



Global Antitrust Institute
Antonin Scalia Law School, George Mason University

Economics Institute for Competition Law Judges
May 26-31, 2019
Lisbon, Portugal

January 30, 2019

Dear Judge,

I am pleased to invite you to participate and collaborate in the Global Antitrust Institute's (GAI's) Economics Institute for Competition Law Judges, to be held **Sunday, May 26 to Friday, May 31, 2019, in Lisbon, Portugal**. The agenda for the Institute is attached at page 3 below.

The Institute is limited to approximately twenty-five judges to allow for active engagement and exchange of experience. Each participating and collaborating judge will be expected to read the materials, engage, and share experiences and viewpoints from his or her own jurisdiction. The unique experience and legal knowledge that each judge contributes to the Institute are critical. The collaboration with the GAI faculty generates significant and tangible benefits and value to our research and scholarship in the form of academic articles and competition advocacy. Please see <https://gai.gmu.edu/competition-advocacy-program>—as well as the SSRN page of each respective faculty members listed on the following page—for examples of research and scholarship that the GAI generates as a result of our learning and interaction with competition judges and enforcers worldwide.

Materials for the Economics Institute, hotel rooms (*from Sunday night through Friday morning*), and group meals are included covered by the GAI. Airfare and airport shuttle transportation to and from the Institute venue will also be provided at no cost to you when booked through our approved travel agency.

To secure a place in the Institute, please contact Judy Jin, Logistics Officer, at jjin12@gmu.edu no later than February 22, 2019.

We look forward to collaborating with the judges of the European Court of Justice, the European General Court, and the courts of Member States, and of the United States in Lisbon. In the meantime, we are happy to answer any questions you may have about the GAI or the Economics Institute.

All the best,

A handwritten signature in black ink, appearing to read 'Joshua D. Wright'.

Joshua D. Wright

Executive Director, The Global Antitrust Institute
University Professor, Antonin Scalia Law School, George Mason University

About Us:

The Global Antitrust Institute, which is a division of the Antonin Scalia Law School at George Mason University, was founded in 2014 based upon the belief that when the policy-makers, agency officials, and judges responsible for interpreting and applying competition law better understand economics, they are more likely to make decisions that promote consumer welfare and innovation. The GAI promotes the application of sound economic analysis to competition enforcement around the world through research, scholarship and competition advocacy. Our Economic Institutes are a critical part of our own learning process and research into antitrust institutions.

The GAI Economics Institute:

The following members of the Antonin Scalia Law School faculty will participate in the program:

- Joshua D. Wright**, J.D., Ph.D. Economics; Executive Director, GAI; University Professor, Antonin Scalia Law School, George Mason University; and former Commissioner, U.S. Federal Trade Commission (<https://papers.ssrn.com/author=466576>)
- **Judge Douglas H. Ginsburg**, J.D.; Chair, International Board of Advisors, GAI; Senior Judge, U.S. Court of Appeals for the District of Columbia Circuit; Professor of Law, Antonin Scalia Law School, George Mason University; and former head of the Antitrust Division of the U.S. Department of Justice (<https://papers.ssrn.com/author=40531>)
 - **Bruce H. Kobayashi**, Ph.D., Economics; Director, Federal Trade Commission, Bureau of Economics; Senior Scholar and Founding Director, GAI; and Professor of Law, Antonin Scalia Law School, George Mason University (<https://papers.ssrn.com/author=16451>)
 - **John M. Yun**, Ph.D., Economics; Director of Economic Education, GAI; Associate Professor of Law, Antonin Scalia Law School, George Mason University; and former Acting Deputy Assistant Director in the Bureau of Economics, U.S. Federal Trade Commission (<https://papers.ssrn.com/author=366191>)



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Scalia Law School, George Mason University
Economics Institute for Competition Law Judges

May 26-31, 2019
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Agenda

Sunday, May 26

Arrival and Welcome Dinner

6:00-6:30 Welcome Reception
6:30-8:00 Opening Dinner

Monday, May 27

Introduction to Economics: Firms, Markets, and Competition

6:30-8:45 Breakfast

9:00-9:30 **Introduction to Economics**
Judge Douglas H. Ginsburg, U.S. Court of Appeals for the District of Columbia Circuit and Professor of Law, Antonin Scalia Law School, George Mason University

9:30-10:00 **Session 1 - Economic Thinking**
Joshua D. Wright, Executive Director, Global Antitrust Institute, and University Professor, Antonin Scalia Law School, George Mason University

Reading Assignment:

Michael R. Baye & Joshua D. Wright, *Is Antitrust Too Complicated for Generalist Judges? The Impact of Economic Complexity and Judicial Training on Appeals*, 54 JOURNAL OF LAW & ECONOMICS 1 (2011), pages 1-24.

10:15-11:30 **Session 2 - Individual Choice, Demand, and Welfare**
Bruce H. Kobayashi, Professor of Law and Associate Dean for Research and Faculty Development, Antonin Scalia Law School, George Mason University

Reading Assignments:

Peter Cohen et al., *Using Big Data to Estimate Consumer Surplus: The Case of Uber* (Nat'l Bureau Econ. Research, Working Paper 22627, 2016).

ANDREW I. GAVIL ET AL., ANTITRUST LAW IN PERSPECTIVE: CASES, CONCEPTS AND PROBLEMS IN COMPETITION POLICY (3d ed. 2016), pages 17-22; 27-31.

11:30-11:45 Q&A

11:45-12:45 Lunch

Monday, May 27, continued

12:45-2:00 **Session 3 - Cost, Production, and Supply | Kobayashi**

Reading Assignments:

GAVIL ET AL, ANTITRUST LAW IN PERSPECTIVE: CASES, CONCEPTS AND PROBLEMS IN COMPETITION POLICY (3d ed. 2016), pages 22-27; 91-97.

Armen A. Alchian, Cost (1968), *reprinted in* ECONOMIC FORCES AT WORK: SELECTED WORKS 301 (1977).

2:15-3:30 **Session 4 - Equilibrium, Markets, and Prices & Goals of Antitrust | John M. Yun,** Director of Economic Education, Global Antitrust Institute, and Associate Professor of Law, Antonin Scalia Law School, George Mason University

Reading Assignments:

Joshua D. Wright & Douglas H. Ginsburg, *The Goals of Antitrust: Welfare Trumps Choice*, 81 FORDHAM LAW REVIEW 2405 (2013).

GAVIL ET AL, ANTITRUST LAW IN PERSPECTIVE: CASES, CONCEPTS AND PROBLEMS IN COMPETITION POLICY (3d ed. 2016), pages 31-40, 76-87.

3:45-5:00 **Session 5 – Economics of Innovation and Dynamic Competition | Wright**

Reading Assignments:

Richard A. Posner, *Intellectual Property: The Law and Economics Approach*, 19 JOURNAL OF ECONOMIC PERSPECTIVES 57 (2005).

Douglas H. Ginsburg & Joshua D. Wright, *Dynamic Analysis and the Limits of Antitrust Institutions*, 78 ANTITRUST LAW JOURNAL 1 (2012).

WILLIAM J. BAUMOL ET AL., GOOD CAPITALISM, BAD CAPITALISM, AND THE ECONOMICS OF GROWTH AND PROSPERITY (2007), pages 15-59.

Tuesday, May 28

Firms, Differential Pricing, Cartels, and Due Process

6:30-8:45 Breakfast

9:00-10:15 Session 6 - The Theory of the Firm, Vertical Integration, and Contracts | Yun

Reading Assignments:

Francine Lafontaine & Margaret Slade, *Vertical Integration and Firm Boundaries: The Evidence*, 45 JOURNAL OF ECONOMIC LITERATURE 629 (2007).

Benjamin Klein, *The Economics of Franchise Contracts*, 2 JOURNAL OF CORPORATE FINANCE 9 (1995).

Suggested Additional Reading:

Ricard Gil & Wesley R. Hartmann, *Airing Your Dirty Laundry: Vertical Integration, Reputational Capital, and Social Networks*, 27 JOURNAL OF LAW ECONOMICS & ORGANIZATION 219 (2011).

10:30-11:45 Session 7 – Differential Pricing and Welfare | Kobayashi

Reading Assignment:

Hal Varian, *Differential Pricing and Efficiency*, 1 FIRST MONDAY (1996).

Suggested Additional Reading:

James C. Cooper et al., *Does Price Discrimination Intensify Competition? Implications for Antitrust*, 72 ANTITRUST LAW JOURNAL 327 (2005).

11:45-12:00 Q&A

12:00-1:00 Lunch

1:00-2:15 Session 8 - A Theory of Oligopoly, Cartels, and Sanctions | Kobayashi & Ginsburg

Reading Assignments:

Dennis W. Carlton & Sam Peltzman, *Introduction to Stigler's Theory of Oligopoly*, 6 COMPETITION POLICY INTERNATIONAL 237 (2010).

Douglas H. Ginsburg & Joshua D. Wright, *Antitrust Sanctions*, 6 COMPETITION POLICY INTERNATIONAL 3 (2010).

Michelle M. Burtis & Bruce H. Kobayashi, *Regarding the Optimality of Cartel Fines*, CARTEL AND CRIMINAL CONDUCT NEWSLETTER, ABA Antitrust Section (Mar. 2017).

Tuesday, May 28, continued

2:30-3:45 **Session 9 - International Due Process | Ginsburg**

Reading Assignments:

Douglas H. Ginsburg & Taylor M. Owings, *Due Process in Competition Proceedings*, 11 COMPETITION POLICY INTERNATIONAL 39 (2015).

Douglas H. Ginsburg & Joshua D. Wright, *Antitrust Settlements: The Culture of Consent*, in 1 WILLIAM E. KOVACIC: AN ANTITRUST TRIBUTE—LIBER AMERICORUM 177 (Nicolas Charbit et al. eds., 2012).

International Competition Network (ICN), *Guiding Principles for Procedural Fairness in Competition Agency Enforcement* (March 2018).

3:45-5:45 **Study Break**

6:00-8:00 **Group Activity and Dinner**

Wednesday, May 29

Horizontal Mergers, Market Definition, and Competitive Effects

6:30-8:45 **Breakfast**

9:00-10:15 **Session 10 - Horizontal Mergers I: Market Definition and Fundamentals | Yun**

Reading Assignments:

HAROLD DEMSETZ, THE MARKET CONCENTRATION DOCTRINE: AN EXAMINATION OF EVIDENCE AND A DISCUSSION OF POLICY (1973).

Jonathan Baker, *Market Definition: An Analytical Overview*, 74 ANTITRUST LAW JOURNAL 129 (2007).

10:30-11:45 **Session 11 - Horizontal Mergers II: Competitive Effects | Wright**

Reading Assignments:

Gregory J. Werden, *Unilateral Competitive Effects of Horizontal Mergers I: Basic Concepts and Models*, in 2 ISSUES IN COMPETITION LAW AND POLICY 1319 (2008).

Janusz Ordover, *Coordinated Effects*, in 2 ISSUES IN COMPETITION LAW AND POLICY 1359 (2008).

11:45-12:00 **Q&A**

12:00-1:00 **Lunch**

Wednesday, May 29 continued

1:00-2:15 **Session 12 - Horizontal Mergers III: Efficiencies and Entry | Yun**

Reading Assignments:

Dennis W. Carlton, *Barriers to Entry*, in 1 ISSUES IN COMPETITION LAW AND POLICY 601 (2008).

Paul Yde & Michael Vita, *Merger Efficiencies: Reconsidering the 'Passing-On' Requirement*, 64 ANTITRUST LAW JOURNAL 735 (1996).

2:30-3:45 **Session 13 - Horizontal Mergers IV: Empirical Approaches to Market Definition and Statistical Evidence | Kobayashi**

Reading Assignments:

FTC v. Staples, Inc., 970 F. Supp. 1066 (D.D.C. 1997).

Orley Ashenfelter et al., *Empirical Methods in Merger Analysis: Econometric Analysis of Pricing in FTC v. Staples*, 13 INTERNATIONAL JOURNAL OF THE ECONOMICS OF BUSINESS 265 (2006).

Thursday, May 30

Vertical Restraints and Single-Firm Conduct

6:30-8:45 **Breakfast**

9:00-10:15 **Session 14 - Vertical Restraints I: Fundamentals | Ginsburg**

Reading Assignments:

Benjamin Klein, *Competitive Resale Price Maintenance in the Absence of Free Riding*, 76 ANTITRUST LAW JOURNAL 431 (2009).

Francine Lafontaine & Margaret Slade, *Exclusive Contracts and Vertical Restraints: Empirical Evidence and Public Policy*, in HANDBOOK OF ANTITRUST ECONOMICS 391 (Buccirossi ed., 2008).

10:30-11:45 **Session 15 - Vertical Restraints II: Exclusive Dealing and Loyalty Discount | Wright**

Reading Assignments:

Francine Lafontaine & Margaret Slade, *Exclusive Contracts and Vertical Restraints: Empirical Evidence and Public Policy*, in HANDBOOK OF ANTITRUST ECONOMICS 391 (Buccirossi ed., 2008).

Derek W. Moore & Joshua D. Wright, *Conditional Discounts and the Law of Exclusive Dealing*, 22 GEORGE MASON LAW REVIEW 1205 (2015).

11:45-12:00 **Q&A**

Thursday, May 30, continued

12:00-1:00 Lunch

1:00-2:15 Session 16 - The Economics of Network Effects & Platforms | Yun

Reading Assignment:

David S. Evans (2003), “The Antitrust Economics of Multi-Sided Platform Markets,” *Yale Journal of Regulation* 20, pp. 325-381.

S. J. Liebowitz & Stephen E. Margolis (1994), “Network Externalities: An Uncommon Tragedy,” *Journal of Economic Perspectives* 8, pp. 133-150.

Suggested Additional Reading:

Marc Rysman (2009), “The Economics of Two-Sided Markets,” *Journal of Economic Perspectives* 23, pp. 125-143.

2:30-3:45 Session 17 - Big Data, Barriers to Entry, & Market Power | Wright

Reading Assignments:

Global Antitrust Institute Comment on the Canadian Competition Bureau’s White Paper, “Big Data and Innovation: Implications for Competition Policy for Canada” (2017).

Joshua D. Wright and Elyse Dorsey (2016), “Antitrust Analysis of Big Data,” *Competition Law & Policy Debate* 2, pp. 35-41.

Anja Lambrecht & Catherine E. Tucker (2017), “Can Big Data Protect A Firm from Competition,” *Competition Policy International*.

Suggested Additional Reading:

Harold Demsetz (1982), “Barriers to Entry,” *American Economic Review* 72, pp. 47-57.

3:45-5:45 Study Break

6:00-6:30 Closing Reception

6:30-8:00 Closing Dinner

Friday, May 31

Intellectual Property and Antitrust

6:30-8:45 **Breakfast**

9:00-10:15 **Session 18 - Intellectual Property I: Fundamentals | Yun**

Reading Assignments:

Benjamin Klein & John Shepard Wiley, Jr., *Competitive Price Discrimination as an Antitrust Justification for Intellectual Property Refusals to Deal*, 70 ANTITRUST LAW JOURNAL 599 (2003).

Joshua D. Wright & Douglas H. Ginsburg, *Whither Symmetry? Antitrust Analysis of Intellectual Property Rights at the FTC and DOJ*, 9 COMPETITION POLICY INTERNATIONAL 41 (2013).

10:30-11:45 **Session 19 - Intellectual Property II: Standard Setting, FRAND, and Holdup | Ginsburg**

Reading Assignments:

Douglas H. Ginsburg et al., *The Troubling Use of Antitrust to Regulate FRAND Licensing*, CPI ANTITRUST CHRONICLE (Oct. 2015).

Bruce H. Kobayashi & Joshua D. Wright, *The Limits of Antitrust and Patent Holdup: A Reply to Cary et al.*, 78 ANTITRUST LAW JOURNAL 505 (2012), pages 715-722.

Suggested Additional Readings:

Joanna Tsai & Joshua D. Wright, *Standard Setting, Intellectual Property Rights, and the Role of Antitrust in Regulating Incomplete Contracts*, 80 ANTITRUST LAW JOURNAL 157 (2015).

12:00-1:15 **Session 20 – Vertical Restraints III: Intellectual Property Licensing | Kobayashi**

Reading Assignments:

Gerard Llobet & Jorge Padilla, *The Optimal Scope of the Royalty Base in Patent Licensing*, 59 JOURNAL OF LAW & ECONOMICS 45 (2016).

Richard A. Posner, *Transaction Costs and Antitrust Concerns in the Licensing of Intellectual Property*, 4 JOHN MARSHALL REVIEW OF INTELLECTUAL PROPERTY LAW 325 (2004).

Suggested Additional Readings:

Bruce H. Kobayashi, *Does Economics Provide a Reliable Guide to Regulating Commodity Bundling by Firms? A Survey of the Economic Literature*, 1 JOURNAL OF COMPETITION LAW & ECONOMICS 707 (2005).

Josh Lerner & Jean Tirole, *Efficient Patent Pools*, 94 AMERICAN ECONOMIC REVIEW 691 (2004).

Roy W. Kenney & Benjamin Klein, *The Economics of Block Booking*, 26 JOURNAL OF LAW & ECONOMICS 497 (1983).

1:15 **Lunch – Gourmet Box Lunch To Go**