

Antitrust II (Spring 2022)
Antonin Scalia Law School at George Mason University
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Syllabus

Welcome to Antitrust II

This course examines advanced topics in antitrust law. The topics we will cover include the antitrust analysis of vertical agreements, acquisitions of potential/future/nascent competitors, competition in two-sided markets, price discrimination, criminal agreements on price and output, and the interrelationship of antitrust and intellectual property rights and the effects of antitrust doctrine on innovation. We will also discuss exemptions to and immunities from the antitrust laws, the analysis of penalties and remedial provisions of the antitrust laws, and the territorial scope of U.S. antitrust law. We will examine Supreme Court doctrine, important lower court decisions, and government enforcement guidelines. We will examine antitrust issues from both law and economic perspectives.

Antitrust I is a prerequisite for this course.

Office Hours: Email to schedule an appointment.

Casebook: Andrew I. Gavil, William E. Kovacic, Jonathan B. Baker, and Joshua D. Wright, *Antitrust Law in Perspective: Cases, Concepts and Problems in Competition Policy* (2016) (3rd Edition) and its supplement (supplement to be distributed in class).

Grading: The final exam will account for 65% of your grade, and in-class participation, which will include two short writing assignments, will account for 35% of your grade. **You must come to class having read and thought about the material, and ready to participate in the discussion.**

Final Exam: The final exam is scheduled for May 6 at 12:00 PM. There is no make-up exam.

Final Exam Permissible Materials: Open book; your own notes; no commercial publications.

Tentative Syllabus: We may deviate from the present syllabus with assignments based upon current events or new cases, to accommodate guest speakers, or for other scheduling reasons, etc. Please make sure you are signed up to receive updates via TWEN.

Learning outcomes: By the end of the semester, students should:

Be able to analyze antitrust issues from a legal and an economic perspective; understand the most prominent current antitrust issues; and, be fully conversant with the interplay between antitrust and intellectual property, and antitrust and innovation.

Date	Topic
1/18	Discussion/Review of Antitrust 1
1/20	Clayton Act Section 8 (Interlocking Directorates) ¹
1/25	Section 5 of the FTC Act ²
1/27	Antitrust Standing & Antitrust Injury ³
2/1	Law and Economics of Price Discrimination: Robinson-Patman Act ⁴
2/3	Law and Economics of Price Discrimination: Economics of Price Discrimination
2/8	Law and Economics of Vertical Agreements
2/10	Law and Economics of Vertical Agreements
2/15	Law and Economics of Vertical Agreements
2/17	Law and Economics of Multi-Sided Markets / Platforms
2/22	Law and Economics of Multi-Sided Markets / Platforms
2/24	Law and Economics of Antitrust & Intellectual Property
3/1	Law and Economics of Antitrust & Intellectual Property
3/3	Antitrust & Innovation
3/8	Antitrust & Innovation
3/10	Acquisition of Potential/Future/Nascent Competitors
3/22	Acquisition of Potential/Future/Nascent Competitors
3/24	Criminal Antitrust Enforcement
3/29	Law and Economics of Antitrust Penalties and Remedies
3/31	Antitrust Exemptions and Immunities (Noerr Pennington/First Amendment)
4/5	Antitrust Exemptions and Immunities (State Action)
4/7	Antitrust Exemptions and Immunities (Statutory & Non-Statutory Labor Exemption)
4/12	Antitrust Exemptions and Immunities (Pre-emption of Antitrust Law; Regulated Industries)
4/14	Deception/Market Manipulation as an Antitrust Violation
4/19	Antitrust & Foreign Commerce
4/21	International Antitrust

¹ 15 U.S.C. §19.

² 15 U.S.C. §45; *FTC v. Sperry & Hutchinson*, 405 U.S. 233 (1972); *OAG v. FTC*, 630 F.2d 920 (2d Cir. 1980); *Boise Cascade v. FTC*, 637 F.2d 573 (9th Cir. 1980).

³ *Atlantic Richfield v. USA Petroleum*, 495 U.S. 328 (1990); *Blue Shield of Virginia v. McReady*, 457 U.S. 465 (1982); *Associated General Contractors v. California State Council of Carpenters*, 479 U.S. 104 (1986).

⁴ 15 U.S.C. §13; *Brooke Group*, 509 U.S. 209 (1993) (primary line injury); *Volvo Trucks*, 546 U.S. 164 (2006); *Falls City Industries*, 460 U.S. 428 (1983).