

EXAM 6 – UNITED STATES, FALL 2012

5. (2 points)

a. (1 point)

Describe each of the following acts:

- Clayton Act
- Robinson-Patman Act.

b. (0.5 point)

Briefly describe two impacts that the *U.S. v. South-Eastern Underwriters Association (SEUA)* decision had on the application of the acts in part a. above.

c. (0.5 point)

Briefly describe two NAIC recommendations in response to the acts in part a. above.

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## 5) Sample Answer

### Part a

Clayton -> Identified and made illegal activities that lessened competition or created monopoly power.

Robinson-Patman Act -> Prohibited price discrimination, allowed to deviate from bureau rates if could be supported by reduced operating costs.

### Part b

#### Answer 1

Application of federal anti-trust acts  
Insurance regulated by federal government

#### Answer 2

SEUA decision meant insurance is subject to Clayton and Robinson-Patman Acts since insurance was now considered interstate commerce.

- 1) Collusion for purposes of setting rates became prohibited
- 2) Rate discrimination prohibited

#### Answer 3

Clayton: Companies could no longer join the policies together  
Robinson: Couldn't drop prices to drive out competition

### Part c

#### Answer 1

Amended to exclude insurance  
Tried to return regulation to state based on public interest

#### Answer 2

Clayton should be amended to allow cooperation to set rates  
R-P should not apply to business of insurance

#### Answer 3

NAIC recommended that states be given the responsibility and authority to regulate insurance  
NAIC began promulgating model laws to create uniformity and consistency in insurance regulation and reporting.

#### Answer 4

NAIC tried to repeal the decision of the SEUA  
When they were denied an appeal, they had McCarran-Ferguson passed, which still gave states power, but these acts would also still apply (assuming state didn't pass its own laws of the same)

#### Answer 5

Adopt prior approval law  
Adopt model law prohibit tying products, price rebate or other activities that could increase monopoly power. Preempt federal anti-trust law apply to insurance

**Answer 6**

Appeal the case in the Supreme Court but court refused to rehear the case.  
Approach congress to amend Clayton Act and amend R-Pat act to exclude insurance

**Examiner's Report****Part a.**

Candidates who received full credit were able to identify a key distinction between the acts: the fact that Clayton identified actions that lessened competition (where Sherman was more ambiguous). Common mistakes included reversing the two acts or confusing one or the other with the Sherman Act. Some candidates also gave a list of some specific actions that were prohibited by the Clayton Act, without mentioning why or what the specified actions had in common.

**Part b.**

The most common errors dealt with candidates stating consequences that were too vague.

**Part c.**

Common incorrect answers included stating that the NAIC encouraged File and Use laws instead of Prior Approval after the SEUA decision. Others confused actions the NAIC took many years later with the actions that were taken following SEUA.