

Index

- abuse of dominant position
 - duration 201
 - individual abuse of collective dominance 108, 246–7
 - negligent or intentional abuse 219, 221, 223–4
 - objective notion 85–6, 221, 224
- Airtours* case 115–7, 120–23
- Airtours* conditions 121, 129, 134, 137, 156, 198, 207, 213
- Akzo* case 222
- Almelo* case 94–5,
- American Tobacco* case 7–8,
- anticompetitive conducts, kinds of 247
- article 101
 - origin 282
 - see also* cartels; concerted practices
- article 102
 - origin 282
 - see also* abuse of dominant position; dominant position; general norm
- article 101 and article 102, relationship of
 - alternative application 242
 - coincidence 271, 272–3, 275
 - contiguity 268–70
 - cumulative application 243–4
 - interference 93, 131, 241, 242, 275
 - redundancy 272, 275–8
 - see also* general norm
- AT&T* case 69–70
- auction and collusion 218

- barriers to entry 37, 43, 96, 105, 116, 163–4, 201
- Behavioral economics 32–3, 48–9, 66, 70, 105, 107, 119, 121
- Boise Cascade* case 42–3

- capacity 157, 162–3, 167, 215–6, 264
- cartels 4–5, 76, 77–8, 85, 96, 113
 - see also* collusion; concerted practices
- Centro Servizi Spediporto* case 99
- Chicago School 14–7, 55–6, 60, 142, 226, 265
- Clayton Act 40, 46, 51–2
- collective dominance
 - definition 87, 93, 98
 - in merger control *see* coordinated effects
 - non-oligopolistic 179–180
 - oligopolistic 181–5
 - origin 87, 88, 89–90
 - and tacit collusion 107, 120–21, 179, 180, 196–8
 - vertical 108–9
- collusion
 - and conspiracy 7, 9, 10, 13, 19, 21, 23, 29, 31, 48, 77, 217
 - and coordination 221, 223–4,
 - as unfair competition 40–41
 - EU policy toward *see* article 101; article 102
 - stability of 14
 - US policy towards *see* Sherman Act Section 1; Sherman Act Section 2; Federal Trade Commission Act Section 5
 - see also* cartels; collective dominance; factors facilitating collusion
- commitments 156, 174, 176, 229
- communication, the role of 22, 156, 185, 195, 209, 210, 237
- Compagnie Maritime Belge* case 110–3
 - and the role of oligopoly 112
- company, notion of 86–7, 93–4

- competition law
 administrative models of 151, 210, 226, 288
 prohibition models of 41, 49, 144, 226, 285
 concerted practices 75, 77–9, 81–3, 112, 238, 242–3, 252
 see also cartels
 cooperative competition 186–7
 coordinated effects
 see merger effects
 corporate groups 77, 83, 85–6, 87, 94, 98

 defection from collusion 14–5, 126, 165–7, 202–5
 see also retaliation
 demand elasticity 201
de minimis rule 265
DIP case 99
 discretionary power 63, 104, 132, 151, 226, 233–4
Discussion Paper on the application of art. 82 to exclusionary abuses
 128–9, 213, 268
 dominant position
 measurement 178, 200, 259–60, 276
 notion of 257–8, 260
 origin 282–3
 see also article 102

 economic-oriented approach 32–33, 46, 66, 68, 261
 to abuses of dominance 129–30, 214, 247, 266, 270, 274
 to cartels 247–8
 to mergers 122, 126–7, 145
 efficiency
 defense 63, 64–5, 247, 249
 gains 145, 147, 170,
 enforcement of competition law
 private 25, 27–8, 41, 228, 230, 288
 public 41, 49, 226, 228, 288
 see also competition law
 errors
 false positives 17, 20, 23, 30, 82, 123, 142–5, 148, 255
 false negatives 56, 119, 143, 206, 262

Ethyl case 43–5
 evidence
 circumstantial or indirect 9–10, 18, 21, 30, 76, 134, 137, 209, 210
 direct 5, 6, 16, 30
 economic 16–7, 22, 32, 48, 138, 214–8, 220

 facilitating practices 8, 18, 44–5, 163, 173, 180, 279
 see also information exchange; plus factors
 factors facilitating collusion 57, 59, 80, 104, 127, 157–8, 213
 see also facilitating practices; plus factors
 failing company defense 62, 64, 144, 169
 Federal Trade Commission 40, 41, 45–6
 Federal Trade Commission Act
 Section 5 40–42, 44–7, 48–9, 288, 290
 and the Sherman Act 41–2, 48–49, 289
 fines 93, 151, 211, 220, 226, 235, 238, 244
Flat Glass case 92–5
 freedom of contract 19

Gencor/Lonrho case 105–7
General Dynamics case 56
 General norm 142, 280, 281–2, 283
Guidance on exclusionary conducts 130

 Harvard School 12–4, 80, 197
Heinz/Beech-Nut case 62–6
Hospital Corporation of America case 59

 incentive to collude 141, 160, 167, 168, 202
 information exchange 26, 59, 82, 184, 241
Interstate Circuit case 6–7
Irish Sugar case 108–10

 joint profits maximization 106, 195, 223, 286

- joint ventures 180, 183
 - see also* links between companies
- Kali und Salz case 100–105
- Kodak case 32–3, 203
- Leegin* case 253–4
- Lianos, I. 268
- Links between companies 95, 102–3, 104, 106, 111, 178, 180, 182
 - contractual and associative 108, 124, 179, 182
 - financial 105, 181
 - normative 99, 100, 179
 - structural 103, 113, 129, 174
- market concentration 53, 54, 57–8, 60, 101, 126, 131, 134, 178, 260–61, 269
 - see also* dominant position; structural presumption
- market division 98, 101, 218, 264
- market power 155, 246–7, 253–4, 259, 264
 - and anticompetitive effects 265–6
 - in cartels 267
 - definition 257, 258, 259
 - degree of 269–270
- Matsushita* case 19–20
- maverick companies 169
- merger control
 - and abuses of dominance 198–9, 200
 - default rules in 146, 148
 - EU 2004 Horizontal Merger Guidelines 126–7
 - EU 2007 Non–Horizontal Merger Guidelines 127–8
 - Regulation 4064/1989/CEE 89–90, 96, 101–3
 - Regulation 139/2004/EU 125
 - US 1968 Merger Guidelines 55
 - US 1982 Merger Guidelines 57
 - US 1984 Merger Non–Horizontal Guidelines 60–62
 - US 1992 Merger Guidelines 62–3
 - US 2010 Merger Guidelines 66–9
- merger effects 145, 147
 - coordinated effects 57, 60–63, 117, 121, 125, 133, 141–2
 - unilateral effects 60, 62, 68, 117, 124, 155
- monopoly
 - power 34, 267, 270
 - see also* market power; *shared monopoly* doctrine
- Monsanto* case 18–9
- Ne bis in idem* principle 245, 272
- Neoclassical economics 32, 33, 48, 69, 286
- Nestlé/Perrier* case 96–7
- objective justification 250
- oligopoly
 - interdependence in 88, 195–7
 - problem 3–4, 12–4, 15, 80, 180, 185, 237–8
 - see also* collective dominance; collusion; merger effects; parallelism
- parallelism 11–3, 31, 45, 76, 77–8, 79, 81, 82, 113, 198, 202–5, 213
 - see also* collusion; oligopoly; plus factors
- patent pools 182
 - see also* links between companies
- per se* infringements 42, 185, 253–4
- Philadelphia National Bank* case 53
- Piau* case 131
- pleading, standard of 23–4
- plus factors 5, 10, 19, 26, 31, 208, 241
 - parallelism plus* doctrine 8, 9, 17, 20–21, 23, 26–7, 77, 82, 238
 - see also* facilitating practices; links between companies
- Posner, R. 14–6, 22, 30, 60
- presumption
 - in merger control 146, 147–8
 - structural 53–5, 57, 178
- price war 118, 167, 202
- proof
 - burden of 23–4, 54, 136–7, 250
 - standard of 27, 122, 145, 150–53, 211–2

- proportionality, principle of 232
- redundancy of rules 272, 276–7
- refusal to deal 33, 84, 110, 205, 279
- regulation and competition 233–6
- remedies 12–3, 172–3, 175, 225
 - behavioral remedies 229
 - cease and desist orders 227
 - definition of 232, 235–7
 - mandatory injunctions 229–30
 - in mergers 156, 174, 176
 - structural remedies 228–9
- restriction
 - by effects 253
 - by object 251–2, 255–6
- retaliation 116, 120, 134, 165, 166, 199, 202
- review, judicial 150
- Ross, A. 272, 276
- rule of reason 252, 253, 256, 265
- self-interest, contrariety to 9, 26, 27, 217
- semicollusion
 - economic models 189–192
 - enforcement toward 193–4
- shared monopoly* doctrine 36–7
- Sherman Act Section 1 4–5, 28
 - see parallelism plus* doctrine, collusion
- Sherman Act Section 2 234–6, 39
 - see shared monopoly* doctrine
- Significant Impediment to Effective Competition* test 52, 125
 - see also* merger control
- Symmetry 160–63, 199
- Schneider* case 123
- Sodemare* case 100
- Sony* case 134–6, 137, 146–7, 153
- specialty, principle of 272–3
- Stigler, G.J. 14, 56, 202
- strategic investments 216
- Structuralism 10–11, 53–5, 197
- Substantial Lessening of Competition* test 62, 123, 126
 - see also* merger control
- Sugar* case 84
- Tetra Laval* case 12, 150
- Theatre Enterprises* case 9–10
- transparency 120, 127, 159–160, 163, 199
- Treaty of Rome, preparatory works 78, 257
- Turner, D.F. 12–4, 38
- Twombly* case 23, 144
- two-part tariffs 193
- unfair competition 40–41, 43–4
- unilateral effects
 - see* merger effects
- United Brands* case 177
- vertical mergers 127
 - see also* merger control
- Von's Grocery* case 54
- Xerox* case 32–3, 203
- Wood Pulp* case 113