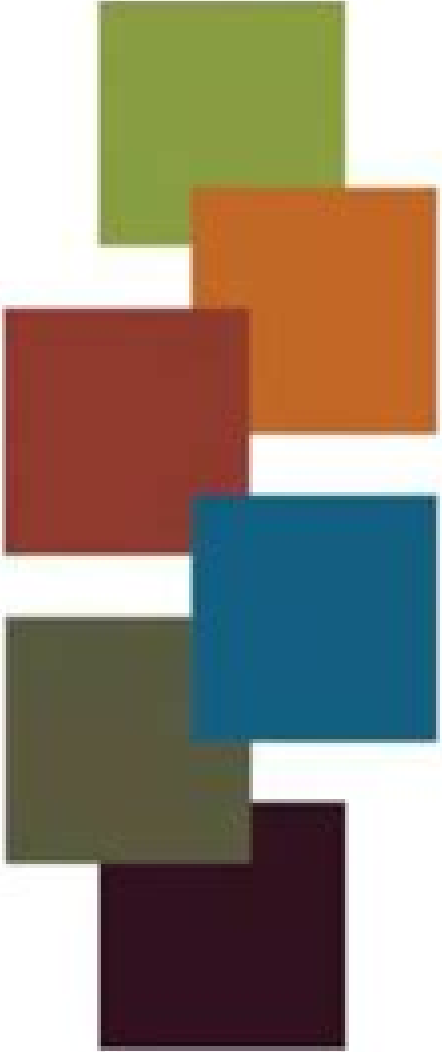




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# Economics And Antitrust Policy

**Richard S. Markovits**



## **Economics And Antitrust Policy:**

Economics and Antitrust Policy Robert Lerner, James Meehan, 1989-01-23 As the economists and lawyers contributing to this volume demonstrate an important element of the Reagan Revolution has been a fundamental shift in antitrust policy and enforcement away from the focus on market structure during the 1960s and early 1970s toward a greater emphasis on the effects of business conduct on economic efficiency and consumer welfare This shift caused both by a marked change in the political climate and changes in the thinking and research output of economists has had an enormous impact on the volume and substance of antitrust activity during the 1980s The articles collected here each written especially for this volume assess these changes in antitrust activity in key policy areas mergers vertical restraints monopoly and strategic behavior The authors examine particularly the impact of the change in antitrust enforcement and policy on social welfare They point out where changes have been beneficial evaluate whether further changes in policy or law are desirable and probe unresolved issues such as whether current policy pays too little attention to the possible strategic or anticompetitive aspects of some forms of business conduct Taken together these essays offer a multifaceted explanation of the ways in which economics has contributed to changes in antitrust policy and law By providing a more thorough understanding of developments in industrial economics during the last 30 years the authors also provide lawyers economists business executives and students of business administration with new insights into possible future trends in antitrust policy and law and their impact on the structure of American businesses and markets

**Fair Competition** Joel B. Dirlam, Alfred Edward Kahn, 1954 Welfare Economics and Antitrust Policy - Vol. I Richard S. Markovits, 2021-10-18 This book is Volume I of a two volume set on antitrust policy analyzing the economic efficiency and moral desirability of various tests for antitrust legality including those promulgated by US and EU antitrust law The overall study consists of three parts Part I Chapters 1 8 introduces readers to the economic moral and legal concepts that play important roles in antitrust policy analysis Part II Chapters 9 16 analyzes the impacts of eight types of conduct covered by antitrust policy and various possible government responses to such conduct in terms of economic efficiency the securing of liberal moral rights and the instantiation of various utilitarian non utilitarian egalitarian and mixed conceptions of the moral good Part III Chapters 17 18 provides detailed information on US antitrust law and EU competition law and compares the extent to which when correctly interpreted and applied these two bodies of law could ensure economic efficiency protect liberal moral rights and instantiate various morally defensible conceptions of the moral good This first volume contains Part I and the first two chapters of Part II of the overall study the two chapters that focus on oligopolistic and predatory conduct of all kinds respectively The book will appeal to undergraduate and graduate students of economics and law who are interested in welfare economics antitrust legality and the General Theory of the Second Best

Antitrust and the Triumph of Economics Marc Allen Eisner, 1991 Eisner contends that Reagan s economic agenda reinforced by limited prosecution of antitrust offenses was an extension of well established trends During the 1960s and

1970s critical shifts in economic theory within the academic community were transmitted to the Antitrust Division and the FTC shifts that were conservative and gave Reagan a background against which to operate Annotation c 2003 Book News Inc Portland OR booknews com Economics in Antitrust Policy Mark Steiner,2007 In the field of antitrust the freedoms to contract and compete can and do contradict Profit maximizing companies desire perfectly competitive input markets to minimize their costs but want monopolistic markets for their outputs to maximize their profits Consequently they have strong incentives to undermine competition in their output markets In a world without antitrust laws many companies would thus eliminate competition by using their freedom to contract either by entering into legally enforceable agreements which fix prices or divide up markets or by merging and acquiring rivals to gain market control Therefore guaranteeing and safeguarding companies abilities to compete comes at the cost of restricting their freedoms to contract The states role in this task is a delicate one though government intervention itself necessarily limits the economic freedom of individuals and firms and limiting the freedom of contract has potentially detrimental effects on economic activity as well Hence antitrust policy must find the right balance between the two freedoms of competition and contract allowing competition to flourish while upholding the contractual freedoms necessary for a functioning market The policies in the U S and Europe used to protect competition with per se rules setting clear boundaries for the freedom to contract where it interfered with the freedom to compete Over the past decades improvements in economic analysis provided measurable dimensions for competition through measures like efficiency and welfare With these new and complex economic tools the aim of an antitrust policy moved away from an indirect mechanism which provided and enforced a strict framework of negative per se rules within which the competitive process was allowed to happen The current policies directly aim at promoting welfare by attempting to balance the welfare effects of individual business practices permitting contracts or mergers with benign effects and prohibiting contracts with detrimental effects on welfare in potentially every case These economic insights have promoted a better understanding of the competitive process and contributed to improved antitrust rules However in the actual enforcement of antitrust laws recent developments caused by the influence of economic analysis have had a detrimental impact on antitrust policy in both the U S and the EU First it increased the discretion of competition authorities lowering legal certainty for companies and increasing the potential for wrong decisions Second it gave companies incentives to waste resources on rent seeking activities by using economic analyses to demonstrate efficiencies in complicated and timely investigations and litigation And third the predominant use of economic analysis has massively increased the costs of enforcement This thesis is the first one to depict these negative effects caused by recent developments and shows that a policy with clear limitations through proposed per se rules would be superior for it would eliminate the illustrated negative effects **Antitrust Policy** Carl Kaysen,Donald F. Turner,1959 No detailed description available for Antitrust Policy *Antitrust Law and Economics* Keith N. Hylton,2010-01-01 In this outstanding new book Professor Keith Hylton and his collaborators examine what antitrust

law has become over the past ten years a time in which economic analysis has become its undisputed core What has become of the old antitrust doctrine what are the new issues for the immediate future This book brings together the leading experts to examine this silent revolution at the core of US domestic policy Mark Grady UCLA School of Law US Hylton s Antitrust Law and Economics brings together many of the best authors writing in antitrust today Their essays range widely covering proof of agreement under the Sherman Act group boycotts monopolization and essential facilities tying and other vertical restraints and merger policy The writing is clear accessible but still technically sophisticated and comprehensive This book represents the best in contemporary antitrust scholarship by authors who understand and are able to communicate the centrality of economic analysis to antitrust No antitrust lawyer serious antitrust student or antitrust economist should be without this book Herbert Hovenkamp University of Iowa College of Law US This comprehensive book provides an extensive overview of the major topics of antitrust law from an economic perspective Its in depth treatment and analysis of both the law and economics of antitrust is presented via a collection of interconnected original essays The contributing authors are among the most influential scholars in antitrust with a rich diversity of backgrounds Their entries cover amongst other issues predatory pricing essential facilities tying vertical restraints enforcement mergers market power monopolization standards and facilitating practices This well organized and substantial work will be invaluable to professors of American antitrust law and European competition law as well as students specializing in competition law It will also be an important reference for professors and graduate students of economics and business

### **Welfare Economics and Antitrust Policy — Vol. II**

Richard S. Markovits, 2022-11-07 This book is Volume II of a two volume set on antitrust policy analyzing the economic efficiency and moral desirability of various kinds of antitrust policy coverable conduct and various possible government responses to such conduct including US and EU antitrust law The overall study consists of three parts Part I Chapters 1 8 introduces readers to the economic moral and legal concepts that play important roles in antitrust policy analysis Part II Chapters 9 16 analyzes the impacts of eight types of conduct covered by antitrust policy and various possible government responses to such conduct in terms of their economic efficiency their impact on liberal moral rights and their instantiation of various utilitarian and other egalitarian conceptions of the moral good Part III Chapters 17 18 provides detailed information on US antitrust law and EU competition law and compares the extent to which when correctly interpreted and applied these two bodies of law could increase economic efficiency protect liberal moral rights and instantiate various morally defensible conceptions of the moral good This second volume contains the last 6 chapters of Part II which focus respectively on horizontal M A s conglomerate M A s surrogates for vertical integration vertical M A s joint ventures and internal growth and Part III which focuses on US antitrust law and EU competition law The book will appeal to undergraduate and graduate students of economics and law who are interested in welfare economics antitrust policy and The General Theory of Second Best

**Law, Economics and Antitrust** Paddy McNutt, 2005-01-01 those who are dealing with antitrust issues the book is

very useful and if somebody has already acquired the basic economic principles underlying antitrust regimes one should read this book Pal Bela Szilagyi and Dorina Juhasz Erasmus Law and Economics Review The book is quite often an interesting read and provokes plenty of unexpected thoughts Scholars familiar with the public choice literature and American antitrust law could benefit from the stimulating questions McNutt raises throughout and for the wealth of examples from European competition law Scott E Graves The Law and Politics Book Review Patrick McNutt s book is a brilliant expos of the interaction between law economics and antitrust The author an economist and distinguished regulator handles both the legal and economic material deftly It is provocative particularly when dealing with issues such as the efficiency of competition and the effectiveness of antitrust rules His case studies are particularly compelling The book is written with huge flair and great learning It combines theoretical and practical considerations The comparative coverage is excellent A must read for all interested in law and economics Antitrust specialists will discover many novel and valid insights David O Keeffe University College London UK and College of Europe Bruges Belgium This book continually stimulates the reader to think about the issues in non standard and illuminating ways following new and significant directions Yet the discussion always is authoritatively grounded in the author s extensive knowledge of the pertinent law and the relevant economic analysis William J Baumol New York University US and Princeton University US Professor McNutt provides a refreshing and different perspective on the important fundamental issues underlying competition law and policy Barry E Hawk Skadden Arps Slate Meagher Flom LLP US In this accessible yet rigorous textbook Patrick McNutt presents a clear and refreshing approach to a wide range of topics in law economics and antitrust The issues covered include duty and obligation contracting liability property rights efficient entry compensation oligopoly pricing issues in strategic antitrust and merger analysis Using a selection of case studies where appropriate and examples based in game theory the book examines these issues from both a law and economics and a microeconomics perspective Emphasis is placed on a thorough assessment of the economic and legal arguments blending the rigours of microeconomic analysis with common law standards The analysis contained in the book will not only review and indeed adapt neoclassical economic analysis but will also apply some of the methodology from the relatively new paradigm known as law and economics to many of the issues The book also addresses the increasing overlap between emerging approaches in public choice and in law and economics Practitioners in competition law and regulation of utilities will draw great value from this original and pertinent volume as will scholars in the areas of regulation competition law competition policy and law and economics

**Antitrust Law and Economics in a Nutshell** Ernest Gellhorn, William E. Kovacic, 1994

**Welfare Economics and Antitrust Policy - Vol. I** Richard S. Markovits, 2021-10-19

This book is Volume I of a two volume set on antitrust policy analyzing the economic efficiency and moral desirability of various tests for antitrust legality including those promulgated by US and EU antitrust law The overall study consists of three parts Part I Chapters 1-8 introduces readers to the economic moral and legal concepts that play important roles in antitrust

policy analysis Part II Chapters 9-16 analyzes the impacts of eight types of conduct covered by antitrust policy and various possible government responses to such conduct in terms of economic efficiency the securing of liberal moral rights and the instantiation of various utilitarian non utilitarian egalitarian and mixed conceptions of the moral good Part III Chapters 17-18 provides detailed information on US antitrust law and EU competition law and compares the extent to which when correctly interpreted and applied these two bodies of law could ensure economic efficiency protect liberal moral rights and instantiate various morally defensible conceptions of the moral good This first volume contains Part I and the first two chapters of Part II of the overall study the two chapters that focus on oligopolistic and predatory conduct of all kinds respectively The book will appeal to undergraduate and graduate students of economics and law who are interested in welfare economics antitrust legality and the General Theory of the Second Best

*Fair Competition* Joel B. Dirlam, Alfred E. Kahn, 1970

**Economics of Antitrust Law** Benjamin Klein, Andres V. Lerner, 2008

**Research Handbook on the Economics of Antitrust Law** Einer Elhauge, 2012 One might mistakenly think that the long tradition of economic analysis in antitrust law would mean there is little new to say Yet the field is surprisingly dynamic and changing The specially commissioned chapters in this landmark volume offer a rigorous analysis of the field's most current and contentious issues Focusing on those areas of antitrust economics that are most in flux leading scholars discuss topics such as mergers that create unilateral effects or eliminate potential competition whether market definition is necessary tying bundled discounts and loyalty discounts a new theory of predatory pricing assessing vertical price fixing after Leegin proving horizontal agreements after Twombly modern analysis of monopsony power the economics of antitrust enforcement international antitrust issues antitrust in regulated industries the antitrust patent intersection and modern methods for measuring antitrust damages Students and scholars of law and economics law practitioners regulators and economists with an interest in industrial organization and consulting will find this seminal Handbook an essential and informative resource

**Economic Analysis and Antitrust Law** Terry Calvani, John J. Siegfried, 1979

**Market Dominance and Antitrust Policy** Michael A. Utton, 2005-01-01 Market dominance encompassing single firm dominance overt and tacit collusion mergers and vertical restraints raises many complex analytical and policy issues all of which continue to be the subject of theoretical research and policy reform This second edition of a popular and comprehensive text extends the arguments and combines an analysis of the issues with a discussion of actual policy and case studies This new edition addresses the recent fundamental changes in antitrust law especially in the UK and the EU and reviews some high profile and controversial cases such as the Boeing McDonnell Douglas merger and the Microsoft monopoly The author moves on to deal with several unresolved questions including the conflicts between trade and antitrust policy the foreign take over of domestic assets and extra territorial claims made by certain countries

*Antitrust Law* Keith N. Hylton, 2003-03-27 Preface p xi 1 Economics p 1 I Definitions p 1 II Perfect Competition Versus Monopoly p 9 III Further Topics p 21 2 Law and Policy p 27 I Some Interpretation Issues p 28 II Enacting

the Antitrust Law p 30 III What Should Antitrust Law Aim to Do p 40 3 Enforcement p 43 I Optimal Enforcement Theory p 43 II Enforcement Provision of the Antitrust Laws p 47 Appendix p 64 4 Cartels p 68 I Cartels p 68 II Conscious Parallelism p 73 III Conclusion p 89 5 Development of Section 1 Doctrine p 90 I The Sherman Act Versus the Common Law p 90 II Rule of Reason and Per Se Rule p 104 III Conclusion p 112 6 Rule of Reason and Per Se Rule p 113 I The Case for Price Fixing p 113 II Per Se and Rule of Reason Analysis Further Developments p 116 III Per Se Versus Rule of Reason Tests Understanding the Supreme Court s Justification for the Per Se Rule p 129 7 Agreement p 132 I The Development of Inference Doctrine p 133 II Rejection of Unilateral Contract Theory p 140 8 Facilitating Mechanisms p 144 I Data Dissemination Cases p 145 II Basing Point Pricing and Related Practices p 154 III Basing Point Pricing Economics p 160 9 Boycotts p 166 I Pre Socony p 166 II Post Socony p 170 III Post BMI Sylvania p 181 IV Conclusion p 184 10 Monopolization p 186 I Development of Section 2 Doctrine p 186 II Leveraging and Essential Facility Cases p 202 III Predatory Pricing p 212 IV Conclusion p 228 11 Power p 230 I Measuring Market Power p 230 II Determinants of Market Power p 235 III Substitutability and the Relevant Market Cellophane p 237 IV Multimarket Monopoly and the Relevant Market Alcoa p 239 V Measuring Power Guidelines p 243 12 Attempts p 244 I The Swift Formula and Modern Doctrine p 244 II Dangerous Probability Requirement p 248 13 Vertical Restraints p 252 I Resale Price Maintenance p 252 II Vertical Nonprice Restraints p 262 III Manufacturer Retains Title p 267 IV Agreement p 270 14 Tying and Exclusive Dealing p 279 I Introduction p 279 II Early Cases p 284 III Development of Per Se Rule p 286 IV Tension Between Rule of Reason Arguments and Per Se Rule p 295 V Technological Tying p 301 VI Exclusive Dealing p 303 Appendix p 307 15 Horizontal Mergers p 311 I Reasons for Merging and Implications for Law p 311 II Horizontal Merger Law p 317 III Conclusion p 330 Appendix p 330 16 Mergers Vertical and Conglomerate p 333 I Vertical Mergers p 333 II Conglomerate Mergers p 344 III Concluding Remarks p 351 17 Antitrust and the State p 352 I Noerr Pennington Doctrine p 354 II Parker Doctrine p 371 III Some Final Comments Error Costs and Immunity Doctrines p 375 Index p 379

*Predatory Pricing in Antitrust Law and Economics* Nicola Giocoli, 2014-01-10 Can a price ever be too low Can competition ever be ruinous Questions like these have always accompanied American antitrust law They testify to the difficulty of antitrust enforcement of protecting competition without protecting competitors As the business practice that most directly raises these kinds of questions predatory pricing is at the core of antitrust debates The history of its law and economics offers a privileged standpoint for assessing the broader development of antitrust its past present and future In contrast to existing literature this book adopts the perspective of the history of economic thought to tell this history covering a period from the late 1880s to present times The image of a big firm such as Rockefeller s Standard Oil or Duke s American Tobacco crushing its small rivals by underselling them is iconic in American antitrust culture It is no surprise that the most brilliant legal and economic minds of the last 130 years have been engaged in solving the predatory pricing puzzle The book shows economic theories that build rigorous stories explaining when predatory pricing may be rational what welfare harm it



may cause and how the law may fight it Among these narratives a special place belongs to the Chicago story according to which predatory pricing is never profitable and every low price is always a good price      **The Economics of the Antitrust Process** M.B. Coate,A. Kleit,1996-05-31 This book focuses on the antitrust process and how that process affects the efficiency of antitrust law enforcement The contributors share a wide range of experiences in the antitrust process including academia the legal environment and both private and public sectors The book deals first with merger activities followed by non merger enforcement initiatives and concludes with an examination of the future role of antitrust      **Post-Chicago Developments in Antitrust Law** Antonio Cucinotta,Roberto Pardolesi,Roger van den Bergh,2002-01-01 This work offers a critical evaluation of the Chicago approach to antitrust The authors discuss the economic foundations of competition policy and the different ways in which both American and European competition law does or does not take account of economic insights

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