

# AGENDA

(as of 04/29/06)

**Thursday, June 8, 2006**

**8:30 – 8:45 a.m.**

**WELCOME**

**Donald C. Klawiter**, Morgan, Lewis & Bockius LLP, Washington, DC

**Robert T. Joseph**, Sonnenschein Nath & Rosenthal LLP, Chicago, IL

**8:45 – 9:30 a.m.**

**THE ANTITRUST MODERNIZATION COMMISSION AT MID-COURSE**

**Speaker:** **Stephen Calkins**, Wayne State University Law School, Detroit, MI

**9:30 – 11:00 a.m.**

**CIVIL REMEDIES**

- What should be the remedies in private antitrust proceedings?
- Should the private treble damages remedy be modified?
- Should the substantive law and procedures applicable to indirect purchaser litigation arising out of competition-related offenses be modified to reduce the complexity and inefficiency now present?

Moderator:

**Richard J. Wallis**, Microsoft Corporation, Redmond, WA

Panelists:

**Kenneth L. Adams**, Dickstein Shapiro Morin & Oshinsky LLP, Washington DC

**Eleanor M. Fox**, New York University School of Law, New York, NY

**Abbott B. Lipsky**, Latham & Watkins LLP, Washington DC

**Richard M. Steuer**, Mayer Brown Rowe & Maw LLP, New York, NY

**11:00 – 11:15 a.m.**

**BREAK**

**11:15 a.m. – 12:45 p.m.**

**ROBINSON-PATMAN ACT**

- Should the Robinson-Patman Act be repealed in whole or in part, or otherwise be modified?
- Should Section 3 of the Robinson-Patman Act (providing for criminal penalties) be repealed?

Moderator:

**Harvey I. Saferstein**, Mintz Levin Cohn Ferris Glovsky and Popeo PC, Santa Barbara, CA

Panelists:

**Barbara O. Bruckmann**, Howrey LLP, Washington DC

**John Kirkwood**, Seattle University School of Law, Seattle, WA

**Bruce V. Spiva**, Tycko Zavareei & Spiva LLP, Washington DC

**12:45 – 1:15 p.m.**

**LUNCHEON**

**1:15 – 2:00 p.m.**

**LUNCHEON PRESENTATION**

**J. Thomas Rosch**, Commissioner, Federal Trade Commission, Washington, DC

**2:00 – 3:30 p.m.**

**MERGER ENFORCEMENT – SUBSTANTIVE ISSUES**

- Are the federal enforcement agencies and courts appropriately considering efficiencies expected to be realized from transactions?
- Has current U.S. merger enforcement policy – including as expressed in the Horizontal Merger Guidelines – been effective in ensuring competitively operating markets without unduly hampering the ability of companies to operate efficiently and compete in global markets?

Moderator:

**Ronan P. Harty**, Davis Polk & Wardwell, New York, NY

Panelists:

**Albert A. Foer**, American Antitrust Institute, Washington DC

**William J. Kolasky**, WilmerHale, Washington DC

**Janet L. McDavid**, Hogan & Hartson LLP, Washington DC

**Carl Shapiro**, Haas School of Business, University of California at Berkeley, Berkeley, CA

**3:30 – 3:45 p.m.**

**BREAK**

**3:45 – 5:15 p.m.**

**MERGER ENFORCEMENT – FEDERAL INSTITUTIONAL AND PROCESS ISSUES**

- Should merger enforcement at the federal level continue to be administered by two separate agencies?
- If so, should merger review responsibility be divided by industry between DOJ and FTC?
- Differences in treatment (e.g., injunction procedures) arising out of which agency reviews a merger
- Hart-Scott-Rodino Act merger review process
- Should the HSR process be revised to address issues relating to
  - (a) the number and type of transactions requiring pre-merger notification
  - (b) the length of investigations
  - (c) the burden imposed by “Second Requests” and civil investigative demands, and
  - (d) transparency of the decisional process?

Moderator:

**Phillip A. Proger**, Jones Day, Washington DC

Panelists:

**John D. Graubert**, Deputy General Counsel, Federal Trade Commission, Washington DC

**J. Robert Kramer**, Director of Operations, U.S. Department of Justice, Antitrust Division, Washington, DC

**Debra J. Pearlstein**, Weil Gotshal & Manges LLP, New York, NY

**Mark D. Whitener**, General Electric Company, Washington DC

**Friday, June 9, 2006**

**8:30 – 8:45 a.m.**

**INTRODUCTORY REMARKS**

**Robert T. Joseph**, Sonnenschein Nath & Rosenthal LLP, Chicago, IL

**8:45 – 10:15 a.m.**

**ENFORCEMENT ROLE OF THE STATES**

- What role should state attorneys general play in nonmerger civil enforcement?
- Should state and federal enforcers divide responsibility for nonmerger civil antitrust enforcement based on whether the primary focus of alleged harm is intrastate, interstate, or global?
- What role should state attorneys general play in merger enforcement?

Moderator:

**Kevin E. Grady**, Alston & Bird LLP, Atlanta, GA

Panelists:

**Terry Calvani**, Freshfields Bruckhaus Deringer, Washington DC

**Patricia A. Conners**, Office of the Attorney General, State of Florida, Tallahassee, FL

**Michael L. Denger**, Gibson Dunn & Crutcher LLP, Washington DC

**Robert L. Hubbard**, Chair, Multistate Antitrust Task Force, Director of Litigation, Antitrust Bureau of the New York Attorney General's Office, New York, NY

**10:15 – 10:30 a.m.**

**BREAK**

**10:45 a.m. – 12:15 p.m.**

**EXCLUSIONARY CONDUCT**

- Should the substantive standards for determining whether conduct is exclusionary or anticompetitive under Section 2 of the Sherman Act be revisited?
- Refusals to deal
- Product bundling and bundled pricing
- Denial of an essential facility

Moderator:

**Roxane C. Busey**, Baker & McKenzie, Chicago, IL

Panelists:

**Kenneth L. Glazer**, Deputy Director, Bureau of Competition, Federal Trade Commission, Washington, DC

**A. Douglas Melamed**, WilmerHale, Washington DC

**Steven A. Salop**, Georgetown University Law Center, Washington DC

**Daniel M. Wall**, Latham & Watkins LLP, San Francisco, CA

**12:00 –1:00 p.m.**  
**LUNCH BREAK**

**1:00 – 2:15 p.m.**  
**EXEMPTIONS AND IMMUNITIES**

- Should antitrust immunities and exemptions be eliminated if not justified by the benefits they provide, or should they otherwise be time-limited?

Moderator:  
**Theodore Voorhees**, Covington & Burling, Washington DC

Panelists:  
**Peter C. Carstensen**, University of Wisconsin Law School, Madison, WI  
**Margaret E. Guerin-Calvert**, Competition Policy Associates, Inc., Washington DC  
**Stephen F. Ross**, University of Illinois College of Law, Champaign, IL

**2:15 –2:30 p.m.**  
**BREAK**

**2:30 – 4:00 p.m.**  
**BRINGING IT ALL TOGETHER: ARE THERE POINTS OF CONSENSUS ON WHICH THE AMC CAN BUILD A MEANINGFUL REPORT?**

Moderator:  
**Robert T. Joseph**, Sonnenschein Nath & Rosenthal LLP, Chicago, IL

Panelists:  
**Eleanor M. Fox**, New York University School of Law, New York, NY  
**Timothy J. Muris**, O'Melveny & Myers LLP, Washington, DC  
**Robert Pitofsky**, Georgetown University Law Center, Washington, DC  
**Joe Sims**, Jones Day, Washington, DC