Institute Releases First Comprehensive Study of TCPA

The Telephone Consumer Protection Act (TCPA) was passed in 1991 to protect consumers from increasingly invasive telemarketing practices such as robocalls and junk faxes made possible by advances in technology in the 1980s. Since then the TCPA has been expanded and adapted by administrative rule, judicial interpretation, and congressional amendment.

Technology continues to change and today the key issues relate to how the TCPA and other statutes govern advertising by email, fax modem, and text message. In addition, intentional violations of the TCPA and by parties outside the United States are on the rise.

The Institute for Consumer Antitrust Studies has just released the first comprehensive report on whether the TCPA has accomplished its intended mission and kept up with changes in technology and enforcement. This study was made possible by a cy pres distribution from a class action involving the TCPA in the Northern District of Illinois assigned to District Judge William Hart and Magistrate Judge Morton Denlow.

The Institute is proud to be one of the groups selected for this cy pres award. This is the most recent of a series of cy pres distributions dating back to 1994 which have funded specific projects as well as the general operations of the Institute.

Copies of the report may be downloaded at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2327266 and on the Institute web site under Publications. A limited number of hard copies of the report are also available upon request.

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2013-14 Programs and Events

**September 15, 2013.** Release of Institute Study of Telephone Consumer Protection Act.

**September 27, 2013.** Deepak Gupta. Will Class Actions Survive the Roberts Court?, Room 1401, Corboy Law Center.

**October 25, 2013.** Private Rights of Action in Latin America, Pontifical Catholic University, Santiago, Chile.

**November 1, 2013.** Professor Maciej Bernatt, University of Warsaw. Antitrust Brown Bag Series, Faculty Lounge.

**April 25, 2014.** 14th Annual Loyola Antitrust Colloquium.
New Consumer Antitrust Scholarship Available for International LLM Program

The Institute for Consumer Antitrust Studies has joined forces with the Office of Foreign and International LLM Programs to offer the Consumer Antitrust Scholarship, a 60% tuition-reduction scholarship for Loyola’s LLM Program for International Lawyers.

The LLM program was launched in 2012 and offers two tracks: U.S. Law for Foreign Lawyers and International Law. Detailed information about the application process and the program is available at LUC.edu/law/InternationalLLM.

The selected recipient will participate in the full activities and events of the Institute for Consumer Antitrust and will work closely with the Institute faculty to develop a tailored curriculum in international and comparative competition law.

The scholarship is available for the academic year 2013-14. Interested applicants should complete their application by February 1, 2014 to be considered for the coming academic year.

Please contact Insa Blanke, Executive Director of Foreign and International LLM Program, at iblanke@luc.edu to discuss any questions regarding the application, scholarship, and the program.

LUC Law Prof Nominated to WTO Appellate Body

LUC Law Professor, and Institute Advisory Board Member, James Gathii has been nominated by the Government of Kenya to serve as a member of the Appellate Body of the World Trade Organization (WTO). If confirmed, he will serve a four term deciding appeals from the rulings of the dispute resolution panels formed to resolve trade complaints under the numerous treaties that form the WTO. Professor Gathii is the Wing-Tat-Lee Professor of International and Comparative Law at the Law School with a focus on international trade law and a strong interest in trade and competition matters. He is the author of two books and over forty articles on all aspects of international law. Professor Gathii joined the Loyola faculty in 2012 following serving as Professor and Associate Dean at Albany Law School.

New Fellows in Residence at Institute

The Institute is pleased to welcome two Fellows in Residence for the 2013-14 academic year. Former Illinois Attorney General Neil Hartigan joins Loyola as a Distinguished Fellow in Residence working with the Institute faculty, staff, and students on developing programs and events in the consumer protection field. We are also delighted to welcome Professor Maciej Bernatt from the University of Warsaw School of Business who will teach International and Comparative Antitrust Law in the spring 2014 semester and pursue research in the area of fundamental rights and due process in competition proceedings.
Making the Case for Fair Use

Professor Matthew Sag, the Associate Director of the Institute, specializes in intellectual property and competition issues. Much of his recent work has been in the area of copyright law and the fair use doctrine.

Fair use is one of the most important limitations in U.S. copyright law. The doctrine of fair use has developed through a substantial number of court decisions over the years and has been codified in section 107 of the Copyright Act.

Section 107 contains a list of the various purposes for which the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. Section 107 also sets out four factors to be considered in determining whether or not a particular use is fair.

Professor Sag has become one of the key voices as jurisdictions outside the United States consider whether and how to incorporate notions of fair use into their own copyright systems.

The Australian Law Reform Commission (ALRC) has released a discussion paper on Copyright and the Digital Economy recommending the adoption of fair use similar to the U.S. system. The discussion paper relies on several articles by Professor Sag including Predicting Fair Use, 73 Ohio State L.J. 47 (2012). Professor Sag met with the ALRC on a recent trip to Australia where he was also the keynote speaker at the Australian Digital Alliance 2013 Copyright Forum.

Professor Sag continues his work on fair use in his forthcoming book which he is completing in the coming year. You can access all of Professor Sag’s scholarship on fair use, copyright, and competition law at http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=461043.

Recent Institute Publications

The Working Papers and News and Views section of the Institute web site have the latest Institute publications which include:


Max Huffman & Daniel B. Heidtke, Behavioral Exploitation Antitrust in Consumer Subprime Mortgage Lending, 4 Will. & Mary Pol’y Rev. 77 (2012).


The Institute for Consumer Antitrust Studies is a non-partisan, independent academic center designed to explore the impact of antitrust enforcement on the individual consumer and the public, and to shape policy issues.

The Institute promotes a comprehensive, inclusive view of the benefits of competition law and policy that includes, yet goes beyond, narrow notions of economic efficiency. The Institute fulfills its mission by sponsoring symposia, academic colloquia, research, publication, and a unique student fellowship.

For more information about the Institute, its activities, programs, and publications, visit us on the web at http://www.luc.edu/antitrust, on Facebook, or contact us at antitrust@luc.edu.

Faculty, Staff, and Students of the Institute

Thanks to everyone who through their hard work made the past academic year so productive and made possible the many activities of the Institute. In addition to the University, the Law School, and the donors over the years who created and enhanced the endowment that makes our work possible, the following people have played a vital role in the Institute for Consumer Antitrust Studies.

Loyola Faculty
Spencer Weber Waller; James Gathii, Jane Locke; Matthew Sag; Lea Shepard

Adjunct and Visiting Faculty
Joanne Gazarek-Bloom; Ted Banks; Maciej Bernatt, Christine Chabot; Ted Donner; James Langenfeld; David Marx; and Michael Sennett.

Distinguished Fellow in Residence
Hon. Neil Hartigan

2013-14 Student Fellows
Joseph Axelrod
Nicole Grabianowski
Hannah Harris-Yager
Marlee Kutcher
Eric Olson

Staff
Christine Nemes—Administrator
Michael Patena—Business Manager

For the members of the U.S. and International Advisory Boards please see the web site for the names and affiliations of the individuals who generously donate their time to the Institute.