

DePaul University
Kellstadt Graduate School of Business

ECO 529: Competition, Strategy, and Antitrust Policy
Winter 2021

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Important: As the quarter progresses, we may need to adjust some parts of this syllabus to keep the course running smoothly and in a way that is manageable for all. This is a new format for this class, and the current circumstances have created significant uncertainty, but we will work to have an excellent experience together.

Course Description

This class discusses topics in the intersection of the economics of competition policies (AKA, antitrust and regulation), industrial organization, and business strategy. The main goals are to (a) analyze firm behaviors and interactions under various industry configurations, (b) scrutinize these behaviors and interactions through the lenses of competition policies, and (c) understand the constraints that these policies impose on firm strategies and overall market outcomes. To accomplish these goals, we will draw on microeconomic theory, game theory, industrial organization, antitrust policy, competitive strategy, as well as a series of case studies involving various firms and industries.

Prerequisites

We will assume understanding of microeconomic theory at the level of ECO 505 or ECO 555. We will also use game theoretic tools, but I will cover the basics of this material as part of the class.

Course Format

We will conduct this online course in an *Online Hybrid* format. This means that:

1. I will deliver my lectures asynchronously and post them on D2L.

2. Every week we will have Zoom contact hours on Tuesdays from 5:45 to 7:15 p.m., where we will review lecture material, have group discussions, and look at new applications of the material covered in class.

I will post my lectures every **Tuesday** before 11:59 p.m. You can work through each week's lecture at your own pace but keep in mind that we will reference lecture materials during the contact hours and that there will be weekly deadlines for discussion posts and assignments.

Please make sure to have the necessary technical resources to be able to access course materials and complete assignments. If you do not have access to the following resources, please let me know immediately so I can make accommodations for you:

- A computer that connects to the internet (web cam helpful but not required)
- A working email account that you check regularly (updated in Campusconnect). All class-related communication comes through DePaul email, so make sure to check this frequently
- Access to Microsoft Office or similar software
- Ability to playback video files

Office Hours

I will conduct office hours in two ways:

1. By appointment at a mutually convenient date and time. Please email me to make an appointment. I am responsive to email and will very likely reply the same day.
2. During our Tuesday Zoom contact hours, we will open with a Q&A session.

Contact hours are also good to chat about current events related to the class and get to know each other in a synchronous way.

Course Materials

The conceptual part of the course is based on standalone notes and academic papers. Most of the cases we will discuss are in:

The Antitrust Revolution, 7th edition, edited by John Kwoka and Lawrence White, Oxford University Press, 2018 ([amazon.com link](https://www.amazon.com/dp/0190852011)).

Other than this, there is no formal textbook. Any text on Intermediate Microeconomics or Industrial Organization can serve as a good reference or source for the conceptual/analytical components of the class. **A good Industrial Organization text, available for free in pdf form is:**

Industrial Organization: A Strategic Approach, by Jeffrey Church and Roger Ware, McGraw-Hill, 2000 ([download link](#)). Please read and respect the “Terms and Conditions of Use” found on the first page of the pdf if you download it.

I also recommend the recent short book **The Curse of Bigness**, by Tim Wu, **Columbia Global Reports, 2018** ([amazon.com link](#)).

I will additionally post a variety of other readings and links on D2L.

Grading

I will determine your grade using the following components and weights:

Case reports (group grade)	30%
Participation/Presentation (individual grade)	40%
Final Project (group grade)	30%

The grading scale is:

A	93% and above	C	73-76%
A-	90-92%	C-	70-72%
B+	87-89%	D+	67-69%
B	83-86%	D	60-66%
B-	80-82%	F	59% and below
C+	77-79%		

I will grade and return your case reports within one week or less of their due dates. If you require any clarification on any of your grades, please contact me at most ten days after receiving your graded assignment.

Case Reports

You will, in groups of two, write a report on a case in preparation for a discussion every week starting on week 2. This report will consist of (a) a summary of the most relevant economic aspects of the case, (b) what you perceive to be the main economic, strategic, and policy takeaways from the case, and (d) noteworthy strengths and weaknesses of the case reading (feel free to be critical). Throughout (a)-(c) I will strongly consider your ability to incorporate class material in evaluating your write-up. Your report, in PDF form, should be around 3 to 4 single and a half or double-space pages and is due on D2L at 5 p.m. before class each week (based on the table below). The grading scale is from 0 (very poor) to 10 (outstanding). If you are tasked with leading a discussion (see below), you will be exempt from this report and score an automatic 10 points.

Some basic tips on writing case reports:

Content

- Applies concepts and frameworks from class to the case without reteaching class material
- Does not quote or cut/paste extensively from the case
- Takeaways and strengths/weakness assessment are thoughtful (backed up by theory or evidence, and not unsubstantiated claims)
- Uses class concepts and terminology correctly

Organization and Writing

- Report is logically organized and easy to follow
- Report uses primarily active voice
- Report does not use flowery or convoluted language
- Report uses accurate spelling, punctuation, and grammar
- Report properly cites and attributes sources outside of the case itself

Class Participation and Presentation

Preparation and participation are vital in this class. There are two participation components in this class: Synchronous Sessions Discussions, and D2L Discussion Boards.

Synchronous Discussions

We will spend a non-trivial fraction of our Tuesday Synchronous sessions discussing cases and class material, and I expect you to actively participate in these discussions. Frequent absences will likely result in a reduced participation grade, so try to make it a point to be there for our Tuesday sessions. What follows is a standard spiel that you may have seen elsewhere: *“Learning opportunities are maximized when all students are actively engaged in class discussion. Active engagement means not only that you have prepared the material, but also that you are paying attention to the comments of other students and seeking opportunities to make comments that move the class discussion forward. Discussions take a non-trivial fraction of class time, so there will be ample opportunity for everyone to participate, especially in a relatively small group like this. To increase opportunities for effective participation, I may occasionally cold call students during a discussion. Rest assured that if you have invested quality time to prepare, you will have something valuable to say during the discussion.”*

To serve as the basis for case discussions, I will assign students to present an outline of the case and be discussion leaders. Since these are Antitrust cases, the discussion will generally consist of (1) a brief background, introduction and motivation, (2) the plaintiff and defendant cases, with emphasis on their economic arguments, (3) an evaluation of the final decision, conclusions, and takeaways, and (4) Q&A. I expect each discussion to last somewhere in the vicinity of 45 minutes to 1 hour. Please manage your time well! I will communicate with the discussion leader(s) in advance to agree on structure. If you are scheduled to lead a discussion, please prepare a set of slides, and e-mail them to me for comments at least 24 hours before the session. Students leading a discussion will not be responsible for a case report and will automatically earn 10 points for it.

D2L Discussion Boards

There will be weekly online discussions in the D2L discussion boards. I will post two main types of questions for discussion each week: (i) Reading or Additional Case questions and (ii) Questions based on the lectures and video content. **At a minimum, you are required to make two posts each week; one must be a thread that you start, and one must be a response to a thread someone else started.** You may exceed this minimum requirement as you wish. **Discussion boards will close on Tuesdays at noon.**

Discussion Post Standards and Etiquette

- a. Posts demonstrate knowledge of the class concepts and are linked to evidence and/or course material.
- b. Timely -adhere to the time window set aside for each discussion, not posted at the last minute. Timely posting leads to productive discussions, in that it allows class members to respond to each other's comments. Posts will be marked down if they are consistently entered during the last hours the board is open.
- c. If your post is related to an existing thread, you must reply to the existing thread, not create a new thread.
- d. Respectful -even when there is strong disagreement.
- e. Stimulate thinking. Do not be afraid to challenge existing comments.
- f. Encourage others to provide evidence and/or refer to course concepts to support their arguments.
- g. Move the class understanding forward.
- h. Do not ramble.

Posts that simply state "I agree" or "I was going to say the same thing" or repackage what a previous classmate said are not actually discussion posts and will not be credited as such.

Please do not write in all CAPS. If you want to emphasize a word or phrase you may write it in bold, italics, underline it, or put an asterisk before and after the word or phrase.

I will actively monitor the discussion boards and participate when I see fit. I will keep track of the posting requirements and the quality of your comments.

Final Project

The final project is a 15 or so page paper (double or 1.5-spaced, 12-point font). You will work in groups of two and have two options:

Option 1 is to build the economic arguments for an antitrust case that has not been tried yet (for ideas, see for instance [Wu, 2018](#), the [Open Markets Institute Concentration Report](#), or "Hipster Antitrust," 2018—see reading list below). In the last few years, public demands for antitrust investigations against large monopolistic firms –especially in the high-tech sector- have sky-rocketed, so you will find plenty of

materials to build your case. From our class discussions, you will have great exposure to the economics of cases investigated and tried in the past, so you can use those as templates to structure your paper.

Option 2 is to review and discuss a U.S. or foreign antitrust case *not covered in class or in the Kwoka and White book(s)*. You will review the facts of the case, the positions taken by the involved parties and –most importantly- the economics and business decision-making behind the case. Based on your review and analysis, if applicable, you must also provide a critique of the final judgment.

In grading, I will strongly consider your ability to incorporate the course materials in your analysis (including additional readings). The paper is due on D2L on Week 11 and a one-page proposal, in pdf form, is due at the end of week 7, also on D2L. See timetable below.

Some additional tips for writing the paper:

- Consult multiple and balanced sources. Try not to fall into the trap of getting all your information from one side of a potentially contentious issue. Informal research or blogs posted on the web are very dangerous this way. Avoid emotional rants or public relations fluff!
- You must provide all references and they must be complete (date, issue, publisher etc.). All data reported must be attributed to its source, independently of referencing style.
- Include original thought –this is not just a book report or a copy-paste job. This is not an opinion piece either. Your stances and conclusions must be backed by evidence (data if available) and supported by solid economic or business decision-making frameworks.
- Be creative. There are hundreds, if not thousands, of fascinating antitrust cases that have not received wide press coverage and involve extremely interesting economic and strategic issues. Good case repositories are:

U.S. Department of Justice (<http://www.justice.gov/atr/antitrust-case-filings-alpha>)

Justia (<https://dockets.justia.com/browse/noscat-13/nos-410>)

Law 360 (<https://www.law360.com/competition>)

Group formation

You will work in groups of two on both the case reports and final project. There is a class roster available on D2L under Class List. If you know someone in the class or would like to work with someone in the class, please reach out to that person using

the D2L Class List feature. I will give you the chance to form your own groups and then match the 'free agents' up if need be. The first case report is due on week 3 (January 19).

Course Organization:

The learning unit in this course is the week. Each quarter has 10 instructional weeks. To avoid bottlenecks of due dates with respect to your other classes, we will follow a weekly schedule that begins on Tuesday (i.e., new lecture videos and discussion questions will be posted on Tuesdays).

Week	Start Date /cases, projects
1	January 5
2	January 12 Case 1 (no report); Introduction Thread due
3	January 19 Case 2 due at 5 p.m.
4	January 26 Case 3 due at 5 p.m.
5	February 2 Case 4 due at 5 p.m.
6	February 9 Case 5 due at 5 p.m.
7	February 16 Case 6 due at 5 p.m.; Project Proposal due
8	February 23 Case 7 due at 5 p.m.
9	March 2 Case 8 due at 5 p.m.
10	March 9 Case 9 due at 5 p.m. (Optional)
11	March 16 Paper due at 11:59 p.m.

Academic Integrity

All work completed for this course must adhere to the University Academic Integrity Policy which you can review at <http://academicintegrity.depaul.edu>.

I may use plagiarism detection technology, such as **Turnitin**, for all written work submitted for this class to ensure the work is the student's own creation and is not in violation of DePaul University's Academic Integrity Policy. Submission of work for this course constitutes (i) a pledge that the work is the student's own original work and (ii) consent to have the work submitted to verify that fact.

You are welcome to use outside sources for exams, discussion posts, and case reports. If you use any materials beyond the text and lecture videos, you must cite them properly. Proper citation includes using quotation marks if you paraphrase.

Course Outline

****The only required readings are the assigned cases. The rest are for your reference only and, unless noted otherwise, are not required****

Week 1 (January 5)

Topic: *Introduction to Antitrust, Market Power, and Market Definition*

Readings: Kwoka and White-KW (Introduction; Part I, 1-6), Church and Ware-CW (Ch. 1-2, 19, and Appendix)
“America’s Monopoly Problem,” Thompson, *The Atlantic*, 2016.
“Monopoly by the Numbers,” *Open Markets Institute*, 2021.
“Antitrust Policy,” Rubinfeld, *International Encyclopedia of the Social and Behavioral Sciences* 1, Elsevier Science, 2001.
“Market Definition: Use and Abuse,” Carlton, *Competition Policy International*, 2007.
“Are Relevant Markets Ever Irrelevant,?” Levy, *HMG Review Project*, 2009.
“An FTC Guide to the Antitrust Laws,” Federal Trade Commission.

**1/5 America’s Monopoly Problem and Monopoly by the Numbers Synchronous Discussion (No Report)

Week 2 (January 12)

Topic: *Merger Effects*

Readings: KW (Part I, 7-20), CW (Ch. 23)
“Unilateral Competitive Effects Theories in Merger Analysis,” Baker, *Antitrust* 11, 1996-1997.
“Why Did the Antitrust Agencies Embrace Unilateral Effects?,” Baker, *George Mason Law Review* 12:1, 2003.
“Effectively Advocating Efficiencies in Merger Reviews,” Kolasky, *Antitrust Report*, 2003.
“Horizontal Merger Guidelines,” U.S. Department of Justice and the Federal Trade Commission,” August 2010.
“Prices, Market Definition, and the Effects of Merger: Staples, Office Depot, and Office Max (1997, 2015, and 2016),” Dalkir and Warren-Boulton, KW, 2018, 189-210. **(Case 1-No Report)**
“Federal Trade Commission v. Whole Foods Market, Inc.,” Kavanaugh, *Mises Daily*, May 25, 2010. **(Case-No Report)**

**1/12 Introduction Thread due

**1/12 Staples-Office Depot-Office-Max Synchronous Discussion (No Report)

Week 3 (January 19)

Topic: *Entry Barriers, Predation, Bundling, and Tying*

Readings: KW (Part II, 220-226), CW (Ch. 4-minus Section 4.3, 14, and 21)
“What is a Barrier to Entry,?” McAfee et. al., White Paper, University of Texas, 2006.

"Predatory Pricing," Edlin, in Elhauge (ed.), *Research Handbook of the Economics of Antitrust Law*, Edward Elgar, 2012r.

"Price Predation," *Federal Trade Commission*, 2008.

"Bundling, Tying, and Portfolio Effects," Nalebuff, *DTI Economics Paper No. 1*, 2003.

"The Proposed Merger of AT&T and T-Mobile: Rethinking Possible (2011)," DeGraba and Rosston, KW, 2018, 123-146. **(Case 2-Report)**

"An Economic Analysis of the T-Mobile - Sprint Merger," Wallsten, White Paper, 2019. **(Case-No Report)**

**1/19 AT&T and T-Mobile Synchronous Discussion (Report due at 5 p.m.)

Week 4 (January 26)

Topic: *Price Discrimination, Durable Goods, and Aftermarkets*

Readings: CW (Ch. 4-Section 4.3, and 5)

"Price Discrimination," McAfee, in *Issues in Competition Law and Policy*, ABA Section of Antitrust Law, 2008.

"Unlawful Price Discrimination," Markham, White Paper, 2013.

"Antitrust Perspectives for Durable Goods," Waldman, *CESifo Working Paper*, 2004.

"Maintenance of Monopoly: U.S. v. Microsoft (2001)," Rubinfeld, in Kwoka & White, KW, 2018, 514-534. **(Case 3-Report)**

"Be Nice to your Rivals: How the Government is Selling an Antitrust Case without Consumer Harm in U.S. vs. Microsoft," Evans and Schmalensee, in *Did Microsoft Harm Consumers?*, Evans et.al. (eds.), 2000, AEI-Brookings Joint Center for Regulatory Studies. **(Case 3-Report)**

"A Preliminary Assessment of the European Commission's Google Android Decision," Akman, *CPI Antitrust Chronicle*, 2018. **(Case-No Report)**

**1/26 Microsoft Synchronous Discussion (Report due at 5 p.m.)

Week 5 (February 2)

Topic: *Static Game Theory and Oligopoly*

Readings: CW-Ch. 7-8

"An Introduction to Applicable Game Theory," Gibbons, *Journal of Economic Perspectives*, 1997.

"Coordinated Interaction and Clayton Act Enforcement, Gurrea and Owen, *George Mason Law Review* 65, 2003.

"Antitrust Policy and the Oligopoly Problem," Brock, *The Antitrust Bulletin*, 2006.

A Daubert Discipline for Merger Simulation,” Werden et.al., *Antitrust Magazine*, 2004.

“The Brand Name Prescription Drugs Antitrust Litigation (1999),” Elzinga and Mills, in KW, 4th. Edition, 2003, 301-320. **(Case 4-Report)**

“Unfit to Be Tied: An Analysis of Trident v. Independent Ink (2006),” Nalebuff, in KW, 6th. Edition, 2013, 458-487. **(Case-No Report)**

**2/2 Prescription Drugs Synchronous Discussion (Report due at 5 p.m.)

Week 6 (February 9)

Topic: *Dynamic Game Theory and Oligopoly*

Readings: CW (Ch. 9-10), KW (Part 2, 212-219)

“Tacit Collusion,” Rees, *Oxford Review of Economic Policy*, 1993.

“Detecting Cartels,” Harrington, White Paper, Johns Hopkins University, 2005.

“Game Theory and the Legal Analysis of Tacit Collusion,” Yao and DeSanti, *Antitrust Bulletin* 38, 1993.

“Two Sherman Act Section 1 Dilemmas: Parallel Pricing, the Oligopoly Problem, and Contemporary Economic Theory,” Baker, *Antitrust Bulletin* 38, 1993.

“Developing Competition Law for Autonomus Artificial Agents,” Harrington, *Journal of Competition Law and Economics*, 2019.

Collusion in College Sports: Edward C. O’Bannon, et.al. v. NCAA, et.al. (2015), Noll, KW, 2018, 269-311. **(Case 5-Report)**

“Antitrust and Higher Education: MIT Financial Aid (1993),” Bamberger and Carlton, 1998. **(Case-No Report)**

**2/9 O’Bannon v. NCAA Synchronous Discussion (Report due at 5 p.m.)

Week 7 (February 16)

Topic: *Vertical Integration and Vertical Restraints*

Readings: KW (Part III, 380-385-384), CW-Ch. 22

“The Economics of Vertical Restraints,” Scherer, *Antitrust Law Journal*, 1983.

“Vertical Restraints and Antitrust Policy,” Posner, *The University of Chicago Law Review*, 2005.

“Developments in the Law of Vertical Restraints: 2012,” Rosch, White Paper, Federal Trade Commission, 2012.

“Competitive Effects of Vertical Integration,” Riordan, in *Handbook of Antitrust Economics*, 2008.

“Bidding, Bid Rigging, and School Milk Prices: Ohio v. Trauth (1994),” Porter and Zona, KW, 5th. Edition, 2009, 211-232. **(Case 6-Report)**

"Agreeing to Exclude: *North Carolina State Board of Dental Examiners* (2015)," Kwoka, Jr., KW, 2018, 250-268. **(Case-No Report)**

**2/16 Ohio Milk Bidding Synchronous Discussion (Report due at 5 p.m.)

Week 8 (February 23)

Topic: *Networks and Platforms*

Readings: KW (Part III, 385-397)
"Competition Policy in Network Industries: An Introduction," Economides, in *The New Economy and Beyond*, edited by Dennis Jansen, 2006, 96-121.
"Antitrust in Network Industries," Shapiro, White Paper, U.S. Department of Justice, Antitrust Division, 1996.
"Multi-Sided Platforms," Evans and Schmalensee, in *The New Palgrave Dictionary of Economics*, 2016.
"The Antitrust Analysis of Multi-Sided Platform Businesses," Evans and Schmalensee, *NBER Working Paper* 18783, 2013.
"Retail Auto Sales: *Tesla v. State Vehicle Franchise Laws* (2017), Scott-Morton and McDermott, KW, 2018, 401-422. **(Case 7-Report)**
"Cartel Ringmaster or Competition Creator? The *Ebooks Case Against Apple* (2013), Baker, KW, 2018, 471-488. **(Case-No Report)**

**2/23 Tesla Synchronous Discussion (Report due at 5 p.m.)

Week 9 (March 2)

Topic: *The Future of Competition Policies*

Readings: "Restoring Competition in the U.S. Economy," Rahman and Khan, in *Untamed*, edited by Abernathy et.al., Roosevelt Institute, 2016.
"How 5 Tech Giants Have Become More Like Governments than Companies," Transcript from Terry Gross' *Fresh Air* Interview with Farhad Manjoo, NPR, October 2017.
"Estates of Mind," Lynn, *Washington Monthly*, July-August 2013.
"Hipster Antitrust," Special Issue of the *Antitrust Chronicle*, April 2018.
"Governance, Issuance Restrictions, and Competition in Payment Card Networks: U.S. v. Visa and MasterCard (2003)," Pindyck, KW, 6th. Edition, 2013, 602-626. **(Case 8-Report)**
"The U.S. Federal Trade Commission Investigation of *Google Search* (2013)," Gilbert, KW, 2018, 489-513. **(Case-No Report)**

**3/2 Visa-Master Card Synchronous Discussion (Report due at 5 p.m.)

Week 10 (March 9)

Topic: *No New Topic-Wrap of Week 9*

"The Separation of Platforms and Commerce," Khan, *Columbia Law Review*, 2019.

"Amazon's Antitrust Paradox," Khan, *The Yale Law Journal*, 2017, 710-805. **(Case 9-Report)**

"Platforms and the Rule of Reason: The American Express Case," Hovenkamp, Mimeo, University of Pennsylvania, 2019. **(Case-No Report)**

**3/9 Amazon Synchronous Discussion (Optional Report due at 5 p.m.)

Week 11 (March 16)

**3/16 Final Project due at 11:59 p.m.