Advanced Competition Economics and Policy

This course is about the economics of competition law and policy. We will analyze and discuss how US antitrust laws, as applied and interpreted by agencies and courts, place limits on firm behavior. We will study economic theories underlying antitrust enforcement and consider whether legal rules restricting competitive behavior make economic sense and how they affect managerial choices. We will discuss the evidence and reasoning advanced in key antitrust cases, and consider how case outcomes may affect social welfare and firm strategies. The course will also cover the procedures, standards, and recent outcomes in the EU’s Competition Authority. Current enforcement cases will be integrated into the syllabus as they appear in the news.

The course is open to second year MBA students who have taken the Competitive Strategy elective, or are taking it concurrently, junior and senior undergraduate students who have taken Intermediate Microeconomics, and Law students by permission of the instructor. The SOM calendar does not line up exactly with the College or Law School. Please note class dates below, especially the last class day of May 9. I expect all students to attend all classes.

Important! The START DATE for the class is January 24. Please keep a close eye on how the calendars develop as covid is making everything unpredictable and we will follow the SOM schedule.

Contact Information:

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Course information and documents will be posted on the course web page. I will hold a regular office hour on zoom on Fridays at 3pm. I am also available for individual appointments which you should not hesitate to request. I am always happy to discuss the course, your progress, or any other issues of concern to you, individually, or in groups. Please see David Bassali, your TA, first if you have logistical issues or small questions. However, I would like you to feel free to communicate with
me directly. In particular, I would like you to contact me if you feel you are uncomfortable participating in class for any reason and we can design a solution together.

**Textbook:** The Antitrust Revolution, Kwoka and White, 7th ed, 2014, Oxford Univ Press (cost at Amazon is $74 new and $45 used) (Feel free to use the 6th also. I will include readings for the 6th ed in parens)

**Class participation /Attendance:** (individual)

Class participation counts for a significant fraction of your grade. This is a fun elective and so I want everyone to participate frequently. I will cold-call anyone who is silent, so you should plan to volunteer to avoid that experience. In addition, speaking in class gives you motivation to do the reading in advance and a place to develop that understanding.

**Course project and presentation:** (groups)

In the second half of the semester, I will form groups of 4 students for the final project. Students will give David their top three choices of mock cases and we will create groups that give the most people a preferred case while taking advantage of the diversity of skills in the class, e.g., law, undergrads, joint degree, and MBA students.

A team is responsible for presenting the competition economics arguments in a mock antitrust case for both the plaintiff and the defense side in the case. Two students will present the position of the government enforcement agency and two will argue for the firm(s). Each team will send me the plan for their presentation 4-5 days in advance so I can get comments back to you. Each team will present the economic arguments (not legal) they find most compelling on their side based on public information. The timing is a 10-minute presentation for each side – plaintiffs first - and then a few minutes for questions from the class and a group vote. Teams then assemble their material into a final paper of about 8 pages excluding exhibits which is the written analysis of both sides of the case. It is due on or before May 9th (except for the groups presenting on the last day who will discuss with me an appropriate due date). This additional time will allow you to incorporate comments and feedback from both your classmates and me. Please upload your paper to the course website. The presentation and its written version is the ‘final project’ for the class.

If there isn’t time for everyone present during class because of enrollment levels, then we will use the following procedure. I will create two groups for some cases. These two groups will independently prepare. They will both be ready to present on the day they are assigned and will flip a coin the night before to determine who gets the class slot. The group that loses the coin toss will present to David and me – and any interested classmates - at a time that is mutually convenient (ideally the same day or the next one).

**Assessments:** (individual)

We will carry out some merger exercises at the start of the semester. I will provide data and instructions and each student will do individual work. Though you are encouraged to discuss the work in groups, keep in mind that no one should be completing another student’s assignment. Details about these assignments will be forthcoming.
The midterm assessment will be an individual exam during the last class before spring break which is Monday March 7. It will not be difficult! It will be designed to whether you read the materials and understood the economic concepts up to that point. The second assessment will be a closed-book final exam covering all the topics in the course. It will take place during the official exam period for our class so as to allow enough time for all the student presentations. I will make the exams open book and run through canvas if we end up needing to take them remotely. I don't like doing this because the exam has to be more difficult when it is open book.

**Issues of Academic Integrity:**

**Group Work:** Group work is valuable because it lets a student produce more complex and difficult pieces of analysis than he or she could generate alone during the time allotted. Not only that, the process of discovering facts and arguing about their analytical significance to one’s peers is a very valuable skill that (in my opinion) should be practiced and improved in business school. In addition, a course like this has a wonderful variety of students - MBA, Law, and College - who can learn from each other. However, group work carries with it inherent problems of how to distribute the work (approximately) equally. Here is the policy for my class: No student’s name should appear on a group project if the student has not substantively contributed to the production of the project.

**Plagiarism:** The members of any academic community are expected not to present ideas or material from other sources as their own. However, in this class it is acceptable to refer to concepts, frameworks, and analytical tools from the readings or class lectures without citation as we will all be building on them. In the context of this course it is unacceptable to quote or paraphrase analysis from another source and present it as your own. Note that there is a difference between consulting a source and then forming your own opinion based on what you have read, and “lifting” material directly.

In group work, all group members are responsible for the integrity of work that is submitted. Students have gotten into trouble for this in the past. Group members should always question other members about the source of material and analysis that is being included in group projects. If a group member has any concerns about the integrity of material being submitted by the group, that group member should discuss those concerns with the instructor.

**Grading:**

- Class Participation 20%
- Exercises 20%
- Exam + midterm 40%
- Class presentation and paper 20%

**Class Format:** *(TBD as the rules get updated)*

My plan is to hold the course in person. However, given the evolving nature of the COVID-19 pandemic, the format may change with updated university policy. Recordings will be available for students who are unable to attend in person with to a valid excuse. I am returning to a normal
standard for what constitutes a valid excuse. Students who wish to access class recordings should email the TA prior to the class session.

**Laptop policy:**

Please do not have clamshell laptops open during class. I find they are distracting both to the owner and those sitting behind. An electronic device that lies flat on the desk is fine. If you need an exception to this policy, please come see me.

**Schedule**

Before each class you should read the listed material. The legal cases have page numbers next to them so you can focus your attention on that specific part of the case. Readings from *The Antitrust Revolution* by Kwoka and White, 6th or 7th ed are labeled KW. There is lots of KW I do not assign that you might find useful in learning about a topic. [Readings in] are included for background reference and are optional.

**Mon Jan 24**

1. **Introduction: Why Antitrust?**

   Readings: Course syllabus  
   Benefits of Competition and Indicators of Market Power, CEA Issue Brief, 2016

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**CARTELS**

**Wed Jan 26**

2. **Price Fixing**

   Christopher Rowland, “Investigation of generic ‘cartel’ expands to 300 drugs,” Washington Post (Dec. 9, 2018)  
   Amended Complaint, In re: Generic Pharmaceuticals Antitrust Pricing Litigation pp 24-34 (Nov. 2017)

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**Mon Jan 31**

3. **Self-Enforcing Cartel Dynamics**

   Readings: Green and Porter “Noncooperative Collusion…” p87-91 and Conclusion section  
EC Decision: Organic Peroxides 2/37.857 pp20-32

Wed Feb 2
Merger exercise 1 DUE
4. International Cartels and Leniency
             Nathan Miller, “Strategic Leniency and Cartel Enforcement” pp750-762
             Auto parts timeline and recent activity document

   MERGERS

Mon Feb 7
5. Analysis of Horizontal Mergers: Market Definition and Efficiencies
   Readings: Horizontal Merger Guidelines 2010: read the entire document carefully. This is a very good investment in your education.
             AT&T Complaint 2011
             T-mobile Complaint 2019
             KW: AT&T-TMobile, 6th ed Case 1; 7th ed Case 6

Wed Feb 9
Merger exercise 2 DUE
6. Analysis of Horizontal Mergers: Unilateral and Coordinated Effects
             Moresi “The Use of Upward Price Pressure Indices in Merger Analysis” pp1-6
             DOJ opening statement in United States v Bazaarvoice (2013)

Mon Feb 14
7. Empirics of Merger Simulation

Wed Feb 16
Merger exercise 3 DUE
8. Tacit Collusion and Common Ownership
   Readings: US v American/USAirways Complaint (2013)
CHOICE: (econ) “Measuring the Incentive to Collude: The Vitamin Cartels”
Introduction and graphs OR (law) “Horizontal Shareholding and Antitrust Policy”

Mon Feb 21
9. **Vertical Mergers and Behavioral Remedies**

Readings: KW: Ticketmaster-Live Nation, 6th ed Case 2, 7th ed Case 8
DOJ CIS Comcast-NBCU (2011) pp1-39
[KW Case 17: Comcast-NBCU]
[AT&T-TWInc decision pp 1-4, 55-61, 109-117. This is lively!]

Wed Feb 23
10. **Joint Ventures**

DOJ Verizon-Cable JV press release 8/16/2012
Johnson & Johnson and Achillion JV (2015)

Thursday: final MERGER SIMULATION DUE

**UNILATERAL CONDUCT**

Mon Feb 28
11. **Predatory Pricing**

L’Equipe case presentation, French Competition Authority (2015)
[Matsushita Elec v Zenith, 475 U.S. 574 (1986)]

Wed Mar 2
12. **Network externalities: US v Microsoft**

KW: Microsoft, 6th ed Case 20, 7th ed case 22
EC Decision “COMP/C-3/37.792 — Microsoft,” 24 May 2004: read all of it

Mon March 7
13. **Enforcement agencies around the world**
   
   Guest Speakers:
   
   Jenny Haydock, Competition and Markets Authority, UK
   Joao de Resende, formerly CADE Commissioner, Brazil
Readings:  Introduction to CADE
Introduction to the CMA

Weds March 9

In-class **MIDTERM EXAM** on material covered to date

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March 10 through March 27

Mon Mar 28

14. **Pay for Delay and Monopsony part 1**

Readings:
- Prager, Elena and Matt Schmitt (2019) “Monopsony power in the nursing market”
- Supreme Court Decision, FTC v Actavis (2013): pp1-9 & 14-20
  [KW: Reverse Payments, 6th ed Case 7, 7th ed case 15]

Wed Mar 30

15. **MFNs and eBooks**

Readings:
  Nations Policies” *Antitrust Magazine*
- Bridgeland and Hunold EC presentation “Parity Clauses in the online hotel booking
  sector” (2015)
  and fn 63; Court findings: 113-22; Apple’s arguments: 131-3, 156-8; managerial
  testimony: footnotes 47 and 59, quote on p104
- Opening Presentation of the United States (2013): 65-7
  [US v Blue Cross Blue Shield of Michigan Complaint (2010)]
- Salop and Scott Morton (2013) “Developing an Administrable MFN Enforcement
  Policy” *Antitrust Magazine*
- Hotel Decision of the Swedish Competition Authority (2015): pp5-7, 9

Mon Apr 4

16. **Google Search**

Readings:
- Scott Morton, Fiona and David Dinielli (2020) “Roadmap for a Monopolization
  Case against Google Regarding the Search Market”
  [Colorado and plaintiff states v Google (2020)]
  [US v Google (2020)]

Wed Apr 6
17. Facebook and nascent competition

Readings: US v Visa-Plaid complaint  
FTC v Facebook 2021 (second) complaint  
“Killer Acquisitions” Cunningham, Ederer, and Ma. Read the Introduction, Table 2 and Figure 5  
[Scott Morton, Fiona and David Dinielli (2020) “Roadmap for an Antitrust Case against Facebook”]

Mon Apr 11

18. Exclusives and share-based contracts

Readings: Apple v Qualcomm (2017) and FTC v Qualcomm (2017) complaints  
Scott Morton & Abrahamson “A Unifying Framework for Loyalty Rebates” Part 3  
[KW: Dentsply, 6th ed Case 16. NOT IN THE 7th ed.]

Wed Apr 13

19. Monopsony part 2 and visiting speaker  
Ms. Nicole Jones, General Counsel of Cigna

Readings: Krueger and Ashenfelter “Theory and Evidence on Employer Collusion in the Franchise Sector” 2018 working paper  
Lipsitz and Starr (2019) “Low-Wage Workers and the Enforceability of Non-Compete Agreements” pp1-21, Tables 2,3,4,5 or equivalent figures.

Mon Apr 18

20. Two-sided markets and American Express

Readings: KW Case 19: Payment Cards (missing in 7th ed)  
DOJ AmEx Complaint (2010)  
SCOTUS AmEx dissent [Majority opinion is optional]

OTHER JURISDICTIONS, CURRENT LEGISLATION, AND STUDENT PRESENTATIONS

Wed Apr 20

21. State Antitrust Enforcement

Readings: NY State Actavis injunction  
Investigation by Eric T. Schneiderman of Simon Property Group (2017) pp1-4  
Wollmann “How to get away with Merger” (2019) Read the whole paper
Vox, Dozens of attorneys general are suing Google over its Play Store’s alleged anticompetitive practices

Mon Apr 25
22. European Antitrust and legislative proposals

Readings: Collection of EU news articles
Baker, Jonathan “Taking the Error out of “Error Cost” Analysis” pp7-23
Digital Markets Act December 2021 European Parliament (read Articles 5 and 6)
WCEG antitrust letter
[Klobuchar bill]

Wed Apr 27
23. Student presentations

Mon May 2
24. Student presentations

Wed May 4
25. Student presentations

Mon May 9
26. Student presentations

US v UnitedHealthGroup-Change
FTC v Microsoft-ActivisionBlizzard
FTC v Nvidia-ARM
US v Penguin Random House-Simon & Schuster
US v Jetblue-American
The state of Texas v Google Ad Tech
Le v Zuffa (UFC)
Epic v Google

Weds May 11

FINAL EXAM --- 9am