

JONATHAN B. BAKER

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FIELDS OF SPECIALIZATION

antitrust law, economics, and policy; regulatory law, economics, and policy

PROFESSIONAL POSITIONS

Washington College of Law, American University

Professor of Law Emeritus, January 2023 to date

Research Professor of Law, September 2017 to December 2022

Professor of Law, September 2002 to August 2017

Associate Professor of Law, January 1999 to August 2002

Yale Law School

Florence Rogatz Visiting Professor of Law, July 2020 to December 2020

Federal Communications Commission

Chief Economist, August 2009 to May 2011

Senior Economist for Transactions, June 2011 to November 2011

New York University School of Law

Visiting Professor of Law, January 2010 to June 2010

European Commission, Competition Directorate-General

Visitor, June 2005 to July 2005

Federal Trade Commission

Director, Bureau of Economics, April 1995 to December 1998

Consultant (on policy), 2002 to May 2004; July 2019 to January 2020

Attorney Advisor to the Acting Chairman and Office of the Commissioner
October 1985 to July 1986

Council of Economic Advisers, Executive Office of the President

Senior Economist, June 1993 to April 1995

(regulation, industrial organization and law)

Antitrust Division, U.S. Department of Justice

Special Assistant to the Deputy Assistant Attorney

General for Economics, May 1991 to June 1993

Director of Litigation Studies, Economic Analysis Group,
September 1990 to June 1993

Georgetown University Law Center

Adjunct Professor of Law, September 1990 to June 1995

Duke University School of Law
Olin Lecturing Fellow (visiting professor)
August 1992 to December 1992

The Amos Tuck School of Business Administration, Dartmouth College
Assistant Professor of Business Administration
September 1986 to August 1990
leave of absence, September 1990 to July 1992

Foley & Lardner (Washington, D.C.)
Attorney, June 1982 to September 1985

EDUCATION

Ph.D. in economics, Stanford University, 1986
J.D., Harvard University, 1982
M.A. in economics, Stanford University, 1978
A.B., magna cum laude, Harvard University, 1977

AWARDS

American Antitrust Institute
Jerry S. Cohen Award for Antitrust Scholarship, June 2016

American University
University Faculty Award for Outstanding Scholarship, Research, and
Other Professional Accomplishments, April 2004
Emalee C. Godsey Scholar, 2015
Elizabeth Payne Cubberly Scholar, 2008
Egon Guttman Casebook Award, April 2004

Federal Trade Commission
Award for Distinguished Service, October 1998

BOOKS

The Antitrust Paradigm: Restoring a Competitive Economy
2019, Harvard University Press

Antitrust Law in Perspective: Cases, Concepts and Problems in Competition
Policy

Thomson West, American Casebook Series
4th ed., 2022; 3d ed. 2017; 2d ed. 2008; 1st ed. 2002
(1st & 2d eds. with Andrew I. Gavil and William E. Kovacic; 3d & 4th
eds. with Gavil, Kovacic, and Joshua D. Wright)

OTHER PUBLICATIONS

What About the Supreme Court? The Lurking Threat to U.S. Antitrust Reform
Journal of Antitrust Enforcement
forthcoming, 2023
working paper available at <https://ssrn.com/abstract=4428908>

Finding Common Ground Among Antitrust Reformers
Antitrust Law Journal
vol. 84, 2022, pp. 705-51

On The Misuse of Regressions of Price on the HHI in Merger Review
Journal of Antitrust Enforcement
vol. 10, 2022, pp. 248-59
(with Nathan Miller, Steven Berry, Fiona Scott Morton, and 22 others)

Navigating the Transition to a More Innovation-Centric Antitrust
(Review of Richard J. Gilbert, Innovation Matters)
Antitrust Source, Feb. 2021

Natural Oligopoly Responses, Repeated Games, and Coordinated Effects in
Merger Analysis: A Perspective and Research Agenda
Review of Industrial Organization
vol. 58, 2021, pp. 103-141
(with Joseph Farrell)

Protecting and Fostering Online Platform Competition: The Role of Antitrust Law
Journal of Competition Law & Economics
Vol. 17, 2021, pp. 493-501
earlier version in David S. Evans, Allan Fels & Catherine Tucker, eds.,
The Evolution of Antitrust in the Digital Era: Essays on Competition
Policy, 2021, vol. 2, pp. 11-19

Oligopoly Coordination, Economic Analysis, and the Prophylactic Role of
Horizontal Merger Enforcement
University of Pennsylvania Law Review
vol. 168, 2021, pp. 1985-2018
(with Joseph Farrell)
Awarded Jerry S. Cohen Memorial Fund Writing Award for Best Antitrust
Article of 2020 on Tacit Collusion

Foreword
in John Kwoka, Controlling Mergers and Market Power: A Program for
Reviving Antitrust in America (2020)

Judge Douglas H. Ginsburg and Antitrust Law's Rule[s] of Reason
in Nicolas Charbit, ed., II Douglas Ginsburg: An Antitrust Professor on
the Bench, Liber Amicorum, 2020, pp. 11-32
(with Andrew I. Gavil)

Five Principles for Vertical Merger Enforcement Policy
Antitrust
vol. 33, no. 3 (2019), pp.12-19
(with Nancy L. Rose, Steven C. Salop & Fiona Scott Morton)

Accommodating Competition: Harmonizing National Economic Commitments
William & Mary Law Review
vol. 60, 2019, pp. 1149-1173

Cartel Ringmaster or Competition Creator? The Ebooks Case against Apple
(2013)
in John E. Kwoka, Jr. and Lawrence J. White, eds., The Antitrust
Revolution (7th ed. 2019), pp. 471-488

Antitrust Enforcement Against Platform MFNs
Yale Law Journal
vol. 127, 2018, pp. 2176-2202
(with Fiona Scott Morton)

Introduction: Unlocking Antitrust Enforcement
Yale Law Journal
vol. 127, 2018, pp. 1916-1920
(with Jonathan Sallet & Fiona Scott Morton)

Overlapping Financial Investor Ownership, Market Power, and Antitrust
Enforcement: My Qualified Agreement with Professor Elhauge
Harvard Law Review Forum
vol. 129, 2016, pp. 212-32

Evaluating Appropriability Defenses for the Exclusionary Conduct of Dominant
Firms in Innovative Industries
Antitrust Law Journal
vol. 80, 2016, pp. 431-61

Exclusionary Conduct of Dominant Firms, R&D Competition, and Innovation
Review of Industrial Organization
vol. 48, 2016, pp. 269-87

Taking the Error Out of “Error Cost” Analysis: What’s Wrong with Antitrust’s Right

Antitrust Law Journal

vol. 80, 2015, pp. 1-38

reprinted in translation in

Competition Policy Research (China), 2018 (4), pp. 95-119

Winner, Jerry S. Cohen Award for Antitrust Scholarship, June 2016

Antitrust, Competition Policy and Inequality

The Georgetown Law Journal Online

vol. 104, 2015, pp. 1-28

(with Steven C. Salop)

reprinted in translation in 1 Mercato Concorrenza Regole 7 (2016)

Channeling and Contending with Bill Kovacic

in Nicolas Charbit et al., eds, II William E. Kovacic - Liber Amicorum:

An Antitrust Tribute, 2014, pp. 1-9

Antitrust Enforcement and Sectoral Regulation: The Competition Policy Benefits of Concurrent Enforcement in the Communications Sector

Competition Policy International

vol. 9, pp. 4-11, Spring 2013

Chair’s Showcase Session: Competition in the Context of Financial Crisis

Antitrust Source

June 2013 (co-moderator)

Exclusion as a Core Competition Concern

Antitrust Law Journal

vol. 78, pp. 527-89, 2013

Finalist, Jerry S. Cohen Award for Antitrust Scholarship, June 2014

Economics and Politics: Perspectives on the Goals and Future of Antitrust

Fordham Law Review

vol. 81, pp. 2175-96, 2013

The Competitive Consequences of Most-Favored-Nation Provisions

Antitrust

vol. 27, pp. 20-26, 2013

(with Judith A. Chevalier)

Research Topics in Unilateral Effects Analysis
in Einer Elhague, ed., Research Handbook on the Economics of Antitrust Law, 2013
working paper available at <http://ssrn.com/abstract=1504863>
(with David Reitman)

Evaluating Merger Enforcement During the Obama Administration
Stanford Law Review Online
vol. 65, pp. 28-34, Aug. 2012
(with Carl Shapiro)

The Year in Economics at the FCC, 2010-11: Protecting Competition Online
Review of Industrial Organization
vol. 39, pp. 297-309, 2011
(with Mark Bykowsky, Patrick DeGraba, Paul LaFontaine, Eric Ralph & William Sharkey)

Comcast/NBCU: The FCC Provides a Roadmap for Vertical Merger Analysis
Antitrust
vol. 25, pp. 36-42, 2011

Merger Simulation in an Administrative Context
Antitrust Law Journal
vol. 77, pp. 451-72, 2011

Sector-Specific Competition Enforcement at the FCC
New York University Annual Survey of American Law
vol. 66, pp. 413-20, 2011

The Year in Economics at the FCC: A National Plan for Broadband
Review of Industrial Organization
vol. 37, pp. 279-90, 2010
(with Paul de Sa)
revised and reprinted in Soumitra Dutta & Irene Mia, eds., The Global Information Technology Report 2010-2011, World Economic Forum,
available at <http://reports.weforum.org/global-information-technology-report/>

Preserving a Political Bargain: The Political Economy of the Non-Interventionist Challenge to Monopolization Enforcement
Antitrust Law Journal
vol. 76, pp. 605-52, 2010

Market Concentration in the Antitrust Analysis of Horizontal Mergers
in Keith Hylton, ed, Antitrust Law & Economics, 2010, pp. 234-60
corrected working paper available at <http://ssrn.com/abstract=1092248>

“Dynamic Competition” Does Not Excuse Monopolization
Competition Policy International, vol. 4, No. 2., pp. 243-51, 2008
technical appendix available at <http://ssrn.com/abstract=1285223>

Turning On Itself: How Dueling Agencies In The Bush Administration Made
Mincemeat Of Antitrust Regulation Policy
The New Republic (on-line), Sept. 15, 2008
<http://www.tnr.com/politics/story.html?id=97981a77-c668-421b-947a-a8282ca3b121>

Detecting and Reversing the Decline in Horizontal Merger Enforcement
Antitrust
vol. 22, pp. 29-36, 2008
(with Carl Shapiro)

Merger to Monopoly to Serve a Single Buyer: Comment
Antitrust Law Journal
vol. 75, pp. 637-46, 2008
(with Joseph Farrell and Carl Shapiro)

Reinvigorating Horizontal Merger Enforcement
in Robert Pitofsky, ed., How the Chicago School Overshot the Mark:
Effect of Conservative Economic Analysis on U.S. Antitrust,
2008, pp. 235-91 (with Carl Shapiro)

Economic Evidence in Antitrust: Defining Markets and Measuring Market Power
in Paolo Buccirossi, ed., Handbook of Antitrust Economics,
2008, pp. 1-42
(with Timothy F. Bresnahan)

Beyond Schumpeter vs. Arrow: How Antitrust Fosters Innovation
Antitrust Law Journal
vol. 74, pp. 575-602, 2007
reprinted in Shubha Ghosh, ed., Intellectual Property and Innovation,
2017, pp. 575-602

A Turning Point in Merger Enforcement: *Federal Trade Commission v. Staples*
in Daniel A. Crane & Eleanor M. Fox, eds., Antitrust Stories,
2007, pp. 311-330
(with Robert Pitofsky)

Market Definition: An Analytical Overview

Antitrust Law Journal

vol. 74, pp. 129-73, 2007

revised and reprinted in ABA Section of Antitrust Law,
Issues in Competition Law and Policy, 2008, pp. 315-52

Empirical Methods in Merger Analysis:

Econometric Analysis of Pricing in *FTC v. Staples*

International Journal of the Economics of Business

vol. 13, pp. 265-79, 2006

(with Orley Ashenfelter, David Ashmore, Suzanne Gleason & Daniel S.
Hosken)

reprinted in George Norman, ed., Recent Developments in Monopoly and
Competition Policy, 2008

Competition Policy as a Political Bargain

Antitrust Law Journal

vol. 73, pp. 483-530, 2006

My Summer Vacation at the European Commission

Antitrust Source

September 2005

Two Modern Antitrust Moments: A Comment on Fenton and Kwoka

Antitrust Law Journal

vol. 72, pp.1029-37, 2005

Roundtable Discussion: Unilateral Effects after *Oracle*

Antitrust

vol. 19, pp. 8-19, Spring 2005 (Moderator)

Why Did the Antitrust Agencies Embrace Unilateral Effects?

George Mason University Law Review,

vol. 12, no. 1, pp. 31-38, Fall 2003

The Case for Antitrust Enforcement

Journal of Economic Perspectives

vol. 17, pp. 27-50, Fall 2003

(and Comment, Journal of Economic Perspectives,

vol. 19, p.243, Fall 2003)

reprinted in George Norman, ed., Recent Developments in
Monopoly and Competition Policy, 2008

Responding to Developments in Economics and the Courts: Entry in the Merger Guidelines

Antitrust Law Journal

vol. 71, pp. 189-206, 2003

Efficiencies and High Concentration: Heinz Proposes to Acquire Beech-Nut (2001)

in John E. Kwoka, Jr. and Lawrence J. White, eds., The Antitrust Revolution (4th ed. 2004), pp. 150-69 (updated with postscript in 5th ed. 2008)

working paper available at <http://ssrn.com/abstract=3041876>

Competitive Price Discrimination: The Exercise of Market Power Without Anticompetitive Effects (Comment on Klein and Wiley)

Antitrust Law Journal

vol. 70, pp. 643-54, 2003

Economist's Roundtable

Antitrust

vol. 17, pp. 8-18, Spring 2003

(Moderator)

Mavericks, Mergers, and Exclusion: Proving Coordinated Competitive Effects Under the Antitrust Laws

New York University Law Review

vol. 77, pp. 135-203, April 2002

reprinted in Benjamin Klein & Andres V. Lerner, eds.,

Economics of Antitrust Law, 2008

Horizontal Merger Analysis Grows Up: A Review of Chapter 5 of Richard Posner's *Antitrust Law* (2d ed. 2001)

Antitrust Source

January 2002

New Horizons in Cartel Detection

George Washington Law Review

vol. 69, pp. 824-28, October/December 2001

Ill-Gotten Gains: Toothless Settlement Lets Microsoft Keep Rewards of Monopolization

Legal Times, November 12, 2001, p. 51

(with Andrew I. Gavil)

Should Concentration be Dropped from the Merger Guidelines?
in ABA Antitrust Section Task Force Report
Perspectives on Fundamental Antitrust Theory
pp. 339-54, July 2001
reprinted in University of West Los Angeles Law Review
vol. 33, pp. 3-16, 2001
(with Steven C. Salop)

A Preface to Post-Chicago Antitrust
in Roger van den Bergh, Roberto Pardolessi and Antonio Cucinotta,
eds.,
Post Chicago Developments in Antitrust Law, 2002, pp. 60-75

Can Antitrust Keep Up? Competition Policy in High-Tech Markets
Brookings Review, Winter 2001, pp. 16-19

Editor's Note: Antitrust at the Millennium (Part II)
Antitrust Law Journal
vol. 68, no.3, pp. 621-24, 2001

Stepping Out in an Old *Brown Shoe*: In Qualified Praise of
Submarkets
Antitrust Law Journal
vol. 68, no. 1, pp. 203-218, 2000

Editor's Note: Antitrust at the Millennium (Part I)
Antitrust Law Journal
vol. 68, no.1, pp. 1-3, 2000

Empirical Methods in Antitrust Litigation:
Review and Critique
American Law and Economics Review
vol. 1, no. 1/2, pp. 386-435, 1999 (with Daniel L. Rubinfeld)

Law Leans Toward Joel Klein
Legal Times, October 25, 1999, p. 40

Entry and Competition in the U.S. Airline Industry: Issues and
Opportunities
Special Report 255, Transportation Research Board,
National Research Council, July 1999
(with other members of the Committee for a Study of Competition
in the U.S. Airline Industry)

Promoting Innovation Competition Through the *Aspen/Kodak* Rule
George Mason University Law Review,
vol. 7, no. 3, pp. 495-521, Spring 1999

Econometric Analysis in *FTC v. Staples*
Journal of Public Policy & Marketing
vol. 18, no 1., pp. 11-21, Spring 1999

Policy Watch: Developments in Antitrust Economics
Journal of Economic Perspectives
vol. 13, no. 1., pp. 181-94, Winter 1999

From Open Access to Convergence Mergers: An Antitrust Perspective on
the Transition to Electricity Competition
Power, vol. 3, no. 1, pp. 3-8, Winter 1998 (with John C. Hilke)

"Continuous" Regulatory Reform at the Federal Trade Commission
Administrative Law Review
vol. 49, pp. 859-874, Fall 1997

Contemporary Empirical Merger Analysis
George Mason University Law Review
vol. 5, pp. 347-61, Spring 1997

Unilateral Competitive Effects Theories in Merger Analysis
Antitrust, vol. 11, no. 2, pp. 21-26, Spring 1997

Product Differentiation Through Space and Time: Some Antitrust Policy
Issues
The Antitrust Bulletin
vol. 42, pp. 177-96, Spring 1997

The Problem with *Baker Hughes* and *Syufy*: On the Role of Entry in
Merger Analysis
Antitrust Law Journal
vol. 65, pp. 353-74, Winter 1997

Identifying Horizontal Price Fixing
in the Electronic Marketplace
Antitrust Law Journal
vol. 65, pp. 41-55, Fall 1996

Vertical Restraints with Horizontal Consequences: Competitive Effects of
"Most-Favored-Customer" Clauses

Antitrust Law Journal

vol. 64, pp. 517-34, Spring 1996

Fringe Firms and Incentives to Innovate

Antitrust Law Journal

vol. 63, pp. 621-41, Winter 1995

Predatory Pricing After Brooke Group: An Economic Perspective

Antitrust Law Journal

vol. 62, pp. 585-603, Spring 1994

reprinted in Andrew Gavil, ed., An Antitrust Anthology, 1996

Two Sherman Act Section 1 Dilemmas: Parallel Pricing, the Oligopoly
Problem, and Contemporary Economic Theory

The Antitrust Bulletin, vol. 38, pp. 143-219

Spring 1993

reprinted in Benjamin Klein & Andres V. Lerner, eds.,

Economics of Antitrust Law, 2008

Empirical Methods of Identifying and Measuring Market Power

Antitrust Law Journal

vol. 61, pp. 3-16, Summer 1992

(with Timothy F. Bresnahan)

reprinted in Benjamin Klein & Andres V. Lerner, eds.,

Economics of Antitrust Law, 2008

Entry Analysis Under the 1992 Horizontal Merger Guidelines

Antitrust Law Journal

vol. 61, pp. 139-46, Summer 1992

(with Janusz A. Ordover)

Per Se Rules in the Antitrust Analysis of Horizontal Restraints

The Antitrust Bulletin

vol. 36, pp. 733-43, Winter 1991

Identifying Cartel Policing Under Uncertainty:

The U.S. Steel Industry 1933-1939

Journal of Law and Economics

vol. 32:2, pt. 2, pp. S47-S76, October 1989

Recent Developments in Economics that Challenge Chicago School Views

Antitrust Law Journal

vol. 58:2, pp. 645-655, 1989

Book Review

Larner & Meehan, eds., Economics and Antitrust Policy

The Antitrust Bulletin

vol. 34, pp. 919-930, Winter 1989

The Antitrust Analysis of Hospital Mergers and the Transformation of the Hospital Industry

Law and Contemporary Problems

vol. 51:2, pp. 93-164, Spring 1988

Vertical Restraints Among Hospitals, Physicians, and Health Insurers that Raise Rivals' Costs

American Journal of Law & Medicine

vol. 14, pp. 385-408, 1988

Private Information and the Deterrent Effect of Antitrust Damage Remedies

Journal of Law, Economics and Organization

vol. 4, pp. 385-408, 1988

Estimating the Residual Demand Curve Facing a Single Firm

International Journal of Industrial Organization

vol. 6, pp. 283-300, 1988

(with Timothy F. Bresnahan)

reprinted in Andrew N. Kleit, ed., Antitrust and Competition Policy, 2005

Dramatization: The Merger Transaction -- Legal Evaluation

(with other program faculty)

Introduction and Fact Summary

in National Institute: The Contested Merger

Antitrust Law Journal, vol. 56, pp. 603-637, 1988

The Gray Market in Video, Consumer Welfare, and Public Policy: An Economic Analysis

in E. Noam & J. Millonzi, eds.

The International Market in Film and Television Programs, 1993

(proceedings of a 1987 conference)

Horizontal Mergers: Law and Policy

American Bar Association Antitrust Section Monograph, 1986

(with other members of Merger Standards Task Force)

The Gains from Merger or Collusion in Product Differentiated Industries
Journal of Industrial Economics, vol. 33, pp. 427-444 1985
reprinted in P. Geroski, L. Philips & A. Ulph, eds. Oligopoly,
Competition and Welfare, 1985
(with Timothy F. Bresnahan)

Has the Contract Clause Counter-Revolution Halted? Rhetoric, Rights
and Markets in Constitutional Analysis
Hastings Constitutional Law Quarterly, vol. 12, pp. 71-104, Fall
1984

SELECTED INFORMAL PUBLICATIONS AND WORKING PAPERS

Professor Baker: Journey into Antitrust Law and The Antitrust Paradigm
Amer. Univ. Washington College of Law Business Law Program
Faculty Scholarship Highlights
Posted April 2023
(available at <https://www.wcl.american.edu/impact/initiatives-programs/business/scholarship/faculty-scholarship-highlights/>)

The best books to read before—or after—you learn antitrust law
Shepherd
Posted March 2023
(available at <https://shepherd.com/best-books/reads-before-or-after-you-learn-antitrust-law>)

A Competitive Process Goal Won't Strengthen Antitrust
Network Law Review, Aug. 26, 2022

Restoring competition in the United States: A vision for antitrust
enforcement for the next administration and Congress
(with Bill Baer, Michael Kades, Fiona Scott Morton, Nancy L.
Rose, Carl Shapiro, and Tim Wu)
Nov. 2020
(available at <https://equitablegrowth.org/research-paper/restoring-competition-in-the-united-states/>)

Confronting Rising Market Power
Policy Brief 11
Economists for Inclusive Prosperity
May 2019
(with Fiona Scott Morton)
(available at <https://econfp.org/policy-brief/confronting-rising-market-power/#>)

Principles and presumptions for U.S. vertical merger enforcement policy
Competitive Edge blog (Washington Center for Equitable Growth)
May 7, 2019
(with Nancy L. Rose, Fiona Scott Morton, and Steven C. Salop)
(available at <https://equitablegrowth.org/competitive-edge-principles-and-presumptions-for-u-s-vertical-merger-enforcement-policy/>)

AAI Interview With Antitrust Expert Jonathan Baker – A Preview of His
Forthcoming Book: The Antitrust Paradigm
American Antitrust Institute
May 1, 2019
(available at <https://www.antitrustinstitute.org/work-product/aai-interview-with-antitrust-expert-jonathan-baker-a-preview-of-his-forthcoming-book-the-antitrust-paradigm/>)

Revitalizing U.S. antitrust enforcement is not simply a contest between
Brandeis and Bork—look first to Thurman Arnold
Value Added – A blog (Washington Center for Equitable Growth)
January 31, 2019
(available at <https://equitablegrowth.org/revitalizing-u-s-antitrust-enforcement-is-not-simply-a-contest-between-brandeis-and-bork-look-first-to-thurman-arnold/>)

Market Power or Just Scale Economies?
ProMarket
December 17, 2018
(available at <https://promarket.org/market-power-scale-economies/>)

Market Power in the U.S. Economy Today
Washington Center for Equitable Growth
March 2017
(available at <http://equitablegrowth.org/research-analysis/market-power-in-the-u-s-economy-today/>)

Should the *Philadelphia National Bank* Presumption Be Abandoned or
Allowed to Evolve? Reflections on Commissioner Wright’s Speech
September 30, 2013 (with Steven C. Salop)
(blog post available at
http://lawprofessors.typepad.com/antitrustprof_blog/2013/09/should-the-philadelphia-national-bank-presumption-be-abandoned-or-allowed-to-evolve.html)

Jon Baker on Parallel Exclusion

May 1, 2013

(blog post available at

http://lawprofessors.typepad.com/antitrustprof_blog/2013/05/jon-baker-on-parallel-exclusion.html)

Why I Publish in the Antitrust Law Journal

July 9, 2012

(blog post available at

http://lawprofessors.typepad.com/antitrustprof_blog/2012/07/why-i-publish-in-the-antitrust-law-journal.html)

Final Report of Economic Evidence Task Force

ABA Section of Antitrust Law (Task Force Co-Chair)

Aug. 1, 2006

(<https://www.americanbar.org/content/dam/aba/publications/antitrust/comments-reports-briefs/2006/report-01-c-ii.pdf>)

Comments on Applying the Horizontal Merger Guidelines

March 2004

(available at <http://www.ftc.gov/bc/mergerenforce/comments/bakerjon.pdf>)

Comment on Airline Regulatory Policy

in Louis Uchitelle, Looking for Ways to Make Deregulation Keep Its Promises

New York Times, July 28, 2002

Market Power and the Cross-Industry Behavior of Prices Around a Business Cycle Trough

Working Paper No. 221

Federal Trade Commission, December 1998

(with Peter A. Woodward)

Identifying the Firm-Specific Cost Pass-Through Rate

Working Paper No. 217, Federal Trade Commission, January 1998

(with Orley Ashenfelter, David Ashmore & Signe-Mary McKernan)

Asymmetric Oligopoly Behavior in the Aluminum Industry Around a Business Cycle Trough

Working Paper No. 256, Amos Tuck School, August 1990

(with Thomas B. Johnston and Peter A. Woodward)

Raising Rivals' Wages in the Postwar Automobile Industry

Working Paper No. 248, Amos Tuck School, January 1990

When is Conservation Better than Generation?
Working Paper No. 223
Amos Tuck School, May 1988; revised October 1988

The Simple Empirics of Strategic Instruments
Working Paper No. 202, Amos Tuck School, May 1987

Why Price Correlations Don't Define Antitrust Markets:
On Econometric Algorithms for Market Definition
Working Paper No. 149
Federal Trade Commission, January 1987

Insurance Against Product Failure and Moral Hazard in the Consumption
of Other Goods
in Ph.D. dissertation, Stanford University, June 1986

The Effect of a Shopping Mall on Regional Retail Sales: An Econometric
Analysis
Working Paper No. 1255-01
The Urban Institute, August 1978

EDITORIAL

Antitrust Law Journal
Editorial Chair, July 2000 to August 2004
Guest Editor, Symposium on Antitrust at the Millennium
Part I, vol. 68, no. 1, 2000 & Part II, vol. 68, no. 3, 2001
Contributing Editor, Aug. 1999 to July 2000 & Aug. 2007 to present

Review of Industrial Organization
Editorial Board, August 2002 to December 2003

The Antitrust Bulletin
Guest Editor, Symposium on Tacit Collusion, Spring 1993

OCCASIONAL REFEREE

American Economic Review
American Law and Economics Review
Antitrust Law Journal
Canadian Journal of Economics
Journal of Industrial Economics
Journal of International Economics
Journal of Law and Economics

Management Science
National Science Foundation
Quarterly Journal of Econ.
RAND Journal of Economics
Review of Econ. and Statistics
Review of Industrial Org.

TESTIMONY

United States v. Google, LLC

Colorado v. Google, LLC

November 21 & 22, 2022 (deposition testimony)

BGL (Holdings) Ltd. v. Competition & Markets Authority

November 11 & 12, 2021 (hearing testimony)

Procaps S.A. v. Patheon Inc.

August 13, 2015 (deposition testimony)

December 6, 2013 (deposition testimony)

In re Text Messaging Antitrust Litigation

September 23, 2013 (deposition testimony)

United States v. Apple, Inc.

April 3, 2013 (deposition testimony)

Hearing on Merger Enforcement, Panel on Treatment of Efficiencies

Antitrust Modernization Commission, November 17, 2005

(written statement and hearing transcript available at

http://govinfo.library.unt.edu/amc/commission_hearings/pdf/Baker_Statement.pdf)

In re Mercedes-Benz Antitrust Litigation

June 2, 2005 (deposition testimony)

May 5, 2006 (pretrial motion testimony)

In re Evanston Northwestern Healthcare Corp.

March 22, 2005 (trial testimony)

January 25, 2005 (deposition testimony)

Federal Trade Commission v. H.J. Heinz Co.

September 8, 2000 (trial testimony)

August 2000 (deposition testimony)

United States v. Northwest Airlines, Inc.

May 2000 (deposition testimony)

Oversight Hearing on “The Antitrust Enforcement Agencies”

House Committee on the Judiciary, April 12, 2000

(antitrust and high technology industries)

United States v. Airline Tariff Publishing Co.
June 1993 (declaration estimating consumer injury from air fare coordination)

United States Sentencing Commission
October 11, 1988 (organizational sanctions)

CASES LITIGATED

In re Certain Alkaline Batteries
United States International Trade Commission
1983 to 1984 (challenge to gray market imports)
(represented Duracell with other attorneys)

Christian Schmidt Brewing Co. v. G. Heileman Brewing Co.
1984 to 1985 (antitrust suit to block Heileman-Pabst merger)
(represented Heileman with other attorneys)

TEACHING

Antitrust and Regulation

Antitrust Law (American, NYU)
Advanced Antitrust (or Antitrust Law and Economics: Recent Developments) (American, Duke, Georgetown)
Antitrust in the Information Economy (Yale)
Antitrust, Innovation and Intellectual Property (American)
Regulatory Law and Policy (or Economic Regulation) (American, Georgetown)
Communications Law and Economic Regulation (American)
Business and Public Policy (or Business Environments) (Tuck)

Economics, Analytical Methods, and Law and Economics

Analytical Methods for Business Law (American)
Law and Economics (American)
Managerial Economics (microeconomics and industrial organization economics) (Tuck)
Problems in Managerial Economics (graduate level industrial organization economics) (Tuck)
Econometrics Seminar (Tuck)

Other Courses

Advanced Constitutional Law: Economic Clauses (American)
Contracts (American)

ACTIVITIES AND AFFILIATIONS

American Antitrust Institute
Advisory Board, 2001 to 2009, 2012 to present
Antitrust Litigation Achievement Awards Committee, 2013 to 2014

American Bar Association Section of Antitrust Law
AALS Liaison Committee, Chair, 2003 to 2004
Advisory Board on Section Reserves, 2007 to 2010
Antitrust Law Journal
Editorial Chair, July 2000 to July 2004
Contributing Editor, 1999 to 2000, 2007 to present
Antitrust Law Journal Working Group, 2008
Council, August 2004 to July 2007
Economics Committee, Vice Chair, 1995 to 1999
Long Range Planning Committee (ex officio), 2009 to 2010
Merger Standards Task Force, 1985 to 1986
Monograph Committee, 1992 to 1995
National Institute Committee, 1987
Program Co-Chair, Antitrust at the Millennium, September 2000
(co-sponsored by Amer. Univ. Washington Coll. of Law)
Section 2 Working Group, 2009 to 2010
Sherman Act §2 Committee, Vice Chair, 1992 to 1995
Task Force on Economic Evidence, Co-Chair, 2005 to 2006
Task Force on Fundamental Theory, 2000 to 2001
Task Force Serving as Liaison to the Modernization Commission,
2004 to 2007
Task Force on Presidential Transition, 2020

American Economic Association

American Law & Economics Association
Area Organizer, Antitrust and Economic Regulation, 2002, 2006,
2011, 2012, and 2018

Antitrust Abstracts (SSRN) & Telecommunications and Regulated
Industries Abstracts (SSRN)
Advisory Board, October 1998 to present

Association of American Law Schools
Antitrust and Economic Regulation Section
Chair, 2003
Executive Committee, 1999 to 2003

California Law Reform Commission
Working Group on Antitrust Law, 2023 to present

Charles River Associates (formerly CRA International)
Senior Consultant, 2002 to 2009

Committee for a Study of Competition in the U.S. Airline Industry
Transportation Research Board, National Research Council, 1998 to 1999

Compass Lexecon
Advisory Committee, 2011 to present
Senior Consultant, 2011 to present

Compass Lexecon Prizes (for economic papers in competition policy)
Selection Committee, 2007 to 2009

Economic Security Project
Anti-Monopoly Fund Advisory Committee, 2021 to present

George Mason University School of Law, Law & Economics Center
Board of Advisors, Global Antitrust Institute, Sept. 2014 to July 2020

Member of the Bar, District of Columbia
December 1982 to present

Thurman Arnold Project at Yale
Senior Academic Advisor, 2023 to present
Fellow, 2019 to present

Washington College of Law, American University
Advisory Board, Program on International Information
Communications Technology, 2014 to 2023

April 2023