Section of Antitrust Law
Post-Annual Meeting
Laguna Niguel, California
August 16, 2017
For today . . .

• William C. MacLeod
• Goals for 2017-18
  • National Interest and Competition Law Task Force
  • Dominance Divergence Task Force
  • Spring Dinner Task Force
• Conferences
• Publications
• 3,233 Spring Meeting Attendees, all time record
  • 66 Countries represented at Spring
• 10 meeting events:
  • PAM & Midwinter; 2 Global Seminars; Masters; Fall Forum; Consumer Protection; Global Private Litigation; Health Symposium; AT in the Americas
  • 1,394 participants at meeting events
• Total Membership 9,340
  • 5,451 lawyers (June 2017)
  • 1,300 associates (June 2017)
  • 2,589 students (June 2017)
William C. MacLeod

- Transition Report
- 22 Section comments (20 International)
- 181 committee programs, with 4,399 attendees
- 5 new books:
  - ALD8; Cartel Law Basics for Executives; Insurance Antitrust Handbook 3d; State Action Practice Manual 3d; Proving Antitrust Damages 3d
- 35 articles in Antitrust Magazine
- 25 articles in Antitrust Law Journal
- 28 articles in Antitrust Source

- But more importantly . . .
William C. MacLeod

- Was the Section’s first Consumer Protection Officer, and since then has led the effort for the Section to become the leader in the field
- Handling difficult negotiations with other sections and the “big ABA”
- Maintaining the ideological balance in our output that is so important to our success
- Furthered our important relationships with enforcers around the world
- And a great friend and resource
Goals for 2017-2018

1. Don’t mess things up
2. See #1

And a few other ideas . . .
Dominance Divergence Task Force

• Bayou Bottling (CA5 1984):
  • “Bayou [Pepsi/7-Up bottler] complains that [Coke] does not permit retail outlets to place Bayou's products in vending machines and coolers owned by [Coke], and that [Coke] provides free maintenance service on machines and coolers owned by businesses if the machines and coolers are stocked only with [Coke] products. Without anything more, these practices are not barred by the antitrust laws. They are competitive acts.”

• EC Decision (2005) accepting forced settlement from Coca-Cola granting 15% of cooler space to Pepsi:
  • “[B] everage cooler exclusivity might, in certain situations, lead to de-facto outlet exclusivity, thus reducing the diversity of the cold product offering to the detriment of the final consumer.”
Dominance Divergence Task Force

Microsoft forced to split Windows, Media Player by EU
Microsoft will have to unbundled Windows Media Player from the OS, and license ...

EU’s antitrust ‘war’ on Google and Facebook uses abandoned American playbook

Qualcomm to Pay $975 Million Antitrust Fine to China
Deal Ends Country’s Investigation Into Chip Maker’s Licensing Practices

EU slaps Google with record $2.7 billion fine

Antitrust: Commission imposes fine of €1.06 bn on Intel for abuse of dominant position; orders Intel to cease illegal practices

European Commission
Brussels, 13th May 2009

Before the Bell

THE WALL STREET JOURNAL
Google Dodges Antitrust Hit
FTC Has Limited Options in Anti-Monopoly Case Against Search Giant

Statement of the Federal Trade Commission Regarding
Google’s Search Practices
In the Matter of Google Inc.
FTC File Number 111-0643
January 1, 2013

The Federal Trade Commission has today completed a wide-ranging investigation of alleged anticompetitive conduct by Google Inc. (“Google”). We issue this Statement to explain the Commission’s unanimous decision to close the portion of its investigation relating to allegations that Google unfairly prefers its own content on the Google search results page and selectively denies its competitors’ content from those results. Some parties refer to this alleged practice as “search bias.”
Dominance Divergence Task Force

• Led by Cynthia Lagdameo and Hill Wellford
• Expected to travel the globe in fact-finding:
  • Global Seminar in London, December 11
  • Others continuing through 2018
• Objective is to identify the divergences, analyze the causes, and determine whether harmonization is possible . . . or desirable.
National Interest Task Force

- Headed by Dick Steuer and Cal Goldman
- Continues and expands on the work of the Task Force on Foreign Investment Review, whose Report was issued in December 2015
  - That Task Force was led by Dick, Cal, and Judge Ginsburg
- Will focus not just on foreign investment, but also look broadly at “national interest” considerations, the independence of competition decisions from political considerations, and the impact of trade policies on competition and competition policy
Task Forces

• Spring Dinner Task Force (new), led by Ted Voorhees
  • A close look at the dinner and how to improve attendance

• Procedural Transparency will continue, led by Melanie Aitken and John Taladay

• Our largely permanent and highly regarded international task forces will also continue
  • International Cartel Task Force, led by Jim Mutchnik and Scott Hammond
  • International Task Force, led by Tad Lipsky and Randy Tritell
    • 20 comments in 2016-17!!
CLE Conferences

- **Antitrust Merger Workshop**
  - Washington, DC
  - September 28, 2017
  - Conference Co-Chairs: Lantos C. Overson & Scott A. Shar
  - www.ambar.org/amerger

- **Fall Forum**
  - Washington, DC
  - November 16, 2017

- **Next Generation Antitrust Scholars**
  - New York
  - January 2018
  - ABA Conference Chair: D. Nathaniel Koltun
  - www.ambar.org/ntscholars

- **International Cartel Workshop**
  - Paris
  - February 14-16, 2018
  - Conference Co-Chairs: D. Jerold Arp & Roxane E. Henry
  - www.ambar.org/icartel

- **Antitrust in Healthcare**
  - Arlington, VA
  - May 17-18, 2018
  - Conference Chair: Jeffrey W. Brennan
  - www.ambar.org/healthcare

- **Antitrust in Asia**
  - Seoul
  - June 2018
  - Conference Chair: Subnette Bhattchawal
  - www.ambar.org/asia
CLE Conferences

Leslie Overton
Scott Sher
*Mergers Workshop*

Svetlana Gans
David Gelfand
*Antitrust Fall Forum*

D. Daniel Sokol
*Next Generation of Scholars*

D. Jarrett Arp
Roxann Henry
*International Cartel Workshop*

Jeffrey W. Brennan
*Antitrust in Healthcare*

Subrata Bhattacharjee
*Antitrust in Asia*
Programs and Conferences

- Merger Workshop (DC, 9/28)
- Judges Institute (Chicago, 10/15-18)
- Fall Forum (DC, 11/16)
- GSS (London, 12/11) (Dominance Divergence TF)
- Midwinter (Grand Cayman, 1/20-22)
- Cartel (Paris, 2/14-16)
- Spring (DC, 4/11-13)
- GSS (Dusseldorf 5/9) (tent.) (National Interest TF)
- GSS (Asia, 5/24) (tent.) (Dominance Divergence TF)
- Antitrust in Asia (Seoul, 5/31-6/1)
2018 Spring Meeting

Deborah Feinstein
Renata B. Hesse
Rebecca Valentine (Vice Chair)

66th Antitrust Spring Meeting
• We have several new books in progress:
  • Annual Review of Antitrust Law Developments
  • Antitrust Class Actions Handbook 2d
  • Proof of Conspiracy 2d
  • Antitrust in Technology Industries
  • Energy Antitrust Handbook 3d
  • Handbook on Claim Substantiation
  • Healthcare Mergers and Acquisitions Handbook 2d
  • Resolving Criminal Antitrust Exposure: A Practitioner’s Guide on Sentencing and Leniency
  • State Antitrust Enforcement 3d

• And our world renowned periodicals:
  • Antitrust Law Journal (3 issues)
  • Antitrust Magazine (3 issues)
  • The Antitrust Source (bi-monthly)
2017-2018

• Things have changed a lot since we were in Ojai
  • America’s role in the world is different
  • The world’s perception of America is different

• What hasn’t changed is the importance of competition and consumer protection policy to the world’s consumers

• So our role as the world’s leading competition and consumer protection organization is as important as ever
  • Demonstrating that SAL’s commitment to the law and policy is unchanged
  • Continuing our balanced and objective approach to difficult policy issues
  • Maintaining our thought leadership in the field