

David A. Weiskopf, Executive Vice President, Compass Lexecon

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EDUCATION

PhD, Economics, VANDERBILT UNIVERSITY, Nashville, TN, 1999
University Fellowship, Scholarship Grant from A.A.S.R.
MA, Economics, VANDERBILT UNIVERSITY, Nashville, TN, 1998
MA, Geography (International Trade Concentration), SUNY, Buffalo, NY, 1993
BA, Sociology, FRANKLIN & MARSHALL COLLEGE, Lancaster, PA, 1989
Dean's List, Alpha Kappa Delta Honor Society

PRESENT POSITIONS

Compass Lexecon (Washington, DC)

Executive Vice President, April 2013 – present
Senior Vice President, April 2011 – April 2013
Vice President, August 2009 – April 2011

Specializing in industrial organization, antitrust, microeconomic analysis, consumer behavior, applied econometrics and statistics, and labor economics.

- Analysis of competition issues in matters before US and other antitrust enforcement agencies and federal and state courts relating to a variety of antitrust topics, such as: merger analysis; market definition (product and geographic); competitive effects analysis; monopolization; monopsony; market foreclosure; conspiracy/price-fixing; exclusive dealing/refusal to deal; and antitrust liability and damages
- Estimation of economic damages in a variety of contexts (e.g., employment and contract disputes; reverse-payment pharmaceutical matters)

- Econometric and statistical analysis of retail-level scanner and other types of transactions data
 - Estimation of demand systems, including own and cross price elasticities of demand, for assessing market definition and competitive effects in the context of a proposed merger
 - Estimation of relationships between sales volume, promotion, and other non-price variables to evaluate (among other things) the closeness of competition among the products of the merging parties and others
 - Estimation of the relationship between wholesale price changes and retail price changes in the context of a consumer welfare analysis
- Merger simulation, including the Upward Pricing Pressure or “UPP” approach, to predict the competitive effects of a proposed merger using a variety of techniques
- Analysis in business litigation concerning disputes between licensors/licensees and franchisors/franchisees; dealer termination; contract disputes; and profits analysis (e.g., lost profits, disgorgement of profits)
- Analysis of issues surrounding class certification
- Estimation of welfare effects, profits, and consumer response/complaint rates in consumer protection-related matters, including ones involving claims of false/misleading advertising
- Economic modeling and econometric/statistical analysis
 - Econometric analysis using time-series, cross-section, and panel data; estimation of systems of simultaneous equations and reduced-form models; analysis of survey data and estimation of limited dependent variable models
 - Economic modeling of industry behavior/structure to analyze competition issues
 - Analysis of issues pertaining to survey/experimental design and sampling techniques
- Review of reports, economic models, econometric/statistical techniques, and damages analyses as submitted by experts engaged by other parties

Lindner College of Business, University of Cincinnati

Kautz-Uible Economics Institute Fellow, 2021 – present

Adjunct Professor of Economics, 2019 – present

Instructs graduate-level “Topics in Competition and Regulation” course.

Johns Hopkins University (Washington, DC campus)

Adjunct Professor of Economics, 2004 – present

Instructs graduate-level “Microeconomic Theory and Policy” and “Economics of Industry and Public Policy” (*i.e.*, Industrial Organization) courses.

EXPERT TESTIMONY, SUBMISSIONS, WHITE PAPERS, AND PRESENTATIONS

Provided an expert report, reply report, and deposition testimony regarding liability and damages in a confidential matter involving a dispute between a large U.S. retailer and its business partner (2024).

Performed a series of economic analyses that were shared with the Antitrust Division of the Department of Justice during its review of an acquisition in the metallic coating and painting industry (2022)

Co-authored several white papers submitted to the Antitrust Division of the Department of Justice concerning an acquisition in the automotive components industry (2020, 2021).

Conducted economic analyses that were shared with the Federal Trade Commission in the context of several acquisitions involving veterinary hospitals (2019, 2020).

Performed economic analyses that were shared with a U.S. antitrust enforcement agency in its evaluation of the competitive effects of an acquisition involving manufacturers of pool chemicals (2018).

Performed economic analyses that were shared with the Federal Trade Commission in its evaluation of the competitive effects of an acquisition involving distributors of plastic sheet, rod, tube, film and associated products (2016).

An Economic Analysis of Incumbent Tour Operators’ Horizontal and Vertical Conduct (with Sencer Ecer), submitted to the Turkish Competition Authority (2016).

Co-authored a white paper submitted to the Federal Trade Commission regarding an acquisition of a large number of grocery stores in the Midwest (2015).

Economic Analysis of the Effect of the Comcast-TWC Transaction on Voice and Broadband Services in California (with Mark A. Israel and Bryan G.M. Keating), Exhibit D attached to Opening Brief of Joint Applicants, *Joint Application of Comcast Corporation, Time Warner Cable Inc., Time Warner Cable Information Services (California), LLC, and Bright House Networks Information Services (California), LLC for Expedited Approval of the Transfer of Control of Time Warner Cable Information Services (California), LLC (U-6874-C); and the Pro Forma Transfer of Control of Bright House Networks Information Services (California), LLC(U-6955-C), to Comcast Corporation Pursuant to California Public Utilities Code Section 854(a)*, Application No. A. 14-04-013 (2014).

Co-authored a white paper submitted to the Federal Trade Commission concerning competition issues in the context of an acquisition in the automobile parts industry (2013).

Co-authored a white paper submitted to the Federal Trade Commission and participated in a presentation to the FTC regarding a proposed transaction involving payment solutions for unattended transaction systems (2013).

Participated in a presentation to the Federal Trade Commission regarding competition issues related to an acquisition in the automobile parts industry (2012).

Co-authored a white paper submitted to the Federal Trade Commission related to a proposed acquisition in the pharmaceutical industry (2012).

Participated in a presentation to the Federal Trade Commission regarding competition in the marketplace for point-of-care diagnostic products used by veterinarians to treat companion animals (2012).

Testified regarding economic damages at a hearing in a labor matter in state court related to allegations of assault, battery and employment discrimination (2011).

Participated in a presentation to the Federal Trade Commission regarding competition issues concerning a proposed joint venture in the styrenics industry (2011).

Provided an expert declaration, rebuttal declaration, and deposition testimony in a consumer fraud matter in state court involving allegations related to the delivery of bottled water (2010, 2011).

Co-authored a white paper submitted to the Antitrust Division of the Department of Justice related to an investigation of the recruiting policies and practices of a number of high tech firms (2010).

Participated in presentations to the Antitrust Division of the Department of Justice regarding competition issues concerning a proposed transaction in the oilfield service industry (2009, 2010).

Participated in a presentation to the Federal Trade Commission concerning competition issues related to a proposed transaction in the titanium dioxide industry (2009).

Submitted an expert report in a labor matter in federal court involving allegations of employment discrimination (2009).

Co-authored a white paper that was submitted to the Canadian Competition Bureau related to a potential transaction in the flour milling industry (2009).

Participated in a presentation to the Antitrust Division of the Department of Justice regarding competition issues concerning a proposed transaction in the beer industry (2008).

Submitted a damages report using information regarding consumer complaint rates (for mediation purposes) (2008).

Participated in presentations to the Antitrust Division of the Department of Justice regarding competition issues related to a proposed transaction involving two cement, aggregate, and ready-mix concrete companies (2006).

Participated in a presentation to the Federal Trade Commission concerning competition issues related to a proposed transaction involving breath mints and other confectionary products (2005).

Provided an expert report, declaration, and deposition testimony in an antitrust matter in federal court involving the distribution of hair care products (2004).

Co-authored white papers assessing antitrust liability and damages in a pharmaceutical matter being investigated by the Federal Trade Commission (2004).

Co-authored a white paper that was submitted to the German Cartel office related to a potential transaction in the confectionary industry (2004).

Submitted an expert analysis of economic and non-economic losses suffered by a victim of the September 11th attacks (2004).

EXAMPLES OF ADDITIONAL CONSULTING AND LITIGATION PROJECTS

- Analysis of competition issues related to mergers of movie theater chains (2015, 2016).
- Analysis of competition issues related to acquisitions of supermarket chains (2013, 2015).
- Analysis of competition issues in the context of litigation regarding a proposed transaction involving two supermarket chains (2007).
- Analysis of competition issues in the context of litigation involving two manufacturers of hydrofluoric acid (2006).

- Analysis of class certification issues in the context of litigation involving Medicare payments to hospitals (2005).
- Estimation of response rates for a refund program in a matter involving claims of false/misleading advertising (2004).
- Estimation of the welfare consequences of inaccurate credit reporting (2003).
- Estimation of profits in a matter involving claims of false/misleading advertising (2003).
- Analysis of consumer injury in a matter involving claims of false/misleading advertising in the mortgage industry (2001).
- Analysis of the appropriate categorization of up-front payments by manufacturers to retailers in the context of a tax dispute (2000).
- Estimation of the volume of complaints in the context of litigation involving a defective chemical product (1998).
- Analysis of false/misleading advertising claims regarding an over-the-counter analgesic.

PUBLICATIONS

“On the Application of Nash Bargaining in Reverse Payment Cases in the Pharmaceutical Industry,” (with Sencer Ecer and Rodrigo Montes), *European Journal of Law and Economics*, June 2020, 50, pp. 133-147.

“Non-Self-Enforcing Remedies and the Recent Modification to the *Ticketmaster/Live Nation* Merger Consent Decree,” (with Mary T. Coleman), *CPI Antitrust Chronicle*, April 2020, pp. 1-6.

“Economic Analysis in Horizontal Merger Reviews,” LexisNexis Practice Note, December 13, 2018.

“Economic Analysis of Merger Remedies,” (with Mary T. Coleman), Chapter in *The Guide to Merger Remedies*, Global Competition Review (GCR), August 2018, pp. 22-31.

“Hicks-Marshall Conditions and Defining Antitrust Markets for Intermediate Goods,” (with James A. Langenfeld, Jon T. Tomlin and Georgi V. Giozov), *Economic and Legal Issues in Competition, Intellectual Property, Bankruptcy, and the Cost of Raising Children*, *Research in Law and Economics*, Vol. 27, 2015, pp. 67-90.

“Customer-Focused Competitive Effects Analysis and the Role of Transportation Costs,” (with Robert C. Bourke), *Transportation, Energy & Antitrust Newsletter*, Fall 2014, pp. 2-11.

“Market Definition in Differentiated Consumer Product Markets,” (with Mary T. Coleman), Chapter in *Market Definition in Antitrust: Theory and Case Studies*, Antitrust Section of the American Bar Association, 2012.

“District Court Grants Motion to Dismiss for Failure to State a Claim [*In re Elevator Antitrust Litigation*],” *Sherman Act Section 1 Newsletter*, Vol. 5/No. 1, Fall 2006/Winter 2007, p. 12.

“Game Theory,” (with Susan C.S. Lee and James F. Nieberding), “Free Lunch” column in *Antitrust*, Vol. 20, No. 2, 2006, pp. 98-100.

“Application of Research on Consumer Complaint Rates to the Estimation of the Financial Impact of Prospective Product Defects,” (with Gary T. Ford and David T. Scheffman), *Journal of Consumer Satisfaction, Dissatisfaction and Complaining Behavior*, Vol. 17, 2004, pp. 130-141.

“Renewed Interest in Coordinated Effects in Merger Analysis: The *UPM* Case,” (with Cleve B. Tyler), *Trade Practices Law Journal*, Vol. 12, 2004, pp. 114-118.

“Guidelines for Working with Scanner Data for Antitrust Analysis and Other Purposes,” *Papers and Proceedings of the International Applied Business Research Conference*, March 2004.

“Merger Simulation,” *Antitrust*, Vol. 17, No. 2, 2003, pp. 57-60.

Book Review of Simon Bennett, “Human Error – By Design?,” *Risk Analysis: An International Journal*, Vol. 23, No. 1, 2003, pp. 238-239.

“The Impact of Omitting Promotion Variables on Simulation Experiments,” *International Journal of the Economics of Business*, Vol. 7, No. 2, 2000, pp. 159-166.

“Geographic Variation in Internet Connectivity” (with Luke M. Froeb and Richard W. Oliver), *Papers and Proceedings of the Twenty-Ninth IEEE Hawaii International Conference on Systems Sciences*, Vol. 29, 1996.

WORKING PAPERS

An Agreement in the Rough: A Modified Cournot Model Approach to Distribution Agreements (with Sencer Ecer, Henry J. Kahwaty, James F. Nieberding, and Cleve B. Tyler)

Comparison of Different Methods for Simulating the Competitive Effects of a Merger

Critical Loss and the Critical Diversion Ratio (with Mary T. Coleman)

SELECTED PROFESSIONAL PRESENTATIONS AND ACTIVITIES

Participated as a panelist on the “Abuse of ‘Abuse of Dominance’ in Canada?” panel, Canadian Bar Association (CBA) Competition Law Fall Conference, Ottawa, ON, September 26, 2024.

Participated as a panelist on the “Local Markets Issues in Merger Review” brown bag seminar, American Bar Association Section of Antitrust Law, Transportation and Energy Industries Committee, November 6, 2018.

Organized and moderated “Merger Remedies” panel, Antitrust Economics Workshop, 45th Annual Conference on International Antitrust Law & Policy, Fordham Competition Law Institute, New York, NY, September 5, 2018.

Organized and moderated “State-of-the-Art Economic Analysis of Mergers” panel, Antitrust Economics Workshop, 44th Annual Conference on International Antitrust Law & Policy, Fordham Competition Law Institute, New York, NY, September 13, 2017.

“Do Premiums Increase after Health Insurance Mergers? – A Reassessment of Guardado Et Al.’s Findings” (with Mark Israel, Bo Bourke, and Ben Wagner), presented at the International Industrial Organization Conference, Boston, MA, April 2017.

“Economic Analysis of Retail Mergers,” presented to the Antitrust Practice Group of Arnold & Porter, Washington, DC (and other offices via teleconference, with Mary T. Coleman), May 12, 2016.

Participated as a fact witness in a mock trial presented by the Trade, Sports & Professional Associations and Trial Practice Committees, 63rd Antitrust Law Spring Meeting, Washington, DC, April 16, 2015 and at the Antitrust Law and Economics Institute for Judges, co-sponsored by the ABA Antitrust Section, George Mason University Law School, and the Federal Judicial Center, Washington, DC, October 21, 2015.

“A Primer on Market Definition,” presented at the Economics Fundamentals Session of the 62nd Antitrust Law Spring Meeting, Washington, DC, March 26, 2014 (and presented the market definition primer again during an ABA webinar, July 24, 2014).

“Class Certification in Antitrust Litigation: Economic Analyses and Potential Issues,” presented at the 8th Annual Kirkland Antitrust & Competition Institute, Washington, DC, March 27, 2012.

Moderated “The Life of an International Cartel Case: A Six-Part Practical Series, Part Four: Class Certification & Damages and the Role of Economic Experts,” American Bar Association Section of Antitrust Law, April 19, 2011.

“Novartis AG’s Acquisition of Alcon, Inc. – Background, Analyses and Outcome,” presented to the Washington, DC office of Compass Lexecon, September 1, 2010.

Provided comments on the Department of Justice and Federal Trade Commission’s Proposed Horizontal Merger Guidelines (with Mary T. Coleman), 2010.

Participated in FTI’s Managing Director Leadership Forum, 2010.

Provided summaries of recent economics papers to the Economics Committee of the American Bar Association Section of Antitrust Law, 2009.

“Hicks-Marshall Conditions and Defining Antitrust Markets for Intermediate Goods,” (with James A. Langenfeld, Jon T. Tomlin, and Georgi V. Giozov), paper presented at the International Industrial Organization Conference, Boston, MA, April 2009.

“Antitrust Review of Transactions Involving Partial Equity Ownership Interests,” (with Jared Nagley), presented to several offices of Ropes & Gray LLP, July 30, 2008.

Participated in the preparation of *Mergers and Acquisitions*, American Bar Association Section of Antitrust Law, 3rd ed., 2008.

Participated in the preparation of *Issues in Competition Law and Policy*, American Bar Association Section of Antitrust Law, 2008.

“Customer-Focused Geographic Market Definition and Competitive Effects Analysis,” (with Mary T. Coleman and David T. Scheffman), presented at the IBER Business and Teaching Conference, Las Vegas, NV, October 1, 2007.

Participated in the preparation of Comments of the American Bar Association Section of Antitrust Law to the Report of the Advisory Panel on Efficiencies in Canada, 2006.

Participated in the preparation of Comments of the Section of Antitrust Law of the American Bar Association in Response to the Antitrust Modernization Commission’s Request for Public Comment Regarding the Appropriate Role of Efficiencies in Merger Enforcement, 2005.

Participated in the preparation of *2005 Annual Review of Antitrust Law Developments*, American Bar Association Section of Antitrust Law, 2005.

Organizer and co-chair of conference session on “Contemporary Issues in Law, Economics, and Antitrust,” WEA International Conference, Vancouver, BC, July 2, 2004. Discussant at “Contemporary Issues in Law, Economics, and Antitrust” session of the conference.

Organizer and chair of conference session on “Empirical Topics in Antitrust,” WEA International Conference, Denver, CO, July 12, 2003. Discussant at the “Empirical Topics in Antitrust” and “Applied Papers in Education” sessions of the conference.

“Importance of Fixed Cost Savings in Antitrust Efficiency Analyses” (with David T. Painter and Paul S. Anderson), paper presented at Federal Trade Commission Bureau of Economics Roundtable: “Understanding Mergers: Strategy & Planning, Implementation, and Outcomes,” Washington, DC, December 10, 2002.

Organizer and chair of conference session on “Applied Topics in Law and Economics,” WEA International Conference, Seattle, WA, June 30, 2002.

“Geographic Aggregation of Supermarket Scanner Data: Implications for Demand Estimation,” paper presented at the WEA International Conference, San Francisco, CA, July 8, 2001 and the Federal Trade Commission, November 20, 2001.

“Demand Aggregation Bias from Scanner Data: Aggregation over Products and over Stores,” paper presented at the Allied Social Science Associations Conference, Boston, MA, January 7, 2000.

Member, American Economics Association.

Member, American Bar Association and Antitrust Section of the American Bar Association.

Referee to the *Journal of Economics*.

Included in The International Who’s Who of Competition Lawyers & Economists (e.g., listed in *Who’s Who Legal: Competition* in 2023, 2024 and *Who’s Who Legal: Consulting Experts* in 2020, 2022).

TEACHING EXPERIENCE

Lindner College of Business, University of Cincinnati, 2019 to present
Adjunct Professor of Economics

- Instructs graduate-level “Topics in Competition and Regulation” course.

Johns Hopkins University, Washington, DC campus, 2004 to present
Adjunct Professor of Economics

- Instructs graduate-level “Microeconomic Theory and Policy” and “Economics of Industry and Public Policy” courses.

Vanderbilt University, Nashville, TN, 1993-1997
Instructor and Teaching Assistant

- Developed and taught an introductory class in microeconomics to undergraduates.
- Held review sessions for students, met with students during office hours, and graded exams and essays.

Time to Rise, Nashville, TN, 1994-1996
Teacher

- Taught mathematics class for “at-risk” 5th to 8th graders during the summer.