

THE ANTITRUST MARATHON

A Roundtable Discussion

Location: Loyola University Museum of Art

Address: 820 North Michigan Avenue, Chicago, Illinois

Date and Time: October 5, 2007 at 10:00am CST

Moderated by: Spencer Weber Waller and Dr. Philip Marsden

Panelists' Biographies

Simon Baker has worked in the field of competition policy since 1989, having spent 6 years as an economist with the OFT and DTI, working almost exclusively on competition matters, and the last 8 years in private practice. He has written widely on competition policy issues, in the Financial Times and the European Competition Law Review amongst others. He is a consulting editor of UK Competition Law Reports. Simon has advised clients in numerous domestic and European cases, including many EC Commission Phase II merger cases, and has authored reports and run training seminars for competition and regulatory agencies in the UK and the Netherlands.

Anita Banicevic is a partner at Davies Ward Phillips & Vineberg practicing competition and foreign investment review. She advises domestic and international clients on many aspects of Canadian competition law, including mergers, pricing and distribution practices, misleading advertising, as well as abuse of dominance and criminal conspiracy investigations. She has experience advising clients in a wide variety of industries, including airlines, building materials, consumer products, financial institutions, natural resources, pharmaceuticals, real estate, retail and transportation. Anita is currently a non-governmental adviser to the International Competition Network, and has been a guest lecturer in competition law at Queen's University. A member of the editorial board of Competition Law of Canada (Juris Publishing), Anita has published several papers on competition law and international business law, including articles published in the ABA's International Antitrust

Bulletin, the ABA's Antitrust Magazine, Advocates Quarterly, Canadian Competition Record, Competition Law Insight and Canadian International Lawyer. Anita received both her B.A. (Honours) in 1995 and her LL.B. in 1998 from Queen's University.

Joseph P. Bauer has been Professor of Law at Notre Dame Law School since 1973, where he teaches antitrust, civil procedure, copyright & trademarks and conflict of laws. Professor Bauer is a graduate of the University of Pennsylvania and Harvard Law School. From 1969 to 1972, he practiced in the antitrust/litigation department of the New York City offices of Kaye, Scholer, Fierman, Hays & Handler. He is the author or co-author of five volumes of the Kintner & Bauer Federal Antitrust Law treatise, and he has also written over a dozen law journal articles in the antitrust area.

Stephen Calkins is Professor of Law and Director of Graduate Studies at the Wayne State University Law School, where he teaches courses and seminars on antitrust and trade regulation, consumer law, and torts. He has taught at the Universities of Michigan, Pennsylvania, and Utrecht (The Netherlands), and served as Wayne State's interim dean. During 1995-97, Professor Calkins served as General Counsel of the Federal Trade Commission, a position to which he was nominated by FTC Chairman Robert Pitofsky. Professor Calkins lectures widely throughout the U.S. and abroad (most recently in Europe and Australia), has authored many publications on competition and consumer law and policy and related subjects (including the co-authored 5th edition of the Antitrust Law and Economics Nutshell and the co-authored fourth edition of an antitrust casebook), and is a journal editor. He is a member of the American Law Institute, a Fellow of the American Bar Foundation, and a Senior Fellow of the American Antitrust Institute. He is serving his third three-year term on the Council of the American Bar Association Section of Antitrust Law and is a former member of the Council of the ABA Section of Administrative Law and Regulatory Practice. He is also a former chair of the Association of American Law School's Antitrust and Economic Regulation Committee. He holds degrees from Yale (B.A.) and Harvard (J.D.).

Peter C. Carstensen is the Young-Bascom Professor of Law at the University of Wisconsin Law School. He did his undergraduate work at the University of Wisconsin. He received his law degree and a masters degree in economics from Yale University. From 1968 to 1973, he was a trial attorney at the Antitrust Division of the United

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States Department of Justice where his work focused on policy planning and development of legal theories as well as issues involved in the relationship of regulation to competition. Professor Carstensen's scholarship and teaching have focused on antitrust law. He has published a number of articles in the field including several discussing aspects of the relationship of antitrust law and regulation. His other areas of teaching and scholarly interest include tort law and energy law. He has served as a consultant to both public and private parties concerning antitrust and competition questions. He has also been an invited witness at Congressional hearings including several appearances before the Senate committees to discuss competition issues in agricultural markets including the role of intellectual property rights. Recently, he co-chaired the drafting committee for the ABA's Antitrust Section that prepared a monograph analyzing the statutory exemptions to antitrust law: *Federal Statutory Exemptions from Antitrust Law, Monograph 24* (2007).

Jeffery Cross is a partner in the Chicago office of Freeborn & Peters LLP, where he practices antitrust and commercial litigation. He is an Adjunct Professor at John Marshall Law School where he currently teaches antitrust law. He is also a member of the Advisory Board of the Loyola University School of Law Institute for Consumer Antitrust Studies.

Richard D. Cudahy is a senior circuit Judge of the United States Court of Appeals for the Seventh Circuit. Prior to his appointment to the Court, he was the resident partner in the Washington, D.C. office of the former Chicago firm of Isham, Lincoln and Beale.

Judge Cudahy received his B.S. degree from the United States Military Academy at West Point and his J.D. from Yale University Law School. He then served as law clerk to Charles E. Clark, Chief Judge of the U.S. Court of Appeals, Second Circuit, and in the Office of Legal Advisor, Department of State. He is a member of the Wisconsin, Illinois, District of Columbia, and Connecticut Bars. From 1961 to 1971 Judge Cudahy served as Chief executive Officer of Patrick Cudahy, Inc., a meat processing concern employing more than 800 people.

From 1972 to 1975 he served as Commissioner and Chairman of the Public Service Commission of Wisconsin, where he participated in many important decisions involving the energy crisis, pricing of utility services, environmental issues, nuclear power and so on. He has been active in government, politics, and civic affairs in his home state of Wisconsin.

Judge Cudahy participated in the proceedings of the ABA's Commission on Professionalism as a representative of its Appellate Judges Conference. He was also a member of the ABA's Special Committee on Energy Law and has served on the Councils of the Public Utility Law, Administrative Law and Natural Resources Sections. He is a member of the American Law Institute. He was a visiting professor in law at the University of Wisconsin, and a Lecturer in Law at Marquette University, a Professorial Lecturer at the George Washington University National Law Center, and is now a Lecturer in Law at the DePaul University College of Law. He is the author of numerous scholarly articles, including a recent one on deregulation in the *Yale Journal on Regulation* and one in the *Journal of Air Law and Commerce*.

Judge Cudahy has served as President of the Milwaukee Urban League; as a trustee of the Environmental Defense Fund; as President of the Law Club of Chicago; and from 1990 to 1998 as Chairman of the International Human Rights Law Institute at DePaul University. Judge Cudahy is currently a member of the Advisory Committee to the Center for International Human Rights at Northwestern University and a member of the Foundation Advisory Board of the International Aviation Law Institute at DePaul University. He serves on the Visiting Committee of the Divinity School of the University of Chicago.

Judge Cudahy was appointed by Chief Justice Rehnquist to the panel of the U.S. Court of Appeals for the District of Columbia Circuit for the purpose of appointing independent counsels and served four years from 1998-2002.

Kenneth Davidson is a Washington-based attorney and consultant. His primary affiliation is as a Senior Fellow at the American Antitrust Institute. He worked as an attorney for the US Federal Trade Commission for twenty-five years and taught at American law schools for nine years. Since leaving the FTC, he has written numerous Commentaries for the AAI website, taught at the University of the West Indies and Addis Ababa University, and provided technical assistance to competition agencies in Southeast Asia and countries of the former Soviet Union. He is the author of three books and over forty articles. His background is further described on his website www.kennethdavidson.com.

Andre Fiebig, an attorney with Baker & McKenzie in Chicago, practices in the area of corporate and antitrust law with a particular emphasis on mergers and acquisitions, international joint ventures,

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international antitrust and competition law and commercial law. He assists clients doing business internationally and foreign clients doing business in the United States. Mr. Fiebig has published numerous articles on US, European and German competition law. He received his J.D. from Chicago Kent College of Law and his Doctorate from the University of Tübingen (Germany).

Albert A. (“Bert”) Foer is the founder and President of the ten-year old American Antitrust Institute, www.antitrustinstitute.org. His career has included private law practice in Washington, DC (Hogan & Hartson, Jackson & Campbell); the Federal Senior Executive Service (as Assistant Director and Acting Deputy Director of the Federal Trade Commission’s Bureau of Competition); CEO of a mid-sized chain of retail jewelry stores for twelve years; trade association and non-profit leadership; and teaching antitrust to undergraduate and graduate business school students. Foer has published numerous articles, book chapters, and reviews relating to competition policy. He is a graduate of the University of Chicago Law School, with an A.B. (magna cum laude) from Brandeis University, and an M.A. in political science from Washington University.

David J. Gerber is Distinguished Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology. He received his B.A. from Trinity College (Conn.), his M.A. from Yale and his J.D. from the University of Chicago. He has been a visiting professor at the law schools of the University of Pennsylvania, Northwestern University and Washington University in the United States as well as on the law faculties in Munich and Freiburg in Germany and Stockholm and Uppsala in Sweden. He has also been a visiting fellow at the Woodrow Wilson School of Public and International Affairs of Princeton University and a Distinguished Visiting Lecturer at Meiji University in Tokyo, Japan. Before beginning his teaching career, Professor Gerber practiced law in New York and in Europe. He writes and teaches primarily in the areas of comparative law (esp., comparative competition law), international economic law (esp., competition law and business regulation) and European Union law. He is a member of the International Academy of Comparative Law. His most recent book is *Law and Competition in Twentieth Century Europe: Protecting Prometheus* (Oxford: Clarendon Press, 1998;pbk, 2001). He is currently working on a book that analyzes the antitrust framework for global business.

Christopher R. Leslie Christopher Leslie is a Professor of Law and Freehling Scholar at Chicago-Kent College of Law. Professor Leslie received his J.D. from Boalt Hall School of Law at the University of California at Berkeley, a Masters in Public Policy from the Kennedy School of Government at Harvard University, and a B.A. in Economics and Political Science from U.C.L.A. Prior to joining the faculty of Chicago-Kent, Professor Leslie taught antitrust and corporations at Boalt Hall. He has been a Visiting Professor of Law at Stanford Law School, the University of Texas School of Law, and N.Y.U. School of Law. Professor Leslie is the author of several articles on antitrust, as well as the forthcoming *Antitrust Law and Intellectual Property Rights* (Oxford University Press). He is also the immediate past Chair of the Antitrust Law Section of the Association of American Law Schools (AALS).

Adrian Majumdar joined RBB Economics in April 2004. Prior to taking his post at RBB, Adrian was the Deputy Director of Economics at the UK Office of Fair Trading (OFT). Adrian has published papers on mixed bundling, pricing abuses, market share targets, buyer power, merger simulation and the impact of cartels on prices, and was the principal author of the RBB reports for the OFT on “Selective Price Cuts and Fidelity Rebates” and “The Competitive Effects of Buyer Groups”. Adrian lectures on Economics for Competition Lawyers at Kings College London. Adrian has over 10 years experience of a wide range of competition issues covering European mergers, Article 82 and Chapter II investigations, anti-competitive agreements, and market inquiries. He has recently advised GAME Group, HMV/Waterstone’s, AMD, Ryanair, GE Capital, Orica Ltd and Cable & Wireless on competition matters before the UK and European authorities. He also provides compliance advice on discount schemes to several high profile clients.

Dr. Philip Marsden is Director of the Competition Law Forum and Senior Research Fellow, British Institute of International and Comparative Law, London. He is a competition lawyer with a particular interest in abuse of dominance, consumer welfare, international competition issues and aspects of the law of the World Trade Organisation (WTO) relating to competition policy, telecommunications and dispute settlement proceedings. Philip is editor of the *European Competition Journal*, and his books include: *Exclusionary Business Practices and their Effects on Competition and Development*; *A Competition Policy for the WTO*; and the *Trans-*

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Atlantic Antitrust Research Handbook. Dr. Marsden earned his DPhil from Oxford University, an LLM in European Law from Leicester University, and an LLB and BA (Hons) from the University of Toronto. He qualified as a Barrister and Solicitor at the Law Society of Upper Canada in 1991, and has been in private practice with law firms in Toronto, Tokyo and most recently with Linklaters in London. From 1994-1996, he was a case officer with the Economics and International Affairs Branch of the Canadian Competition Bureau.

Carlos Orci is an associate at the Mexican law firm of Basham, Ringe y Correa, S.C., where he practices antitrust and corporate law.

Steve D. Shadowen is a 1980 summa cum laude graduate of St. Edward's University in Austin, Texas, and a 1984 cum laude graduate of the Georgetown University Law Center, where he served as the Criminal Procedure Project editor of the Georgetown Law Journal. After serving a one-year clerkship with The Honorable Boyce F. Martin, Jr. of the United States Court of Appeals for the Sixth Circuit, Mr. Shadowen has devoted himself exclusively to a commercial litigation practice. For the past 10 years, his practice has focused on antitrust litigation, principally on behalf of plaintiffs. He has served as lead counsel in numerous groundbreaking litigations involving the intersection between intellectual property law and antitrust law. He also recently successfully defended a major retail pharmacy chain against conspiracy and monopolization claims arising from the implementation of a restricted pharmacy provider network.

D. Daniel Sokol is a Visiting Associate Professor at the University of Missouri. He focuses his research on international antitrust issues. He also serves as a non-governmental adviser to the International Competition Network.

Maurice E. Stucke brought 13 years of litigation experience when he joined the UT College of Law faculty in 2007. As a trial attorney at the U.S. Department of Justice, Antitrust Division, he successfully challenged anticompetitive mergers and restraints in numerous industries, and focused on policy issues involving antitrust and the media. As a Special Assistant U.S. Attorney, he prosecuted a variety of felony and misdemeanor offenses. As an associate at Sullivan & Cromwell, Professor Stucke assisted in defending Goldman Sachs, CS First Boston, and Microsoft in civil antitrust litigation, and he was

presented two awards by The Legal Aid Society for his criminal appellate and defense work. Professor Stucke has also served on the Advisory Panel for Vanderbilt University's Curb Center for Art, Enterprise and Public Policy, a research center dedicated to designing a new road map for cultural policy in America. His scholarship has been cited by the OECD, competition agencies, and policymakers.

Spencer Weber Waller is Professor of Law and associate dean for research at Loyola University Chicago School of Law. He also serves as the director of Loyola's Institute for Consumer Antitrust Studies. He received his J.D. cum laude from Northwestern University School of Law, and his B.A. cum laude from the University of Michigan. He was a full-time faculty member at Brooklyn Law School for ten years until joining Loyola in 2000. Prior to his teaching career, Professor Waller served as a staff law clerk for the U.S. Court of Appeals for the Seventh Circuit. He also worked for the U.S. Department of Justice, first as a trial attorney in the Foreign Commerce Section of the Antitrust Division and later as a special attorney in the Chicago Strike Force of the Criminal Division. He then practiced at the Chicago law firm of Freeborn & Peters.