



**Competition Law Series 2015
CFRED and EUAP Seminar:**

FREE GOODS: COMPETITIVE IMPLICATIONS

co-written with Prof. Dan Rubinfeld (Berkeley and NYU)

by

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The CUHK Graduate Law Centre, 2/F Bank of America Tower, 12 Harcourt Road, Central.

Today a growing number of goods and services are provided in the marketplace free of charge; indeed, free or the appearance of free, have become part of our ecosystem. More often than not, free goods and services provide real benefits to consumers and are clearly pro-competitive. Yet free goods may also create significant costs. We show that despite the fact that the consumer does not pay a direct price, there are indirect prices that reflect the opportunity cost associated with the consumption of free goods. These indirect costs can be overt or covert, in the same market in which the product is distributed or in related markets, monetary or non-monetary, and short-term or long-term. Most of the economic literature on free goods has focused on two-sided markets in which the free good is provided in exchange for attention or information. We analyze the welfare effects of additional cases that are becoming commonplace in our economy. Our analysis indicates that even goods that are offered for philanthropic motivations might sometimes harm competition and welfare. The article also stresses the need to evaluate the pricing strategies of firms that offer free goods in light of new research pointing to the "irrational" behavioral response of consumers when faced by a free option.

This welfare analysis serves as a basis for the exploration of the antitrust implications of the provision of free goods, which has been relatively neglected. Indeed, as this paper shows, free goods raise significant issues for antitrust enforcement, which run the gamut from market definition to market power and to the evaluation of the competitive effects of mergers and more generally to strategic business behavior. We use examples from diverse jurisdictions and markets to exemplify our arguments and, in particular, focus on three case studies: free search services, free internet browsers and free newspapers.

About the Speaker:

Prof. Gal (LL.B., LL.M., S.J.D.) is Professor and Director of the Forum on Law and Markets at the Faculty of Law, University of Haifa, Israel. She was a Visiting Professor at NYU, Georgetown, Melbourne and Lisbon. Prof. Gal is the author of several books, including *Competition Policy for Small Market Economies* (Harvard University Press). She also published scholarly articles on competition law issues and has won prizes for her research and for her teaching. Inter alia, she was chosen as one of the ten most promising young legal scholars in Israel (Globes, 2007) and as one of the leading women in competition law around the world (Global Competition Review, 2013). Her paper, "Merger Policy for Small and Micro Economies", won the Antitrust Writings Award for best paper on merger policy in 2013.

Prof. Gal served as a consultant to several international organizations (including OECD and UNCTAD) on issues of competition law in small and developing economies and is a non-governmental advisor of the International Competition Network (ICN). She also advised several small economies on the framing of their competition laws.

**All are welcome!
Admission is free of charge!**

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