




BARAK ORBACH

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AREAS OF EXPERTISE

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

COURSES

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

UPDATED: JAN. 1, 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 for 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, 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)

34. *The Antitrust Consumer Welfare Paradox*, 7 Journal of Competition Law & Economics 133 (2011)
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)
41. *Indirect Free Riding on the Wheels of Commerce: Dual – Use Technologies and 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. *AI Adaptation: A Primer for Corporate Directors*, AI21 Labs White Paper (Nov. 2023)
48. *Do Antitrust Enforcers Know They Induce Shrinkflation?*, ProMarket (Aug. 18, 2023)
49. *The Neo-Brandeisians Are Wrong About Greedflation*, ProMarket (June 28, 2023)
50. *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))
51. *How America Turns Rivals Into Colleagues?*, The Regulatory Review (May 18, 2021)

52. *Has the COVID – 19 Pandemic Affected Antitrust Risks Faced By Companies and Executives?*, Salzburg Global Corporate Governance Forum (Sept. 23, 2020)
53. *On the COVID – 19 Vaccine Corporate Pledge*, Harvard Law School Forum on Corporate Governance (September 10, 2020)
54. *Do Directors and Officers Have a Duty to Monitor Corporate Culture?*, Salzburg Global Corporate Governance Forum (Sept. 23, 2020)
Book Review: Redefining the Antitrust Paradigm, 19(3) Antitrust Source 1 (Dec. 2019)
55. (reviewing Jonathan Baker, The Antitrust Paradigm: Restoring a Competitive Economy (2019))
56. *Antitrust in the Age of Anxieties*, 2(4) COMPETITION LAW AND POLICY DEBATE 52 (2016)
57. *Antitrust's Pursuit of Purpose*, 81 Fordham Law Review 2151 (2013) (symposium introduction)
58. *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)
59. *Defining Government Failure*, The Regulatory Review (June 25, 2013)
60. *The New Regulatory Era: An Introduction*, 51 Arizona Law Review 559 (2009) (symposium introduction)