



BARAK ORBACH

Robert H. Mundheim Professor of Law & Business

The University of Arizona

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AREAS OF EXPERTISE

- Antitrust
- Corporate Governance
- Regulation
- Digital Economy
- Artificial Intelligence (Public Policies)
- Motion Pictures & Streaming

COURSES

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

UPDATED: June 1, 2023

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

University of Cambridge Emmanuel College

Derek Brewer Visiting Fellowship (Easter Term, 2023)

Tel Aviv University, Buchmann Faculty of Law

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

EDUCATION

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

PROFESSIONAL AFFILIATIONS

- University of Cambridge Emmanuel College, 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)
- Antitrust Frontiers Global Forum, Executive Board, Chair (2019—Present)
- American Antitrust Institute, Advisory Board, Member (2019—Present)
- Association of American Law Schools' Section on Antitrust and Economic Regulation, Executive Committee, 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*

NON—ACADEMIC EXPERIENCE

Cleary, Gottlieb, Steen & Hamilton LLP, New York, NY

Associate (2001—2003)

Israel Antitrust Authority, Jerusalem, Israel

Advisor for Law & Economics (1997—1999)

Israel Defense Forces

Lieutenant, elite intelligence unit (8200) (1988—1992)

PUBLICATIONS

BOOKS

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

ARTICLES, ESSAYS, AND BOOK CHAPTERS

1. *Policy Realignment and Competition in Attention Markets*, Journal of Antitrust Enforcement (2023)
2. *The Friction Paradox: Intermediaries, Competition, and Efficiency*, 68 Antitrust Bulletin 234 (2023)
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*, 2023 WL 407668 (Del. Ch. 2023); *Harris v. Harris*, 2023 WL 165967 (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)
18. *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)
25. *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)
32. *Excessive Speech, Civility Norms, and the Clucking Theorem*, 44 Connecticut Law Review 1 (2011) (with Frances Sjöberg)
- Documentation and Supplemental Materials: *Debating Over Backyard Chickens*, 44 CONNtemplations 1 (2011) (with Frances Sjöberg)

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 Lindemenn)
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
41. *Copyright Liability*, 57 Emory Law Journal 409 (2008)
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. *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))

48. [*How America Turns Rivals Into Colleagues?*](#), [The Regulatory Review](#) (May 18, 2021)
49. [*Has the COVID—19 Pandemic Affected Antitrust Risks Faced By Companies and Executives?*](#), [Salzburg Global Corporate Governance Forum](#) (Sept. 23, 2020)
50. [*On the COVID—19 Vaccine Corporate Pledge*](#), [Harvard Law School Forum on Corporate Governance](#) (September 10, 2020)
51. [*Do Directors and Officers Have a Duty to Monitor Corporate Culture?*](#), [Salzburg Global Corporate Governance Forum](#) (Sept. 23, 2020)
52. [*Book Review: Redefining the Antitrust Paradigm*](#), 19(3) [Antitrust Source](#) 1 (Dec. 2019) (reviewing JONATHAN BAKER, [THE ANTITRUST PARADIGM: RESTORING A COMPETITIVE ECONOMY](#) (2019))
53. [*Antitrust in the Age of Anxieties*](#), 2(4) [COMPETITION LAW AND POLICY DEBATE](#) 52 (2016)
54. [*Antitrust's Pursuit of Purpose*](#), 81 [Fordham Law Review](#) 2151 (2013) (symposium introduction)
55. [*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)
56. [*Defining Government Failure*](#), [The Regulatory Review](#) (June 25, 2013)
57. [*The New Regulatory Era: An Introduction*](#), 51 [Arizona Law Review](#) 559 (2009) (symposium introduction)

SELECTED PRESENTATIONS & PANELS (past 10 years)

- [*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)

Choosing Among Evils: The Implied Antitrust Immunities, Philadelphia National Bank 50 Years Later, NYU School of Law, NY, NY (November 2013)

Red Flags, The 2013 Annual Meeting of the Midwest Law and Economics Association, University of Illinois College of Law, Champaign, IL (October 2013)

Was the Crisis in Antitrust a Trojan Horse?, The Antitrust Legacy of Robert Bork, Yale Law School, New Haven, CT (September 2013)

Red Flags, Herd Behavior, Groupthink, and Financial Bubbles Symposium, Annual Meeting Law & Society, Boston, MA (June 2013)