

## **Antitrust I: Principles (Fall 2021)**

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### **Welcome to Antitrust I: Principles**

This course examines the laws that protect consumers by ensuring competition in the marketplace. Specific topics include agreements among competitors, joint ventures, mergers, and monopolization. We will examine Supreme Court doctrine, influential modern lower court decisions, and government enforcement guidelines. Economic concepts and thinking characteristic of modern antitrust analysis are integrated throughout the course.

**This course is a prerequisite for Antitrust II.**

**No background in economics is necessary or assumed. If you plan on taking the antitrust specialization, or are interested in greater exposure to the economic foundations of antitrust, I recommend enrolling in Antitrust Economics in conjunction with this course, or subsequent to this course.**

**Learning Outcomes:** By the end of the course students should be able to:

- Understand the goals of antitrust, its basic institutions, and enforcement structures
- Understand the antitrust laws and enforcement policies governing horizontal mergers, including Section 7 of the Clayton Act, the 2010 Horizontal Merger Guidelines, and the 2020 Vertical Merger Guidelines
- Understand the antitrust laws and enforcement policies governing horizontal restraints of trade, including Section 1 of the Sherman Act
- Understand the antitrust laws and enforcement policies governing monopolization and vertical restraints of trade, including Section 1 and Section 2 of the Sherman Act

**Class:** This course meets Monday and Wednesday from 8:00 pm to 9:35 pm.

**Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me.**

**Office Hours:** I am an adjunct, so I do not have an office in the law school. I will be available by appointment. Contact me by phone, email or see me before or after class to schedule a time to meet.

**Required 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) (3d Edition).

We will also read enforcement agency guidelines, scholarly commentary, and other supplementary materials I will direct you to.

**Grading and Basis of Evaluation & Assessments:** The final exam will account for 100% of your grade, subject to a discretionary class participation adjustment of 1/3<sup>rd</sup> of a grade in **either** direction. The final exam is comprised of essay questions.

**Class Participation and Preparation:** You should come to class having read and thought about the material and prepared to participate in discussion. The purpose of the lecture is not to review the assigned readings but to use them as a starting point for our learning.

**Final Exam:** The final exam is scheduled for **DECEMBER 04 at 12:00 PM**. There is no make up exam.

**Final Exam Permissible Materials:** Open book, open note, and open materials.

**Tentative Syllabus:** We may deviate from the tentative syllabus with assignments taken from current events, new cases, to accommodate guest speakers, scheduling reasons, etc.

### Reading

Date	Topic	Reading
Aug. 23/25	Introduction	Textbook: 1-78
August 30	Horizontal Mergers	Textbook: pages 671-696; 700-708
Sept. 1/8	Horizontal Mergers	Horizontal Merger Guidelines, available at <a href="https://www.justice.gov/sites/default/files/atr/legacy/2010/08/19/hmg-2010.pdf">https://www.justice.gov/sites/default/files/atr/legacy/2010/08/19/hmg-2010.pdf</a>
Sept. 13	Horizontal Mergers	FTC v. Staples, 970 F. Supp. 1066, FTC v. Heinz, 246 F.3d 708
Sept. 15	Horizontal Mergers	Commentary on Horizontal Merger Guidelines, available at <a href="https://www.justice.gov/atr/file/801216/download">https://www.justice.gov/atr/file/801216/download</a>
Sept. 20	Horizontal Mergers	FTC v Sysco, 113 F. Supp. 3d 1
Sept. 22	Horizontal Mergers	FTC v Rag Stif-tung, 436 F. Supp 3d 278
Sept. 27	Vertical Mergers	Textbook: 870-891, Complaint in Illumina/Grail, available at <a href="https://www.ftc.gov/system/files/documents/cases/redacted_administrative_part_3_complaint_redacted.pdf">https://www.ftc.gov/system/files/documents/cases/redacted_administrative_part_3_complaint_redacted.pdf</a>
Sept. 29	Vertical Mergers	United States v. ATT, available at <a href="https://www.cadc.uscourts.gov/internet/opinions.nsf/390E66D6D58F426B852583AD00546ED6/\$file/18-5214.pdf">https://www.cadc.uscourts.gov/internet/opinions.nsf/390E66D6D58F426B852583AD00546ED6/\$file/18-5214.pdf</a>
Oct. 4	Vertical Mergers	Vertical Merger Guidelines, available at <a href="https://www.ftc.gov/system/files/documents/reports/us-department-justice-federal-trade-commission-vertical-merger-guidelines/vertical_merger_guidelines_6-30-20.pdf">https://www.ftc.gov/system/files/documents/reports/us-department-justice-federal-trade-commission-vertical-merger-guidelines/vertical_merger_guidelines_6-30-20.pdf</a> , and Commentary on the Vertical Merger Enforcement, available at <a href="https://www.ftc.gov/system/files/documents/reports/federal-trade-commissions-commentary-vertical-merger-enforcement/p180101verticalmergercommentary_1.pdf">https://www.ftc.gov/system/files/documents/reports/federal-trade-commissions-commentary-vertical-merger-enforcement/p180101verticalmergercommentary_1.pdf</a>
Oct. 6 & After	Topics will be provided by instructor	Readings will be provided by the Instructor