1. The Sherman Act, Section 1
   - Prohibits any “contract, combination or conspiracy in restraint of trade”, if it unreasonably restricts competition
   - Horizontal agreements
   - Vertical agreements

2. Some business practices are considered **Per Se** (automatically illegal) and some practices are dealt with under the **Rule of Reason** (we have to look at how the challenged practice affects competition)
   - **Per se** practices generally include
     - Horizontal price fixing
     - Horizontal market division
     - Group boycotts (although the Supreme Court is starting to change rules on this)

   - The “**Rule of Reason**” applies to:
     - Vertical Market restraints or division
     - Tying arrangements (but some have been held *per se*)
     - Vertical price fixing. (Supreme Court decision in **Leegin Creative Leather Products** case in 2007)
3. **Monopolies--Sherman Act, Section 2**
   - "monopolization" or "attempt to monopolize" is illegal
   - Firm must have “market power”—the power to control prices or exclude competition in the relevant market.
   - Court must first determine the "relevant market"
     - Product market
     - Geographic market
   - What is the market share? More than 60% is clearly a problem—less than that may be a monopoly—requires analysis.
   - Is there monopolistic intent? Or just superior product or skill?

4. **Mergers--Section 7 of Clayton Act**
   - “No firm shall acquire the whole or part of another firm where, in any line of commerce the effect of such acquisition may be”:
     - To “substantially lessen competition”, or
     - “Tend to create a monopoly”
   - FTC is the key agency here
     - FTC applies Herfindahl-Hirschman Index to potential mergers
     - Look at relevant product and geographic markets
     - Look at market share and concentration in industry

5. **Price Discrimination--Robinson-Patman Act (part of Clayton Act)**
   - Selling the same product to different purchasers at the same level of distribution at different prices is illegal
     - But **not** illegal if: (1) meeting competition, or (2) there is cost justification; or (3) changing conditions