

Detailed Contents

<i>List of Figures and Tables</i>	xv
<i>Table of Cases</i>	xvii
<i>Table of Legislation</i>	xxiii
<i>List of Abbreviations</i>	xxv

Introduction: Setting the Scene	1
1. The New Dynamics	3
1.1 Platformization	3
1.2 Platform ‘Monopolies’	4
1.3 ‘Competition’ Problems?	6
2. The Need to ‘Look Up’	8
2.1 Platforms’ Discontents	8
2.2 Antitrust as a Relevant Policy Response?	11
2.3 Caveats	14

I. SOUL-SEARCHING

1. ‘Consumer Welfare’: Antitrust’s Consequentialist Turn	23
1. Introduction	23
2. ‘Consumer Welfare’: A Polymorphic Ideal	24
2.1 Borkian Consumer Welfare	24
2.2 The Offshoots of Borkian Consumer Welfare	27
2.2.1 Total surplus	27
2.2.2 (<i>Strong</i>) consumer surplus	28
2.2.3 Consumer choice/sovereignty	29
2.3 Summation	30
3. Appraising the Normativity of ‘Consumer Welfare’	30
3.1 Total Welfare	31
3.2 Total Surplus	31
3.2.1 Wealth redistribution	32
3.2.2 Welfare as ‘monetary surplus’	33
3.3 (<i>Strong</i>) Consumer Surplus	35
3.3.1 Theoretical foundations	35
3.3.1.1 Efficiency	35
3.3.1.2 Distributive justice	36
3.3.1.3 Corrective justice	37
3.3.1.4 Political economy	38

3.3.2 The consumer's many faces	39
3.4 Consumer Choice/Sovereignty	42
4. Concluding Reflections	43
2. 'Competition, as Such': Antitrust's Deontological Side	45
1. Introduction	45
2. Competition as a Value	47
3. Expounding the Normativity of 'Competition, as Such'	51
3.1 Competition as Economic Democracy	53
3.2 Competition and Fairness	58
3.2.1 Competition's moral content	58
3.2.2 Competition and the two sides of 'fairness'	59
4. Concluding Reflections	63

II. LOOKING UP

3. Despotism	71
1. Introduction	71
2. Autocratic Platforms	72
2.1 Private Autocratic Governance	73
2.2 The Claims	75
3. Despotism and 'Consumer Welfare'	77
3.1 Marketer Platforms	77
3.1.1 The monopsony theory	77
3.1.2 Bargaining theories	78
3.2 Broker Platforms	82
3.2.1 Prolegomenon	82
3.2.2 Application	83
3.3 Labour Platforms	84
3.4 Summation	88
4. Despotism and 'Freedom'	88
4.1 Prolegomenon	88
4.2 Coercion	90
4.2.1 Prolegomenon	90
4.2.2 Theorizing coercion	91
4.2.2.1 Empirical	92
4.2.2.2 Normative	93
4.3 Oppression	96
4.3.1 Theorizing oppression	97
4.3.2 Caveats	100
4.4 Summation	103
5. Concluding Reflections	104
4. Game-Mastering	105
1. Introduction	105
2. Game-Mastering Platforms	105

2.1	Platforms as Game-Masters	105
2.2	The Claims	106
3.	Game-Mastering and 'Consumer Welfare'	109
3.1	King-making	110
3.1.1	Incentives?	110
3.1.2	Harm?	110
3.1.3	Endemic?	113
3.2	Self-preferencing	115
3.2.1	Incentives?	116
3.2.2	Harm?	117
3.2.2.1	(Informed) informal theories?	117
3.2.2.2	Formal theories?	121
3.3	Data-twinking	122
3.3.1	'Consumer welfare' as a smokescreen?	122
3.3.2	Incentives?	123
3.3.3	Harm?	125
3.4	Summation	127
4.	Game-Mastering and ' <i>ex ante</i> Fairness'	128
4.1	Prolegomenon	128
4.2	The Ideal(s) of EOp	130
4.2.1	Formal	130
4.2.1.1	Neutral	130
4.2.1.2	Meritocratic	132
4.2.2	Substantive	134
4.2.2.1	Starting-gate	135
4.2.2.2	Rawlsian	138
4.2.2.3	Radical	140
4.3	Summation	144
5.	Concluding Reflections	144
5.	Free-Riding	148
1.	Introduction	148
2.	Free-Riding Platforms	150
2.1	The Claims	150
2.2	Beyond the Rhetoric	153
2.2.1	Free-riding	153
2.2.2	'Stealing'	154
3.	Free-Riding and 'Consumer Welfare'	155
3.1	Scraping	156
3.1.1	Prolegomenon	156
3.1.2	Innovation theories	157
3.1.3	Creators, intermediaries, and incentives	160
3.2	Sherlocking	165
3.2.1	Prolegomenon	165
3.2.2	Foreclosure theories	167
3.2.3	Innovation theories	169

3.3	Summation	171
4.	Free-Riding and ‘Fairness’	172
4.1	Prolegomenon	172
4.2	Free-Riding and <i>ex ante</i> Fairness	174
4.2.1	EOp-sensitive antitrust recalled	174
4.2.2	Free-riding and Roemerian EOp	175
4.3	Free-Riding and Outcome Fairness	178
4.4	Summation	179
5.	Concluding Reflections	179

III. INTERVENTION

6.	Antitrust’s Internal Quandaries	185
1.	Introduction	185
2.	What (Kind of) Enforcement Standards?	186
2.1	The (Range of) Options	186
2.2	Optimal, Reasonable, or Resolute Standards?	189
2.2.1	Optimal standards	189
2.2.2	Reasonable standards	190
2.2.2.1	Prolegomenon	190
2.2.2.2	Application	192
2.2.3	Resolute standards	199
3.	What (Form(s) of) Power?	201
3.1	The Forms of (Platform) Power	202
3.1.1	Market power	202
3.1.2	Relational/relative market power and its outgrowths	203
3.1.3	Ecosystem power	204
3.1.4	Regulatory power	205
3.1.5	Informational power	206
3.1.5.1	Insider’s power	206
3.1.5.2	Panoptic power	207
3.1.6	Systemic power	208
3.2	Optimal, Reasonable, or Resolute Power Radar?	209
3.2.1	Optimal radar	209
3.2.2	Reasonable radar	211
3.2.3	Resolute radar	213
4.	What (Sort of) Remedies?	215
4.1	The Remedial Toolkit	216
4.2	Optimal, Reasonable, or Resolute Remedies?	218
4.2.1	Optimal remedies	218
4.2.2	Reasonable remedies	219
4.2.3	Resolute remedies	223
5.	Concluding Reflections	227
7.	Antitrust’s Interplays	229
1.	Introduction	229

2. Market Supervision and the Interfacing Question	230
3. Differential Antitrust: Between Respect and Boldness	232
3.1 Deference as Respect	232
3.2 Deference as Boldness	235
4. Regulation	240
4.1 The Need for Regulation	240
4.2 What Regulation?	241
5. Concluding Reflections	245
 Conclusion	 247
1. Taking Stock	247
2. Final Reflections	254
 <i>Appendix A. Platform Economy Diagnosis in Policy Reports</i>	 263
<i>Appendix B. Concern for the Upstream in Policy Reports</i>	271
<i>Appendix C. Enforcement Standards in Policy Reports</i>	279
<i>Appendix D. Platform Power in Policy Reports</i>	287
<i>Appendix E. Remedies in Policy Reports</i>	297
<i>Bibliography</i>	307
<i>Index</i>	347