The following are sample essay questions based on Kwoka and White’s *THE ANTITRUST REVOLUTION*. One (or more) of the following questions WILL appear on Wednesday’s midterm.

1. The Newspaper Preservation Act of 1970 provides criteria under which newspapers competing in the same market may enter into a Joint Operating Agreement (JOA). Applicants for a JOA are required to establish that, absent the JOA, one of the papers would probably soon fail. The DOJ staff opposed the JOA proposed by the Detroit *News* and the Detroit *Free Press* on the grounds that such failure was not imminent. Why did the DOJ staff reach this conclusion in spite of the fact that both papers were losing money? Explain your answer thoroughly.

2. In *U. S. v. Carillion Health Systems*, the DOJ opposed the merger of two hospitals in Roanoke, Virginia. One argument of the defense was that the remaining hospital in the relevant geographic market was opposed to the merger. How could such opposition, if credible, be used to support the claims of the merging parties? Explain your answer thoroughly.

3. In rejecting the proposed merger between Staples-Office Depot, the FTC and, later, the U. S. District Court used “consumable office supplies sold through office superstores” as its definition of the relevant product market. Do you agree with this market definition? Why or why not? Explain carefully the FTC’s reasoning in proposing and defending this market definition. Do you think the Court’s decision would have been different had the relevant product market been found to be “consumable office supplies?” Explain.

4. The goal of the FTC in the “Ethyl Case” was to attack the *facilitating practices* that it claimed enabled the producers of lead based antiknock compounds to sustain high prices in spite of the gradual elimination of lead from the nation’s gasoline supplies. What were these practices? Choose one, and explain how it might enable oligopolistic firms to sustain higher prices and profits than would otherwise be possible.

5. The defendants in the “Ethyl Case” pointed out that the Ethyl Corporation engaged in all of the FTC’s alleged “facilitating practices” before it faced any competition. Explain how this fact influenced the eventual decision of the Court of Appeals.

6. Explain in detail why the Supreme Court outlawed the NCAA’s broadcast contracts on the basis of an application of a *rule of reason* rather than as a *per se* violation of Section 1 of the Sherman Act.

7. Discuss the role of each of four economic principles that, according to Professor Elzinga, had an important role in influencing the outcome in *Zenith Radio Corp. et al. v. Matsushita Electronic Industrial Corp. Ltd., et al.*
8. Compare and contrast the recoupment issues facing a dominant firm engaging in predatory pricing with those involved with Brown & Williamson’s alleged behavior in the “Ligget Case.”

9. How should the application of the antitrust laws to not-for-profit firms differ, if at all, from their application to for-profit firms? In particular, explain how the application of the *per se* and *rule of reason* standards should differ in the two situations.

10. Explain Evan’s and Schmalensee’s claim that it was “the courts’ long-standing hostility to joint ventures” that accounts for the initial success of Dean Witter’s antitrust suit against Visa. Be sure to explain the distinction between intersystem and intrasystem competition in the credit card industry.

11. Explain the DOJ’s argument as to why the airline industry’s practice of providing advance notice of fare changes through the Airline Tariff Publishing Company constituted a facilitating practice that should be found unlawful under Section 1 of the Sherman Act.

12. Why did Dr. Hyde, the plaintiff, seek to establish that East Jefferson Parish Hospital’s contract with Roux & Associates was a *tying arrangement* rather than a case of *exclusive dealing*? Explain the economic and legal distinctions between the two practices.

13. In his analysis of *Monsanto Co. v. Spray-Rite Service Corp.*, Dr. Warren-Boulton states: “The plaintiff won, and RPM continued to be condemned as a per se violation of Section 1 of the Sherman Act. Yet, ironically, Monsanto has come to be considered a substantial victory for the defendant’s bar.” Do you agree? Why or why not? Explain your answer fully.