Minutes

Spring Council Meeting
American Bar Association
Section of Antitrust Law

Marriott Marquis
University of DC Room
Washington, D.C.
March 28, 2017
2:00 p.m. – 5:00 p.m.

Chair MacLeod called the Council Meeting to order at 2:00 p.m. He welcomed the following Officers, Council Members, staff members and guests:

Officers/Voting Council Members
The following Council Members and Officers were present:

Representatives to the Council
Victor J. Domen (National Association of Attorneys General Representative), Maureen K. Ohlhausen (Federal Trade Commission), Brent Snyder (Department of Justice Antitrust Division), and Jon S. Tigar (Judicial Representative).
Other Attendees

Section Staff
Deborah Morgan, Margaret Stafford, and Joanne Travis.

The following voting member of Council was not in attendance: Jeffrey W. Brennan.

The Section’s Conflicts of Interest Policy was provided to Council Members with the agenda for the meeting posted on the Leadership Portal. The agenda includes documents submitted for this meeting. These Minutes are not necessarily in the order of occurrence during the Council Meeting. Due to the limited availability of certain speakers and other schedule changes, Chair MacLeod re-ordered certain portions of the meeting. Where Officers and other invited guests submitted written reports, those reports were accepted by Council and those Officers and guests relied on such written reports without any substantive modification, unless otherwise noted. In addition, where approximate figures were mentioned during the meeting and the relevant written report submitted before the meeting included precise figures, in some instances the more precise figures provided in the written report are included below. Finally, certain material from the written reports submitted for the meeting, whether or not the Officer or guest submitting the report attended or presented at the Meeting, may be included in the minutes where such inclusion assists the Section in maintaining an accurate record of the meeting.

1. Officer Reports/Updates
   A. Chair Report –William MacLeod
• **Welcome.** Chair MacLeod welcomed the Officers and Council to the meeting and to the Spring Meeting at its new location. Chair MacLeod noted that registration would exceed 3200 attendees, a record for participation. Chair MacLeod noted that the challenge would be to make the new venue feel like home.

B. **Chair-Elect Report – Jonathan Jacobson**

• **Appointments Process.** Chair-Elect Jacobson discussed the status of the appointments process and informed Council that a first draft of the appointments list is nearing completion.

• **Events Surrounding The Spring Meeting.** Chair-Elect Jacobson also initiated a discussion of non-Section satellite, adjacent and overlapping events held around the time of the Spring Meeting and how various events compliment or detract from the Spring Meeting. Council and officers shared their perspectives, and the issue will be studied further with a goal of developing a strategic approach to these events.

C. **Immediate Past Chair Report – Roxann Henry**

• Immediate Past Chair Henry complimented the line-up for the Spring Meeting and the work of the meeting organizers, staff and Chair MacLeod.

D. **Vice Chair Report – Bernard Nigro**

• **Long Range Planning.** Vice Chair Nigro presented and discussed the [Report of the Long Range Planning Committee](#). Vice Chair Nigro thanked the Long Range Planning Committee members for their contributions and insights. Vice Chair Nigro described the quinquennial survey process and the high level results. Vice Chair Nigro restated the Section’s mission, namely, maintaining its status and function as the leading forum for global competition and consumer protection law and policy. As to the Plan, Vice Chair Nigro
remarked that the significant changes in and challenges to the ABA as a whole, including a declining membership and shrinking market share, pose challenges to the Section. The Committee noted in its Report that the most significant drop off in membership occurs several years after a member begins practicing, meaning that engaging members through networking, content and participation early in their careers is critical to growing Section membership. The Plan evaluates the Section’s core products, programs and services and undertakes a careful evaluation of the real value of each, and reviews the Section’s competition to evaluate where the Section should deploy and focus its resources, and what current offerings should be dropped or deemphasized.

E. Committee Officer Report – Deborah Garza

- Committee Activities Chart
- Officer Garza introduced the Committee chairs presenting reports.

Committee Reports

- Joint Conduct—Co-Chairs Joanne Lewers and John Delacourt presented the committee report.
  - The committee submitted a written report.
  - The co-chairs discussed the committee’s focus on programming, including programs on pharmaceutical pricing and passive ownership of competing firms, among others.
  - The committee is engaging in active outreach through the Connect platform and personal outreach to interested members, as well as the use of a welcome letter to new members.
  - The co-chairs discussed two publication projects, the *Proof of Conspiracy Under Antitrust Law* handbook, with drafts having been submitted to Books & Treatises and continuing updating; and a new edition of the joint
venture handbook. The committee also produced substantial content for ALD VIII.

- The co-chairs discussed the disappointment in the acceptance of proposed programs for the Spring Meeting in the past two years.
- Responsible Council Member Koslov complimented the committee for its creativity and diligence.

- **Privacy and Information Security** – Vice Chair Phyllis Marcus presented the committee report.
  - The committee submitted a written report.
  - Vice Chair Marcus described the committee’s effort to rebuild its principal activities in the past year, assisted by three new vice-chairs and a new Young Lawyer Representative. The committee is regaining traction, having presented 6 programs and co-sponsored 11 more, and the programs have been well attended. The committee now has 420 members.
  - The committee is holding networking events to grow membership.
  - Responsible Council Member Hutnik complimented the Committee for its hard work and seconded the suggestion of an additional vice chair.
  - The committee is planning a survey to ascertain areas where the it can provide greater value. It also is looking at competitive entities, including the International Association of Privacy Professionals, and believe sthat the level of substantive scholarship and writing distinguishes the committee from its competition.
  - Vice Chair Marcus identified membership and representation of in-house counsel and state enforcers in committee leadership as areas for potential improvement.
  - Vice Chair Marcus discussed the continuing challenges with the publication of the Data Security Handbook, a publication that has been in
process since 2013. Chair-elect Jacobson inquired as to the cause of the delays, and raised the question of how effectively the Section’s books and treatises process can keep up with the pace of changes in an area such as data security.

- **Transportation and Energy Industries** - Chair Meyer presented the committee report.
  - The committee submitted a written report.
  - Chair Meyer discussed the challenge presented by the narrow band of industry focus even given the broad range if competition and consumer protection issues faced by these industries.
  - Chair Meyer noted the high level of enthusiasm among the committee leadership and membership.
  - The committee is looking to increase the frequency of its programs in the energy space and to address more consumer protection issues.

- **Unilateral Conduct** – Co-Chair Mark Botti presented the committee report.
  - The committee submitted a written report.
  - Co-Chair Botti discussed the strong level of committee activities, referring to the committee written report.
  - The committee is reaching out to law firms to encourage greater participation.
  - Co-Chair Botti identified spring meeting proposals, newsletters and the committee web page are areas for improvement.
  - Chair-Elect Jacobson raised the issue of Books & Treatises projects. Co-Chair Botti reported that the standard setting book is close to submission status, bit that the monopsony handbook has not been updated. Chair-elect Jacobson recommended that the latter be undertaken.

**F. Consumer Protection Officer Report – Kevin O’Connor**
• Officer O’Connor submitted a written report.

• **Consumer Protection Conference.** Officer O’Connor reported on a very successful Consumer Protection Conference in Atlanta. Trish Conner successfully recruited state enforcers and Program Officer Henry assisted greatly in the organization of and planning for on-site events and in promoting the conference, particularly to in-house counsel.

• **Committee Activities.** Officer O’Connor reported that the activities of the three principal consumer protection committees are progressing at a high level qualitatively and quantitatively. The Consumer protection committee is particularly active.

• **International Focus.** Officer O’Connor reported that international consumer protection enforcers have been invited to the Spring Meeting as part of the international outreach efforts.

• **Publications.** Officer O’Connor and Council discuss the bundled pricing for combined purchase of ALD and CPLD.

• Chair MacLeod stressed that collaboration with state enforcers is a key to growth in the consumer protection world.

G. **Delegates Report.**

• Delegates Cernak and Zanfagna submitted a written report and referred Council to the report.

H. **Finance Officer Report – Anthony Chavez**

• Finance Officer Chavez submitted a written report.

• **Section Reserves and Financial Position.** Officer Chavez reported that the Section’s long term investments total $12.6 million revenues, and that the Section is undertaking a rebalancing of equity and bond fund investments. The ABA recommends increasing the proportion of investments in equities,
and the Section is considering that recommendation. There are $443,000 in renewed Section reserve projects, including an addition investment in the Connect platform. There also is an increased expenditure for the Source application.

- **Financial Condition.** Finance Officer Chavez presented the [Section Budget Report and Balance Sheet](#).

- **Approval of 2018 Section Reserves Proposals.** Finance Officer Chavez moved approval of the [Fiscal Year 2018 Reserves Project Proposals](#); Immediate Past Chair Henry seconded the motion. The motion passed unanimously.

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I. **International Officer Report – Fiona Schaeffer**

- **Section Comments.** Officer Schaeffer provided Council with an update on current and anticipated international comments. Officer Schaeffer noted that expedited comment timetables are becoming the norm, while requests for expedited blanket authority have caused problems in the process.

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J. **Program Officer Report – Brian Henry**

- Officer Henry submitted a [written report](#).

- **Upcoming Programs.** Officer Henry previewed upcoming programs, including the May 5th Global Seminar Series program in Brussels and the May 7-7 Private Antitrust Litigation Conference in Amsterdam.

- **Spring Meeting.** Officer Henry solicited initial reactions to the Spring Meeting, particularly with regard to the new venue.

- **Consumer Protection Conference.** Officer Henry reported that twenty percent of the Consumer protection conference attendees are not Section members.
• **Additional Report.** Officer Henry submitted the Center For Professional Development SAL Monthly Performance Report

K. **Publications Officer Report – Jonathan Gleklen**

• Officer Gleklen submitted a written report.

• **Publication Finances.** Officer Gleklen discussed the bundled pricing for ALD and CPLD, currently priced at $500. Officer Gleklen demonstrated the newly printed ALD VIII, noting that a limited number of physical copies were available for sale at the Spring Meeting and that orders are being taken.

• **Other Publications.** Officer Gleklen reported on the new Cartel Law Basics for Executives “flip book” and on the progress of the Health Care Mergers Handbook.

• **Periodicals Update.** Tina Miller provided updates on the Antitrust Magazine, the Source and the Journal.

L. **Secretary and Communications Officer Report – Thomas Zych**

• Officer Zych submitted a written report.

• **Officer Zych moved the approval of the Minutes of the Midwinter Council Meeting.** Officer Gleklen seconded the motion. The motion was seconded and the Minutes were approved by Council unanimously.

• **Update on ABA Website Redesign Project – Jess Moyar,** the Co-Director of the ABA’s IT Division, provided an update on the status of the ABA’s redesign and redeployment of its principal website architecture and design. The project has been underway for over a year, involving both and internal team and an outside website design firm. The goal is to bring Association services, content and products, and ultimately interactive value, to all users regardless of the device or platform used to access the site, and to improve the search and ecommerce experience. The ABA’s site is currently supported by four separate systems – content management, which will be maintained while adopting a new template; e-commerce, which will be replaces; search, which also will be replaced; and identity management, which will be replaced with a single sign-on capability tied
to the Connect platform. There also will be business process changes, including dedicated staff support for quality assurance; a new taxonomy for global tagging of content circulation and more standardized pricing structures. The website team hopes to have the new site ready for launch in the first quarter of calendar 2018. Council discussed with Mr. Moyar the search features of the existing site and the need to cull stale content from search results.

- **Content Committee Report.** Co-Chair Stephen Stack presented a written report and discussed the first seven months of the committee’s existence. Co-Chair Stack complimented the hard work of the committee’s vice chairs. Co-Chair Stack discussed the three principle areas of focus for the committee: the Connect platform; publication initiatives; and programming delivery. On the Connect platform, Co-Chair Stack reported that the redesigned site would be launched during the Spring Meeting, following substantial work by Eugenia Jefferson and Julian Wiley of the Section staff, the Content Committee and the Section’s Higher Logic representatives. On publishing, Co-Chair Stack provided an update on the e-books project, reporting that the RFP has gone to potential publishers and that one response has been received. The plan is to pilot a new e-books format for the civil jury instructions handbook with an eye to rolling out an e-books platform for a wider range of Section books and periodicals. Brian Kay of the ABA staff continues to discuss the opportunity with publishers. On programming, the committee continues to work on its proposal for marshalling young member support for program logistics. C-Chair Stack also discussed the longer-range plan for retaining a consultant for assistance with the strategic plan for Section periodicals, and the initial discussions of a general purpose application for Section use.

- **Connect Update.** Officer Zych provided additional information on the launch of “Connect 2.0” at the Spring Meeting. The revised platform provides a more tailored experience for users, providing content matching the users’ committee
participation while also delivering consistent Section-wide content in a more attractive and user-friendly format. Officer Zych expressed his view that the Section is reaching the limits of what Connect can do for Section communications, and that as both technology and user expectations continue to evolve the Section must continue to consider possible alternatives to Connect.

- **Council Actions.** The written report of Officer Zych included a summary of all action items taken by Council between the Midwinter Meeting and March 17, 2017.

- **Communication Analytics.** Officer Zych presented the ABA website analytics and Connect analytics reports.

- **Membership and Diversity Committee.** Co-Chairs April Tabor and Scott Perlman reported on the activities of the Membership and Diversity Committee and submitted a written report. The co-chairs reported that Section membership has grown, but that the growth is attributable to more law student members. This has led to an effort to reach out to the law student members following graduation to encourage continued participation, including mentorship programs on New York and Washington D.C. and other skills-based training for younger lawyers. The co-chairs also reported on efforts to reach out to the plaintiffs’ bar, including generating an authors list for future publications and communications, and reported on the status of outreach to women lawyers. The committee is producing targeted marketing materials for the Section’s competition and consumer protection activities and materials designed for the international and plaintiffs’ bars. The co-chairs discussed a Section Reserves proposal for an experiential learning fellowship comprised of three fellows per years, aimed at diverse attorneys with less than ten years’ experience in practice.

2. **Reports - Council Liaisons/Special Guests**

   A. **Department of Justice Antitrust Division** - Acting Assistant Attorney General
Brent Snyder provided an update on activities of the Antitrust Division. Mr. Snyder discussed the announcement of the appointment of Makan Delrahim to serve as the Assistant Attorney general in charge of the Antitrust Division and the process of completing the appointment and confirmation of Division leadership, and the activities of Division staff while awaiting the completion of that process. Mr. Snyder described the staff’s focus on executing its enforcement mission, noted that he anticipates only limited management changes, and commended career staff for their work. Mr. Snyder reviewed the Division’s recent successes in health care merger trials, a testament to the capabilities of the career staff, as well as his discussions with Attorney General Sessions and other members of the Trump administration and the expressions of support for the Division’s mission and work. Mr. Snyder also discussed the very active levels of enforcement activities in both civil and criminal matters, highlighting enforcement actions in the packaged seafood, capacitors, financial services, transportation real estate foreclosure and auto parts markets. On the merger front, Mr. Snyder discussed recent enforcement activity in insurance and precision plumbing products markets.

B. Federal Trade Commission – Acting Chairwoman Maureen Ohlhausen thanked the Section’s officers and Council for the invitation to speak before the Counsel, noting that this was her first opportunity to do so. Chairwoman Ohlhausen noted the strong relationship between the Commission and the Section, and expressed the Commission’s gratitude for the insights provided by the report of the Presidential Transition Task Force. Chairwoman Ohlhausen discussed the Commission’s enforcement activities and success in recent hospital merger cases, the release of the Commission’s remedies study as well as conduct cases and investigations involving reverse payments in pharmaceutical intellectual property settlements and other delays in generic entry as well as repetitive regulatory petitioning. Chairwoman Ohlhausen described the Commission’s forward looking priorities, including additional “pay-for-delay” cases, the work of
the Economic Liberty Task Force in advocating for less restrictive occupational licensing and working with states and state enforcers. On the consumer protection front, Chairwoman Ohlhausen discussed the Commission’s focus on conduct that causes demonstrable harm to consumers, citing the Volkswagen, Western Union settlements; the privacy and data security enforcement actions, as well as enforcement activity aimed at schemes directed at small business and servicemen and women and their dependents. Finally, Chairwoman Ohlhausen described Commission efforts to reduce the burden of responding to investigative requests and to, where appropriate, sunset consumer protection regulations.

C. **Multistate Antitrust Task Force** – Mr. Domen, Senior Counsel to the Tennessee Attorney General and Chair of the NAAG Multistate Antitrust Task Force, thanked the Section for its support and the Section staff for their assistance. Chair Domen discussed the work of the 50-state Task Force and its focus on health care antitrust matters, including its participation in hospital merger, product hopping and medical device pricing cases as well as the Task Force’s upcoming summit on health care antitrust enforcement. Chair Domen also discussed the Task Force’s and individual attorneys general activities in connection with state action challenges, in light of the traditional role of state attorneys general in advising and defending state boards with regard to antitrust challenges. Chair Domen also discussed the work of the Task Force in cooperation with federal enforcers, but stressed that states are prepared and able to take action on their own where appropriate, describing state’ actions in the Barclays LIBOR litigation. Chair Domen expressed optimism that the states’ relationship with the federal enforcement agencies in the new administration will remain strong.

D. **Judicial Representative** – Judge Tigar expressed his gratitude for the opportunity interact with and build relationships with Section leadership. Judge Tigar discussed at length developments in class action litigation and, particularly,
proposed legislation amending Rule 23 of the Federal Rules of Civil Procedure and how the amendments would impact class action litigation. Judge Tigar also discussed developments in litigation funding, including the new Local Rule of the Northern District of California requiring disclosures in class action, as well as the Supreme Court’s decision to hear cases dealing with waivers of class action claims and mandatory arbitration clauses violate federal labor law, cases that could impact class actions outside of labor law claims. Judge Tigar noted that the ABA has expressed its opposition to the legislation on the ground that the changes should be handled through the Rules Enabling Act procedures, and that the Judicial Conference also has stated its opposition to the legislation.

E. Canadian Bar Association – Susan Hutton, Chair of the Competition Law Section of the Canadian Bar Association, discussed the work and activities of the Section. Chair Hutton described the organization of the Section, including its twelve committees that liaise and present joint programming with their counterparts in the ABA’s Section of Antitrust Law. Chair Hutton discussed the Section’s Legislation and Policy Committee that, in consultation with Section leadership and substantive committees, provides comments on national competition matters. Chair Hutton described the active Section programming, including 24 brown bag programs of which 7 were co-sponsored with the ABA. Chair Hutton described the Section’s participation in the ABA Section of Antitrust Law’s Consumer Protection Conference, and invited attendance at the Sections Spring Conference in May and at other upcoming programs.

F. ABA Board of Governors. Former Chair Ilene Gotts discussed the priorities of the ABA Board of Governors and its focus on increasing Association membership and on the website project. Former Chair Gotts discussed the status of the Board’s development of revised dues structures, and renewed her invitation to attend the ABA annual Meeting in New York in August.

G. Young Lawyers Division – (written report only)
H. Law Student Division – Jason Hyatt, the Law Student Division’s liaison to our Section, presented a written report. Mr. Hyatt described the Division’s work with the Section’s Membership and Diversity Committee to develop strategies for engagement of law student members and the retention of those members following graduation, including recruiting law students to work with Section committees, participate in Section programs and expand the recruitment effort beyond Washington and New York. Mr. Hyatt thanked the Section for its support. Chair MacLeod inquired as to how our Section was doing with regard to law student membership in relation to other ABA Sections; Mr. Hyatt expressed his judgment that our Section provides more and more useful information.

3. Task Force/Working Group/Other Reports
   A. ABA Cybersecurity Legal Task Force – (written report only)
   B. ABA Military Pro Bono Project – (written report only)
   C. Procedural Transparency Task Force – (written report only)

4. Section Director Report – Director Travis referred the Council and officers to her written report, and commended the staff on their tremendous work in the transition of the Spring Meeting to the new venue, with special thanks to Margaret Stafford.

Chair MacLeod adjourned the Council meeting at 5:00 p.m.
ACTIONS TAKEN BY SECTION COUNCIL
BETWEEN THE 2017 SPRING COUNCIL
MEETING AND JULY 28, 2017

INTERNATIONAL AND OTHER COMMENTS

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION’S SECTION OF ANTITRUST LAW AND
SECTION OF INTERNATIONAL LAW ON THE EUROPEAN COMMISSION’S PUBLIC
CONSULTATION ON BUILDING THE EUROPEAN DATA ECONOMY

• Submitted for review and approval on April 5, 2017 by International Officer Fiona Schaefer.

  • Voting via electronic mail was completed on April 10, 2017.

  • The Comments were approved by Council on April 10, 2017 with no votes in
opposition.

  • Upon approval by Council, the comments were submitted and declared in
accordance with the ABA’s Blanket Authority Procedure.

  • Final comments were submitted to the European Commission on April 26, 2017,
2017.

  • Emilio Varanini and Amy Mudge led the drafting effort on behalf of SAL with
editorial input from Bill MacLeod and Tom Zych.

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION SECTIONS OF ANTITRUST
LAW, INTELLECTUAL PROPERTY LAW,
AND INTERNATIONAL LAW ON
THE DRAFT ANTI-MONOPOLY GUIDELINES ON ABUSE OF
INTELLECTUAL PROPERTY RIGHTS OF THE PEOPLE’S REPUBLIC
OF CHINA

• Submitted for review and approval on April 15, 2017 by International Officer
Fiona Schaefer.

• Voting via electronic mail was completed on April 18, 2017.

• The Comments were approved by Council on April 18, 2017 with no votes in
opposition.
• Upon approval by Council, the comments were submitted and declared in accordance with the ABA’s Blanket Authority Procedure.

• Final comments were submitted to the People’s Republic of China on April 20, 2017.

• Steve Harris, Randy Tritell, and Koren Wong-Ervin led the drafting team, with assistance from Dina Kallay, Elena Kamenir, Stu Chemtob, Daniel Weick, and Nathan Block, SAL IP Committee Co-Chairs Alex Okuliar and Hartmut Schneider and Economics Committee Co-Chair Joanna Tsai.

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION SECTIONS OF ANTITRUST LAW AND INTERNATIONAL LAW ON THE JAPAN FAIR TRADE COMMISSION’S DRAFT REVISIONS TO THE GUIDELINES CONCERNING DISTRIBUTION SYSTEMS AND BUSINESS PRACTICES UNDER THE ANTIMONOPOLY ACT

• Submitted for review and approval on May 2, 2017 by International Officer Fiona Schaefer.

• Voting via electronic mail was completed on May 4, 2017.

• The Comments were approved by Council on May 4, 2017 with no votes in opposition.

• Upon approval by Council, the comments were submitted and declared in accordance with the ABA’s Blanket Authority Procedure.

• Final comments were submitted to the Japan Fair Trade Commission on May 9, 2017.

• The SAL drafting group was led by Liz Kraus led the SAL drafting group which included Joy Fuyano, Alicia Downey and Rob McNary.
JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION SECTIONS OF ANTITRUST LAW AND INTERNATIONAL LAW TO THE NATIONAL DEVELOPMENT & REFORM COMMISSION ON THE DRAFT GUIDELINES ON TRADE ASSOCIATION PRICING ACTIVITIES

- Submitted for review and approval on May 4, 2017 by International Officer Fiona Schaefer.
- Voting via electronic mail was completed on May 8, 2017.
- The Comments were approved by Council on May 8, 2017 with no votes in opposition.
- Upon approval by Council, the comments were submitted and declared in accordance with the ABA’s Blanket Authority Procedure.
- Final Comments were submitted to the NDRC on May 11, 2017.
- The SAL drafting group was led by Emilio Varanini and Steve Harris and included Amy Mudge, Claire Xie, May Yuen, Kate McNeece, Robert Wierenga, and Matthew Kennison.

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION SECTIONS OF ANTITRUST LAW AND INTERNATIONAL LAW ON THE DRAFT COMPETITION LAW OF THE SOCIALIST REPUBLIC OF VIETNAM

- Submitted for review and approval on May 10, 2017 by International Officer Fiona Schaefer.
- Voting via electronic mail was completed on May 11, 2017.
- The Comments were approved by Council on May 11, 2017 with no votes in opposition.
- Upon approval by Council, the comments were submitted under the ABA’s Blanket Authority Procedure. The Chair of the Section of Family Law objected to the grant of expedited blanket authority approval. The Section of Antitrust Law lodged its appeal with the Executive Committee of the ABA Board of Governors on May 19, 2017. The Section of Family Law subsequently withdrew its objection.
• Final comments were submitted to the Socialist Republic of Vietnam on May 24, 2017.

• The drafting group was led by Terry Calvani and included Charles Ramsey, John Terzaken, Casey Halladay, Jim Jeffs and Forrest Treat.

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION SECTIONS OF ANTITRUST LAW AND INTERNATIONAL LAW ON THE SOUTH AFRICAN COMPETITION COMMISSION PUBLIC CONSULTATION ON GUN-JUMPING ISSUES IN MERGER CONTROL

• Submitted for review and approval on May 14, 2017 by International Officer Fiona Schaefer.

• Voting via electronic mail was completed on May 16, 2017.

• The Comments were approved by Council on May 16, 2017 with no votes in opposition.

• Upon approval by Council, the comments were submitted and declared in accordance with the ABA’s Blanket Authority Procedure.

• Final comments were submitted to the South African Competition Commission on May 19, 2017.

• The SAL working group was led by Bill Blumenthal and included Casey Halladay, Chris Carter and Christina Hummer.

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION’S SECTIONS OF ANTITRUST AND INTERNATIONAL LAW ON THE CHILEAN FISCALÍA NACIONAL ECONÓMICA’S DRAFT GUIDELINES ON JURISDICTION IN RESPECT OF CONCENTRATIONS AND DRAFT GUIDELINES ON MERGER REMEDIES

• Submitted for review and approval on May 18, 2017 by International Officer Fiona Schaefer.

• Voting via electronic mail was completed on May 19, 2017.

• The Comments were approved by Council on May 19, 2017 with no votes in opposition.
• Upon approval by Council, the comments were submitted for blanket authority and declared in accordance with the ABA’s Blanket Authority Procedure.

• Final comments were submitted to the Chilean Fiscalia Nacional Economica on May 24, 2017.

• The drafting group was led by Neil Campbell and included Pablo Figueroa, Ian Conner and Miguel Del Pino.

JOINT COMMENTS OF THE AMERICAN BAR ASSOCIATION’S SECTIONS OF ANTITRUST LAW AND INTERNATIONAL LAW REGARDING THE ANTIMONOPOLY ACT STUDY GROUP REPORT ON THE SURCHARGE SYSTEM

• Submitted for review and approval on June 8, 2017 by International Officer Fiona Schaefer.

• Voting via electronic mail was completed on June 11, 2017.

• The Comments were approved by Council on June 11, 2017 with no votes in opposition.

• Upon approval by Council, the comments were submitted for blanket authority and declared in accordance with the ABA’s Blanket Authority Procedure.

• Final Comments were submitted to the Japan Fair Trade Commission on June 29, 2017.

• The drafting group was led by Rob Kwinter and Yee Wah Chin and included Bob Connolly (lead drafter), Tsuyoshi Ikeda, Kyota Konnai, James Mutchnik, Guy Pinsonnault, Steve Richman, Naoko Inoue Shatz, Yusuke Takamiya, Kimitoshi Yabuki, and Daniel Young.

PUBLICATIONS

APPROVAL OF THE PUBLICATION OF PROVING ANTITRUST DAMAGES – THIRD EDITION

• On May 11, 2017 Publications Officer Jonathan Gleklen circulated for Council review and approval a proposal for publication of the third edition of Proving Antitrust Damages.

• Voting was conducted by electronic mail.

• The proposal was approved by Council on May 12, 2017 with no votes in opposition.
• The publication project is sponsored by the Economics Committee and was co-chaired by Tasneem Chipty and Cathy Beagan Flood.

APPROVAL OF THE PUBLICATION OF THE MONOPOLIZATION AND DOMINANCE HANDBOOK

• On May 24, 2017 Publications Officer Jonathan Gleklen circulated for Council review and approval a proposal for publication of the Monopolization and Dominance Handbook. The last version of the Handbook was published in 2011.

• Voting was conducted by electronic mail.

• The proposal was approved by Council on May 12, 2017 with no votes in opposition.

• The publication project is sponsored by the Unilateral Conduct Committee and co-chaired by Justin Hedge and Dominic Vote.

OTHER

APPROVAL OF ADDITIONAL EXPENDITURES FROM SECTION RESERVES DURING FISCAL YEAR 2018

• Finance Officer Anthony Chavez moved on May 19, 2017 that Council approve funding for four additional projects from Section Reserves totaling $140,000 during Fiscal Year 2018. The four proposed projects are: $15,000 for a Law Student Diversity Initiative (subject to approval of a new proposal by the Advisory Board on Section Reserves and the Council); $25,000 Consultant Study on the Marketplace for Section Publications; $60,000 for one or more research projects (subject to approval of any proposal by the Advisory Board on Section Reserves and the Council); and $40,000 for the Goldfarb documentary film project.

• If approved, the Fiscal Year 2018 Section Reserves Projects would total $877,750.

• Voting was help by electronic mail beginning on May 19, 2017.

• Voting concluded on May 22, 2017, with sufficient Council votes in the affirmative to approve the motion, with several Council members expressing reservation concerning the eventual funding of the research project proposal, with the clarification made that the expenditure of funds for specific research projects would be subject to further approval.
Chair MacLeod moved on July 19, 2017 that Council approve the waiver of the 60-day notice requirement for nomination of Section officers otherwise required by Section bylaws. Chair MacLeod further moved that the Council receive the Nominating Committee’s recommendation that Deborah Garza be nominated as Chair-Elect, Brian Henry be nominated as Vice Chair, and that Douglas Ross be nominated as Finance Officer, with all officer nominations to be considered at the Council Annual Meeting.

Chair-Elect Jacobson seconded the motion.

Voting was held by electronic mail beginning on July 19, 2017.

Voting concluded on July 20, 2017, with a sufficient number of Council members voting in the affirmative.