



FALL FORUM

FEDERAL AND STATE COMPETITION POLICY,
INNOVATION & REGULATION

November 17, 2016

NATIONAL PRESS CLUB
WASHINGTON, DC

Conference Co-Chairs

Kathleen Foote and Bernard A. Nigro, Jr.

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William C. MacLeod
Chair, ABA Section
of Antitrust Law



Kathleen Foote
Conference Co-Chair



Bernard A. Nigro Jr.
Conference Co-Chair

Dear Friends and Colleagues:

Change is coming! Join us at this year's Fall Forum for a fast-paced program discussing the most pivotal topics in antitrust as we tour an emerging enforcement area from investigation through appeal. Hear from the most senior enforcement officials from the Antitrust Division, the Federal Trade Commission, and state attorneys general about what's hot and what's likely to come following the election.

This year's program will delve into the increasingly congested intersection of antitrust, innovation, and regulation in the context of disruptive technologies. Investigators and litigators of conduct and merger cases will discuss how to navigate the tension between state and federal policy goals. Competition and consumer protection experts will provide a preview of the major challenges facing the new Administration.

We are excited to start the day with an overview by Acting Assistant Attorney General Renata Hesse on the relationship between state and federal antitrust enforcement. From there, we will tour the clash between antitrust policy and the growing body of state and federal regulations that may shelter from competition markets, conduct and mergers, with a focus on disruptive technologies and innovative service providers. We will have the "inside players," including senior government enforcers, prominent industry specialists, and outstanding practitioners leading the charge in this area. All of this will be shared from a practical perspective by current and former federal and state senior government officials and litigators, making this an ideal forum to learn how to successfully navigate a government investigation and litigation.

The afternoon will begin with a candid one-on-one conversation with Chairwoman Ramirez about the past, the present, and the future of antitrust enforcement. Next, some of the best thinkers in appellate advocacy will dissect the future procedural, tactical, and substantive options for litigating cases involving restraints on competition and mergers of competitors in the wake of the Supreme Court's landmark rulings in *North Carolina Dental Examiners* and *Phoebe Putney Health System*. This will be followed by a panel featuring the Honorable Maureen K. Ohlhausen and other distinguished speakers discussing whether it is possible to reconcile the conflict between the federal enforcers and sectoral regulators and the implications for competition in industries ranging from transportation to professional services to retailing, as well as others facing disruptive technologies.

Finally, we will end the day with a preview of the future of antitrust and consumer protection. The Co-Chairs of our Presidential Transition Task Force will identify issues the new Administration may tackle, and preview their coming report. This is something you won't want to miss.

There will be numerous opportunities to network and discuss what's new in antitrust with our distinguished speakers, colleagues, and friends. In addition, our luncheon will provide an opportunity for attendees to meet the faculty and network with other attendees. At day's end, attendees are invited to a networking reception with all of our distinguished faculty.

We can't wait to kick off this extraordinary program, which promises to be one of the most informative and useful antitrust events of the year!

William C. MacLeod, Chair, ABA Section of Antitrust Law
Kathleen Foote, Conference Co-Chair
Bernard A. Nigro Jr., Conference Co-Chair

8:30 am – 5:00 pm **REGISTRATION**

9:00 – 9:15 am **WELCOME ADDRESS BY SECTION CHAIR**

William C. MACLEOD, *Kelley Drye & Warren LLP, Washington, DC*

9:15 – 10:00 am **THEN AND NOW: THE RELATIONSHIP BETWEEN STATE AND FEDERAL ANTITRUST ENFORCEMENT**

Renata B. HESSE, *Acting Assistant Attorney General, U.S. Department of Justice, Antitrust Division, Washington, DC*

10:00 – 10:45 am **THE FEDS V. COMPETITORS AND REGULATORS: INVESTIGATING AND LITIGATING RESTRICTIONS ON CUTTING EDGE DISRUPTIVE TECHNOLOGIES**

The impact of state and local regulatory measures upon competition is a growing policy concern. From licenses to certificates to mandates, these state actions have collided with federal competition policy causing enforcers to take a closer look at the rationale for sheltering mergers and conduct behind traditional antitrust exemptions. Hear from those on the front lines reflect on their experiences and their objectives.

Moderator:

Tara KOSLOV, *Deputy Director, Office of Policy Planning, Federal Trade Commission, Washington, DC*

Speakers:

Sarah O. ALLEN, *Senior Assistant Attorney General and Antitrust Unit Manager, Office of the Attorney General, Richmond, VA*

Richard M. BRUNELL, *Vice President and General Counsel, American Antitrust Institute, Washington, DC*

Gregory V.S. MCCURDY, *Director of Global Competition Law, Uber Technology Inc., San Francisco, CA*

10:45 – 11:00 am **BREAK**

11:00 – 11:45 am **"FRONT OFFICE" POLICY COLLISION**

The tension between antitrust interests and the exercise of a state's police power raises complex policy choices, especially when public safety concerns are present. Top enforcers, including a former state Attorney General and a former FTC Chairman, will discuss the stakes and debate the realistic options.

Moderator:

Stephen WEISSMAN, *Baker Botts LLP, Washington, DC*

Speakers:

Martha COAKLEY, *Foley Hoag LLP, Boston, MA*

Andrew I. GAVIL, *Howard University School of Law, Washington, DC*

Timothy J. MURIS, *Kirkland & Ellis LLP, Washington, DC*

11:45 am – 12:30 pm **RESOLVING THE CONFLICT BY LITIGATION**

When antitrust prosecutions challenge state administrative actions, whether in the context of a merger or a conduct case, the litigation can take unexpected paths to unintended consequences. Whose job is it to consider them, and how should they be resolved? Watch current and former federal and state enforcers argue the issues that advance and encumber the cases.

Moderator:

Sean GATES, *Charis Lex PC, Pasadena, CA*

Speakers:

Victor J. DOMEN, *Senior Antitrust Counsel, Office of the Attorney General, Nashville, TN*

Tara REINHART, *Deputy Chief Trial Counsel, Bureau of Competition, Federal Trade Commission, Washington, DC*

Marguerite M. SULLIVAN, *Latham & Watkins LLP, Washington, DC*

Conference Agenda

12:30 – 1:45 pm	NETWORKING LUNCH Registrants will have the opportunity to meet faculty members and network with other attendees.
1:45 – 2:30 pm	A ONE-ON-ONE CONVERSATION WITH THE CHAIRWOMAN William C. MACLEOD , <i>Kelley Drye & Warren LLP, Washington, DC</i> <i>The Honorable Edith B. RAMIREZ</i> , <i>Chairwoman, Federal Trade Commission, Washington, DC</i>
2:30 – 3:15 pm	PUBLIC INTEREST V. COMPETITION POLICY IN THE APPELLATE COURTS This illustrious panel of experts is uniquely equipped to work through the complexities associated with issues relating to conduct and mergers after <i>North Carolina Dental Examiners</i> and <i>Phoebe Putney Health System</i> . Veterans fresh from these trenches will the procedural and substantive options the appellate courts may consider, and the precedents they may set. Moderator: Susan CREIGHTON , <i>Wilson Sonsini Goodrich & Rosati PC, Washington, DC</i> Speakers: Jack BIERIG , <i>University of Chicago Law School and Harris School of Public Policy, Chicago, IL</i> A. Douglas MELAMED , <i>Stanford Law School, Palo Alto, CA</i> Jon NUECHTERLEIN , <i>Sidley Austin LLP, Washington DC</i>
3:15 – 3:30 pm	BREAK
3:30 – 4:15 pm	RECONCILING THE CONFLICT BETWEEN THE FEDS AND THE REGULATORS Uber, AirBnB, Amazon, and other disruptive technologies have blessed consumers and producers with vast new markets amid corresponding public concerns about labor, property rights, and market power. Leading government and industry officials will reflect on the new challenges these changes bring to both the antitrust and regulatory worlds. Moderator: Kevin O'CONNOR , <i>Godfrey & Kahn SC, Madison, WI</i> Speakers: Patricia A. CONNERS , <i>Deputy Attorney General, Office of the Attorney General, Tallahassee, FL</i> John T. DELACOURT , <i>Vice President Legal Affairs & Global Operations, Plasma Protein Therapeutics Association, Washington, DC</i> <i>The Honorable Maureen K. OHLHAUSEN</i> , <i>Commissioner, Federal Trade Commission, Washington, DC</i>
4:15 – 5:00 pm	THE FUTURE OF ANTITRUST – A PREVIEW FROM THE PRESIDENTIAL TRANSITION TASK FORCE Some of the most important assessments and recommendations of competition and consumer policy and practice have come from the Section's Transition Task Forces. Hear the experts heading this quadrennial project give the first preview of the issues they are considering for their upcoming report. Moderator: Kathleen FOOTE , <i>Senior Assistant Attorney General, California Department of Justice, Antitrust Section, San Francisco, CA</i> Bernard A. NIGRO Jr. , <i>Fried, Frank Farris Shriver & Jacobson LLP, Washington, DC</i> Speakers: Mary Ellen CALLAHAN , <i>Jenner & Block LLP, Washington, DC</i> <i>The Honorable Douglas H. GINSBURG</i> , <i>U.S. Court of Appeals for the D.C. Circuit, Washington, DC</i> Theodore VOORHEES , <i>Covington & Burling LLP, Washington, DC</i>
5:00 – 6:00 pm	NETWORKING RECEPTION

Conference Information

Discounted Registration Cut-off: October 27, 2016

Those registered by the cut-off date will be included on the Attendee Roster posted on the conference website and will have access to the course materials prior to the conference. The ABA automatically adjusts registrations submitted at the incorrect rate. Full payment at the correct rate must be received in order to process your registration and CLE credits. The ABA does not accept wire transfers or purchase orders.

Financial scholarship applications are available for this conference. To request an application or receive additional information, contact: at-registrar@americanbar.org. Attorneys who qualify will receive at least a 50% reduction in the course fee(s). This does not include any reduction in meals, lodging, or travel costs associated with the course.

Registration Fees	ABA Section of Antitrust Law Member	ABA Non-Antitrust Member	Non-Member
Rate-up to October 27	\$625	\$725	\$825
Rate-after October 27	\$725	\$825	\$925
Academic/Government/Non-Profit/Paralegal-up to October 27	\$125	\$175	\$225
Academic/Government/Non-Profit/Paralegal-after October 27	\$200	\$250	\$300
Law Student	\$0	\$0	\$0

Two Ways to Register

Online	http://ambar.org/atfallforum Online registrants will receive an electronic confirmation within one day. Online registration closes at 4:00 pm CST on November 16, 2016
On-site November 17, 2016	National Press Club 8:30 am – 5:00 pm

There is no guarantee that space will be available at the conference for on-site registration. Your registration fee includes: admission to CLE sessions, CLE Credit, continental breakfast, course materials, the luncheon, and reception.

Discounts

Early Registration	Registrations received by the October 27 will be processed at the discounted registration rate.
ABA Antitrust Section Members	The registration rate for Antitrust Law Section Members is reduced for this conference as a member benefit. The discount is reflected on the registration page online.
ABA Members	Join the Section of Antitrust Law (\$60.00) and register at the reduced rate reserved for Antitrust Law Section members.
Not an ABA Member	Join now and save by going to www.ambar.org/join
Government, Academics, Nonprofits and Paralegals	Available for those with a primary position at a government or academic institution (e.g., law firm lawyers who also are adjunct professors would pay the law firm rate)
Law Students	Complimentary registration for law students who have not passed a Bar. Availability is limited.

Registration

CANCELLATIONS

In the event of cancellation, a refund of the registration fee, less a \$50.00 administrative fee, will be granted only for written requests received by at-registrar@americanbar.org by **5:00 pm CST, on October 28, 2016.**

There will be no refunds after this date. Please allow four to six weeks after the conference for the processing of any refunds. The ABA reserves the right to cancel any conference or portion thereof and assumes no responsibility for personal expenses.

SUBSTITUTIONS

Written requests for substitutions will be permitted prior to the conference for requests received by **4:00 (CST) October 28, 2016.** After this date, substitutions will need to be made on-site. There is no additional cost for substitutions. Substitutions are not permitted once a registrant has registered on-site or after the conference has occurred. Only the substitute will be eligible for CLE credit. The substitute and original registrant must work out the payment between themselves.

SPECIAL NEEDS

Individuals should update their profile at myaba.org with allergies or ADA needs.

COURSE MATERIALS

The course materials for each session will be compiled and distributed online prior to the conference.

ON-SITE

Please bring your confirmation to the on-site ABA Registration Desk to pick up your materials. Registrations received after online registration has closed, or those who have not received an electronic confirmation, will need to go to the on-site ABA Registration Desk during the registration hours posted in the agenda.

ROSTER OF PARTICIPANTS

A roster of conference participants is available online at www.ambar.org/atfallforum and is updated weekly.

TAPE RECORDING

No audio recording or videotaping of any part of the conference will be permitted.

REGISTRANT/PARTICIPANT IMAGE AND VOICE AGREEMENT

Registration for, attendance at or participation in the 2016 Fall Forum and other associated activities constitutes an agreement by the registrant to permit the ABA to use and distribute (both now and in the future) the registrant or attendee's image or voice in photographs, videotapes, electronic reproductions, audiotapes of such events and activities.

CONTINUING LEGAL EDUCATION (U. S. CLE)

ALL ATTENDEES: Sign-in for CLE; the majority of attendees only need do this once for the entire conference. Some states require attendees to follow different procedures, like DE, IL, TX.

NY attendees are required by their states to sign in and out of each session. **NY ATTENDEES**

REMINDER: You cannot receive a NY certificate if you do not sign in **AND** out. The attendance sign-in forms for DE, IL and NY will be located in the back of each session room.

NY attorneys should pick up their customized Certificate of Attendance at the CLE Information Desk during the conference hours or if you forget to pick it up, we will email NY attorneys their certificates within 60 days of conference completion.

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states.

For more information about CLE accreditation in your state, visit www.ambar.org/antitrust.

States typically decide whether a program qualifies for CLE credit in their jurisdiction 6-8 weeks after the program application is submitted.

Travel Information

HOTEL RESERVATIONS CUT-OFF: **October 20, 2016**

Individuals are responsible for making their own hotel accommodations. A discounted block of sleeping rooms has been reserved under the "ABA Section of Antitrust Law-Fall Forum." Rooms will be available until the cut-off or when the block fills, whichever comes first.

National Press Club

529 14th Street, NW
Washington, DC 20045
www.press.org

The JW Washington DC

1331 Pennsylvania Ave NW
Washington, DC 20004
\$319.00/night + taxes
202.393.2000

Washington, DC is in close proximity to three major airports:

Ronald Reagan Washington National (DCA) 4 miles/15 min

Estimated taxi fare: \$14.00 USD (one way) Metro Subway – Blue Line/Metro Center Stop; fee \$2.80 USD (one way)

Washington, DC/Dulles (IAD) 27 miles/ 40 min

Estimated taxi fare: \$60.00 USD (one way) Alternate transportation: Private Sedan; fee \$90.00 USD (one way) – Reservation required

Baltimore/Washington International Airport (BWI) 40 miles/ 45 min

Estimated taxi fare: \$90.00 USD (one way) Alternative transportation: Amtrak to Union Station-Metro to Hotel; fee \$30 USD (one way)

ABA Negotiated Airfare Discounts

With ABA Egencia, you can automatically obtain ABA negotiated airfare discounts for travel to the ABA Meetings. Visit <http://www.egencia.com/public/us/en/>.

A Travel Profile is required when booking airline reservations with ABA Egencia, visit http://www.americanbar.org/membership/aba_advantage_discounts/egencia.html for more information.

ABA discounts can also be obtained directly from the carrier:

American

Discount only available at www.egencia.com

Delta

800.328.1111
Meeting Code: Domestic NMN7K
Meeting Code: International NMN7K
Discount available at www.delta.com

United

800.426.1122
Agreement Code: 374477, Z Code: ZVWE
Online Discount Code: ZVWE374477
Discount available at www.united.com

International Travel

International travelers should check their visa requirements with their local Embassy or Consulate. We send out letters supporting visa applications after processing the registration.

Please email at-registrar@americanbar.org for a Visa letter

- Detailed information is available on the U.S. State Department site at www.state.gov/travel.
- U.S. Customs and Border Patrol site at www.cbp.gov and TSA at www.tsa.gov.

PLEASE JOIN US IN WASHINGTON, DC

NATIONAL PRESS CLUB, NOVEMBER 17, 2016

529 14TH STREET, NW
WASHINGTON, DC 20045
PH: 202.662.7500

DEADLINES

October 20 Hotel Reservations	October 27 Early Registration
MARK YOUR CALENDAR for other upcoming ABA Section of Antitrust Law Conferences. Visit www.americanbar.org/antitrust for details.	
Sept. 29-Oct. 1, 2016	Antitrust Masters Course VIII Williamsburg, VA
February 2, 2017	Consumer Protection Conference Atlanta, GA
March 29-31, 2017	Spring Meeting Washington, DC
May 2017	Global Practice Litigation Amsterdam
June 1-2, 2017	Antitrust in the Americas Mexico City



Register online at ambar.org/atfallforum

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