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CONCEPTUAL FOUNDATIONS OF ANTITRUST

This is a philosophical study of concepts that lie at the foundation of antitrust – a body of law and policy designed to promote or protect economic competition. Topics covered are: the nature of competition; the relation between competition and welfare; the distinction between per se rules and rules of reason; agreements; concerted practices; and the spectrum from independent action to collusion. Although there are many legal and economic books on antitrust, this is the only book devoted to the philosophical scrutiny of the concepts that underpin it. No prior knowledge of philosophy is presupposed. The book is primarily directed at students, theorists and practitioners of antitrust, but will also interest lawyers, economists, philosophers, political scientists and others who have no special concern with the discipline.

OLIVER BLACK is Senior Visiting Research Fellow in Law and Philosophy at King's College London and is a practising solicitor, working as a consultant in antitrust and regulatory law at international law firm Linklaters. He has been at King's since 2000 and at Linklaters since 1989. He read philosophy at Cambridge and received his PhD from the University of London. He has taught at Cambridge and been a fellow at the University of California, Berkeley. He has published articles on a variety of topics in philosophy and law and has also published a novel.

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PREFACE

That slim and dispiriting publication *Jobs for Philosophers* made particularly brief and dismal reading in 1987, when I got my philosophy doctorate. The ratio of available posts in university philosophy departments to the people applying for them was said to be about one to 300. Assuming therefore that, even if I found such a post, it would be temporary and in the sticks, I proposed to myself a choice of non-academic jobs: an easy one that would leave me the time and energy to pursue philosophy in my free time or a challenging one that would absorb the energy I would otherwise have spent on philosophy. Partly because challenging jobs tend to be better paid, I chose the latter. As philosophers often do, I picked the law, and I now practise antitrust law and regulatory law. (A colleague tried to persuade me to go into tax law on the ground that it is ‘metaphysics with fees’.) The work is often challenging, but the philosophical itch persisted, so I have come to divide my time between law and philosophy. This book, a philosophical study of antitrust, thus connects my two halves.

The book is a mixture of new work and a reworking and expansion of earlier material: ancestors of the text are cited in the bibliography at the end. I am grateful to the friends and colleagues who have helped me form my thoughts: particular thanks go to David Papineau and Richard Whish (both at King’s College London); to Bill Allan, David Bailey, Juliet Lazarus, Melat Negash, Carole Thomas and the late Dan Goyder (all now or formerly at Linklaters); and to Simon Evnine, Edmund Fawcett, Donald Franklin, Michael Grenfell, Donald Peterson and Jo Wolff.

I always groan when an author thanks his wife, children, dogs and goldfish for lovingly tolerating his reclusion. But I can’t resist thanking Jenny, because she is such a new wife. There are no children or pets to thank.