

LOUIS KAPLOW

Harvard Law School
Cambridge, MA 02138
617-495-4101

EMPLOYMENT

Harvard Law School, Finn M.W. Caspersen & Household International Professor of Law & Economics, 2004-present; Prof., 1987-2004; Assoc. Dean for Research, 1989-1991; Asst. Prof., 1982-1987. Assoc. Dir., John M. Olin Center for Law, Economics, & Business. Courses: Antitrust, Law & Economics, Taxation, Analytical Methods for Lawyers

Law Clerk to Hon. Henry J. Friendly, U.S. Court of Appeals, Second Circuit, 1981-1982

EDUCATION

Harvard University Ph.D. (Economics) 1987, M.A. 1981
National Science Foundation Fellow

Harvard Law School J.D. Magna Cum Laude, 1981
Managing Editor, Harvard Law Review

Northwestern University B.A. with distinction, 1977
Honors Thesis in Economics; Second Major in Mathematics; Phi Beta Kappa

PROFESSIONAL AFFILIATIONS

Research Associate, National Bureau of Economic Research

Fellow, American Academy of Arts & Sciences

Editorial Boards, National Tax Journal; Antitrust Law Journal; Journal of Competition Law & Economics; Journal of Law, Economics, & Org.; Journal of Legal Analysis (and previously: American Economic Journal: Economic Policy; Journal of Public Economics; Fiscal Studies; Legal Theory; Intl. Review of Law & Economics)

Member, Am. Econ. Assn.; Natl. Tax Assn. (*Holland Medal for Lifetime Achievement*, 2019); Am. Law & Econ. Assn. (Board, 1995-1997, 2002-2005; Pres. 2011)

Admitted to the Massachusetts Bar 1983

CONSULTING

United States Department of Justice, Antitrust Division
Federal Trade Commission
Legal Reform Project, Russian Federation
State of Israel, Controller of Restrictive Trade Practices
State Antitrust Departments
Private Parties and Organizations

PUBLICATIONS: ACADEMIC BOOKS

Competition Policy and Price Fixing (Princeton University Press, 2013).

The Theory of Taxation and Public Economics (Princeton University Press, 2008; paperback, 2011).

Fairness versus Welfare (with Steven Shavell) (Harvard University Press, 2002; paperback 2006) (Chinese translation, Law Press China, 2007).

PUBLICATIONS: TEXTBOOKS

Analytical Methods for Lawyers (with Howell Jackson, Steven Shavell, W. Kip Viscusi, & David Cope) (3rd ed.; Foundation Press, 2017).

Antitrust Analysis (with Phillip Areeda & Aaron Edlin) (7th ed.; Aspen Publishers, 2013).

Analytical Methods for Lawyers (with Howell Jackson, Steven Shavell, W. Kip Viscusi, & David Cope) (2nd ed.; Foundation Press, 2011). (Japanese translation, 2013.)

Antitrust Analysis: Supplement (with Phillip Areeda & Aaron Edlin) (Aspen Publishers, Inc., 2010).

Antitrust Analysis (with Phillip Areeda & Aaron Edlin) (6th ed.; Aspen Publishers, 2004).

Decision Analysis, Game Theory, and Information (with Steven Shavell) (Foundation Press, 2004) (from *Analytical Methods*).

Contracting (with Steven Shavell) (Foundation Press, 2004) (from *Analytical Methods*).

Microeconomics (with Steven Shavell) (Foundation Press, 2004) (from *Analytical Methods*).

Analytical Methods for Lawyers (with Howell Jackson, Steven Shavell, W. Kip Viscusi, & David Cope) (Foundation Press, 2003).

Antitrust Analysis: 2000 Supplement (with Phillip Areeda) (Aspen Publishers, Inc.).

Antitrust Analysis (with Phillip Areeda) (5th ed.; Aspen Publishers, Inc. 1997).

Antitrust Analysis: 1991, 1992 & 1994 Supplements (with Phillip Areeda) (Little, Brown & Co.).

Antitrust Analysis (with Phillip Areeda) (4th ed.; Little, Brown, 1988).

PUBLICATIONS: ARTICLES (and other)

Optimal Regulation with Exemptions, *International Journal of Industrial Organization*, vol. 66, pp. 1-39 (2019).

Balancing Versus Structured Decision Procedures: Antitrust, Title VII Disparate Impact, and Constitutional Law Strict Scrutiny, *University of Pennsylvania Law Review*, vol. 167, pp. 1375-1462 (2019).

On the Design of Legal Rules: Balancing Versus Structured Decision Procedures, *Harvard Law Review*, vol. 132, pp. 992-1065 (2019).

Recoupment and Predatory Pricing Analysis, *Journal of Legal Analysis*, vol. 10, pp. 1-67 (2018).

Price-Fixing Policy, *International Journal of Industrial Organization*, vol. 61, pp. 749-776 (2018).

Recoupment, Market Power, and Predatory Pricing, *Antitrust Law Journal*, vol. 82, pp. 167-219 (2018).

Optimal Design of Private Litigation, *Journal of Public Economics*, vol. 155, pp. 64-73 (2017).

Optimal Multistage Adjudication, *Journal of Law, Economics, & Organization*, vol. 33, pp. 613-652 (2017).

Who Will Vote Quadratically? Voter Turnout and Votes Cast under Quadratic Voting (with Scott Kominers), *Public Choice*, vol. 172, pp. 125-149 (2017).

A Distribution-Neutral Perspective on Tax Expenditure Limitations, in *Tax Policy and the Economy*, vol. 31 (Moffitt, ed., NBER and University of Chicago Press 2017), pp. 161-188.

On the Relevance of Market Power, *Harvard Law Review*, vol. 130, pp. 1303-1407 (2017).

Commentary on the Economic and Distributional Effects of Tax Expenditure Limits, in *The Economics of Tax Policy* (Auerbach & Smetters, eds., 2017), pp. 145-155.

The Meaning of Vertical Agreement and the Structure of Competition Law, *Antitrust Law Journal*, vol. 80, pp. 563-630 (2016).

Market Definition, Market Power, *International Journal of Industrial Organization*, vol. 43, pp. 148-161 (2015).

Myopia and the Effects of Social Security and Capital Taxation on Labor Supply, *National Tax Journal*, vol. 68, pp. 7-32 (2015).

Information and the Aim of Adjudication: Truth or Consequences?, *Stanford Law Review*, vol. 67, pp. 1303-1371 (2015).

Government Policy and Labor Supply with Myopic or Targeted Savings Decisions, in *Tax Policy and the Economy*, vol. 29 (Brown, ed., NBER and University of Chicago Press 2015), pp. 159-193.

Market Definition, in *Oxford Handbook of International Antitrust Economics* (Blair & Sokol, eds., Oxford University Press 2015), pp. 345-363.

Likelihood Ratio Tests and Legal Decision Rules, *American Law and Economics Review*, vol. 16, pp. 1-39 (2014).

Market Definition: Impossible and Counterproductive, *Antitrust Law Journal*, vol. 79, pp. 361-379 (2013).

Multistage Adjudication, *Harvard Law Review*, vol. 126, pp. 1179-1298 (2013).

Optimal Control of Externalities in the Presence of an Income Tax, *International Economic Review*, vol. 53, pp. 487-509 (2012).

Burden of Proof, *Yale Law Journal*, vol. 121, pp. 738-859 (2012).

On the Choice of Welfare Standards in Competition Law, in *Goals of Competition Law* (Zimmer, ed., Edward Elgar, 2012), pp. 3-26.

Market Definition Alchemy, *Antitrust Bulletin*, vol. 57, pp. 915-952 (2012).

On the Optimal Burden of Proof, *Journal of Political Economy*, vol. 119, pp. 1104-1140 (2011).

Direct versus Communications-Based Prohibitions on Price Fixing, *Journal of Legal Analysis*, vol. 3, pp. 449-538 (2011).

An Optimal Tax System, *Fiscal Studies*, vol. 32, pp. 415-435 (2011).

Market Definition and the Merger Guidelines, *Review of Industrial Organization*, vol. 39, pp. 107-125 (2011).

An Economic Approach to Price Fixing, *Antitrust Law Journal*, vol. 77, pp. 343-449 (2011).

Market Share Thresholds: On the Conflation of Empirical Assessments and Legal Policy Judgments, *Journal of Competition Law & Economics*, vol. 7, pp. 243-276 (2011).

On the Meaning of Horizontal Agreements in Competition Law, *California Law Review*, vol. 99, pp. 683-818 (2011).

- Discount Rates, Social Judgments, Individuals' Risk Preferences, and Uncertainty (with David Weisbach), *Journal of Risk and Uncertainty*, vol. 42, pp. 125-143 (2011).
- Optimal Proof Burdens, Deterrence, and the Chilling of Desirable Behavior, *American Economic Review: Papers and Proceedings*, vol. 101, pp. 277-280 (2011).
- Targeted Savings and Labor Supply, *International Tax and Public Finance*, vol. 18, pp. 507-518 (2011).
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- Taxes, Permits, and Climate Change, in *U.S. Energy Tax Policy* (Metcalf, ed., Cambridge University Press, 2011), pp. 168-192.
- Why (Ever) Define Markets?, *Harvard Law Review*, vol. 124, pp. 437-517 (2010).
- Taxing Leisure Complements, *Economic Inquiry*, vol. 48, pp. 1065-1071 (2010).
- Concavity of Utility, Concavity of Welfare, and Redistribution of Income, *International Tax and Public Finance*, vol. 17, pp. 25-42 (2010).
- The Social Evaluation of Intergenerational Policies and Its Application to Integrated Assessment Models of Climate Change (with Elisabeth Moyer & David Weisbach), *B.E. Journal of Economic Analysis & Policy*, vol. 10, issue 2, art. 7, pp. 1-32 (2010); also in *Distributional Aspects of Energy and Climate Change* (Cohen, Fullerton & Topel, eds., Edward Elgar, 2013), pp. 41-74.
- On the Taxation of Private Transfers, *Tax Law Review*, vol. 63, pp. 159-187 (2009).
- Optimal Policy with Heterogeneous Preferences, *B.E. Journal of Economic Analysis and Policy: Advances*, vol. 8, issue 1, art. 40, pp. 1-28 (2008).
- Capital Levies and Transition to a Consumption Tax, in *Institutional Foundations of Public Finance: Economic and Legal Perspectives* (Auerbach & Shaviro, eds., Harvard University Press, 2008), pp. 112-146.
- Optimal Taxation, in *The New Palgrave Dictionary of Economics, 2nd Edition* (Durlauf & Blume, eds.; Macmillan, 2008), vol. 6, pp. 209-215.
- Income Taxation and Optimal Policies, in *The New Palgrave Dictionary of Economics, 2nd Edition* (Durlauf & Blume, eds.; Macmillan, 2008), vol. 4, pp.170-175.
- Pareto Principle and Competing Principles, in *The New Palgrave Dictionary of Economics, 2nd Edition* (Durlauf & Blume, eds.; Macmillan, 2008), vol. 6, pp. 295-300.

- Antitrust (with Carl Shapiro), in *Handbook of Law and Economics* (Polinsky & Shavell, eds.; Elsevier, 2007), vol. 2, pp. 1073-1225.
- Taxation, in *Handbook of Law and Economics* (Polinsky & Shavell, eds.; Elsevier, 2007), vol. 1, pp. 647-755.
- Moral Rules, the Moral Sentiments, and Behavior: Toward a Theory of an Optimal Moral System (with Steven Shavell), *Journal of Political Economy*, vol. 115, pp. 494-514 (2007).
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- Taxation and Redistribution: Some Clarifications, *Tax Law Review*, vol. 60, pp. 57-81 (2007).
- Discounting Dollars, Discounting Lives: Intergenerational Distributive Justice and Efficiency, *University of Chicago Law Review*, vol. 74, pp. 79-118 (2007).
- On the Undesirability of Commodity Taxation Even When Income Taxation Is Not Optimal, *Journal of Public Economics*, vol. 90, pp. 1235-1250 (2006).
- Public Goods and the Distribution of Income, *European Economic Review*, vol. 50, pp. 1627-1660 (2006).
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- Fairness versus Welfare: Notes on the Pareto Principle, Preferences, and Distributive Justice (with Steven Shavell), *Journal of Legal Studies*, vol. 32, pp. 331-362 (2003).
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- Economic Analysis of Law (with Steven Shavell), in *Handbook of Public Economics* (Auerbach & Feldstein, eds.; Elsevier, 2002), vol. 3, pp. 1661-1784.
- On the Superiority of Corrective Taxes to Quantity Regulation (with Steven Shavell), *American Law and Economics Review*, vol. 4, pp. 1-17 (2002).
- Horizontal Equity: New Measures, Unclear Principles (Commentary), in *Inequality and Tax Policy* (Hassett & Hubbard, eds., American Enterprise Institute, 2001), pp. 75-97.
- Any Non-welfarist Method of Policy Assessment Violates the Pareto Principle, (with Steven Shavell), *Journal of Political Economy*, vol. 109, pp. 281-86 (2001).
- Fairness versus Welfare (with Steven Shavell), *Harvard Law Review*, vol. 114, pp. 961-1388 (2001).
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- Notions of Fairness versus the Pareto Principle: On the Role of Logical Consistency (with Steven Shavell), *Yale Law Journal*, vol. 110, pp. 237-49 (2000).
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Optimal Law Enforcement with Self-Reporting of Behavior (with Steven Shavell), *Journal of Political Economy*, vol. 102, pp. 583-606 (1994).

Accuracy in the Determination of Liability (with Steven Shavell), *Journal of Law and Economics*, vol. 37, pp. 1-15 (1994).

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Why the Legal System Is Less Efficient than the Income Tax in Redistributing Income (with Steven Shavell), *Journal of Legal Studies*, vol. 23, pp. 667-681 (1994).

Shifting Plaintiffs' Fees versus Increasing Damage Awards, *Rand Journal of Economics*, vol. 24, pp. 625-630 (1993).

An Ex Ante Perspective on Deregulation, Viewed Ex Post, *Resource and Energy Economics*, vol. 15, pp. 153-173 (1993).

Optimal Sanctions and Differences in Individuals' Likelihood of Avoiding Detection (with Lucian Bebchuk), *International Review of Law and Economics*, vol. 13, pp. 217-224 (1993).

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A Note on Horizontal Equity, *Florida Tax Review*, vol. 1, pp. 191-196 (1992).

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The Optimal Probability and Magnitude of Fines for Acts That Definitely Are Undesirable, *International Review of Law and Economics*, vol. 12, pp. 3-11 (1992).

Private versus Socially Optimal Provision of Ex Ante Legal Advice (with Steven Shavell), *Journal of Law, Economics, and Organization*, vol. 8, pp. 306-320 (1992).

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Comment, Statutory Preferences for Minority-Owned Businesses: Fullilove v. Klutznick, *Harvard Law Review*, vol. 94, pp. 125-138 (1980).

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