

conference

Civil Liberties and Competition Policy

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AGENDA • THURSDAY, JUNE 21, 2012 • REGISTER AT WWW.ANTITRUSTINSTITUTE.ORG

8:30 am Continental Breakfast

9:00 am Welcome and Overview

Albert A. Foer, *President, American Antitrust Institute*

9:30 am The Political Content of Antitrust Revisited

Robert Pitofsky, *Joseph and Madeline Shedy Professor of Antitrust and Trade Regulation Law, Georgetown Law*

9:45 am Harmonizing Civil Liberties and Antitrust Policy

Moderator: Hon. Douglas H. Ginsburg, *Judge, U.S. Court of Appeals for the District of Columbia Circuit, former Assistant Attorney General for Antitrust*

Barry Lynn, *Director, Markets, Enterprise and Resiliency Initiative, New America Foundation*

Jeffrey Rosen, *Professor of Law, George Washington University School of Law*
 Maurice Stucke, *Associate Professor of Law, University of Tennessee College of Law*
 Jonathan T. Weinberg, *Professor of Law, Wayne State University Law School*

11:30 am Breakout Sessions

Religion and Competition

Moderator: Babette E. Boliek, *Ph.D., Associate Professor of Law, Pepperdine University School of Law*

Barak Richman, *Professor of Law, Duke Law School*

Nelson Tebbe, *Professor of Law, Brooklyn Law School*

The Liberties and Risks of Collective Entities

Moderator: Allen P. Grunes, *Shareholder, Brownstein Hyatt Farber Schreck, LLP*

Donald I. Baker, *Partner, Baker & Miller*

Hillary Greene, *Professor of Law and Director of the University of Connecticut's Intellectual Property and Entrepreneurship Law Clinic*

Maureen K. Ohlhausen, *Partner, Wilkinson Barker Knauer, LLP (invited)*

Judicial Activism, The First Amendment and Antitrust

Moderator: Richard Brunell, *Director of Legal Advocacy, American Antitrust Institute*

Warren S. Grimes, *Professor of Law, Southwestern Law School*

Gary L. Reback, *Of Counsel, Carr & Ferrell LLP*

12:30 pm Luncheon

Presentation of Jerry S. Cohen Award for Antitrust Scholarship

Presentation of AAI's Alfred Kahn Award for Antitrust Achievement to Roger Noll

Albert A. Foer, *President, American Antitrust Institute*

Wayne Dale Collins, *Partner, Shearman & Sterling LLP*

2:00 pm Competition and Liberty: Issues in Modern Media

Susan S. DeSanti, *Director, Policy Planning, Federal Trade Commission*

Neal Katyal, *Partner, Hogan Lovells, former Acting Solicitor General of the United States*

Gene I. Kimmelman, *Chief Counsel for Competition Policy and Intergovernmental Relations, U.S. Department of Justice Antitrust Division (invited)*

Robert H. Lande, *Venable Professor of Law, University of Baltimore School of Law*

Eli Noam, *Director, Columbia Institute for Tele-Information, Garrett Professor of Public Policy and Business Responsibility and Professor of Finance and Economics, Columbia Business School*

Gary L. Reback, *Of Counsel, Carr & Ferrell LLP*

Kurt Wimmer, *Partner, Covington & Burling LLP*

4:00 pm Networking Reception



Robert Pitofsky



Jeffrey Rosen



Hillary Greene

news

Roger G. Noll To Receive Antitrust Achievement Award

On June 21, Roger G. Noll will be presented AAI's Alfred E. Kahn Award for Antitrust Achievement. The award was renamed in 2011 to honor former AAI Advisory Board Member Fred Kahn who was known as the "godfather of deregulation."

Noll is professor of economics emeritus at Stanford University and a Senior Fellow at the Stanford Institute for Economic Policy Research, where he directs the Program in Regulatory Policy. He is also is a long-time and very active Senior Fellow and member of the Advisory Board at the AAI. He is also a member of the Advisory Board of the AEI-Brookings Joint Center on Regulation. Noll is the author or co-author of 12 books and more than 300 articles and reviews. His primary research interests include technology policy; antitrust, regulation and privatization policies in both advanced and developing economies; the economic approach to public law (administrative law, the judiciary, and statutory interpretation); and the economics of sports and entertainment.

Noll is the 14th recipient of the annual award. Past honorees are Joel Klein, Robert Pitofsky, F.M. Scherer, Alfred E. Kahn, Lloyd Constantine, Thomas B. Leary, Senators Herb Kohl and Mike DeWine, Maxwell Blecher, John Shenefield, Eleanor M. Fox, Steven Salop, and Mario Monti. Noll's career and achievements will be narrated at the luncheon by his friend, attorney Dale Collins.



Strategic Pricing Conference

On June 20, the AAI will host an invitational symposium examining complex, strategic pricing mechanisms and their implications for antitrust analysis and remedies. The principal topics will be dynamic pricing, yield maintenance, auctions, and drip pricing.

Speakers will include economists, attorneys, business school experts, and representatives from the private sector, government, and academia. Speakers include economists Hal Varian, Susan Athey, Roger Noll, and Howard Shelanski; marketing specialist Kent Monroe, and Jeremy Eglan from Digonex. We look forward to an informative and direction-setting symposium. The complete agenda, with information on how to request an invitation, is available at www.antitrustinstitute.org.

AAI Publishes Second Private Enforcement Handbook

In 2010, the AAI published the *International Handbook on Private Enforcement of Competition Law* to provide empirical information about private enforcement in the U.S. and assist in the development of competition policy laws worldwide. Expert contributors – law practitioners in the U.S. and 21 other countries – explain both the law and the realities regarding private remedies as they have experienced them.

This year, the AAI will publish a handbook aimed specifically at American audiences. *The Private Enforcement of Antitrust Law in the United States* provides a comprehensive and systematic treatment of the substantive, procedural, practical, and strategic considerations attending all aspects of private antitrust litigation in the U.S., as drawn from the perspectives of leading practitioners, experts, and scholars in the field.

In addition to 12 chapters that take the reader on a chronological tour of every phase of private antitrust litigation, this new Handbook features current reflections on legislative reform proposals, cy pres remedies, and the role of expert witnesses. Readers will especially enjoy a groundbreaking and highly original chapter in which leading plaintiff and defense counsel orchestrate a tandem discussion of the competing considerations associated with settlement.

AAI Launches Jury Instruction Project

In December, the AAI introduced a new jury instruction project. In Sherman Act Section 1 and Section 2 civil cases, judges tend to gravitate towards the ABA Model Instructions as the gold standard for impartial instructions. The AAI believes the ABA model instructions are, in some situations, confusing, out of date, or do not adequately effectuate the goals of the antitrust laws. To provide an alternative, the AAI will develop a set of jury instructions that can be widely disseminated to lawyers and judges.

The first edition, targeted for 2013, anticipates covering such topics as: market power, Illinois Brick, monopolization, efficiency defense, and rule of reason. The project's Reporter is Professor Joshua P. Davis of the University of San Francisco Law School, an expert in civil procedure issues relating to antitrust. The AAI's group of research fellows will be actively engaged under Professor Davis' supervision. A committee of AAI Advisory Board members will also work with Professor Davis. The AAI hopes to utilize focus groups and "plain English" experts throughout the project. When completed, the jury instructions will include narrative discussion to support the recommendations being offered. The instructions will be made available both in paper and electronic form.

about

About The American Antitrust Institute The AAI is an entrepreneurial proponent of the position that competition serves the most vital interests of the American public by (1) assuring competitive prices, (2) fostering innovation and efficiency so that consumers get the choices that a free market should provide to them, and (3) protecting opportunities for small and medium-size businesses to compete on the merits in ways that do not undermine efficiently operating markets. To achieve its mission, the AAI:

- Educates the public about the benefits of competition and the ways in which fair and effective competition can be enhanced in the interest of consumers.
- Generates and facilitates research and multidisciplinary approaches to a national and international competition agenda.
- Advocates competition-oriented policies in Congress, in the Administration, in the states, and internationally, as an essential element of civil society.

Founded in 1998, the AAI's work includes research and commentary, public testimony, briefings and conferences, and filmmaking - examples of which can be found on our website at www.antitrustinstitute.org.

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