general legal principles
- Utilize a competitive framework to determine whether to price to elasticity or price to competition



Understand the playing field