Australia is at the forefront of a global debate on the perceived shortcomings of existing competition and consumer protection laws in the digital age. The Australian Competition and Consumer Commission (“ACCC”) has made wide-reaching recommendations for reform after an 18-month market study of digital platforms that focused on the impact of digital platforms on media and journalism as well as competition in advertising services markets. Our Sydney program will examine these issues, including the ACCC’s recommendations and perspectives of other stakeholders in the debate. Our program also will feature an interactive panel on merger litigation. Our panel of distinguished judges and advocates from Australia and the United States will share their own courtroom experiences, perspectives on recent cases and insights on how best to prepare if your merger is headed for the stormy seas of litigation.

14:00 Opening Remarks & Introduction of Keynote Speaker

- Brian HENRY, Section Chair, Vice President and Senior Managing Counsel, The Coca-Cola Company, Atlanta, GA
- Fiona SCHAEFFER, GSS Chair, Milbank LLP, New York, NY

14:10-14:30 Q&A with Rod Sims

- Linda EVANS, Clayton Utz, Sydney
- Rod SIMS, Chair, Australian Competition & Consumer Commission, Canberra

14:30-15:50 Session I – Riding the Wave of Digital Platform Regulation

Tech companies and platforms are drawing scrutiny for their purported market power, accumulation of personal data, and outsized influence on global media and politics. As a result, some enforcement agencies are calling for changes to competition law and for the creation of new enforcement agencies specifically to deal with tech platforms. Other commentators have argued that existing laws and agencies are well equipped to address any problematic competition and privacy issues. Our panel will debate key questions including:

- Are existing competition laws and enforcers sufficient to address competition issues in the digital economy or do we need new cops on the beat?
• What role should privacy and public interest concerns (e.g., plurality of news media) play in the assessment?
• Should the owners of platforms be permitted to compete with users, and should there be any limits?

Moderator: Luke WOODWARD, Gilbert & Tobin, Sydney

Panelists:  
  o Peter ARMITAGE, Ashurst, Sydney  
  o Jacqueline DOWNES, Allens, Sydney  
  o Mia GARLICK, Director of Policy for Australia and NZ, Facebook, Sydney

16:00-17:30  Session II – Litigating Merger Cases

In the past merger cases rarely went to court, as often the mere threat of a challenge was sufficient to crater a deal. But times have changed, and more merger cases are headed to litigation than ever before. Yet such cases present unique challenges in the courtroom. Our panel will debate key questions including:

• Are non-specialist courts equipped to evaluate the prospective effects of mergers and what tools they can use to predict the future?
• What role should merger guidelines, presumptions of harm and burden of proof play in the court’s analysis?
• How can the merging parties and the agency develop effective evidence for trial and the risks a trial environment creates?
• Can courts consider remedies that the competition agency has rejected (“litigating the fix“)?

Moderator: Caroline COOPS, King & Wood Mallesons, Melbourne

Panelists:  
  o Richard G. PARKER, Gibson Dunn & Crutcher LLP, Washington DC  
  o Steven RIDGEWAY, Commissioner, Australian Competition & Consumer Commission, Canberra

17:30-18:30  Reception

Complimentary registration online at www.ambar.org/atseminarseries

Please contact Maxim.Sklodowski@americanbar.org or Margaret.stafford@americanbar.org with questions.