

ANTITRUST

Spring 2026 (Course 5330/20614)
T/TH, 2:30-4:00 p.m., room 210

Nikolas Guggenberger (nguggenberger@uh.edu)
Office hours: Tuesdays, 4:00-5:00 p.m. (430C) & by appointment

OVERVIEW

This course introduces the foundations of U.S. antitrust law and policy. Focusing primarily on the Sherman and Clayton Acts, it examines how courts and enforcement agencies apply these statutes. Readings draw from case law, scholarly analysis, historical materials, and contemporary developments. Major topics include the goals of antitrust law, anticompetitive agreements, monopolization, merger review, political economy considerations, political developments, and emerging challenges. By the end of the course, students will be able to understand the legal, economic, and policy principles that shape antitrust enforcement and assess reform proposals.

Outcomes

At the end of this course, students should be able to 1) apply the core components of federal antitrust law to traditional and emerging business models; 2) analyze the legal, economic, and policy principles that shape antitrust enforcement; 3) assess contemporary critiques, reform proposals, and their effects; 4) compare U.S. antitrust enforcement with international approaches; and 5) explain the historical evolution of antitrust policy and its goals.

ADMINISTRATION & ORGANIZATION

Required Materials

- E. THOMAS SULLIVAN ET AL., ANTITRUST LAW, POLICY AND PROCEDURE: CASES, MATERIALS, PROBLEMS (9th ed. 2024).

Course Requirements, Final Exam, & Grading

Your grade will be based solely on the final exam. You may use any hard-copy materials during the exam, but no electronic materials. The exam will be time-limited (3 hours) and word-limited (3,000 words total). It will feature one or more fact patterns and/or essay questions.

Attendance is required; excessive absences may render you ineligible to receive credit for the course. You may use AI for all purposes in this course except the final exam.

Readings & Class Time

I aim to keep the readings manageable. If at any point they feel unmanageable, please let me know. Readings marked as optional are truly optional and are not required for earning a good grade.

This course is interactive, and your ideas and questions are welcome. I encourage volunteers during discussion and will also call on students so everyone has a chance to participate.

Office Hours & Time to Talk

I am available for office hours on Tuesdays from 4:00 to 5:00 p.m. No appointment is necessary; just stop by my office (430C). If you would like to meet outside these hours, please email me at

nguggenberger@uh.edu with three possible time slots. Your questions are always welcome, and I'm happy to help with any concerns.

Feedback

Formal class evaluations come too late to make adjustments. Please don't wait—let me know what you find helpful and what I can improve as we go. I value feedback in any form and at any time. For example: Is the reading load too heavy or too light, too technical or too superficial? Are we moving too fast or too slow? Are there topics you'd like to explore in more depth, or additional resources you would find helpful? Please share whatever feedback you have.

Mental Health and Wellness Resources

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct

Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

The Center for Student Advocacy and Community (CSAC) is where you can go if you need help but don't know where to start. CSAC is a "home away from home" and serves as a resource hub to help you get the resources needed to support academic and personal success. Through our Cougar Cupboard, all students can get up to 30 lbs of FREE groceries a week. Additionally, we provide 1:1 appointments to get you connected to on- and off-campus resources related to essential needs, safety and advocacy, and more. The Cougar Closet is a registered student organization advised by our office and offers free clothes to students so that all Coogs can feel good in their fit. We also host a series of cultural and community-based events that fosters social connection and helps the cougar community come closer together. Visit the CSAC homepage or follow us on Instagram: @uh_CSAC and @uhcupbrd. YOU belong here.

Women and Gender Resource Center

The mission of the WGRC is to advance the University of Houston and promote the success of all students, faculty, and staff through educating, empowering, and supporting the UH community. The WGRC suite is open to you. Stop by the office for a study space, to take a break, grab a snack, or check out one of the WGRC programs or resources. Stop by Student Center South room B12 (Basement floor near Starbucks and down the hall from Creation Station) from 9 am to 5 pm Monday through Friday.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Justin Dart, Jr. Student Accessibility Center](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes

This syllabus will be updated continuously to incorporate your feedback and reflect recent developments.

SYLLABUS

Jan 20, 2026:

1. Introduction, Markets, and Antitrust Goals

- CB, 3-37
- CB, 1229-1230, Sherman Act § 1, 2, 4, 8 (Online: [15 U.S.C. § 1](#) etc.)
- Skim: United States antitrust law, [Wikipedia](#)
- Stefania Palma, *The US is Losing Its Battle to Break up Big Tech*, FIN. TIMES (Jan. 5, 2026)
- Optional:
 - o Herbert J. Hovenkamp & Fiona Scott Morton, [Framing the Chicago School of Antitrust Analysis](#), 168 U. PENN. L. REV. 1843 (2021)

- Robert Pitofsky, [The Political Content of Antitrust](#), 127 U. PENN. L. REV. 1051 (1979)

Jan 22, 2026: 2. Economic Analysis, Competition & Enforcement

- Watch:
 - Joyee Deb, THURMAN ARNOLD PROJECT, [Demand & Supply](#) (Feb. 7, 2022)
 - Fiona Scott Morton, THURMAN ARNOLD PROJECT, [The Economics of Antitrust Law](#) (Jan. 10, 2022)
 - Fiona Scott Morton, THURMAN ARNOLD PROJECT, [Monopoly](#) (Jan. 10, 2022)
 -
- CB, 39-70

Jan 27, 2026: 3. Settlements & Remedies

- CB, 139-143; 161-180
- Jay B. Sykes, [Federal Court Endorses Behavioral Remedies, Rejects Structural Relief, in Google Search Antitrust Litigation](#), Legal Sidebar No. LSB11362 (Cong. Research Serv. Sept. 10, 2025)
- [United States v. Google LLC](#), No. 1:20-cv-3010 (D.D.C. Sept. 2, 2025), at 58-63

Feb 3, 2026: 4. Cartels and Other Joint Conduct I

- Judith Chevalier, THURMAN ARNOLD PROJECT, [Explicit & Tacit Collusion](#) (Jan 15, 2022)
- CB, 181-204

Feb 5, 2026: 5. Cartels and Other Joint Conduct II

- CB, 204-212
- RealPage litigation
 - Watch: [DOJ Sues RealPage for Algorithmic Pricing Scheme that Harms Millions of American Renters](#)
 - United States v. RealPage, Inc., [Amended Complaint](#), No. 1:24-cv-423 (D.D.C. Nov. 14, 2025), at 24-30, 46-61, 95-99
 - U.S. Dep't of Justice, [Justice Department Requires RealPage to End Sharing Competitively Sensitive Information and Implements Compliance Measures](#), U.S. Dep't of Justice (Nov. 24, 2025)
- Optional:
 - Emilio Calvano, Giacomo Calzolari, Vincenzo Denicolò & Sergio Pastorello, [Artificial Intelligence, Algorithmic Pricing, & Collusion](#), 110 AM. ECON. REV. 3267 (2020).

Feb 10, 2026: 6. Cartels and Other Joint Conduct III

- CB, 225-245

Feb 12, 2026: 7. Cartels and Other Joint Conduct IV

- CB, 254-267; 279-293
- Optional: [House v. NCAA](#), Opinion Regarding Order Granting Motion for Final Approval of Settlement Agreement, No. 4:20-cv-03919 (N.D. Cal. June 6, 2024)

Feb 17, 2026: 8. Cartels and Other Joint Conduct V

- Watch: Fiona Scott Morton, THURMAN ARNOLD PROJECT, [MFNs \(Most Favored Nation Clauses\)](#) (Jan. 10, 2022)
- CB, 296-321; 454-459
- Optional:
 - o CB, 459-465 (Noncommercial Boycotts)
 - o CB, 465-482 (IP Agreements)

Feb 19, 2026: 9. Vertical Restrictions I: Intrabrand Restraints

- CB, 485-506; 510-514; 516-518

Feb 24, 2026: 10. Vertical Restrictions II: Interbrand Vertical Foreclosure, Exclusive Dealing and Anti-Steering

- CB, 548-554; 560-584

Feb 26, 2026: 11. Vertical Restrictions III: Interbrand Vertical Foreclosure, Tying

- CB, 584-590; 600-614 (incl. Problem 5.6); 634-642
- *Epic Games, Inc. v. Apple, Inc.*, 67 F.4th, 994-999 (9th Cir. 2023)

Mar 3, 2026: 12. Monopolization I: The Problem of Monopoly

- CB, 682-709

Mar 5, 2026: 13. Monopolization II: Market Power + Relevant Market

- Watch: Katja Seim, THURMAN ARNOLD PROJECT, [Market Definition](#) (Feb. 7, 2022)
- CB, 709-735

Mar 10, 2026: 14. Monopolization III: *FTC v. Meta*

- Read and watch: Fed. Trade Comm'n, [FTC Sues Facebook for Illegal Monopolization](#) (Dec. 9, 2020)
- [Fed. Trade Comm'n v. Meta Platforms, Inc.](#), No. 1:20-cv-03590, at 1-2, 20-36, 36-56, 82-89 (D.D.C. 2025)
- Jay B. Sykes, [Federal District Court Rejects the FTC's Monopolization Case Against Meta Platforms](#), CONG. RESEARCH SERV., Legal Sidebar No. LSB11379 (Nov. 26, 2025)
- [United States v. Google LLC](#), No. 1:20-cv-3010, at 99-104 (D.D.C. Sept. 2, 2025)

Mar 12, 2026: 15. Monopolization IV: Geographic Market & Intro to Conduct

- CB, 739-760

- Mar 17, 2026: SPRING BREAK**
- Mar 19, 2026: SPRING BREAK**
- Mar 24, 2026: 16. Monopolization V: Exclusion**
- CB, 760-781
 - [United States v. Google LLC](#), No. 1:20-cv-3010, at 197-214 (D.D.C. Aug. 5, 2024) (liability decision)
- Mar 26, 2026: 17. Monopolization VI: Predatory Pricing**
- Kevin Williams, THURMAN ARNOLD PROJECT, [Predatory Pricing](#) (Jan 10, 2022)
 - CB, 794-815
 - Lina M. Khan, [Amazon's Antitrust Paradox](#), 126 Yale L.J. 710, 717-736, 746-755 (2017).
- Mar 31, 2026: 18. Monopolization VII: Refusal to Deal and Essential Facilities Doctrine**
- Refresh: CB, 454-459
 - CB, 851-878
 - Nikolas Guggenberger, [Essential Platforms](#), 24 Stan. Tech. L. Rev. 237, 239-256 (2021).
- Apr 2, 2026: 19. Monopolization VIII: Exclusionary Contracting**
- CB, 878-893
- Apr 7, 2026: 20. Monopolization IX: Attempt to Monopolize, Conspiracy, & Monopolization as Crime**
- CB, 901-916
 - Watch: U.S. Department of Justice, [Recognizing Antitrust Conspiracies & Working with the Antitrust Division](#) (May 18, 2021)
 - Jonathan Kanter, Assistant Att'y Gen., Antitrust Div., U.S. Dep't of Just., [Opening Remarks at 2022 Spring Enforcers Summit](#) (Apr. 4, 2022)
 - Megan E. Gerking, Joseph Charles Folio III & Justin P. Murphy, *DOJ Antitrust Criminal Enforcement under Trump 2.0*, ANTITRUST SOURCE (May 29, 2025)
 - Optional:
 - o Watch: Jonathan Kanter, Assistant Att'y Gen., Antitrust Div., U.S. Dep't of Just., [Opening Remarks at 2022 Spring Enforcers Summit](#) (Apr. 4, 2022)
- Apr 9, 2026: 21. Mergers & Acquisitions I: Vertical Integration**
- CB, 1230-1236, Clayton Act § 1-8, 15-16 (Online: [15 U.S.C. § 12](#), etc.)
 - CB, 917-938
- Apr 14, 2026: 22. Mergers & Acquisitions II: Intro to Horizontal Mergers**
- CB, 953-973

- Apr 16, 2026:** **23. Mergers & Acquisitions II: 2023 Guidelines**
- CB, 981-988
 - [2023 Merger Guidelines](#): Overview, Guidelines 1-4
- Apr 21, 2026:** **24. Democracy, Political Economy, & Antitrust**
- Thurman W. Arnold, An Inquiry Into the Monopoly Issue, NY TIMES (Mar. 28, 1938)
 - Frank H. Easterbrook, [The Limits of Antitrust](#), 63 TEX. L. REV. 1, 2–17 (1984)
 - Lina Khan, [The New Brandeis Movement: America’s Antimonopoly Debate](#), 9 J. EUR. COMPETITION L. & PRAC. 131 (2018)
 - Mark R. Meador, Comm’r, Fed. Trade Comm’n, [Antitrust Policy for the Conservative](#), at 1-18 (May 1, 2025)
 - Optional: Daniel Crane, [Antitrust as an Instrument of Democracy](#), 72 Duke L.J. Online 23 (2022)
- Apr 23, 2026:** **25. Regulation, Reform, & Future of Antitrust**
- H. SUBCOMM. ON ANTITRUST, COM. & ADMIN. L. OF THE H. COMM. ON THE JUDICIARY, [Investigation of Competition in Digital Markets: Majority Staff Report and Recommendations](#), 317-330 (Oct. 6, 2020)
 - Ken Buck, [The Third Way](#), H. SUBCOMM. ON ANTITRUST, COM. & ADMIN. L. OF THE H. COMM. ON THE JUDICIARY, 9-18 (Oct. 6, 2020)
 - Exec. Office of the President, [Fact Sheet: Executive Order on Promoting Competition in the American Economy](#) (July 9, 2021)
 - Jay B. Sykes, [Antitrust Reform and Big Tech Firms](#), CONG. RESEARCH SERV., Report No. R46875, 57-66 (Nov. 21, 2023)
 - Gail Slater, Assistant Att’y Gen., Antitrust Div., U.S. Dep’t of Just., [The Conservative Roots of America First Antitrust Enforcement](#) (remarks as prepared for delivery at the first antitrust address at University of Notre Dame Law School, Notre Dame, Ind., Apr. 28, 2025)
 - [United States v. Google LLC](#), No. 1:20-cv-3010, at 111-118 (D.D.C. Sept. 2, 2025) (remedies decision)
 - Optional: [United States v. Google LLC](#), Plaintiff’s Remedies Proposed Findings of Fact, No. 1:20-cv-03010, at 105-137 (D.D.C. May 29, 2025)
- Apr 28, 2026:** **26. Defining the Market Structure for AI**
- Tejas N. Narechania & Ganesh Sitaraman, [An Antimonopoly Approach to Governing Artificial Intelligence](#), 43 Yale L. & Pol’y Rev. 95, 128-144 (2024)
 - Fed. Trade Comm’n, [FTC Launches Inquiry into Generative AI Investments and Partnerships](#) (Jan. 24, 2024)
 - Lina M. Khan, [Stop Worshiping the American Tech Giants](#), N.Y. TIMES (Feb. 4, 2025)
 - Gail Slater, Assistant Att’y Gen., Antitrust Div., U.S. Dep’t of Just., [Unleashing Innovation the American Way: Through Free Market Competition](#) (remarks as prepared for delivery at the 2025 Georgetown

Law Global Antitrust Enforcement Symposium, Washington, D.C., Sept. 16, 2025)

- Shaoul Sussman, *AI Poses a New Antitrust Problem*, FIN. TIMES (Dec. 8, 2025)

Apr 30, 2026: 27. Recap/Questions