America in the World Economy: The Law, Politics, and Economics of U.S. Antitrust, 1890-2015
Fall 2015

Thursdays 1:25-3:55pm
Gross Hall, Room 230C (SSRI)
course website at sakai.duke.edu

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Purpose

Antitrust law seeks to prevent monopolies and constrain the accumulation and abuse of economic power by prohibiting cartels, bid-rigging, and other anti-competitive practices. It is one of the most important ways in which public policy can maintain incentives for innovation, lowering prices, increasing efficiency. It also is one of the most powerful tools governments have to influence the distribution of benefits in a market economy, including through the use of the power of the state to constrain and possibly redistribute private economic power—all of which makes antitrust enforcement inherently political and often controversial.

Political Science 255, which is cross-listed as Public Policy 254 and History 252, is intended to introduce students to the history and key issues in U.S. antitrust from the beginning of federal antitrust legislation in 1890 through today, with special emphasis on how the politics and economics of antitrust have been intertwined with the position of the United States in the world economy. To this end, we will study the origins of U.S. antitrust law in the late 19th century, as well as the evolution of antitrust thought and practice in the 125 years since then.

The course is designed to expose students to different ways of thinking about antitrust law and enforcement, through readings by political scientists, legal scholars, economists, and historians. While focused on antitrust, the course also aims to introduce students to a variety of perspectives on the relationship between law, politics, and economics and different ways of thinking about the United States in the world economy. The course will entail a field trip to Washington, D.C. to meet with antitrust practitioners (government officials and private sector stakeholders).

The course format will be somewhere between a highly interactive lecture and a seminar. During the first half of the course, students will learn the tools of historical, legal, political and economic research on antitrust. We will, for example, examine competing claims about the legislative intent of the Sherman Antitrust Act of 1890 in light of primary sources and competing claims about the market power of Google in light of economic analyses of Google's main markets. To practice those skills and learn about different aspects of U.S. antitrust law and enforcement, all students will participate in a research exercise. Each student then has a choice of whether to participate in a joint replication study (with new data) of one of the most prominent analyses of the politics of U.S. antitrust enforcement or to write an individual research paper of about 4,000 words (12-15 pages) on another aspect of U.S. antitrust.

Political Science 255/Public Policy 254/History 252 has the "Area of Knowledge" code Social Sciences and the "Modes of Inquiry" designation Research. It counts toward the Markets & Management certificate; the Duke-UNC Politics, Philosophy & Economics (PPE) certificate; and/or the Kenan Institute Ethics certificate.
Requirements

Active and thoughtful participation in the discussion—based on the assigned readings and including the ability to listen—are an essential part of this course and will count for about 1/3 of the grade. There may be a few short quizzes to allow everyone to show their command of assigned reading; performance on quizzes will count toward the participation grade.

For students who choose the option to participate in the group research project, the remainder of the grade will be based on their contributions to the replication study (data compilation and analysis). For students who select to write an independent research paper, the remainder of the grade will be based on performance in the research exercise in which everyone participates and on the individual research paper, incl. presentation as work in progress during the final session of the class (with greater weight given to the research paper). Students who choose to write individual research papers may do so on any aspect of U.S. antitrust thought or practice—such as changes in the political economy of U.S. antitrust in the context of economic globalization—but the topic must be approved in advance, based on research proposals to be submitted by the beginning of class on Oct.15. I encourage you to consult with me about your research paper ideas well in advance of the deadline. For students who major in Political Science, PS255 research papers of suitable quality may be extended into senior honors papers.

Readings

Many of the required readings are available to you online via Duke's electronic journal holdings or e-books collection (online); other readings are on electronic reserves (e-res). A couple of readings are accessible via the course website (cws) with access restricted to students enrolled in the class. (Some of the materials marked "online" may also simply be on the web.) We also will read large portions of two books:


I have asked the Duke University bookstore to order copies of these books for you to purchase, if you would like. They have also been placed on physical reserve at Perkins library.

1. Introduction to U.S. Antitrust: (Aug. 27)


PERSPECTIVES ON THE CURRENT AIRLINES INVESTIGATION


online Associated Press. "US Probing Possible Airline Collusion That Kept Fares High." 1 July 2015. Online at: http://bigstory.ap.org/article/fbe530f3dd424612974b6c0f8ec19910c (ignore video; just read the brief news story; last accessed 8/15/2015)
2. Basic Antitrust Law & Economics — and Some History (Sep. 10)


**PERSPECTIVES ON THE AMERICAN TOBACCO COMPANY**


**Recommended Readings:** Economics of Monopoly, Cartels, and Antitrust

These readings are strictly optional and intended only for those with a particular interest in this topic (in this case the core economics of antitrust) to go into greater depth after our seminar on the topic. Read the former if you have little or no background in Economics; the latter only if you have taken at least college-level introductory micro-economics. Both are on e-reserve:

Recommended Readings: American Tobacco

3. Antitrust Politics: An Introduction (Sep. 17)


Recommended Readings


4. The Origins of the Sherman Act I (Sep. 24)
Prof. Edward Balleisen will co-teach


e-res Congressional debates of the bill(s) that became the Sherman Act of 1890:
- Senate Consideration, 50th Congress, 1st Session (1888; *Cong. Rec.* vol.19 pp. 7512f)
- Senate Consideration, 50th Congress, 2nd Session (1889; *Cong. Rec.* vol.20 pp.1120f, 1167-1169; 1457-1462)
- 1st Senate Consideration, 51st Congress, 1st Session (1890; *Cong. Rec.* vol.21 pp.125, 137-140, 1765-1772, 2455-2474, 2556-2572, 2597-2616, 2639-2662, 2723-2731, 2901, 3145-3153)
- House Consideration, 51st Congress, 1st Session (1890; *Cong. Rec.* vol.21 pp. 4088-4101).
- 2nd Senate Consideration, 51st Congress, 1st Session (1890; *Cong. Rec.* vol.21 pp.4123, 4559f, 4598. 4753)
- Consideration of the Conference Committee version, 51st Congress, 1st Session (1890; *Cong. Rec.* vol.21 pp.4837, 5113, 5950-5961, 5981, 6099. 6116f, 6208, 6312).


Recommended

5. The Origins of the Sherman Act II (Oct. 1)

e-res Mill, John Stuart. [Selection from *Principles of Political Economy*:] "Of Production on a Large, and Production on a Small Scale." *In The Making of Competition Policy: Legal and


Recommended


6. U.S. Antitrust Thought and Practice from the Sherman Act through World War I (Oct. 8)


Brandeis, Louis D. "Shall We Abandon the Policy of Competition?" Case and Comment vol.18 no.9 (February 1912): 494-496. Online inter alia at http://babel.hathitrust.org/cgi/pt?id=mdp.35112100078841;view=1up;seq=508


Recommended

7. U.S. Antitrust Thought and Practice from World War I through World War II (Oct. 15)
Prof. Tony Freyer will co-teach


Recommended


Recommended

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Tentatively, meetings with (representatives of):
Federal Trade Commission (FTC)
Antitrust Division, U.S. Department of Justice
U.S. Chamber of Commerce
Competition Committee of the U.S. Council on International Business

10. No Class, but Read/View (Nov.5)
reserves Eichenwald, Kurt (book), Scott Z. Burns (screenplay), Steven Soderbergh (director), The Informant! (with Matt Damon et al.) Warner Brothers Pictures, 2009.
Streaming video will be available via the course website at least one week prior; DVD on reserve at Lily Library film reserves

online Glass, Ira. "The Fix Is In." September 2009 re-broadcast (with some new material) of the 15 Sep 2000 episode # 168 of This American Life. Online at http://www.thisamericanlife.org/radio-archives/episode/168/the-fix-is-in (58 min; last accessed 8/25/2015; also on iTunes)

11. U.S. Antitrust Post-Chicago (Nov.12)


Materials about the Google antitrust investigation(s), TBA.

**Recommended**


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**TF**


**online**


**e-res**


**e-res**


**cws**


**Recommended**


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Nov. 26: NO CLASS (THANKSGIVING)

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**13. Conclusion & Research Presentations (Dec. 3)**