



NYU | STERN

Public Policy and Business Strategy

Fall 2019
Tuesdays
6:00 pm - 9:00 pm
Office Hours: by appointment

Simon Bowmaker
sbowmake@stern.nyu.edu
Office: KMEC 8-58
Telephone: (212) 998-0478

Course description

In most industries, firms are either subject to direct regulation or under the eye of a competition policy watchdog. Many dimensions of firm strategy, such as agreements with competitors, mergers and acquisitions, pricing, and distribution practices, are potentially subject to the scrutiny of government authorities. In addition to competition policy, the government's role is also apparent in regulation (monopoly power, industry specific); state aid (e.g., subsidies to firms); direct intervention in “national champions” (e.g., subsidies or golden shares); and industrial policy (e.g., government favoritism for a particular technology standard).

This course provides an introduction to the role and impact of public policy on market competition. It takes the perspective of a firm's manager and asks the twin questions: (a) to what extent does government intervention limit a firm's strategy? and (b) how can firm strategy influence and take advantage of government intervention?

The course is based on lectures, case studies, guest speaker presentations, and discussion of real-time developments in the public policy and business strategy sphere.

Target audience

Anyone planning to work for a large organization (or one with market power) should take this course. The course will not take you into an expert in antitrust, regulation and politics, but it will help you navigate the legal and political landscapes from a business perspective.

Course pre-requisites

Firms and Markets or equivalent. Although we deal with a variety of legal and political issues, prior knowledge of European and North American law is not required.

Course outline

The course is divided into the following parts:

1. Politics and business (market and nonmarket strategies; private and public politics; etc.)
2. Industry regulation (monopoly power, industry specific).
3. Intellectual property (patents, copyrights).
4. Antitrust, I: Horizontal agreements (mergers, cartels, explicit and tacit collusion).
5. Antitrust, II: Dominant position (vertical restraints, price discrimination, foreclosure).
6. Industrial policy (government subsidies, golden shares, standards policy).

Assignment components and grading

The course grade will be based on: (a) class participation (30%); (b) two short group presentations (30%); (c) one final presentation and report (40%). A detailed description of these deliverables is provided below:

(a) Class participation. One peculiar characteristic of most of the cases discussed in class is that there are two clearly distinguished (and to some extent opposed) approaches; this is obviously true for litigation cases, but not exclusively. In this respect, grading of class participation will focus on how well you argue in favor or against a particular position in each of the cases discussed in class. Of course, in general, I strongly encourage students to participate in class by answering questions that I pose and by posing questions of their own. In the evaluation, quality is more important than quantity. In addition, the evaluation of class participation could be affected adversely by lack of attendance or creating negative classroom externalities; that is to say, laptops, cell phones, Smartphones and other electronic devices are a disturbance to both students and professors. Please turn them off prior to the start of each class meeting.

(b) Short presentations. During the third and ninth class sessions, each group will make a short presentation on a topic of your choice from the list below. Each presentation should take about 15 minutes (including Q&A from the audience).

California Proposition 37

What was the nature of the Proposition? What was its outcome? What impact would it have had had it been approved? What regulation theory best explains the push for this regulation?

Soda tax

What is the soda tax and where has it been imposed? Are there any parallels with other taxed goods? What regulation theory best explains the push for this regulation?

Liquor laws

What types of liquor laws are there? How much do they vary from state to state? What is the historical origin of such laws? What do these laws tell us about the theory of regulation?

Real estate

Why are brokerage fees fixed and (arguably) high? Why can't banks enter into the business? Any future for sale by owner?

Christmas tree wars

There are two types of Christmas trees: natural and artificial. Describe the various nonmarket strategies, the comparative advantage of each group of suppliers.

Google news

Is Google infringing copyright laws? What nonmarket strategies can the newspaper industry follow to recover some of the value lost to Google?

Walmart in NYC

Will Walmart ever open a store in NYC? Who's stopping them from doing so? Who would gain and who would lose from the move?

Nuclear Power

What has been the impact of big disasters? Is there a future for the nuclear industry?

Buy One Give One / Give One Get One

What is the BOGO business model? How have different firms interpreted and employed this model? How does BOGO affect the marketing strategies of these firms? What sorts of effects can BOGO have on local entrepreneurs in developing economies?

Insourcing

What advantages are offered by manufacturing abroad compared to domestically? How might recent policy debates and public image be affecting the decision of where to manufacture?

Fair Trade

What are the standards for Fair Trade? How does Fair Trade affect global trading networks and local communities? What business advantages might Fair Trade offer large firms like Starbucks? Is there a conflict for firms like Starbucks between global responsibility goals and fiduciary duties with respect to shareholders?

Amazon and sales tax

What the implications of the Supreme Court's recent decision to overturn a 1992 ruling that allowed online retailers to get around sales tax collection if they did not have a physical presence in the state? Why does physical presence mean? To what extent might Amazon benefit from the ruling?

(c) Final presentation and report. Each group will choose a firm or industry. No list is provided for this assignment, though consultation with the instructor is advisable. Your assignment is to write and present a consulting report outlining a nonmarket strategy, with a particular focus on the interaction between public policy and business strategy. This assignment consists of submitting a written report (due by the final class) and making a 30-minute presentation (including Q&A from the audience).

Required course materials

The required readings are listed in the course schedule below. Students who wish to go deeper into some of the issues raised in the course may want to consult the following:

Baron, David (2012), *Business and Its Environment*, Prentice Hall.

Bowmaker, Simon W. (2019), *When the President Calls: Conversations with Economic Policymakers*, MIT Press.

Cabral, Luis (2017), *Introduction to Industrial Organization*, MIT Press.

Kwoka, John and Lawrence J. White (2018), *The Antitrust Revolution: Economics, Competition, and Policy*, Oxford University Press.

Motta, Massimo (2004), *Competition Policy: Theory and Practice*, Cambridge University Press.

Viscusi, W. Kip, John M. Vernon, and Joseph E. Harrington (2018), *Economics of Regulation and Antitrust*, MIT Press.

Course schedule and readings

1. Tuesday, September 17: Introduction (Lecture)

Optional reading: Baron, Chapters 1 and 6.

Required reading: David Bach and David Bruce Allen, 'What Every CEO Needs to Know About *Nonmarket* Strategy,' MIT Sloane Management Review, April 1, 2010.

2. Tuesday, September 24: Regulation, I (Lecture + Guest Speaker)

Optional reading: Baron, Chapter 10; Viscusi, Chapters 1, 2, and 10.

Required reading: Philip Swagel (2015), 'Legal, Political, and Institutional Constraints on the Financial Crisis Policy Response,' *Journal of Economic Perspectives*, 29 (2): 107-122.

Guest speaker: David Wright, managing director of Deloitte and Touche's Banking & Securities regulatory practice.

3. Tuesday, October 1: Regulation, II (Group Presentations + Guest Speaker)

Group presentations.

Guest speaker: Sami Naim, Director of Public Policy at Grubhub.

4. Tuesday, October 22: Regulation, III (Case + Guest Speaker)

Required reading: Paul Seaborn, Peter Scott, and William Miller, 'Uber in Colorado: Seeking Regulatory Certainty,' Harvard Business School, June 1, 2017.

Guest speaker: Ashwini Chhabra, Head of Public Affairs at Bird.

5. Tuesday, October 29: Regulation, IV (Case + Guest Speaker)

Required reading: Richard G. Hamermesh and Matthew Preble, 'The National Football League and Brain Injuries,' Harvard Business School, October 28, 2014.

Guest Speaker: Frank Hawkins, Partner, Scalar Media.

6. Tuesday, November 5: Intellectual Property, I (Case + Guest Speaker)

Required reading: Brent D. Beal and Karen MacMillan, 'Ivey Publishing: Making a Case for Paying the Price,' Harvard Business School, September 18, 2017.

Guest speaker: Lisa Alter, Partner, Alter, Kendrick, and Baron, and Visiting Professor at Yale Law School.

7. Tuesday, November 12: Intellectual Property, II (Lecture + Guest Speaker)

Required reading: Michele Boldrin and David K. Levine (2013), 'The Case Against Patents,' *Journal of Economic Perspectives*, 27 (1): 3–22.

Guest speaker: Friedrich Laub, senior counsel of intellectual property, Bristol-Myers Squibb.

8. Tuesday, November 19: Antitrust, I (Case + Guest Speaker)

Optional reading: Baron, Chapter 9; Viscusi, Chapter 3; Motta, Chapter 1.

Required reading: Luis Cabral (2010), 'GE and Westinghouse,' NYU Stern mini-case; Luis Cabral (2010), 'Virgin Atlantic and BA,' NYU Stern mini-case.

Guest speaker: Robin Adelstein, Head of Antitrust and Competition (United States), Norton Rose Fulbright LLP.

9. Tuesday, November 26: Industrial Policy (Case + Group presentations)

Required reading: John R. Wells and Benjamin Weinstock, 'Electric Car Wars, 2018,' Harvard Business School, February, 2019.

Group presentations.

10. Tuesday, December 3: Antitrust, II (Case + Guest Speaker)

Required reading: Luis Cabral (2010), 'The Ill-Fated GE-Honeywell Merger,' NYU Stern mini-case.

Guest speaker: David Tulchin, Of Counsel, Sullivan & Cromwell LLP.

11. Tuesday, December 10: Group presentations.

12. Tuesday, December 17: Course wrap-up.