

Dear Colleague,

Just as the results of the mid-term elections become the main topic of conversation in Washington, the Section of Antitrust Law will present the Second Annual Fall Forum on November 7 & 8, 2002 at the National Press Club. The Fall Forum will again provide a close-up, in-depth look at major antitrust enforcement developments and policy issues at the mid-point in the Administration's term. Issues ranging from the FTC/DOJ IP Antitrust Hearings to merger policy to the continuing debate on antitrust remedies will be addressed by numerous senior government officials, experienced practitioners and respected scholars. The conference will feature major presentations by Assistant Attorney General Charles A. James, and FTC Commissioners Thomas B. Leary and Mozelle Thompson.

The First Fall Forum last November brought together fourteen senior antitrust officials from the new Administration just a few months after their appointments. FTC Chairman Muris used the Forum as the opportunity to announce the FTC/DOJ IP Antitrust Hearings, and Assistant Attorney General James candidly discussed the Microsoft settlement in great detail. This year's Fall Forum will hear from many of the same officials and some of their colleagues—fifteen in all—as they continue the discussion at the mid-point of the Administration's term.

Through various presentation formats, this conference will feature rich and lively interaction among the policy makers and those who advocate to—and seek to influence—the agencies, courts and the Congress in the development of antitrust law and policy. This conference provides the attorney, the businessman and the economist with both a policy and a practical understanding of the important antitrust issues of the day with lively and candid debate of their impact on the domestic and global economies.

We hope that you will join us in Washington, DC this fall to take part in the continuing antitrust conversation at mid-term.

Robert T. Joseph
Chair, Section of Antitrust Law

A. Douglas Melamed
Conference Chair

Toby G. Singer
Conference Vice-Chair

Conference Agenda

THURSDAY, NOVEMBER 7, 2002

8:30 - 8:45 am

WELCOME AND INTRODUCTIONS

Robert T. Joseph, Sonnenschein Nath & Rosenthal, Chair, ABA Section of Antitrust Law, Chicago, IL

A. Douglas Melamed, Wilmer, Cutler & Pickering, Washington, DC

8:45 - 9:30 am

POLICY SPEECH

The Honorable Charles A. James, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC

9:30 - 11:00 am

I. WHAT DID WE LEARN AT THE DOJ/FTC IP HEARINGS?

- should IP be treated differently?
- refusals to deal
- patent pools and cross licensing
- strategic behavior and licensing
- uncertainty about IP rights and settlements
- Federal Circuit jurisdiction

Moderator:

A. Douglas Melamed, Wilmer, Cutler & Pickering, Washington, DC

Panelists:

Susan S. DeSanti, Deputy General Counsel, Federal Trade Commission, Washington, DC

Mark D. Janis, University of Iowa Law School, Iowa City, IA

R. Hewitt Pate, Deputy Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC

Carl Shapiro, University of California, Berkeley, and Charles River Associates, Oakland, CA

11:00 - 11:15 am

BREAK



Conference Agenda

THURSDAY, NOVEMBER 7, 2002

11:15 am - 12:30 pm

Concurrent Programs – Choose A or B

A. COMPETITION REGULATION AND THE PHARMACEUTICAL INDUSTRY

- use of the regulatory process as a competitive tool
- Hatch–Waxman reform issues
- the appropriate role of the antitrust laws

Moderator:

Molly S. Boast, Debevoise & Plimpton, New York, NY

Panelists:

Susan Creighton, Deputy Director, Bureau of Competition, Federal Trade Commission, Washington, DC

M Howard Morse, Drinker Biddle & Reath LLP, Washington, DC

Robert D. Willig, Princeton University, Princeton, NJ

B. CRIMINAL ENFORCEMENT: DOES DETERRENCE WORK?

- trends in U.S. criminal enforcement
- amnesty here and abroad
- the multijurisdictional criminal investigation

Moderator:

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

Panelists:

Calvin S. Goldman, Blake, Cassels & Graydon, LLP, Toronto, ON

Lisa M. Phelan, Chief, National Criminal Section, Antitrust Division, U.S. Department of Justice, Washington, DC

Gary R. Spratling, Gibson, Dunn & Crutcher LLP, San Francisco, CA

12:30 - 2:00 pm

LUNCHEON PROGRAM

TBA on www.abanet.org/antitrust

2:00 - 2:15 pm

BREAK

2:15 - 3:45 pm

II. CURRENT ISSUES IN MERGER ENFORCEMENT

- mergers in the current economy
- efficiencies
- coordinated effects
- partial acquisitions

Moderator:

William J. Baer, Arnold & Porter, Washington, DC

Conference Agenda

THURSDAY, NOVEMBER 7, 2002

Panelists:

Kevin J. Arquit, Clifford Chance Rogers & Wells LLP, Washington, DC

Constance K. Robinson, Director of Operations, Antitrust Division, U.S. Department of Justice, Washington, DC

Daniel L. Rubinfeld, University of California, Berkeley, and LECG, Berkeley, CA

David T. Scheffman, Director, Bureau of Economics, Federal Trade Commission, Washington, DC

3:45 - 4:00 pm

BREAK

4:00 - 5:15 pm

Concurrent Programs – Choose C or D

C. STANDARDS SETTING: WHAT SHOULD BE THE ANTITRUST ROLE?

- ambush and submarine patents
- when does standard setting become a cartel?
- when does standard setting become exclusionary?

Moderator:

Stephen Calkins, Wayne State University Law School, Detroit, MI

Panelists:

Renata B. Hesse, Chief, Networks & Technology Section, Antitrust Division, U.S. Department of Justice, Washington, DC

M. Sean Royall, Deputy Director, Bureau of Competition, Federal Trade Commission, Washington, DC

Marc G. Schildkraut, Howrey, Simon, Arnold & White, Washington, DC

D. INTERNATIONAL COMPETITION AND COORDINATION

- is Brussels moving closer to Chicago?
- has competition law proliferated too much?
- WTO, ICN, OECD – where do we go from here?

Moderator:

Abbott B. Lipsky, Jr., Latham & Watkins, Washington, DC

Panelists:

George S. Cary, Cleary, Gottlieb, Steen & Hamilton, Washington, DC

Peter H. G. Franklyn, Osler Hoskin & Harcourt LLP, Toronto, ON

William J. Kolasky, Jr., Deputy Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC

FRIDAY, NOVEMBER 8, 2002

8:45 - 9:30 am

POLICY SPEECH—

The Honorable Thomas B. Leary, Commissioner, Federal Trade Commission, Washington, DC

Conference Agenda

FRIDAY, NOVEMBER 8, 2002

9:30 - 11:00 am

III. REMEDIES: HOW DO WE KNOW WHAT WORKS?

- merger remedies: buyer-up-front and fix-it-first
- Illinois Brick and other private remedy issues
- special remedies: disgorgement

Moderator:

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

Panelists:

Ilene Knable Gotts, Wachtell, Lipton, Rosen & Katz, New York, NY

Deborah Majoras, Deputy Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC

Joseph J. Simons, Director, Bureau of Competition, Federal Trade Commission, Washington, DC

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

11:00 - 11:15 am

BREAK

11:15 am - 12:30 pm

Concurrent Programs—Choose E or F

E. STATE ENFORCEMENT—FILLING A GAP OR COORDINATING WITH THE FEDS?

- what is the proper role for state enforcers?
- recent trends: coordination or competition?
- reconciling differences
- are the states too “political”?

Moderator:

Toby G. Singer, Jones, Day, Reavis & Pogue, Washington, DC

Panelists:

Patricia A. Conners, Chair, NAAG Multistate Antitrust Task Force and Chief, Antitrust Section, Office of Attorney General of Florida, Tallahassee, FL

Robert M. Langer, Wiggin & Dana, Hartford, CT

Marimichael Skubel, Kirkland & Ellis, Washington, DC

F. JOINT VENTURES

- have the Guidelines mattered?
- Visa/MasterCard: what does it mean?
- internet businesses
- 3 Tenors
- new issues in telecom joint ventures

Moderator:

William Blumenthal, King & Spalding, Washington, DC

Panelists:

Stephen V. Bomse, Heller, Ehrman, White & McAuliffe, San Francisco, CA

Leslie C. Overton, Antitrust Division, U.S. Department of Justice, Washington, DC

The Honorable Mozelle W. Thompson, Commissioner, Federal Trade Commission, Washington, DC