



# BARAK ORBACH

Robert H. Mundheim Professor of Law & Business  
The University of Arizona  
James E. Rogers College of Law  
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## CONTACT



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[orb.do](http://orb.do)

## AREAS OF EXPERTISE

- Antitrust
- Corporate Governance
- Regulation
- Digital Economy
- AI Governance

## COURSES

- Antitrust  
<https://antitru.st>
- Business Organizations
- Governance, Risk Management & Compliance

UPDATED: SEPT. 15, 2024

## ACADEMIC APPOINTMENTS

### The University of Arizona James E. Rogers College of Law

- Robert H. Mundheim Professor of Law & Business (2022 – Present)
- Professor of Law (2011 – 2022); Associate Professor of Law (2005 – 2011) (tenured in 2009)
- Founding Director, The Business Law Program

### The University of Arizona

- Special Advisor, the University of Arizona International (2023 – Present)
- Member, Campus Safety Commission (2023 – Present)

### Emmanuel College, University of Cambridge

- Derek Brewer Visiting Fellow (Spring 2023)

### Tel Aviv University, Buchmann Faculty of Law

- Visiting Professor (Dec. 2022 – Jan. 2023; May – June 2019)

## PROFESSIONAL AFFILIATIONS

- **Emmanuel College, University of Cambridge**, Member (2023 – Present)
- **Thurman Arnold Project at Yale**, Fellow (2021 – Present)
- **The American College of Governance Counsel**, Fellow (2020 – Present)
- **Salzburg Global Seminar**, Global Fellow (2019 – Present)
- **American Antitrust Institute**, Advisory Board, Member (2019 – Present)
- **Association of American Law Schools' Antitrust Section**, Executive Committee Chair (2024-25)  
Member (2019 – Present)
- **American Bar Foundation**, Fellow (2015 – Present)
- **The American Law Institute**, Elected Member (2013 – Present), serving on Advisory Groups for the *Restatement of Law for Corporate Governance* and for *Principles of Corporate Compliance*

## EDUCATION

- **Harvard Law School**, LL.M. (1999); S.J.D. (2002)
- **Tel Aviv University**, B.A. (Economics, 1997); LL.B. (1997)

## EARLY PROFESSIONAL EXPERIENCES

- **Cleary, Gottlieb, Steen & Hamilton LLP**, New York, NY  
*Associate* (2001 – 2003)
- **Israel Competition Authority**, Jerusalem, Israel  
*Advisor for Law & Economics* (1997 – 1999)

## PUBLICATIONS

### BOOK

REGULATION: WHY AND HOW THE STATE REGULATES (Foundation Press, 2012)

### ARTICLES, ESSAYS, AND BOOK CHAPTERS

1. *Policy Realignment and Competition in Attention Markets*, 11 Journal of Antitrust Enforcement 247 (2023), <https://doi.org/10.1093/jaenfo/jnad028>
2. *The Friction Paradox: Intermediaries, Competition, and Efficiency*, 68 Antitrust Bulletin 234 (2023), <https://doi.org/10.1177/0003603X231162999>
3. *Do Antitrust Disruptors Make Good Reformers?*, 20 Berkeley Business Law Journal 118 (2023)
4. *Mandated Neutrality, Platforms, and Ecosystems*, in Research Handbook on Abuse of Dominance and Monopolization 359 (Pinar Akman et al. eds., 2023)
5. *Middlemen Forever: Competition and Opportunism in the Digital Economy*, Concurrences N° 4 – 2021 (Nov. 2021) 30
6. *Tracking Giants: Professor Hovenkamp and Impact Metrics*, in Herbert Hovenkamp: The Dean of American Antitrust Law 25 (Nicolas Charbit ed., 2021) (with Jane O’Connell and D. Daniel Sokol)
7. *Anything, Anytime, Anywhere: Is Antitrust Ready for Flexible Market Arrangements?* 20(2) Antitrust Source 1 (Apr. 2021)
8. *Technological Change and Managerial Challenges in the Movie Theater Industry*, 45 Journal of Cultural Economics 239 (2021) (with Charles Weinberg, Cord Otten, Jordi McKenzie, Ricard Gil, Darlene Chisholm & Suman Basuroy)
9. *The Fight of the Century: On the Exploitation of Social Divides*, 14 NYU Journal of Law & Liberty 163 (2020)
10. *Antitrust in the Shadow of Market Disruptions*, 34(3) Antitrust 32 (2020)
11. *The Paramount Decrees: Lessons for the Future*, 19(5) Antitrust Source 1 (Apr. 2020)
12. *D&O Liability for Antitrust Violations*, 59 Santa Clara Law Review 527 (2020)  
\* Cited in *Mcdonald’s Corporation Stockholder Derivative Litigation*, 289 A.3d 343 (Del. Ch. 2023); *Harris v. Harris*, 289 A.3d 277 (Del. Ch. 2023); *Metro Storage International LLC v. Harron*, 275 A.3d 810 (Del. Ch. 2022)
13. *The Consumer Welfare Controversy*, 2019 – 2(1) CPI Antitrust Chronicle 22 (Nov. 2019)



14. *Interstate Circuit and Conspiracy Theories*, 2019 University of Illinois Law Review 1447 (2019)
15. *The Present New Antitrust Era*, 60 William & Mary Law Review 1439 (2019)
16. *Con Men and Their Enablers: The Anatomy of Confidence Games*, 85 Social Research: An International Quarterly 795 (2018) (with Lindsey Huang)
17. *Antitrust Populism*, 14 NYU Journal of Law & Business 1 (2017)  
*The Chicago Tradition and Judge Ginsburg*, in Douglas H. Ginsburg: An Antitrust Professor on the Bench, vol. 1, 43 – 56 (Nicolas Chartbit et al. eds., 2017) (with Eric Fraser and Daniel Sokol)
19. *Hub – and – Spoke Conspiracies*, 15(4) Antitrust Source 1 (Apr. 2016)
20. *Scamming: The Misunderstood Confidence Man*, 27 Yale Journal of Law & the Humanities 249 (2015) (with Jean Braucher)
21. *Antitrust Stare Decisis*, 15(1) Antitrust Source 1 (Oct. 2015)
22. *The Durability of Formalism in Antitrust*, 100 Iowa Law Review 2197 (2015)
23. *A State of Inaction: Regulatory Preferences, Rent, and Income Inequality*, 16 Theoretical Inquiries in Law 45 (2015)
24. *Was the Crisis in Antitrust a Trojan Horse?*, 79 Antitrust Law Journal 881 (2014)  
*Squeezing Claims: Refusals to Deal, Essential Facilities, and Price Squeezes*, in Oxford Handbook on International Antitrust Economics, vol. 2, 120 – 130 (Roger Blair & Daniel Sokol eds., 2014) (with Raphael Avraham)
26. *How Antitrust Lost Its Goal*, 81 Fordham Law Review 2253 (2013)
27. *What Is Government Failure?*, 30 Yale Journal on Regulation Online 44 (2013)
28. *What Is Regulation?*, 30 Yale Journal on Regulation Online 1 (2012)
29. *Invisible Lawmaking*, 79 University of Chicago Law Review Dialogue 1 (2012)
30. *On Hubris, Civility, and Incivility*, 54 Arizona Law Review 443 (2012)
31. *The Antitrust Curse of Bigness*, 85 Southern California Law Review 605 (2012) (with Grace Campbell Rebling)  
*Excessive Speech, Civility Norms, and the Clucking Theorem*, 44 Connecticut Law Review 1 (2011) (with Frances Sjoberg)
32. *Documentation and Supplemental Materials: Debating Over Backyard Chickens*, 44 CONNtemplations 1 (2011) (with Frances Sjoberg)
33. *Censoring Crimes*, 29 Cardozo Arts & Entertainment Law Journal 251 (2011) (with Allison Woolston)

- The Antitrust Consumer Welfare Paradox*, 7 Journal of Competition Law & Economics 133 (2011)
34. Reprinted in The Library of Essays on Antitrust and Competition Law, vol. 1, 1–32 (Farham, UK: Ashgate Publishing, Rosa Greaves ed. 2012)
35. *Arming States' Rights: Federalism, Private Lawmakers, and the Battering Ram Strategy*, 52 Arizona Law Review 1161 (2010) (with Kathleen Callahan and Lisa Lindemann)
36. *The Image Theory: RPM and the Allure of High Prices*, 55 Antitrust Bulletin 277S (2010)
- The Johnson – Jeffries Fight and Censorship of Black Supremacy*, 5 NYU Journal of Law & Liberty 270 (2010)
37. Reprinted in El Combate del Siglo (Gallo Nero: Donatella Iannuzzi ed., 2011) (Spanish translation published with translated works of Jack London)
38. *Prizefighting and the Birth of Movie Censorship*, 21 Yale Journal of Law & the Humanities 251 (2009)
39. *The Goals of Antitrust Law: Theory and Practice*, in Economic Foundations of Antitrust Law 63 (Michal Gal and Menachem Perlman eds., 2008) (in Hebrew)
40. *Micro – Motives for State and Local Climate Change Initiatives*, 2 Harvard Law & Policy Review 119 (2008) (with Kirsten Engel)
- Indirect Free Riding on the Wheels of Commerce: Dual – Use Technologies and Copyright Liability*, 57 Emory Law Journal 409 (2008)
41. Reprinted in Copyright Law Anthology, 2009–2010, pp. 753–802 (Rodney A. Smolla ed., 2009)
42. *Antitrust Vertical Myopia: The Allure of High Prices*, 50 Arizona Law Review 261 (2008)
43. *Uniform Prices for Differentiated Goods: The Case of the Movie – Theater Industry*, 27 International Review of Law & Economics 129 (2007) (with Liran Einav)
44. *Unwelcome Benefits: Why Welfare Beneficiaries Reject Government Aid?*, 24 Law & Inequality 107 (2006)
45. *Antitrust and Pricing in the Motion Picture Industry*, 21 Yale Journal on Regulation 317 (2004)
46. *The Durapolist Puzzle: Monopoly Power in Durable – Goods Markets*, 21 Yale Journal on Regulation 67 (2004)

## OTHER WRITINGS

47. *The US Is Not Prepared for the AI Electricity Demand Shock*, ProMarket (Sept. 12, 2024) (with Eli Orbach)
- The Consumer Welfare Standard*, Expert Report for California Law Revision Commission
48. (June 2024) (co-authored with Jorge Contreras, Warren Grimes, Douglas Melamed, Abbey Doyno, Joseph Kay, Heather Nyong'o)
49. *Do Revenue Management Platforms Like RealPage Facilitate Illegal Algorithmic Collusion?* ProMarket (Apr. 18, 2024)

50. *TI's Calculator Monopoly Offers Lessons for Educators in the Age of Generative AI*, ProMarket (Apr. 8, 2024) (with Eli Orbach)
51. *AI Adaptation: A Primer for Corporate Directors*, AI21 Labs White Paper (Nov. 2023) (with Shanen Boettcher & Ofir Zan)
52. *Do Antitrust Enforcers Know They Induce Shrinkflation?*, ProMarket (Aug. 18, 2023)
53. *The Neo-Brandeisians Are Wrong About Greedflation*, ProMarket (June 28, 2023)
54. *Book Review: The Anatomy of Hub-and-Spoke Conspiracies*, Antitrust Magazine Online (Apr. 2022) (reviewing Garrod, Harrington, and Olczak, Hub-and-Spoke Cartels: Why They Form, How They Operate, and How to Prosecute Them (2022))
55. *How America Turns Rivals Into Colleagues?*, The Regulatory Review (May 18, 2021)
56. *Has the COVID – 19 Pandemic Affected Antitrust Risks Faced By Companies and Executives?*, Salzburg Global Corporate Governance Forum (Sept. 23, 2020)
57. *On the COVID – 19 Vaccine Corporate Pledge*, Harvard Law School Forum on Corporate Governance (September 10, 2020)
58. *Do Directors and Officers Have a Duty to Monitor Corporate Culture?*, Salzburg Global Corporate Governance Forum (Sept. 23, 2020)
59. *Book Review: Redefining the Antitrust Paradigm*, 19(3) Antitrust Source 1 (Dec. 2019) (reviewing Jonathan Baker, The Antitrust Paradigm: Restoring a Competitive Economy (2019))
60. *Antitrust in the Age of Anxieties*, 2(4) COMPETITION LAW AND POLICY DEBATE 52 (2016)
61. *Antitrust's Pursuit of Purpose*, 81 Fordham Law Review 2151 (2013) (symposium introduction)
62. *Antitrust Energy*, 85 Southern California Law Review 429 (2012) (with Daniel Sokol) (symposium introduction)  
Reprinted in Joshua P. Fershee, Energy Law: A Context and Practice Casebook 52 (2014)
63. *Defining Government Failure*, The Regulatory Review (June 25, 2013)
64. *The New Regulatory Era: An Introduction*, 51 Arizona Law Review 559 (2009) (symposium introduction)

#### **SELECTED PRESENTATIONS & PANELS (past 10 years)**

- *The Consumer Welfare Standard*, California Law Revision Commission (Aug. 2024)
- Panelist, The Antitrust Enforcement Symposium, Oxford (June 2024)
- *AI Adaptation: Governance and Regulation*, Machines & You (Dartmouth College, May 2024)
- Panelist: *Promise or Peril? Artificial Intelligence and the Future of Corporate Governance*, The Salzburg Global Corporate Governance Forum (Salzburg, Austria, October 2023)
- Panelist: *Ecosystem Competition, Evolving Competition Dynamics: The Interface Between Competition Policy, Brands, and Retailers* (University of Oxford, June 2023)
- *Sustainable Antitrust and Sustainability*, Exploring the Outer Boundaries of Antitrust Law, Universidad Carlos III (Madrid, Spain, March 2023)

- *What's a Fair Price for Competition?*, University of Haifa Faculty of Law (Haifa, Israel, January 2023)
- *What's a Fair Price for Competition?*, The Hebrew University of Jerusalem Faculty of Law (Jerusalem, Israel, December 2022)
- *What's a Fair Price for Competition?*, Reichman University (Herzliya, Israel, December 2022)
- *What's a Fair Price for Competition?*, Tel Aviv University's Law & Economics Workshop (Tel Aviv, Israel, December 2022)
- *Relevant Markets in the Age of Ecosystems*, Comunidad Andina (Lima, Peru, November 2022)
- *What's a Fair Price for Competition?*, University of California, Irvine School of Law's Antitrust Law, and Innovation Forum (CALIF) (November 2022)
- *What's a Fair Price for Competition?*, Temple University's Institute for Law, Innovation and Technology (iLIT) (November 2022)
- *Panelist: Global Disruption and Uncertain Horizons: How can Boards Navigate New Risks?* The Salzburg Global Corporate Governance Forum (Salzburg, Austria, October 2022)
- *The Coming Transformation of Theatrical Exhibition*, The Annual Mullen Conference in Filmed Entertainment Economics (September 2022)
- *Antitrust Enforcement in the 2020s*, Israel Antitrust Authority (Jerusalem, Israel, May 2022)
- *Panelist: Future of Antitrust Enforcement*, Georgia State University (April 2022)
- *Could Mandated Neutrality Save Antitrust?*, Cambridge-USC Antitrust Workshop (March 2022)
- *Panelist: Research Roundtable on FTC/DOJ Public Inquiry on Modernizing Merger Guidelines*, Northwestern University Center on Law, Business, and Economics (March 2022)
- *Panelist: Research Roundtable on Biden Administration Antitrust Policy*, Northwestern University Center on Law, Business, and Economics (November 2021)
- *The Streaming Wars: Digital Platforms vs. Digital Ecosystems*, The Annual Mullen Conference in Filmed Entertainment Economics (November 2021)
- *Panelist: Myths and Facts: The Progressive Era and Populist Expressions of Antitrust*, USC Gould School of Law Center for Transactional Law & Business (November 2021)
- *Panelist: President Biden's Antitrust Agenda*, Dynamic Antitrust Discussion Series, The Schumpeter Project at the Information Technology and Innovation Foundation (October 2021)
- *Panelist: Responsible Leadership: How Do We Make Businesses More Accountable?*, The Salzburg Global Corporate Governance Forum (October 2021)
- *Co – Organizer: Competition Policy for the Global Economy*, Antitrust Frontiers Global Forum (June 2021)
- *Panelist: Antitrust and Market Justice*, State Bar of Arizona 2021 Convention (June 2021)
- *Panelist: Driving Accountability: Integrating EESG into Executive Compensation*, The Salzburg Global Corporate Governance Forum (May 2021)
- *Anything, Anytime, Anywhere: Antitrust New Frontiers*, Competition Law Working Group at European University Institute (May 2021)
- *The Duty to Monitor Disruption Risks*, Nebraska Governance and Technology Center (March 2021)
- *Antitrust in the Shadow of Market Disruptions*, AALS 2020 Annual Meeting (January 2021)
- *Digital Platforms and the Transformation of Shared Consumption*, Brazilian Institute for Competition and Innovation (December 2020)
- *Introduction to Artificial Intelligence for Lawyers*, State Bar of Arizona 2020 Convention (December 2020)



- *Panelist: Governance of Workforce – Related Issues in the Era of the COVID Pandemic, American College of Governance Counsel Roundtable* (November 2020)
- *Panelist: Putting Directors to the Test: How Does Leadership Measure Up in a Time of Crisis?, The Salzburg Global Corporate Governance Forum* (October 2020)
- *The Competitive Process That Antitrust Protects, Antitrust Virtual Workshop* (June 2020)
- *Panelist: Antitrust Reform, AALS 2020 Annual Meeting, Washington DC* (January 2020)
- *Panelist: Putting Our Fears on the Table, CUTS International, Competition, Regulation and Development Conference, Delhi, India* (December 2019)
- *Panelist: Friend or Foe: How Should Directors Face Disruptive Risk?, The Salzburg Global Corporate Governance Forum, Salzburg, Austria* (October 2019)
- *Indirect Antitrust Enforcement, The 2019 Antitrust Enforcement Symposium, University of Oxford, Oxford, UK* (June 2019)
- *Program Co – Chair and Panelist: Antitrust in the Age of Populism: Is Antitrust Enforcement Too Lax, State Bar of Arizona 2019 Convention, Chandler, Arizona* (June 2019)
- *Panelist: The Goals of Competition Law, Antitrust New Frontiers: The Digital Economy and Economic Concentration, Tel Aviv University, Israel* (June 2019)
- *Antitrust Populists: Their Visions and Appeal, Tel Aviv University Law & Economics Workshop, Tel Aviv, Israel* (June 2019)
- *Individual Accountability for Antitrust Violations, Antitrust and Silicon Valley, Santa Clara School of Law, Santa Clara, California* (March 2019)
- *Populism and the Rule of Law, Federal Bar Association, Phoenix, Arizona* (January 2019)
- *Risk Management in the #MeToo Era, Arizona State Bar, Tucson, Arizona* (December 2018)
- *Criminal Liability and Antitrust Policies, International Competition Network (ICN) Cartel Workshop, Tel Aviv, Israel* (October 2018)
- *Antitrust in the Motion Picture Industry: Reappraisal, The 20th Annual Mallen Scholars and Practitioners Conference in Filmed Entertainment Economics, Film University Babelsberg KONRAD WOLF, Potsdam, Germany* (September 2018)
- *Keynote Speaker: Antitrust Populism, Antitrust Populism: Tech Giants Under Scrutiny, De Montfort University’s Jean Monnet Centre of Excellence on European Governance, Leicester, UK* (September 2018)
- *Con Men and Their Enablers, Cons and Scams: Their Role in Our Culture, The Center for Public Scholarship at The New School, New York, NY* (April 2018)
- *Antitrust Liberties, Antitrust and the Constitutional Order, William & Mary Law School, Williamsburg, VA* (February 2018)
- *Panelist: Disruptive Technology and Economic Regulation, CUTS International, Competition, Regulation and Development Conference, Jaipur, India* (November 2017)
- *Interstate Circuit and (Other) Antitrust Myths, University of Colorado Law School, Boulder, CO* (October 2017)
- *Interstate Circuit and (Other) Antitrust Myths, Tilburg Law and Economics Center (TILEC), Tilburg, the Netherlands* (September 2017)
- *Interstate Circuit and (Other) Antitrust Myths, Boston College Law School, Boston, MA* (September 2017)
- *Interstate Circuit and (Other) Antitrust Myths, Toulouse School of Economics, Toulouse, France* (May 2017)
- *Global Digital Platforms and Challenges for the Competition Law, St. Petersburg International Legal Forum, St. Petersburg, Russia* (May 2017)
- *Interstate Circuit and (Other) Antitrust Myths, The Annual Loyola Antitrust Colloquium, Loyola University Chicago, Chicago, IL* (April 2017)

- *Antimonopoly Policy: Science, Education, Practice*, The Russian Federal Antimonopoly Service, Moscow, Russia (December 2016)
  - *Antitrust Populism*
  - *Antitrust in the New Economy*
- *Interstate Circuit and Antitrust Inference*, The Annual Economics of the Entertainment and Media Industries Conference (Mallen), New York, NY (November 2016)
- *Interstate Circuit and Antitrust Inference*, The 2016 Annual Meeting of the Midwest Law and Economics Association, Emory University School of Law (September 2016)
- *Scamming: The Misunderstood Confidence Man*, AALS 2016 Annual Meeting, New York, NY (January 2016)
- *Interstate Circuit and Antitrust Inference*, Virginia Law School, Charlottesville, VA (November 2015)
- *Scamming: The Misunderstood Confidence Man*, Third Annual Workshop for Corporate & Securities Litigation, Boston University, Boston MA (October 2015)
- *The Durability of Antitrust Formalism*, Iowa Law Review Symposium Honoring Herbert Hovenkamp, Iowa City, IA (October 2014)
- *A State of Inaction*, The 2014 Annual Meeting of the Midwest Law and Economics Association, Indiana University Robert H. McKinney School of Law, Indianapolis, IN (October 2014)
- *Red Flags*, The Annual Meeting of the Society for Environmental Law and Economics, Chicago, IL (May 2014)
- *Red Flags*, The Annual Meeting of the American Law & Economics Association, University of Chicago, Chicago, IL (May 2014)
- *Was the Crisis in Antitrust a Trojan Horse?*, Next Generation of Antitrust Scholarship Conference, NYU School of Law, New York, NY (January 2014)
- *A State of Inaction*, Financial Regulation and Comparative Corporate Governance, Tel Aviv University, Tel Aviv, Israel (January 2014)