

AGENDA | CLAYTON ACT 100TH ANNIVERSARY SYMPOSIUM AMERICAN BAR ASSOCIATION, WASHINGTON, DC DECEMBER 4, 2014

As of 11/21/14

THURSDAY, DECEMBER 4, 2014

8:00 – 8:30 AM

REGISTRATION & BREAKFAST

8:30 – 8:45 AM

WELCOME AND INTRODUCTION

Speaker:

Howard Feller, Chair, ABA Section of Antitrust Law

8:45 – 9:15 AM

KEYNOTE ADDRESS

Speaker:

The Honorable William J. Baer, Assistant Attorney General, U.S. Department of Justice, Antitrust Division, Washington, DC

9:15 – 10:15 AM

THE HISTORY AND EVOLUTION OF THE CLAYTON ACT AND ITS IMPLICATIONS ABROAD

A distinguished panel of speakers will discuss how the Clayton Act's influence has extended far beyond the United States' geographical boundaries and fundamentally transformed the antitrust and competition principles of nations abroad.

Moderator:

Ilene Knable Gotts, Wachtell Lipton Rosen & Katz, New York, NY

Speakers:

Eleanor M. Fox, New York University School of Law, New York, NY

Calvin S. Goldman, Goodmans LLP, Toronto, Canada

James F. Rill, Baker Botts LLP, Washington, DC

10:15 – 10:30 AM

BREAK

10:30 AM – 12:00 PM

HAVE THE COURTS GONE TOO FAR UNDER CLAYTON ACT SUITS?

Panelists debating plaintiffs' and defendants' positions will take on four issues: First, have courts construed substantive antitrust rules too narrowly or imposed unduly high procedural barriers on plaintiffs? Second, have awards of civil remedies gone too far and allowed duplicative recoveries in some cases? Third, have concerns about remedies influenced standing and substantive rules? Finally, the panelists will take on the future of Sections 4 and 16: whether eliminating treble damages (or making them discretionary) in antitrust cases would better achieve the objectives of the antitrust laws. ([Live Webinar](#))

Moderator:

Andrea Agathoklis Murino, Wilson Sonsini Goodrich & Rosati PC, Washington, DC

For the Defendants:

Amy B. Manning, McGuireWoods LLP, Chicago, IL

Margaret M. Zwisler, Latham & Watkins LLP, Washington, DC

For the Plaintiffs:

Megan E. Jones, Hausfeld LLP, Washington, DC

Stuart H. Singer, Boies Schiller & Flexner LLP, Fort Lauderdale, FL

12:00 – 12:30 PM

LUNCH

12:30 – 1:00 PM

KEYNOTE ADDRESS

Speaker:

The Honorable, Terrell McSweeney, Commissioner, Federal Trade Commission, Washington, DC

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1:00 – 2:30 PM

**IS CLAYTON SECTION 7 ADAPTABLE TO DEAL WITH NEW ECONOMY MARKETS?
SHOULD IT BE EXTENDED TO INNOVATION MARKETS OR FUTURE MARKETS?**

Enforcement of Section 7, which requires predictions of competitive effects, has followed the uneven evolution of economic theory over the last century. Drawing on lessons from the milestones of merger policy, the panelists will debate whether Section 7 needs to be modified in order to account for new economy markets. For example, panelists will debate if Section 7 should apply to innovation markets or whether markets which have not recognized any revenues are even appropriate candidates for review under Section 7. ([Live Webinar](#))

Moderator:

Howard Feller, McGuireWoods LLP, Richmond, VA

Speakers:

Susan S. DeSanti, Attorney, Federal Trade Commission, San Francisco, CA

Richard J. Gilbert, Compass Lexecon, Berkeley, CA

Jonathan M. Jacobson, Wilson Sonsini Goodrich & Rosati PC, New York, NY

Ramsey Shehadeh, NERA Economic Consulting, New York, NY

2:30 – 2:45 PM

BREAK

2:45 – 4:15 PM

**IS IT APPROPRIATE FOR REMEDIES IN CLAYTON ACT CONSENTS TO BE BROADER
THAN WHAT CAN BE ACHIEVED IN COURTS?**

This panel will examine the policy that has emerged from the rich body of settlements in antitrust cases, and compare it with the doctrine that has developed in court and ask whether it is appropriate for the federal enforcement agencies to obtain relief that would not otherwise be available to them if they chose to litigate in court. ([Live Webinar](#))

Moderator:

Ilene Knable Gotts, Wachtell Lipton Rosen & Katz, New York, NY

Yes:

George S. Cary, Cleary Gottlieb Steen & Hamilton LLP, Washington, DC

Jon Leibowitz, Davis Polk & Wardwell LLP, Washington, DC

No:

Keith N. Hylton, Boston University School of Law, Boston, MA

Richard J. Wallis, Vice President & Deputy General Counsel, Microsoft, Inc., Redmond, WA

4:15 – 5:00 PM

A CONVERSATION ON THE CLAYTON ACT WITH COMMISSIONER WRIGHT

Join Commissioner Wright and for a candid conversation that reflects on the Clayton Act, its past, present, and future.

Interviewer:

Jan M. Rybnicek, Attorney Advisor to Commissioner Joshua D. Wright, Federal Trade Commission, Washington, DC

Interviewee:

The Honorable Joshua D. Wright, Commissioner, Federal Trade Commission, Washington, DC

5:00 – 6:00 PM

RECEPTION

Morton's, The Steakhouse, Mezzanine Level