Required readings:


Note: The new 2017 edition of the casebook is not yet available. Instead of relying on the outdated edition, we will be using raw copies of the new edition that the author and the publisher have generously given us access to. The relevant excerpts will be posted on the courseworks website.

Selected articles: Articles will be provided on the courseworks.

Background readings:

Relevant sections relating to US antitrust law in the Casebook (“[CB]”) and selected articles or other supplementary readings listed in square brackets.

I expect you to be familiar with the relevant US case law. However, you may choose to skim the key cases assigned as optional background readings before each class. Two students will be assigned to be on call on the background readings each time such readings are assigned. Students on call are expected to have read the background cases carefully and will be asked to contribute to the discussion with comparative insights.

Recommended readings:

Two types of readings have been assigned as “recommended” readings. Relevant excerpts of agency guidelines complement the case law assignments and often help you understand the important doctrine. I urge you to read them in particular if the topic seems difficult to grasp from the assigned cases alone. (Note that at times I have assigned the guidelines as part of mandatory readings.) Other types of recommended readings consist of primarily academic articles. They provide deeper insight in the topic of the class. I invite you to read them if you have time or interest. Recommended readings do not form part of the material that will be
tested in the final exam. I may refer to them in class discussions but will not call on anyone to comment on them.

PART I: EU COMPETITION LAW

HORIZONTAL AGREEMENTS

Class 1: Introduction; Horizontal Price-Fixing, Output Restrictions & Market Divisions

EU Displaces U.S. as Top Antitrust Cop (WSJ, September 3, 2015)
Antitrust: Commission takes further steps in investigations alleging Google's comparison shopping and advertising-related practices breach EU rules (Commission Press Release (July 14, 2016)
China’s antitrust launches inquiry into Didi-Uber deal (FT, September 2, 2016)
Qualcomm Fined $853 Million by South Korean Antitrust Agency (Bloomberg News, December 27, 2016)

CB: 87-97
CB: 129-132, 135-139 (Polypropylene, Eurocheques)
CB: 155-161, 173-175 (Synthetic Fibres, Soda-Ash)
OECD Recommendation on Hard Core Cartels

[CB: 97-99, 101-110 (Trenton Potteries, BMF)]
[CB: 144-152, 168-170, 232-238 (NCAA, Palmer v. BRG, California Dental)]
Recommended:

UNILATERAL CONDUCT

Class 2: Market Definition & Market Power; Predatory Pricing

CB: 330-337
CB: 386-388 (United Brands)
CB: 349-352, 420-424 (Article 102 Guidelines)
EU accuses Qualcomm of impeding rivals (FT, December 8, 2015)

[CB: 355-369, 429-438 (Cellophane, Brooke)]
Class 3: Excessive Pricing; Refusal to Deal
   CB: 488-491 (*United Brands*)
   CB: 498-499 (other nations)
   CB: 543-567 (“notes and questions” optional) (*Commercial Solvents*, *Magill*,
   Bronner, IMS Health, Microsoft*)
   CB: 568-572 (Article 102 Guidelines)
   CB: 583-585 (other nations)

   [CB: 488, 499-504, 511-519, 523-529 (*Trinko, Otter Tail, Aspen Skiing, Trinko*)]
   [CB: 540-542]

Class 4: Price Squeezes; Monopoly Leveraging, Tying
   CB: 574-582 (*Deutsche Telekom*, TeliaSonera)
   CB: 587-591 (*Tetra Pak*)
   CB: 720-735 (*Hilti, Tetra Pak II, Microsoft*)
   CB: 718-720, 738-741 (Vertical Guidelines, Article 102 Guidelines, other nations)

   [CB: 531-538 (*Linkline*)]

   Recommended:
   Youngjin Jung: “Abuse of Market Dominance in Korea: Reflections on the KFTC’s Microsoft Decision”

Class 5: Loyalty and Bundled Discounts
   CB: 789-791, 799-808 (*Hoffman-La Roche, Intel*)
   Press Release of the ECJ Advocate General Opinion in Intel case
   FTC Press Release on the Intel Settlement
   Intel Wins Latest Round in Battle Over $1.17 Billion EU Fine (Bloomberg, October 20, 2016)
   CB: 821-822 (other nations)

   Recommended:
   Luca Mazzone and Alberto Mingardi: “Innovation, Competition and Antitrust: An Examination of the Intel Case”
   Damien Geradin: “The decision of the Commission of 13 May 2009 in the Intel case: Where is the foreclosure and consumer harm?”
[CB: 759-773, 779-783 (Le Page’s, Peace Health, Eisai)]

**VERTICAL AGREEMENTS**

**Class 6: Territorial restraints**
- CB: 828-830
- CB: 837-840, 846-848, 849-864 & 867-869 (Consten and Grundig, VW, Glaxosmithkline)
- [CB: 841-846 (Vertical Guidelines & Regulation) -- optional]
- CB: 870-871 (other nations)

  [CB: 830-836 (GTE Sylvania)]

**Class 7: Resale Price Maintenance**
- CB: 907-910
- CB: 911-913 (SA Binon)
- CB: 907-910 (Vertical Guidelines)

  [CB: 881-904 (Leegin)]

**MERGERS**

**Class 8: Horizontal mergers: Unilateral Effects, Oligopolistic Coordination and Collective Dominance**
- CB 1078-1085 (general and other nations)
- CB: 1098-1104, 1142-1146 (EU Horizontal Merger Guidelines)
- CB: 1126-1141 (Gencor, Airtours)
- CB: 1147-1150 (other nations)

  5 [CB: 1086-1098, 1113-1117 (US Horizontal Merger Guidelines)]
  6 [CB: 1118-1123 (FTC v. Heinz)]

**Class 9: Horizontal mergers: Entry Barriers, Efficiencies, Failing Firm Defense**
- CB: 1157-1158 (Airtours)
- CB: 1155-1157, 1162-1166 (Horizontal Merger Guidelines)
- CB: 1166-1177 (Superior Propane – Canadian case)
- CB: 1177-1178
Class 10: Vertical and Conglomerate Mergers

CB: 1226-1228
CB: 1243-1247, 1285-1297, 1300-1321 (GE/Honeywell, Tetra Laval)
CB: 1248-1262, 1321-1328 (Non-Horizontal Merger Guidelines)
CB: 1263-1266
Deborah Majoras: “GE-Honeywell: The U.S. Decision”

Recommended:
Eleanor Fox: GE/Honeywell: “The U.S. Merger that Europe Stopped – A Story of the Politics of Convergence”
Donna Patterson and Carl Shapiro: “Transatlantic Divergence in GE/Honeywell: Causes and Lessons”

Class 11: Antitrust Institutions and Remedies

CB: 15-36, 57-86

Recommended:
Daniel Crane: “Optimizing Private Antitrust Enforcement”
The 2014 EU Directive on Damages Actions
Class 12: Review of EU Competition Law
Discussion on key elements and major points of divergence with US law

Assignment: View your notes in preparation

Class 13: Practice exam
Assignment: Take the practice exam at home in preparation. We will review it in class.

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PART II: ANTITRUST LAWS IN OTHER JURISDICTIONS

Class 14: Antitrust Law in Developing Countries
Dina Waked: “Antitrust Goals in Developing Countries: Policy Alternatives and Normative Choices”
Eleanor Fox: “Economic Development, Poverty and Antitrust: The Other Path”

Recommended:
Eleanor Fox and Michal Gal: “Drafting Competition Law for Developing Jurisdictions: Learning from Experience”
Frederic Jenny: “Cartels and Collusion in Developing Countries: Lessons from Empirical Evidence”

Class 15: Antitrust Law in China
Guest Lecture by Steve Harris, Partner at Winston & Strawn

Required Reading:
Excerpt from: Xiaoye Wang: The Evolution of China’s Anti-Monopoly Law

Recommended:
Yong Huang, “Pursuing the Second Best: The history, Momentum, and Remaining Issues of China’s Anti-Monopoly Law”
Jacob S. Schneider, “Administrative Monopoly and China’s New Anti-Monopoly Law: Lessons from Europe’s State Aid Doctrine”
Angela Huyue Zhang: “Bureaucratic Politics and China’s Anti-Monopoly Law”

Class 16: Overview of Antitrust Laws in Other Jurisdictions
No advance readings.

Class 17: Antitrust Law in Brazil, India and Russia
Ana Paula Martinez and Mariana Tavares De Aranjo: “Anti-cartel Enforcement in Brazil: Status Quo and Trends”
Aditya Bhattacharjea: “India’s New Antitrust Regime: the First Two Years of Enforcement”
“Google Antitrust Inquiries Spread Over Global, with India the Latest Problem” (NYT, September 1, 2015)
Ianis Girgenson and Anna Numerova: “Reform of Russian Competition Law: It’s a Long Way from Brussels to Moscow”

Class 18: Overview of Antitrust Enforcement in Other Jurisdictions
Additional assignment TBA

Class 19: Antitrust Investigations against Google in the US and the EU
Guest Lecture by Rosie Lipscomb, Competition Counsel at Google (March 28, at 12.15-1.10 pm)
PART III: INTERNATIONAL ANTITRUST LAW

NOTE: Readings for the classes below will need to be updated once we gain access to the relevant sections of the casebook

Class 20: Antitrust Jurisdiction: Extraterritoriality in the US and the EU
CB: 1141-1154, 1161-1174 (Hartford Fire, Empagran)
CB: 1174-1187 (Dyestuffs, Wood Pulp, Gencor)

Recommended:

Class 21: International Antitrust Cooperation
Guest Lecture by Rachel Brandenburger, Counsel at Hogan Lovells and a former Special Advisor for the DoJ on international antitrust cooperation
(Readings TBD)

Class 22: Trade-Antitrust Interface
CB: 1196-1208 (Superior Propane, Extramet)
CB: 1225-1239 (Intel)

Recommended:
Norio Komuro: “Kodak-Fuji Film Dispute and the WTO Panel Ruling”

Class 23: Towards an International Antitrust Law?
CB: 1239-1247
Andrew Guzman: “Antitrust and International Regulatory Federalism” (p. 1151-1158, skim the rest)
Anu Bradford: “International Antitrust Negotiations and the False Hope of the WTO” (p. 383-397, skim the rest)
PART IV: INTERNATIONAL ANTITRUST LAW MOOT COURT EXERCISE

Class 24 and Class 25: Moot Court Exercise
Based on a case written by two students, we will conduct a moot court exercise where each student has a role. The case will be distributed and the roles assigned 4 weeks before the moot.

PART V: CONCLUSION

Class 26: Conflict and Cooperation and the Future of Antitrust Enforcement in the World
Reflections and a structured conversation on the key take-aways (no assigned readings)