Arbitrability of Antitrust Claims in the United States

Congressional Policy Favors Arbitration
- Embodied in the Federal Arbitration Act ("FAA")
- Reverses longstanding hostility to arbitration

The FAA
- Substantive rights
- Places arbitration on equal footing with litigation
Reception by Courts

- Trend
- Statutory rights

Arbitrability of Antitrust Claims

- *American Safety* (1968)
- *Mitsubishi Motors* (1985)

Challenges to Arbitrability: General

- Same grounds as challenges to contracts
  - Fraud
    - In factum
    - In the inducement
  - Unconscionability
    - Substantive
    - Procedural
Challenges to Arbitrability: Specific
- Remedial limitations
- Class action bans
- Joinder
- Choice of law
- Collusion

Arbitration and Government Enforcement
- In the US, private enforcement of government decrees has not caught on

Judicial review of international arbitration awards
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- International arbitration awards recognized by US courts unless contrary to US public policy
- Modest substantive review