



The American Antitrust Institute

Antitrust Achievement Award STEVEN SALOP



Steven Salop is a professor of economics and law at the Georgetown University Law Center in Washington, where he teaches antitrust law and economics and economic reasoning and the law. He is Senior Consultant to CRA International where his research and consulting focuses on microeconomics, antitrust, competition, and regulation.

He has written numerous articles in various areas of antitrust economics and law (e.g., exclusionary conduct, mergers, joint ventures, and tacit coordination) many of which take a “Post-Chicago” approach. These articles include a series analyzing exclusionary market power, exclusionary conduct, and Raising Rivals’ Costs in the context of a variety of antitrust areas, including monopolization, input purchases and monopsony, joint venture access rules, vertical mergers, and vertical restraints. His research has also focused on various aspects of mergers and joint ventures, including market definition, partial ownership and cross-ownership interests, entry barriers, and efficiencies. Salop's recent

writings include several articles in the *Yale Law Review*, *Georgetown Law Journal*, *American Economic Review*, *Antitrust Law Journal*, and other scholarly journals.

Before joining the Law Center faculty in 1981, he served as Associate Director for Special Projects with the Bureau of Economics of the FTC, as an adjunct professor of economics at the University of Pennsylvania, where he received his B.A. in 1968, and as an economist with the Civil Aeronautics Board and Federal Reserve Board. He has been an associate editor of the *Journal of Economic Perspectives*, *The International Journal of Industrial Organization* and the *Journal of Industrial Economics*. He is currently an associate editor of the *Review of Industrial Organization*.

Salop is a member of the American Economic Association and the AAI's Advisory Board. He is considered one of the most creative economists in the field and is a father of the Raising Rivals’ Costs theory of strategic harm.

Salop is the 11th recipient of the annual award. Past honorees are Joel Klein, Robert Pitofsky, F.M. Scherer, Alfred E. Kahn, Lloyd Constantine, Thomas B. Leary, Senators Herb Kohl and Mike DeWine, Maxwell Blecher, John Shenefield, and Eleanor M. Fox.

Jerry S. Cohen Award for Antitrust Scholarship

EINER ELHAUGE

Einer Elhaug is the Petrie Professor of Law at Harvard Law School and founding director of the Petrie-Flom Center for Health Law Policy, Biotechnology and Bioethics. He served as Chairman of the Antitrust Advisory Committee to the Obama Campaign. He teaches a gamut of courses, including Antitrust, Contracts, Corporations, Legislation, and Health Care Law. Before coming to Harvard, he was a Professor of Law at the University of California at Berkeley, and clerked for Judge Norris on the 9th Circuit and Justice Brennan on the Supreme Court. He received both his A.B. and his J.D. from Harvard, graduating first in his law school class.

Elhaug is an author of numerous pieces on a range of topics even broader than he teaches, including antitrust (monopolization, predatory pricing, tying, bundled discounts, loyalty discounts, disgorgement, petitioning and state action immunity, the Google Books Settlement, and the Harvard v. Chicago schools of antitrust), public law (statutory interpretation, legislative term limits, the 2000 Presidential election, the implications of interest group theory for judicial review), corporate law (social responsibility and sale of control doctrine), patent law (patent holdup and royalty stacking), the legal profession (the value of litigation and counseling advice), and health law policy (healthcare fragmentation, medical technology assessment, how to make health law a coherent legal field, and how to devise a morally just and cost effective medical system).

The winning article, “Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory” (123 Harvard Law Review 397, 2009), contends that both Chicago School theorists (who have argued that tying cannot create anticompetitive effects because there is only a single monopoly profit) and some Harvard School theorists (who have argued that tying doctrine’s quasi-per se rule is misguided because tying cannot create anticompetitive effects without foreclosing a substantial share of the tied market) are mistaken. Elhaug argues that even without a substantial foreclosure share, tying by a firm with market power generally increases monopoly profits and harms consumer and total welfare, absent offsetting efficiencies. The quasi-per se rule is thus correct to require tying market power and a lack of offsetting efficiencies, but not a substantial tied foreclosure share. However, the quasi-per se rule should have an exception for products with a fixed ratio that lack separate utility, because those conditions generally negate anticompetitive effects absent a substantial foreclosure share. Cases meeting this exception should instead be governed by a traditional rule of reason that requires a substantial foreclosure share or effect.

The Jerry S. Cohen Award for Antitrust Scholarship was created through a trust established in honor of the late Jerry S. Cohen, an outstanding trial lawyer and antitrust writer. It is administered by his former law firm Cohen Milstein Sellers & Toll. The Committee that selected the best antitrust scholarship of 2009 consisted of: Prof. Eleanor Fox of New York University School of Law; Prof. Warren S. Grimes of Southwestern Law School; Ann C. Yahner, Administrative Law Judge for the District of Columbia; Charles P. Goodwin, Partner at Berger & Montague; Daniel A. Small, Partner at Cohen Milstein Sellers & Toll; Robert H. Lande, Venable Professor of Law, University of Baltimore School of Law; and Roger Noll, Professor of Economics Emeritus, Stanford University.

Honorable Mentions

The committee recognizes two outstanding articles as Honorable Mentions:

- S.L. Dogan & M. Lemley, Antitrust Law and Regulatory Gaming, 87 Tex. L. Rev. 685.
- N. Miller, Strategic Leniency and Cartel Enforcement, American Economic Review (June 2009).