



A Message from the AAG



Makan Delrahim
Assistant Attorney General

Unlike previous newsletters released during the ABA Spring Meeting, the Division shares this “Spring” Update for 2020 during extraordinarily challenging times. The spread of COVID-19 has affected all aspects of our daily lives, as we face both the public health and economic effects of the virus. As many of us do our part to prevent the spread of COVID-19, however, we were also gripped by the horrifying death of Mr. George Floyd in Minneapolis. My heart is with the peaceful demonstrators who honor the memory of Mr. Floyd by seeking justice and the reforms necessary to prevent similar events in the future.

Despite these challenging times, these events have served to emphasize the resiliency of our nation. They also underscore the critical nature of our work as federal prosecutors and the precious

opportunities we have in our positions of public trust. All of us have taken a solemn oath to support and defend the Constitution, and we strive each day to discharge our duties faithfully as employees of the Department of Justice.

In these times, the Antitrust Division remains steadfast in its mission to protect competition for the benefit of consumers. As I write this, most of our employees are working remotely following guidance in March from the U.S. Office of Management and Budget. Though not without their challenges, these difficult circumstances have not stopped our attorneys, economists, and support staff from advancing the Division’s mission with continued dedication and resourcefulness. I am immensely proud of our employees, and appreciate the chance this newsletter provides to report and reflect on what we have accomplished together.

Over the past year, the Antitrust Division tackled a number of important mergers on behalf of American consumers. For example, we secured an important set of divestitures to address vertical and horizontal harm in *UTC/Raytheon*, negotiated significant structural relief to facilitate the introduction of a new wireless competitor in *T-Mobile/Sprint*, and prevailed in a first-of-its-kind arbitration proceeding in *Novelis/Aleris*. We also

began a review of digital platforms and engaged in powerful public advocacy regarding the importance of properly applying antitrust law in this area.

The Division’s criminal program has similarly been fruitful. In November 2019, we launched the government-wide Procurement Collusion Strike Force (PCSF). The Division’s criminal trials resulted in two guilty verdicts this fall and, in March 2020, we secured the largest ever antitrust fine or penalty imposed in the prosecution of a purely domestic cartel. And just three weeks ago we announced the first set of indictments in the Division’s broiler chicken cartel investigation. This newsletter features these accomplishments and many more.

At the outset, I would like to focus on a few of our top priorities and offer a preview of what is to come.

COVID-19 Response

To address one of the most immediate challenges facing our nation, the Antitrust Division has taken swift action in order to help fight the spread of COVID-19. In addition to moving most of our employees to telework quickly, we started conducting meetings and depositions by video and teleconference, accepting electronic filings of Hart-Scott-Rodino (HSR) notifications, and preparing to appear remotely in courtrooms. The Antitrust Division has also been

working closely with other federal agencies, including the Department of Health and Human Services, Department of Defense, the Federal Emergency Management Agency, Centers for Medicare & Medicaid Services, Department of Agriculture, and the White House Coronavirus Task Force, to ensure critical products and medical supplies reach those who most need them.

We also have issued two joint statements with the Federal Trade Commission (FTC) in an effort to introduce greater certainty in these uncertain times. The first details the types of collaborative activities among competitors that are consistent with the antitrust laws and outlines an accelerated business review process. Only 11 days later, the Division issued our first business review letter related to the pandemic—5 days after receiving the request—pursuant to this expedited process. The letter explained that, provided certain conditions were met, the Antitrust Division would not challenge the collaborative efforts of companies working with federal authorities to expedite and to increase the distribution of important medical equipment. In our second joint statement with the FTC, we reaffirmed the importance of competition for American workers and expressed our commitment to curbing anticompetitive conduct by those who exploit the pandemic by entering into unlawful wage-fixing or no-poach agreements.

Consistent with the Department's guidance, the Antitrust Division also has prioritized the criminal investigation and prosecution of competition cases related to COVID-19. Through the Antitrust Division's PCSF and other tools, we will hold accountable individuals and companies that use the pandemic as an opportunity to engage in criminal antitrust violations. Our international

program also has taken the lead within the International Competition Network (ICN) and other multilateral organizations to encourage the exchange of rapidly developing information; these efforts have allowed the Division to stay updated on how COVID-19 has affected competition enforcement around the world.

[Innovation in Merger Review](#)

As we adjust in these times, I take pride in other achievements the Division attained in the spirit of adaptation and innovation. In September 2018, I pledged that the Antitrust Division would modernize its merger review process with an eye toward expediting review without compromising its quality. The Division consistently has met or exceeded our goal of completing the investigative phase of merger reviews and providing feedback to parties within six months, as long as the parties expeditiously cooperate and communicate with us. Through early 2020, we successfully reduced the average time in all merger investigations from filing an HSR to the Division notifying the parties of our position to 5.4 months. In merger investigations that resulted in a challenge, whether litigated in court or otherwise resolved, the average time to notification was reduced to 5.7 months.

As part of the reforms I announced in 2018, we also implemented steps to introduce significant transparency into our processes, including publishing on our website new models for timing agreements and for voluntary request letters. These reforms collectively have provided greater certainty and predictability for mergers and acquisitions that are reviewed by the Division. Even with the constraints imposed by the COVID-19 pandemic, I am optimistic that these reforms will have lasting effects.

The Division's innovations were not limited to internal processes. In February 2020, the Antitrust Division engaged in the first-ever arbitration in a merger challenge in *Novelis/Aleris*, pursuant to the Division's authority under the Administrative Dispute Resolution Act of 1996. The use of arbitration in this instance provided greater certainty to the parties and allowed the Antitrust Division to resolve the dispositive issue of market definition efficiently and effectively, maximizing our enforcement resources, saving taxpayer resources, and providing the merging parties with greater certainty. The arbitration hearing was held over a period of ten days (including some partial days) in the Antitrust Division's new Anne K. Bingaman Auditorium and Lecture Hall in the Liberty Square Building in Washington, D.C. Eleven fact witnesses and three expert witnesses testified in the proceedings. The arbitrator ultimately agreed with our conception of the market definition and ruled in March 2020 for the Division within the agreed two-week time frame. The proposed final judgment will require Novelis to divest Aleris's aluminum auto body sheet operations in North America. The experience proved that, in the proper circumstances, antitrust agencies can harness the strengths of arbitration and ensure the benefits of a speedy and sound resolution for the public.

The Division also obtained pivotal relief in T-Mobile's acquisition of Sprint, which has proved particularly significant during the pandemic given consumer demand for mobile connectivity. The Division's remedy will safeguard competition in the wireless industry by providing important divestitures that will facilitate the entry of Dish as a fourth nationwide competitor. This relief stands to expand output and

expedite the introduction of 5G networks for American consumers by ensuring the use of vast amounts of currently unused or underused spectrum. Dish will have immediate access to the New T-Mobile's network, as well as access to low-band spectrum to facilitate its network buildout. Given its history as a disruptive, innovative company, Dish will be well positioned to take advantage of this remedy and accelerate its entry as a nationwide competitor.

Launch of the PCSF

Our criminal program has been similarly effective. In November 2019, the Antitrust Division launched the Procurement Collusion Strike Force (PCSF), an interagency partnership of law enforcement personnel and prosecutors across the Department of Justice leading the national fight against criminal antitrust violations and other crimes affecting public procurement. The Antitrust Division is grateful both for the support of our law enforcement partners including the United States Attorneys across the nation, and for the overwhelmingly positive response the launch has received from state and local agencies. Over 50 federal, state, and local government agencies have already sought training and assistance from the PCSF, as well as opportunities to work with the PCSF on investigations. So far, the PCSF has led over a dozen interactive virtual training programs for approximately 2,000 criminal investigators, data scientists, and procurement officials. Over a third of the Antitrust Division's current investigations relate to public procurement, and the PCSF marks an important effort to marshal enforcement resources to tackle these cases. Several grand jury investigations already have been opened as a direct result of the work of the PCSF.

The Antitrust Division also has been hard at work safeguarding competition in industries that most directly affect American consumers. The Division's criminal trials resulted in two guilty verdicts this fall against executives whose actions have cheated consumers in the food and financial markets. These outcomes are a testament to the Division's commitment to holding executives accountable for antitrust violations. In March 2020, the Division also secured against a manufacturer of generic drugs a \$195 million criminal penalty—the largest ever antitrust fine or penalty imposed in the prosecution of a purely domestic cartel. In addition, the Division obtained a \$100 million criminal penalty in April 2020 from an oncology group charged with conspiring to allocate medical and radiation oncology treatments.

New Frontiers in Competition Advocacy

Finally, the Division's competition advocacy efforts have been highly successful. Our amicus program exceeded prior expectations by filing a record 24 briefs in 2019. Although many briefs focused on disputed areas of law where the answer to a particular legal question is not clear-cut, we have earned a 12-0-1 record with 11 cases pending. The program is a testament to how the Division can leverage our limited resources for enforcement in an efficient way: Our amicus brief in *Seaman v. Duke*, a no-poach case, led us to obtain a consent decree while expending less than 1% of the resources that we would typically use to investigate a similar matter. Thanks to the experienced and talented attorneys in the appellate section, we anticipate another prolific year in 2020.

The Antitrust Division and the Federal Trade Commission also

jointly issued a draft of revised Vertical Merger Guidelines earlier this year, marking the first revamp of guidelines on this topic in over three decades. In so doing, we withdrew the DOJ's 1984 Non-Horizontal Merger Guidelines, which the Division believes no longer reflects modern economic experience. Since we first introduced the draft Vertical Merger Guidelines for public comment in January, the Division has received a great breadth and depth of comments from diverse groups. We are grateful for the level of engagement on this important topic and plan to finalize the guidelines as soon as possible in the coming month. It bears repeating, however, that although the draft Vertical Merger Guidelines describe the current enforcement practices of the agencies, the Antitrust Division will not hesitate to bring appropriate cases to the courts when necessary to safeguard competition and advance consumer welfare.

* * *

Despite the uncertainty in this moment, I am heartened by how we have responded in the fight against COVID-19 and how peaceful protestors have pursued justice in memory of Mr. Floyd. I am confident that we will conquer the challenges ahead, and remain convinced that one of the key safeguards of a vibrant and resilient economy is effective antitrust enforcement—enforcement that can adapt to rapidly changing conditions. As we embark onto the second half of this coming year, the Antitrust Division will continue to monitor pandemic developments and guidance, but do so without compromising on our mission to pursue violations of the antitrust laws on behalf of American consumers.

New Approaches in the New Decade

As we enter the 2020s, the Antitrust Division reflects on new approaches to antitrust enforcement over the past few years.

Historic Arbitration of a Merger Dispute

In March 2020, the Department of Justice prevailed in a first-of-a-kind arbitration, which resolved a civil antitrust lawsuit challenging Novelis's proposed merger with Aleris Corporation. This marks the first time the Antitrust Division has used its authority under the Administrative Dispute Resolution Act of 1996 (5 U.S.C. § 571 et seq.) to resolve a matter. The new process could prove to be a model for future enforcement actions, where appropriate, to introduce greater certainty for merging parties and to preserve taxpayer resources without compromising the Antitrust Division's enforcement mission.

As a result of the ruling, Novelis must divest Aleris's entire aluminum auto body sheet operations in North America, which will fully preserve competition in this important industry. In addition, under the terms of the arbitration agreement between defendants and the Department, Novelis must reimburse the Department for its fees and costs incurred in connection with the arbitration. See page 20 for more on Novelis.

Focus on Structural Remedies

The resolution in *Novelis* is one of the most recent examples of the Antitrust Division's focus on structural remedies. The Division has focused on structural remedies in recent years because doing

so protects competition even after the terms of a consent decree expire. These remedies also have the added benefit of ensuring ongoing competition without government intervention or regulation; the market and its participants, rather than the Antitrust Division, should drive pricing and innovation decisions. The Antitrust Division recognizes that behavioral remedies are inherently regulatory and thus undermine these aims.

The Division has also sought structural remedies to address vertical concerns in situations where the merged firm would have the incentive and ability to harm competition. For example, the Antitrust Division secured important divestitures in March 2020 in the merger between United Technologies Corporation (UTC) and Raytheon Company (Raytheon), two of the primary suppliers of certain military systems and components to the Department of Defense (DoD). To address vertical and horizontal antitrust concerns, the parties agreed to divest three separate business units. *Raytheon/UTC* is discussed in further detail on page 21.

Merger Review Process Modernization Bearing Fruit

In September 2018, AAG Delrahim outlined a series of reforms that the Antitrust Division would undergo to modernize the merger review process. As a benchmark to measure success, he committed the Division to resolve most merger investigations within six months of filing—provided that merging parties cooperate expeditiously throughout the process.



This Spring a Decade Ago

In reflecting on recent approaches, we also took a look at what the Antitrust Division accomplished a decade ago.

In April 2010, the Antitrust Division and the Federal Trade Commission [issued a draft of the Horizontal Merger Guidelines](#) to the public. After taking public comments into account, the agencies issued the revised Horizontal Merger Guidelines in August 2010.

In the same month, the Department of Justice presented the [John Sherman Award to Professor Robert Pitofsky](#) in recognition of his lifetime contributions to the protection of American consumers and the preservation of economic liberty. The award was presented during a celebration of the Antitrust Divisions' 120th Anniversary in the Great Hall of the Robert F. Kennedy Department of Justice Building. The Department of Justice looks forward to presenting the Sherman Award to Judge Douglas H. Ginsburg this fall. See page 12 to learn more.

In May 2010, the Department of Justice, the Federal Trade Commission, and the U.S. Patent and Trademark Office held a [joint public workshop on the intersection of patent policy and competition policy](#) and its implications for promoting innovation. As then-AAG Christine Varney remarked, "We will benefit from working together with our PTO and FTC colleagues to ensure that the United States is using patent and

As part of those reforms, the Antitrust Division published a model timing agreement, which, in addition to providing transparency, significantly changed how the Division approaches Second Request investigations. The Division also published for the first time a model voluntary request letter so merging parties can anticipate and collect the information and documents the Division needs. Getting that information to the Division during the initial waiting period often allows the merging parties to avoid a Second Request or to narrow the scope of a Second Request.

The Division has consistently been meeting or beating AAG Delrahim's pledge of completing the investigation phase of our merger reviews and informing the parties of the Division's position within six months. Through early 2020, in all merger investigations, the average time from the merging parties filing an HSR to the Division notifying the parties of the Division's position is 5.4 months. In merger investigations resulting ultimately in a challenge, whether a litigated court challenge or a remedy, the average time to notification is 5.7 months.

Although not every merger can be resolved in six months, the Division has taken concrete steps to reduce delay to the extent possible. As always, the merging parties themselves can exercise significant control over the timing of the merger review process.

The Launch of the Procurement Collusion Strike Force

On November 5, Assistant Attorney General Delrahim announced the launch of the Procurement Collusion Strike Force (PCSF), with the support of Deputy Attorney General Jeff Rosen.

The PCSF is an interagency partnership including prosecutors from the Antitrust Division and 13 U.S. Attorneys' Offices, along with agents from the FBI and partner Offices of Inspector General. The Strike Force was created to deter, detect, and prosecute antitrust crimes and related fraudulent schemes that undermine competition in government procurement, grant, and program funding.

Since its launch, the PCSF has generated an overwhelmingly positive response from all corners of the procurement world. Over 50 federal, state, and local government agencies have reached out to the PCSF seeking outreach training, assistance with safeguarding their procurement processes, and opportunities to work with the PCSF on investigations. Indeed, the Division's PCSF attorneys had already led over thirty in-person outreach presentations in 13 states and D.C. before the March 2020 Presidential declaration of a national emergency for COVID-19. Since then, the PCSF has led over a dozen interactive virtual training programs for approximately 2,000 criminal investigators, data scientists, and procurement officials representing nearly 500 federal, state, and local agencies. The PCSF has already resulted in the opening of several grand jury investigations.

Enhancing Corporate Compliance

In July 2019, the Antitrust Division announced a new approach to corporate compliance programs in criminal investigations. The approach is based on a recognition that strong corporate compliance programs are an important part of the effort to deter and detect antitrust crimes. After a public roundtable and careful

competition policy that maximizes the potential for innovation, which is the primary driving force of economic growth in the 21st century."

Getting to Know the DAAGs

Parties with matters in front of the Antitrust Division can visit the Division's website to see the biographies of the Principal Deputy Assistant Attorney General Bernard (Barry) Nigro, Deputy Assistant Attorneys General Rene Augustine (international and policy), Michael (Mike) Murray (appellate, litigation, merger and conduct investigations), Alex Okuliar (litigation, merger and conduct investigations), Richard Powers (criminal enforcement), and Jeffrey (Jeff) Wilder (economics).

To know them better, we asked the Deputy Assistant Attorneys General for two truths and a lie. Find the answers upside down on the next page.

Barry:

- a) I have been employed every year since 4th grade.
- b) I sailed bareboat in the Lesser Antilles with Chairman Jerome Powell and a Jesuit.
- c) I once played golf with President Clinton at Army Navy Country Club.

Rene:

- a) I was an extra in the movie *Saw 4*.
- b) I took a covered wagon across part of the Oregon Trail.
- c) I have two pro athletes in my immediate family.

deliberation, we concluded that we could do more to incentivize antitrust compliance efforts by recognizing investments in pre-existing compliance programs.

First, the Antitrust Division announced it would consider and allow for crediting corporate compliance at the charging stage in criminal antitrust investigations. When considering corporate charges, Division prosecutors now consider compliance together with all the other factors under the Principles of Federal Prosecution and the Principles of Federal Prosecution of Business Organizations, as well as our Corporate Leniency Policy. The potential credit is resolving the matter by a deferred prosecution agreement, rather than by guilty plea.

Second, the Division announced revisions to the Justice Manual reflecting this policy change and updated the Antitrust Division Manual to address evaluation of compliance programs, selection of monitors, and Division processes for recommending indictments and plea agreements.

Finally, for the first time, the Division published a guidance document that focuses on evaluating compliance programs at both the charging and sentencing stages of criminal antitrust investigations. This guidance document is intended to assist Division prosecutors in their evaluation of compliance programs, and to provide greater transparency of the Division's compliance analysis.

Amicus Program

The Division continues to deploy its amicus program as a cost-effective means of ensuring the proper implementation and development of federal antitrust laws. The amicus

program, described further on page 28, bolsters the Division's primary investigative and litigation efforts, allowing the Division to share its expertise and experiences with generalist courts and judges—some of whom may have limited experience with antitrust laws themselves. The amicus program facilitates this important information sharing at comparatively low cost. For example, the full cost (including investigation, litigation, and resolution phases) of the Division's case against Atrium Health's anticompetitive steering restrictions was at least 100 times what the Division spent in connection with its statement of interest, motion to intervene, and consent decree in *Seaman v. Duke University* regarding employee no-poach agreements. Notably, both cases involved allegations of Sherman Act violations in the healthcare industry, and both cases reached the same result from an enforcement perspective. While the Division maintains its robust investigative and litigation efforts, the amicus program can be a highly efficient use of resources in appropriate matters.

The Antitrust Division also filed its first amicus brief with several State Attorneys General in the class action case of *Stromberg v. Qualcomm, Inc.* in June 2019. In their [brief to the Ninth Circuit](#), the Division and the States argued that the district court's certification of a nationwide class of indirect purchasers under California's Cartwright Act was erroneous and undermined state and federal policies.

Promoting International Due Process

Advancing an initiative envisioned and developed by the Division, in May 2019,

Mike:

- a) I walked the runway as a model for my high school prom fashion show.
- b) My father has four brothers and four sisters, all over six feet tall, including the women.
- c) I have helped prosecute pirates.

Alex:

- a) I am an avid skier and have been heli-skiing down glaciers in Western Canada.
- b) I was nearly thrown over a wall by a bull while running with the bulls in Pamplona, Spain.
- c) The first gift my wife gave me after we met was a skydiving trip.

Richard:

- a) I was born in Germany.
- b) I made a documentary film that screened at a film festival.
- c) My brother is a fighter pilot.

Jeff:

- a) I used to run along the Tigris when stationed in Baghdad.
- b) I was born in Little Rock, Arkansas.
- c) I taught myself to pick locks as a child.

Answers: Barry c; Rene a; Mike b; Alex a; Richard c; Jeff a

New Front Office Faces

Alex Okuliar

Deputy AAG for Civil Enforcement

Alex Okuliar joined the Division after nearly five years as partner in the antitrust group of an international law firm. Alex is a

the Division worked successfully with the international competition enforcement community and the International Competition Network (ICN) to launch what is now the “Framework on Competition Agency Procedures” (CAP). The CAP is the first multilateral agreement on antitrust among antitrust enforcement agencies focused on promoting fundamental due process, such as fair and effective procedures, in competition enforcement. CAP member agencies around the world, who don’t need to be ICN members, commit to adhering to principles such as non-discrimination, transparency and predictability, confidentiality protection, appropriate notification of allegations, written enforcement decisions, and availability of independent review of decisions.

The successful launch of the CAP represents a significant milestone for global competition-law enforcement. Thus far, over 70 competition agencies, including almost every major competition agency in the world, have signed on to the framework, and the Division expects that number to continue growing. It remains a top priority for the Division to ensure China’s new agency, SAMR to be a signatory to the CAP. See page 27 and [AAG Delrahim’s speech to the Council on Foreign Relations](#) to learn more on the CAP.

The Judgment Termination Initiative

Prior to 1979, many consent decrees were perpetual, which make them prime examples of extended regulation without purpose. In recognition of the

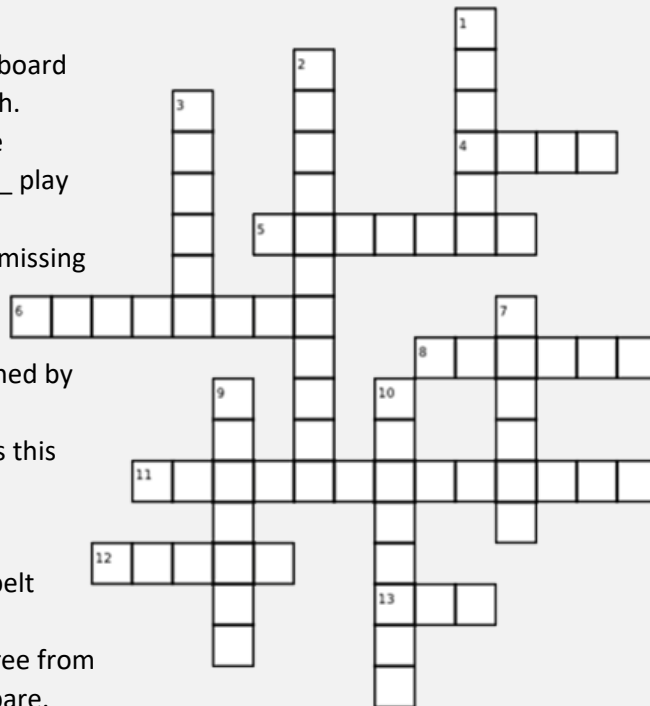
Goods or Services Involved in the Judgment Termination Initiative

Down:

1. Alabama court tosses overboard the decree for netting this fish.
2. Save your quarters. Decree regulating coin-operated ____ play their last tracks.
3. Court doesn’t slip up in dismissing this fruit decree.
7. Court pulls the rug out.
9. This seafood decree is canned by the court.
10. Delaware court detonates this 107-year-old decree.

Across:

4. PETA didn’t object to this pelt decree going out of fashion.
5. Ohio court strikes this decree from the books with no room to spare.
6. Going down. Decree now “Out of Service” for carrying grain.
8. Texas court shells this nutty 46-year-old decree.
11. Decree pushing up daisies after court buries it.
12. The day the ____ roll decree died.
13. Court thaws this 85-year-old decree.



Find the answers on page 28.

former trial attorney in the Technology and Financial Services Section and attorney advisor to FTC Commissioner Ohlhausen. He has been practicing antitrust law for roughly twenty years with a focus on merger advocacy and antitrust litigation in the technology and media sectors. Alex started an online media company with friends in college and sold it shortly before going to law school. He is a graduate of Vanderbilt University Law School and the Wharton School of the University of Pennsylvania.

Eyitayo “Tee” St. Matthew-Daniel

New York Office Assistant Chief
Eyitayo “Tee” St. Matthew-Daniel served as Counsel to the Assistant Attorney General until the end of April 2020, where her work focused on criminal antitrust matters including international cartel enforcement and compliance. From June 2015 to March 2019, Tee served as a trial attorney in the Division’s Washington Criminal II Section. She joined the Division in June 2015 from private practice in the Brussels, New York, and Washington, D.C. offices of international law firms, where she counseled clients on a range of civil and criminal antitrust issues. Tee is dual-qualified in New York and in England and Wales, and is a graduate of Harvard Law School and the University of Cambridge. She currently serves as the Acting Director of the Procurement Collusion Strike Force and was recently appointed Assistant Chief in the New York Office.

dynamism of markets, the policy of the Antitrust Division is now generally to limit any behavioral relief stemming from consent decrees to ten years.

The Judgment Termination Initiative is the Division's effort to end perpetual judgments, dating back as far as the 1890s. To date, the Division has terminated decrees in 77 of 79 affected districts across the United States. Courts terminated nearly 800 legacy judgments in total, and no court has denied the Division's request to

terminate a decree. Terminated decrees range from obsolete industries (like music rolls) to seminal antitrust cases (like *Standard Oil* and *Brown Shoe*). Some of the older decrees subject to this review include the *Paramount* decrees that relate to motion picture exhibition and the *ASCAP and BMI* decrees that to this day govern the licensing of music for public performance rights. See more about this initiative on page 16.



New Heights for the “New Madison” Approach

Over the past three years, the Antitrust Division has embarked on a multi-pronged effort to help educate and modernize the approach to antitrust and intellectual property law. Under this “[New Madison](#)” approach, the Division has cautioned against the misapplication of antitrust theories to IP disputes where a patent-holder unilaterally attempts to exercise the “exclusive Right” conferred by the U.S. Constitution. The Division has sought to foster balance in the debate between so-called patent “hold up” and “hold out.” At the same time, the Division has brought greater attention to the risk of anticompetitive coordination among members of standards development organizations.

This past year, the “New Madison” approach reached new heights as it expanded its advocacy on matters involving the application of antitrust law to intellectual property disputes.

Late last year, the Division joined the U.S. Patent & Trademark Office and the National Institute of Standards and Technology in releasing an updated [Policy Statement on Remedies for](#)

[Standards-Essential Patents Subject to Voluntary F/RAND Commitments](#), which [replaced a previous statement](#) on the same topic that was issued in 2013. That effort was the culmination of close work between staff and leadership at those three agencies. So far, the statement has been very well received as an important step toward restoring balance to the debate over the availability of injunctions for infringement of SEPs.

The Division further expanded its advocacy in federal district courts, filing statements of interest advocating for the sound application of antitrust law to intellectual property disputes. Earlier this year, in [Continental v. Avanci](#), the Division argued that alleged breaches of FRAND obligations do not give rise to monopolization claims, and in [Intel v. Fortress](#), the Division argued against an assertion that antitrust law barred the defendant's efforts to aggregate and to monetize patent rights. Consistent with its words of warning against anticompetitive conduct in standards development organizations, the Division's statement of interest in [NSS](#)

Elyse Dorsey Counsel to the AAG

Elyse Dorsey serves as Counsel to the Assistant Attorney General. Elyse advises the AAG on a wide array of legal and policy matters, primarily relating to the Division's appellate and amicus brief programs, international work, and IP and technology-related issues. Elyse joined the Division from the Federal Trade Commission, where she was an Attorney Advisor to Commissioner Noah Joshua Phillips. Prior to that, Elyse practiced at an international law firm and clerked on the U.S. Court of Appeals for the Fifth Circuit for Judge E. Grady Jolly. Elyse earned her law degree *summa cum laude* from Antonin Scalia Law School at George Mason University—where she frequently teaches antitrust classes—and her undergraduate degree *summa cum laude* from Clemson University.

William Sloan Counsel to the AAG

William Sloan served on detail as Counsel to the Assistant Attorney General until the end of February 2020, where his work focused on criminal antitrust matters, including serving as the first Director of the recently-formed Procurement Collusion Strike Force. From 2014 to 2018, he served as an Assistant U.S. Attorney in the Eastern District of Virginia, and from 2018 to the present as an Assistant U.S. Attorney in the Eastern District of Michigan. Prior to joining the Department of Justice, he worked as an associate in the Washington, D.C. office of an international law firm and also

[Labs v. CrowdStrike](#) emphasized that illegal group boycotts among standards participants may be subject to the per se rule.

The Division also was active in significant cases pending in federal courts of appeals. In October 2019, the Division filed a joint amicus brief with the U.S. Patent and Trademark Office in [HTC v. Ericsson](#), now pending in the Fifth Circuit, advocating against a rigid understanding of what FRAND requires patent-holders to offer licensees. Specifically, the agencies argued the court should not adopt a rule that would unnecessarily limit the use of prior licensing evidence in FRAND disputes, or that would require FRAND

licenses to take a particular form. Moreover, after careful consideration, the Division filed an amicus brief in late 2019 in [FTC v. Qualcomm](#), now pending in the Ninth Circuit, arguing that the district court's ruling improperly applied Section 2 of the Sherman Act to condemn unilateral licensing activity in a manner that threatens competition and innovation

With the success of the "New Madison" project, the Antitrust Division expects to continue its public advocacy in the coming year. Our goal is to promote dynamic competition and incentives for innovation, consistent with the ingenious framework for the patent system that the Founders created.



Assistant Attorney General Awards

In January 2020, AAG Delrahim recognized the outstanding accomplishments of the Division's staff at the Division's Assistant Attorney General Awards ceremony. After opening remarks from AAG Delrahim,

the Deputy Assistant Attorneys General and Senior Director for Investigations and Litigation presented the awards. The ceremony gave the Division a chance to acknowledge fifteen individuals and nine teams that went



Makan Delrahim delivers remarks at the annual Assistant Attorney General Awards ceremony in January 2020. The ceremony was held this year in the Great Hall of the Robert F. Kennedy Department of Justice Building. Find the [full list of honorees](#) on our website.

served as a law clerk to the Honorable Richard J. Leon of the U.S. District Court for the District of Columbia. Before attending law school, he served in the U.S. Marine Corps as an infantry officer and deployed twice to Iraq. He is a graduate of Georgetown University Law Center and Princeton University.

Kristina Srica

Counsel to the AAG

Kristina Srica serves as Counsel to the Assistant Attorney General, where her work focuses on a range of criminal antitrust matters. She has served in a number of other positions since joining the Antitrust Division through the Attorney General's Honors Program in 2012, including as a trial attorney in both the New York Office and Washington Criminal I Section, and as a Special Assistant to the Directors of Civil and Criminal Enforcement. As a trial attorney, Kristina investigated and prosecuted a variety of domestic and international cartel cases in a broad span of industries, including financial markets and generic drugs. She also served as a Special Assistant United States Attorney with the U.S. Attorneys' Offices for the District of Columbia and the Eastern District of Virginia, where she litigated a broad range of criminal cases. Kristina is a graduate of Hofstra University and Brooklyn Law School.

Cecilia Cheng

Rill Fellow of the Antitrust Division

Cecilia Cheng is the inaugural Rill Fellow of the Antitrust Division and joined the Division in 2019

above and beyond in their advocacy for competition and for American consumers. These recipients worked on successful criminal trials, matters where merging parties forced the Division's teams to go to court, complex and

intensely negotiated merger settlements, precedent-setting civil conduct litigation, groundbreaking international negotiations, and top-notch appellate work, among other things.

In Memoriam: Wayne Dunham

One of the employees recognized in the AAG Awards ceremony this January was economist Wayne Dunham. Wayne's passing at the end of 2019 left a hole in the Antitrust Division and its Economic Analysis Group. In his quarter century with the Antitrust Division, Wayne's influence in shaping modern antitrust could not be missed. He aided in the development of theories of competitive effects by supporting many of the Division's testifying experts and making his own presentations on tying and vertical foreclosure. The Division consistently relied on Wayne for high profile matters and consent decrees—but one of Wayne's most enduring contributions came in one of his very first cases: the Antitrust Division's Section 2 case against Microsoft. This was the first major case to revolve around both network effects and potential competition, topics impossible to escape in today's antitrust circles.

While the Division will certainly miss Wayne's incredible substantive contributions to our work, we will miss his wry sense of humor and his passion even more. He was a generous colleague whose open door helped shape many of the next generation of Division economists. It was with much sadness that we learned of Wayne's passing, and we are grateful for his decades of public service.



Wayne Dunham
Economist

Attorney General Awards

The Division is excited to congratulate the two teams of attorneys who were honored with the Attorney General's Award for Distinguished Service for their work on important enforcement initiatives for the Antitrust Division. We also celebrated those honored with the John Marshall Award, the Department's highest award for attorneys, for their work supporting the Antitrust Division's Judgment Termination Initiative. The Attorney General bestowed these awards at a ceremony last October.

Kevin B. Hart, Ken Sakurabayashi, Katie Stella, Bobby Lepore, Dick Doidge, John

Holler, Jonathan Silberman, and Ryan Tansey received the Attorney General's Award for Distinguished Service for their work on the Korea fuels parallel investigations. As a result of the Division's investigation of a decade-long bid-rigging conspiracy that targeted contracts to supply fuel to U.S. military bases in Korea, five oil companies agreed to plead guilty and seven individuals were indicted. In total, the companies have agreed to pay \$156 million in criminal fines and over \$236 million in separate civil settlements. These settlements were the first

through the Attorney General's Honors Program. She spends the first year of the fellowship in the Office of the Assistant Attorney General, where her work focuses on a range of antitrust matters related to the international program and to civil litigation. As a summer intern in the San Francisco Office of the Division, Cecilia also worked on criminal antitrust matters involving bid rigging. Prior to joining the Division, Cecilia was a law clerk for the Honorable Douglas H. Ginsburg of the D.C. Circuit Court of Appeals. She developed an interest in antitrust law before attending law school, when she worked as a senior analyst at an economic consulting firm specializing in expert testimony for antitrust litigation. Cecilia is a graduate of the University of California, Berkeley and Yale Law School.

The Sections of the Division

The Antitrust Division could not accomplish its mission of protecting competition without the dedication of its section members. These attorneys and economists represent the interests of the United States every day and serve as caretakers of the antitrust laws. The Antitrust Division expresses its thanks to all the employees who comprise the Division. It also extends congratulations to those who have been promoted to positions of leadership this year. Their names are marked with an asterisk (*).



The Department of Justice honors attorneys from the Antitrust Division with the Attorney General's Award for Distinguished Service for their investigation into the electrolytic capacitors industry. The team uncovered a wide-ranging price-fixing conspiracy which yielded guilty pleas and criminal fines totaling over \$150 million.

significant Section 4A settlements in many years and the largest on record.

Katrina Rouse, Christopher Carlberg, Mikal Condon, Thomas Greene, Paradi Javandel, Jacklin Lem, Kelsey Linnett, Andrew Mast, Howard Parker, Alexandra Shepard, Celestine Susi, Edward Bernard, Peter Woodward, and Linda Van Stavern received the Attorney General's Award for Distinguished Service for their work on electrolytic capacitors. Electrolytic capacitors are a ubiquitous component of consumer electronics, including computers, televisions, and car engine system. The team's investigation into the industry's wide-ranging price-fixing conspiracy led to charges against eight companies and ten individuals. The team successfully prosecuted all eight companies, securing guilty pleas and criminal fines totaling over \$150 million.

Finally, **Dorothy Fountain, Mark Niefer, Hillary Snyder, Larry Reicher, Barry Creech, Justin Dempsey, Mark Merva, Cameron Gower, Ryan Karr, and Kara Kuritz** received the John Marshall Award, the Department's highest award for attorneys, for their work supporting the Judgment Termination Initiative. The team worked to terminate perpetual consent decrees dating back to the 1890s that have languished on the books and records of the Department and court dockets. To date, the effort has led to the termination of hundreds of legacy judgments in over seventy district courts across the country. For more on this initiative, see page 7.

The Division is proud of the recognition our staff received, and thanks the team members who supported them. We are privileged to work with each one of these talented and dedicated individuals.

Appellate Section

Chief Daniel Haar*, Assistant Chief **Robert B. Nicholson**, Assistant Chief **Stratton Strand**
Staff Attorneys: Adam Chandler, Andrew N. Delaney, Kathleen S. Kiernan, Patrick Kuhlmann, Bryan Leitch, Nickolai Levin, Matthew C. Mandelberg, Steven Mintz, Jeffrey Negrette, Robert Wiggers, Mary Helen Wimberly

Chicago Office

Chief Kalina M. Tulley, Assistant Chief **Daniel W. Glad***, Assistant Chief **Michael Loterstein**
Staff Attorneys: Chester Choi, Jonathan Clow, Kevin Culum, Elizabeth Homan, Robert Jacobs, Meagan Johnson, Ruben Martinez, Jr., Arefa Patel, Jane Phillips, Jill Rogowski, Andrew Rosa, Vivian Saphavee, Eric Schleef, Carla Stern, Sandra Talbott, Jason Turner

Competition Policy and Advocacy Section

Chief David Lawrence*, Assistant Chief **Karina B. Lubell***
Staff Attorneys: Mac Conforti, Jennifer Dixon, Eric Dunn, Erica Mintzer, Charles Ramsey, Douglas Rathbun

Defense, Industrials, and Aerospace Section

Chief Katrina Rouse*, Assistant Chief **Jay Owen***, Assistant Chief **Doha Mekki***
Staff Attorneys: Erin Carter Grace, Jeremy Cline, Thomas DeMatteo, James Foster, Kerrie Freeborn, John Greaney, Stephen Harris, Christine Hill, Dan Monahan, Catherine Montezuma, Gabriella Moskowitz, Samer Musallam, Veronica Onyema, Fred Parmenter, Kevin Quin, Blake Rushforth, Lowell Stern,

The Sherman Award

In October 2020, the Department of Justice will present the Honorable Douglas H. Ginsburg with the John Sherman Award. The Award represents the Department's highest antitrust honor, given in recognition of lifetime contributions to the development of antitrust law and the preservation of economic liberty.

Of his many notable contributions to the field, Judge Ginsburg elevated the role of economic analysis in antitrust enforcement by expanding the Division's economics section and by creating the position of the Deputy Assistant Attorney General for Economic Analysis during his tenure as the Assistant Attorney General of the Antitrust Division. His jurisprudence and scholarship further reflect the intellectual rigor that has marked his distinguished career. He was an influential judge on the landmark *United States v. Microsoft* case in 2001, and the case remains foundational to understanding competition in high-tech



Three Assistant Attorneys General of the Antitrust Division. Pictured L-R: Makan Delrahim, James F. Rill, and the Hon. Douglas H. Ginsburg.

markets. Judge Ginsburg's antitrust scholarship is widely admired, and his academic works—ranging in topic from the application of antitrust law in a changing economy to the effects of extra-jurisdictional remedies—tackle complex questions and continue to influence students, enforcers, and practitioners alike.

The Department of Justice looks forward to presenting Judge Ginsburg with the award this fall.

Spotlight on Women in Leadership

The Antitrust Division is committed to supporting the many women who help advance the Division's mission. Within the past year, the Division has welcomed several women to new roles, including in senior leadership positions.

Rene Augustine

The Division named Rene Augustine as the new DAAG in charge of international and policy matters in July 2019, a position to which she was formally appointed in January 2020. Augustine served most recently as Senior Counsel in the Antitrust Division's Front Office, overseeing both the Competition Policy and Advocacy Section and the Media, Entertainment, and Professional Services Section. Augustine has previously served in all three branches of government and in the private sector.



Rene Augustine
Deputy Assistant Attorney
General

Angela Yuen Yuk Ting, Rebecca Valentine, Bashiri Wilson

Economic Analysis Group

Economic Litigation Section:
Chief Norm Familant, Assistant Chief Ari Gerstle*

Economic Policy Section: Chief Aditi Mehta*, Assistant Chief Evan Gee*

Economic Regulatory Section: Chief Beth Armington, Assistant Chief Nathan Goldstein*

Economic Advisor: Ron Drennan*

Staff economists: Robin Allen, Danial Asmat, John Bender, Ross Brater, Jacob Burgdorf, Brian Clark, Haru Connolly, Patrick Greenlee, Jenny Ho, Helen Knudsen, June Lee, Jeff Lien, Peggy Loudermilk, Matthew Magura, Sue Majewski, Levi Marks, Dimitry Mezhvinsky, Deborah Minehart, Diane Owen, Craig Peters, Russ Pittman, Joseph Podwol, Yin Jia (Jeff) Qiu, Alex Raskovich, Michael Sandfort, Jenny Shanefelter, Jessica Stahl, Yair Taylor, Tom Whalen, Tor Winston, Zhongmin Wang, Peter Woodward, Fan Zhang

Staff Financial Analysts: Joanne Legomsky, John Griffin

Healthcare and Consumer Products Section

Chief Eric Welsh*, Assistant Chief Jill Maguire*, Assistant Chief Andrew Robinson*

Staff Attorneys: Jesus Alvarado-Rivera, Shobitha Bhat, Barry Creech, Justin Dempsey, Nate Harris, Justin Heipp, Chris Hong, Barry Joyce, David Kelly, Karl Knutsen, Garrett Liskey, John Lohrer, Natalie Melada, Catherine Reilly, David Stoltzfus, Brandon Storm, Julie Tenney, Chris Wetzel

Favorite part of the new role: “I love my job, especially because the international and policy programs at the Division cover an incredibly broad range of issues and give me an opportunity to engage with so many bright and interesting people.”

Best professional advice you’ve received: “I have been fortunate to receive lots of great advice from mentors during the course of my career. Two pieces of advice stand out: 1) When opportunity knocks, open the door; and 2) Seek a diversity of experience in your career—it will enhance your judgment and make you more effective in whatever you are doing.”

Kathy O’Neill

In July 2019, the Division also welcomed Kathy O’Neill as the Senior Director of Investigations and Litigation. O’Neill has been with the Antitrust Division for 12 years, and most recently served as Chief of the Antitrust Division’s Transportation, Energy, and Agriculture Section. In her new role, she serves in the Front Office as the senior-most career civil antitrust attorney, with responsibility over all civil merger and conduct investigations and litigation.



Kathy O’Neill
*Senior Director of
Investigations and
Litigation*

Favorite part of the new role: “In my time at the Division, I’ve had the good fortune to work on a wide variety of matters and issues and to serve as the Chief of a terrific and very busy section. In my new role, I am really enjoying getting to bring that experience to bear across the full portfolio of civil case work. I’m also enjoying working with a broader set of folks. I love working with people who care deeply about the mission, who enjoy grappling with challenging legal issues and working up the cases. The Division is full of people like that and now I get to work with even more of them.”

Best professional advice you’ve received: “Two great pieces of advice: #1. Hard work pays off—this is a lesson instilled by my parents that has become central to my personal ethos. #2. It’s all about the people—if you enjoy the people you work with and care about what you do for a living, it makes all the difference.”

Women Making History

During Women’s History Month last year, the Division honored the role of women in antitrust leadership by formally dedicating the Anne K. Bingaman Auditorium & Lecture Hall at the Department of Justice’s Liberty Square Building. Anne Bingaman was the first female Assistant Attorney General (AAG) for the Antitrust Division, serving from 1993 to 1996 after being appointed by President Clinton. The dedication of the auditorium recognizes Bingaman’s many contributions to protecting competition on behalf of American consumers. During her tenure, the Division investigated Microsoft’s monopolization of PC operating systems and charged 24 major NASDAQ securities firms with fixing transaction costs for investors. We are grateful for Bingaman’s reinvigoration of the Division’s

International Section

**Chief Lynda Marshall, Assistant
Chief Caldwell Harrop, Assistant
Chief Michelle Rindone**

Staff Attorneys: Aimee Imundo,
Melanie Krebs-Pilotti, Caroline
Laise, Tim Longman, Sharon
Mann, Leah McCoy
Technical Assistant Coordinator:
Devon Mahoney (Ret. FBI)

Media, Entertainment, and Professional Services Section

**Chief Owen Kendler, Assistant
Chief Lisa Scanlon, Assistant
Chief Yvette Tarlov**

Staff Attorneys: Meagan
Bellshaw, Lee Berger, Brittney
Dimond, Cory Brader Leuchten,
Mona Haar, Steven Kramer,
Sarah Licht, Gregg Malawer,
Anthony Mariano, Bennett
Matelson, Mark Merva, Lily
Okamuro, John Read, Kate Riggs,
Lauren Riker, Ethan Stevenson,
Paul Torzilli, Jeffery Vernon,
Mimi Vishio, Rachel Zwolinski

New York Office

**Chief Joseph Muoio, Assistant
Chief Eyitayo (Tee) O. St.
Matthew Daniel*, Assistant
Chief Carrie Syme***

Staff Attorneys: Philip D.
Andriole, Bryan Bughman,
Katherine Calle, Mary Anne
Carnival, Helen Christodoulou,
Milosz Gudzowski, Paola Henry,
Eric Hoffmann, Kathryn Kushner,
Ann Lucas, Christopher Maietta,
Rebecca Meiklejohn, Stephanie
Raney, Bryan Serino, Steven
Tugander

Office of Civil Operations

Chief Amy Fitzpatrick
Counsel for Civil Operations:
Soyoung (Jenny) Choe, Tracy
Fisher

enforcement efforts, as well as her inspiration to future generations of female antitrust attorneys.

This year, the Division had planned to celebrate the one-year anniversary of the dedication of the Anne K. Bingaman Auditorium & Lecture Hall by hosting a Women's History Month celebration at the Hall in March 2020. Although we were unable to host the event due to the COVID-19 pandemic, it would have been a wonderful chance to celebrate the promotion of our many women leaders into management roles this year. We are proud to announce the following promotions or additions since April 2019:

Office of the AAG: Elyse Dorsey (Counsel to the AAG), Kristina Srica (Counsel to the AAG), Cecilia Cheng (Rill Fellow); Office of Civil Operations: Amy R. Fitzpatrick (Chief); Competition Policy and Advocacy: Karina B. Lubell (Assistant Chief); Defense, Industrials, and Aerospace: Katrina Rouse (Chief); Economic Policy: Aditi Mehta (Chief); Healthcare and Consumer Products: Jill Maguire (Assistant Chief); New York Office: Eytayo (Tee) O. St. Matthew Daniel (Assistant Chief), Carrie Syme (Assistant Chief); San Francisco Office: Leslie Wulff (Assistant Chief), Mikal Condon (Senior Litigation Counsel for Criminal Enforcement); Transportation, Energy, and Agriculture: Katherine Celeste (Assistant Chief), Patricia Corcoran (Assistant Chief).

Spotlight: Women Leaders in *Sabre*

In August 2019, the Antitrust Division sued to block Sabre's \$360 million acquisition of Farelogix, alleging the acquisition would eliminate a disruptive competitor from the market for airline booking services, which allow airlines to process orders from travel agencies. The Division argued the acquisition would eliminate competition from Farelogix, an innovative firm whose unique approach challenged Sabre's longstanding position as the leading provider of booking services in the United States. Despite its small market share, Farelogix presents an important alternative for airlines, allowing them to negotiate better terms. For consumers who travel, Farelogix's next-generation booking services enhance choice and otherwise improve the travel experience. Although the District Court of Delaware ultimately denied the Division's request for injunctive relief, the U.K. Competition and Markets Authority issued a statement blocking

the transaction in April 2020 and the parties abandoned the transaction in May 2020. The Division has since moved to vacate the district court's decision granting judgment to defendants.

Throughout the eight-day trial, the Division benefited from the excellent lawyering of the trial team, including several women who held key roles. This paralleled the contributions of women leaders during the investigation.

Julie Elmer (Attorney, TFS), the litigation lead, delivered the Division's opening statement, speaking for nearly thirty minutes to a courtroom packed with members of the antitrust bar and members of the press. No stranger to the role, *Sabre* marks Elmer's second effort leading a trial team at the Division, following the 2017 trial in *United States v. Energy Solutions*, where she led the successful challenge to the

Office of the Chief Legal Advisor Chief Dorothy Fountain, Deputy Chief Mark Niefer, Deputy Chief Sarah Oldfield

Staff Attorneys: Nina Hale,
Kenneth Hendricks, Evan
Perlman, Hillary Snyder

San Francisco Office

Chief Manish Kumar, Assistant Chief Jacklin Lem, Assistant Chief Leslie Wulff*

Senior Litigation Counsel for
Criminal Enforcement: Mikal
Condon

Staff Attorneys: Zachary
Abrahamson, Christopher
Carlberg, Pam Cole, Jeremy
Goldstein, Thomas Greene,
Jennifer Hane, Philander Huynh,
Paradi Javandel, Elizabeth
Jensen, Andrew Mast, Nolan
Mayther, Arshia Najafi, Howard
Parker, Michael Rabkin, Ken
Sakurabayashi, Albert Sambat,
Andrew Schupanitz, Alexandra
Shepard, Anne Veldhuis

Technology and Financial Services Section

Chief Aaron Hoag, Assistant Chief Danielle Hauck, Assistant Chief Adam Severt

Staff Attorneys: Paul Andrew
Allulis, Brendan Ballou-Kelley,
Sarah Bartels, Bindi Bhagat,
Michael Eric Blaisdell, Samuel
Blesi, Janet Brody, Kent Brown,
Jessica Butler-Arkow, Sean Kevin
Carman, Travis Chapman, Nick
Cheolas, Alex Cohen, Aaron
Comenetz, Vittorio Cottafavi,
Erin Craig, Milly Dick, Christopher
Dodge, Julie Elmer, Gary Daniel
Feldon, David A. Geiger, Richard
Cameron Gower, Leah Graham,
Daniel Guarnera, Adrienne Hahn,
Karl Herrmann, Ian Hoffman,
John Hogan, Ryan Karr, Ihan Kim,
John Lindermuth, Alisa Mastro,

merger of two radioactive waste disposal firms.

After serving as the investigative lead for the case, **Rachel Flipse** (Attorney, TEA) took on another key role during the trial by questioning an executive from United Airlines. Her deep knowledge of the case was reflected in deft questioning that continued during her redirect examination. As part of leading the months-long investigation, Flipse logged countless miles preparing the Division's case, which involved cultivating third-party witnesses and serving as the Division's point of contact with the U.K. Competition and Markets Authority.

Katie Celeste (Ass't Chief, TEA) presented another customer witness, an executive from American Airlines.

Tasked with outlining the background of airline booking services and illustrating how consumers have benefitted from competition between Sabre and Farelogix, Celeste set the tone on the first day of trial by methodically eliciting helpful testimony for the Division's case.

Finally, **Diamond Trinh** (Acting Paralegal Supervisor, TEA), led the outstanding paralegal group that supported the action in the courtroom. Without her troubleshooting and pragmatic approach to problem solving, the trial would not have proceeded nearly as smoothly.

The Division commends the entire trial team and these women for their exceptional work in this important case.

Inaugural James F. Rill Fellowship Award

The Division is proud to announce that Cecilia Cheng has joined us this fall in the Office of the Assistant Attorney General as the inaugural James F. Rill fellow. The Rill Fellowship was established in honor of James F. Rill, who served as Assistant Attorney General for the Antitrust Division from 1989-1992.

Cecilia joins the Division following her clerkship with the Honorable Douglas H. Ginsburg of the U.S. Court of Appeals for the D.C. Circuit. In this one-year assignment in the Front Office, she has gained broad exposure to the priorities of the Antitrust Division and acted in a counsel capacity for several projects, especially related to the international program. In addition to serving as an attorney-advisor, Cecilia has made important contributions to the Division's litigation and advocacy efforts, including preparing amicus briefs and motions for our civil cases. Cecilia is a graduate of Yale Law School and earned her bachelor's degree in economics and legal studies from the University of California, Berkeley. Cecilia was also a 2016 summer intern in the Division's San Francisco office.

Candidacy for the Rill Fellowship is open to all eligible Attorney General's Honors Program applicants. The Fellowship is designed to provide elite Honors Program candidates with a special opportunity to participate in antitrust enforcement actions and in the development and implementation of antitrust policy. It begins with a



Cecilia Cheng
James F. Rill Fellow

Michael McLellan, Richard Mosier, George C. Nierlich, III, Daniel Anthony Principato, Sophia Siddiqui, Patricia Sindel, Chinita Sinkler, Christine Sommer, Ryan Struve, David Teslicko, Jr., Jennifer Wamsley, Michael Wolin, Catharine Wright

Telecommunications and Broadband Section

Chief Scott Scheele, Assistant Chief Matthew Hammond*, Assistant Chief Jared Hughes
Staff Attorneys: Zeynep (Elif) Aksoy, Dylan Carson, Maureen Casey, Alvin Chu, Marisa Dieken, Robert Draba, Elizabeth Gudis, Matthew Jones, Jack O'Gorman, Scott Reiter, Deborah Roy, Curtis Strong, Carl Willner, Frederick Young

Transportation, Energy, and Agriculture Section

Chief Robert Lepore*, Assistant Chief Katherine Celeste*, Assistant Chief Patricia Corcoran*
Staff Attorneys: Benjamin Able, Don Amlin, Grant Bermann, Michele Cano, Barbara Cash, Tracey Chambers, Richard Doidge, Jeremy Evans, Rachel Flipse, Brian Hanna, John Holler, Amanda Klovers, Michelle Livingston, William Martin, Chan Mazumdar, Sarah McDonough, Mark Meador, Michael Nash, Jill Ptacek, Scott Westrich, Seth Wiener

Washington Criminal I Section

Chief Ryan Danks, Assistant Chief Emma Burnham, Assistant Chief Kevin Hart
Staff Attorneys: George Baranko, Lauren Elfner, John Elias, Danielle Garten, Richard Hellings, Yusong Huang, Jason Jones, Diana Kane,

one-year assignment in the Office of the Assistant Attorney General, after which the Fellow may choose two additional six-month assignments in one of the Antitrust Division's sections.

Diversity in the Division

This year marks the tenth anniversary of the Antitrust Division's Diversity Committee, which continues to be a leader in the Division and the Department of Justice on diversity and inclusion efforts. The Diversity Committee brings together Division employees from a variety of sections and offices to promote diversity and inclusion initiatives. Its work stems from five subcommittees: Disability; Management Culture, Retention, and Training (MCRT); Outreach; Support Staff; and a newly created Women's Subcommittee.

In the past year, the Diversity Committee organized two diversity celebrations featuring former FTC Chairwoman Edith Ramirez and former U.S. Treasurer Anna Escobedo Cabral. These celebrations recognized the tireless work of the Diversity Committee and highlighted the experience of the speakers to illustrate the Division's strong commitment to diversity and inclusion.

The Diversity Committee also invited Dr. Kay Redfield Jamison, Co-Director of the Mood Disorders Center and professor at Johns Hopkins University, to speak as part of the Division's "Disability and Inclusion Speaker Series." This award-winning Series, recognized by the Attorney General in 2018 with the Department's Award for Equal Employment Opportunity, features prominent individuals in an effort to increase awareness of attitudinal barriers that impact people with disabilities. Dr. Jamison is one of



L-R: Matthew Hammond (Ass't Chief, Telecommunications and Broadband Section), AAG Makan Delrahim, former U.S. Treasurer Anna Escobedo Cabral, and Michelle Rindone (Ass't Chief, International Section). Hammond and Rindone served as Co-Chairs of the Diversity Committee this past year. Not pictured: Tee St. Matthew-Daniel (Ass't Chief, New York Office), who rotated in as a Co-Chair earlier this spring.

the foremost authorities in the world on mood disorders, such as depression and bipolar disorder, and also happens to have bipolar disorder herself. This was the first time that the Series featured a non-lawyer, as well as the first time it highlighted the important dialogue on mental health.

The new Women's Subcommittee worked closely with the Division's Career Development Working Group and Executive Office to encourage the reimbursement of breast milk express shipping costs for nursing mothers on official travel and to finalize an "Expecting and New Parent Q&A." These important efforts complement the National Defense Authorization Act of 2019, which provides 12 weeks of

Matthew Lunder, Justin Murphy, Carsten Reichel, Jariel Rendell, Tara Shinnick, Carolyn Sweeney, Matthew Tannenbaum, Zachary Trotter

Washington Criminal II Section

Chief James Fredricks, Assistant Chief Mark Grundvig, Assistant Chief Megan Lewis

Staff Attorneys: Christina Brown, Patrick Brown, Laura Butte, Heather Call, Patrick Hallagan, Michael Koenig, Daniel Lipton, Julia Maloney, James Ryan, Matthew Stegman, Katherine Stella, William Vigen

Director's Cut

The Antitrust Division continues to review legacy antitrust judgments to determine potential candidates for termination. This initiative recognizes that some consent decrees reflect an outdated view of the economic realities in dynamic industries, and may no longer serve their original purpose of protecting competition.

The *Paramount* Decrees

Seven major film studios of the 1930s and 1940s conspired to control the distribution and exhibition markets for first-run films. Following a decade of litigation and a 1948 Supreme Court decision, the so-called *Paramount* decrees regulated anticompetitive practices like block booking, circuit dealing, resale price maintenance of movie tickets, and over-broad film clearance. After a thorough investigation and a public



The Paralegal Flash Mentoring Program provided critical connections and career counseling for Division paralegals.

paid parental leave for federal employees.

The Diversity Committee also reinvigorated its outreach and retention efforts by conducting a Paralegal Flash Mentoring Program, and organizing “Intern Day,” which brought together all Division summer interns (including from the Division’s three field offices) on a single day in Washington, D.C. to meet with the Front Office and employees from other parts of the Division, as well as to attend a Department career fair.

Finally, the Diversity Committee coordinates the Division’s participation in the Department-wide Diversity and Inclusion Dialogue Program (DIDP). In existence since 2014, DIDP facilitates a six-month long dialogue about diversity amongst small groups of Department employees and provides tools to promote a more inclusive workplace. Eighteen Antitrust Division employees participated in DIDP this year, with three serving as DIDP facilitators.

Find more information about the Division’s Diversity Committee on the [Diversity](#) page on our website.

Civil Program Update

‘Class Is Now in Session’: Protecting Competition in Higher Education

In 2019, matters involving competition in higher education played an important role in the Division’s enforcement and competition advocacy work.

On December 12, the Division [announced a civil antitrust lawsuit and simultaneous consent decree](#) alleging that the National Association for



Photo credit: Lincoln Beddoe/iStock/Getty Images Plus

College Admission Counseling (NACAC) established and enforced illegal restraints on the ways that colleges compete in the recruiting of students. NACAC is the leading trade association

comment period, the Antitrust Division moved for termination of the 70+ year-old decrees in November 2019 because they have served their original purposes and no longer promote or protect competition and innovation in an industry that has faced fundamental economic changes. The motion remains pending in the Southern District of New York.

ASCAP/BMI

Similarly, the Antitrust Division continues its review of the 75+ year-old ASCAP/BMI decrees regarding public performance music licensing. The decrees were entered to address competitive concerns arising from the market power each organization acquired through the aggregation of public performance rights held by member songwriters and music publishers. The Division’s review, which began in June 2019, will determine whether the decrees should be maintained in their current form, modified, or terminated. The Antitrust Division received numerous suggestions during the public comment period and it continues to engage with interested parties to determine the proper result.

Live Nation/Ticketmaster

In 2019, the Antitrust Division determined Live Nation and Ticketmaster were not living up to the terms of their 2010 consent decree with the Antitrust Division, which specified conditions for their merger. In light of the parties’ conduct, the Antitrust Division moved, with the agreement of Live Nation, to extend and modify the decree in December

related to the college admissions process. Its members include nonprofit colleges and universities and their admissions staff, as well as high schools and their counselors.

The Division's complaint challenged NACAC rules that (i) prevented colleges from affirmatively recruiting potential transfer students from other schools; (ii) forbade colleges from offering incentives, financial or otherwise, to Early Decision applicants; and (iii) limited the ability of colleges to recruit incoming first-year students after May 1. The Division alleged that the rules were not reasonably necessary to any separate, legitimate procompetitive collaboration between NACAC members.

The final judgment required NACAC to remove the three anticompetitive rules from its Code of Ethics and Professional Practices (CEPP), which broadly

regulates how its college members conduct their admissions process. The trade association also is further restrained from establishing or enforcing any similar rules in the future, and has agreed to increase its antitrust compliance training with employees and members. As a result of the Division concerns, NACAC members voted to remove the rules at their Annual Meeting in September 2019. A federal district court entered final judgment against NACAC on April 17, 2020.

Decisions about whether and where to pursue higher education are among the most important that American families undertake. The NACAC enforcement action underscored not only the value of competition in higher education, but also that the antitrust laws must be enforced vigorously with respect to trade associations and standards development organizations.

Protecting American Workers

Public Workshop on Competition in Labor Markets

On September 23, 2019, economists, lawyers, academics and other experts from government, universities, labor unions, advocacy groups, and the private sector convened for [a public workshop](#) organized by the Division on the role of antitrust enforcement in labor markets and promoting robust competition for the American worker.

Assistant Attorney General Makan Delrahim opened the workshop by noting that workshops afford "the opportunity to have a candid substantive dialogue with stakeholders and thought leaders to ensure that we have the benefit of their expertise and

experience." In this spirit, the workshop featured a presentation on the economics of labor markets delivered jointly by Professor Ioana Marinescu of the University of Pennsylvania's School of Social Policy & Practice and Professor Elena Prager of Northwestern University's Kellogg School of Management. The workshop's three panels explored market definition, how antitrust enforcers should assess restraints on worker mobility, including restraints that arise within franchise systems and for workers in the "gig" economy, and developments in case law and public policy regarding statutory and non-statutory labor exemptions from the antitrust laws for collective bargaining and other union activity. Between the morning and

2019. Under the terms of the agreed modification, the decree will continue for five and a half more years, clarify prohibited practices such as retaliating or threatening venues for not using Ticketmaster, and also provide for easier detections of violations through terms such as adding a monitor to police conduct.

The Antitrust Division has also filed statements of interest in matters involving the entertainment industry this past year.

WME v. Writer's Guild

In November 2019, the Division filed a statement of interest in *William Morris Endeavor Entertainment, LLC v. Writers Guild of America, West, Inc.*, a suit between two talent agencies and two screenwriters' unions, urging the court to reject the defendants' argument that they could apply the labor exemptions from the antitrust laws at the pleading stage of this case. The Division argued development of the factual record was necessary to ensure both that the federal antitrust laws and the labor exemptions from those laws were afforded their proper scope, and that the fundamental, national values protecting competition that the federal antitrust laws embody were not improperly displaced. The court ultimately denied defendants' motion to dismiss or, in the alternative, motion for judgment on the pleadings.

GMR v. RMLC

The Division submitted a statement of interest in



During Antitrust Division's Public Workshop on Competition in Labor Markets, a moderated panel explored recent developments in case law and economic literature on how to assess restraints on worker mobility. From L-R: Karina Lubell (Attorney, Competition Policy and Advocacy Section), Randy Stutz (American Antitrust Institute), Samuel Weglein (Analysis Group), Marshall Steinbaum (Ass't Professor, University of Utah), Rahul Rao (Ass't Attorney General, Washington State Attorney General), Rachel Brass (Gibson, Dunn & Crutcher LLP), Darrell Johnson (FransDATA), Doha Mekki (Counsel to the Ass't Attorney General).

December 2019 in *Global Music Rights, LLC v. Radio Music License Committee, Inc.*, to address allegations of a buyers' cartel relating to public-performance licenses for radio stations. The Division explained that buyers' cartels, while arising less frequently in antitrust case law than sellers' cartels, can be just as pernicious and harmful to competition and consumers. The Division also articulated the requirements for successfully alleging unlawful price fixing. The district court ultimately denied RMLC's motion for judgment on the pleadings, holding GMR had sufficiently alleged an unlawful buyers' cartel.

afternoon sessions of the day-long event, Ramogi Huma, Executive Director of the National College Players Association, delivered remarks on competition in college athletics.

Medical School Faculty No-Poach Case

In March 2019, the Division filed a [statement of interest](#) in *Seaman v. Duke University*, a private class

action challenging a no-poach agreement for medical faculty between Duke University and the University of North Carolina. The Division addressed the standard for judging the legality of alleged no-poach agreements under Section 1 of the Sherman Act. In its brief and at oral argument on March 12, 2019, the Division argued that a naked no-poach agreement is a per se unlawful allocation agreement in a labor market.

Although the case settled shortly after the March hearing, the Division successfully intervened in the litigation for the purpose of enforcing the injunctive relief provisions of the settlement, which bars unlawful no-poach agreements. This action allowed the Division to assist in providing crucial protections to medical faculty without incurring the significant taxpayer resources that conducting its own, duplicative litigation would have entailed.



Emphasizing Structural Remedies



Photo credit: ultramarine5/iStock/Getty Images Plus

BB&T/SunTrust

In November 2019, the Division negotiated the largest divestiture in a banking merger in over a decade. As originally proposed, the merger

between BB&T Corporation and SunTrust Banks Inc. would have substantially lessened competition in 7 markets for retail banking and/or small business banking. The Division's staff undertook a lengthy review of banking patterns and closely analyzed the relevant geographic markets in order to reach this conclusion. In several cases,

Division staff concluded that the relevant antitrust market was narrower than the banking markets defined by the banking regulators, which underscored the need for a robust remedy.

Ultimately, the Antitrust Division negotiated the divestiture of 28 branches in 3 different states with approximately \$2.3 billion in

deposits. This remedy ensures that consumers and small businesses retain competitive options for their banking and lending needs. The divested branches will join the existing First Horizon network in the region. First Horizon is a Tennessee-based bank that has been expanding in recent years and that has experience serving both urban and rural communities. This structural remedy will protect competition while leaving the merged firm unencumbered by ongoing Division regulation and free to focus on the investments in innovation and technology that this merger is expected to foster.



Photo credit: Leah613/iStock/Getty Images Plus

T-Mobile/Sprint

The T-Mobile/Sprint combination was one of the biggest mergers in 2019, and with it the Antitrust Division achieved one of the most significant structural settlements of the year. After conducting an extensive investigation into the transaction, the Antitrust Division and ten state attorneys general determined that the T-Mobile/Sprint merger, as remedied with significant divestitures to Dish, was likely to expand output significantly by ensuring that large amounts of currently unused and underused spectrum are made available to American consumers in the form of high-quality 5G networks. The Division's and partner state AGs' remedy complements conditions agreed to by T-Mobile and the FCC.

The remedy preserves competition by facilitating Dish's entry as a fourth facilities-based wireless carrier in three primary ways. First, the merging parties divested substantially all of Sprint's prepaid assets—including the Boost Mobile, Virgin Mobile, and Sprint prepaid businesses. Sprint will also transfer 800 MHz low-band spectrum to Dish to facilitate Dish's network buildout. Second, the remedy gives Dish an option to buy all or some of New T-Mobile's decommissioned towers (minimum of 20,000) and retail stores (minimum of 400). Finally, the remedy included a transitional agreement giving Dish immediate access to New T-Mobile's network while allowing Dish to build out its own network. The pricing on this deal is favorable enough to permit Dish to serve as an immediate competitive constraint on New T-Mobile, but will preserve Dish's incentive to transition subscribers onto its own network as quickly as possible.

With ample unused spectrum and a history as a disruptive, innovative entrant, Dish is uniquely positioned to take advantage of this remedy package and accelerate its entry as a fourth facilities-based mobile wireless competitor.

Two federal courts have now endorsed the Division's and FCC's view that this transaction, as remedied, is likely to have substantial benefits for consumers. Earlier this year, after multiple rounds of public comment, a federal judge in D.C. determined that the Division's remedy was in the public interest and entered final judgment. In a separate proceeding, a federal

judge in New York came to a similar conclusion following a two-week trial, relying in part on the fact that the Antitrust Division's settlement would be effective in remedying potential harm to competition stemming from the merger.



Photo credit: PhonlamaiPhoto/iStock/Getty Images Plus

Novelis/Aleris

On Sept. 4, 2019, the Antitrust Division filed a civil antitrust lawsuit in the U.S. District Court for the Northern District of Ohio seeking to block Novelis Inc.'s proposed acquisition of Aleris Corporation. The lawsuit sought to preserve competition in the North American market for rolled aluminum sheet for automotive applications, commonly referred to as aluminum auto body sheet.

Prior to filing the complaint, the Division reached an agreement with defendants to refer the matter to binding arbitration if the parties were unable to resolve the United States' competitive concerns with the defendants' transaction within a certain period of time. Fact discovery proceeded under the supervision of the district court. Pursuant to the arbitration agreement, following the close of fact discovery, the matter was referred to binding arbitration to resolve the issue of product market definition. A ten-day arbitration hearing concluded in early March, marking the first time the Antitrust Division has used its authority under the Administrative Dispute Resolution Act of 1996 (5 U.S.C. § 571 et seq.) to resolve a matter.

Kevin Arquit, an experienced antitrust lawyer and former Director of the Federal Trade Commission's Bureau of Competition, served as the arbitrator in this matter.

On March 9, 2020 the arbitrator ruled for the United States, holding that aluminum auto body sheet constitutes a relevant product market, as the United States had alleged. Because the Department prevailed, the United States filed a proposed final judgment with the U.S. District Court for the Northern District of Ohio that requires Novelis to divest Aleris's entire aluminum ABS operations in North America to preserve competition in the relevant market. This arbitration procedure provided certainty and efficiency, and allowed the defendants to close their transaction subject to foreign regulatory review.



Photo credit: Stocktrek Images

UTC/Raytheon

In March 2020, the Antitrust Division secured important divestitures in the merger between United

Technologies Corporation (UTC) and Raytheon Company (Raytheon), two of the primary suppliers of certain military systems and components to the Department of Defense (DoD). To address vertical and horizontal antitrust concerns, the parties agreed to divest three separate business units: Raytheon's military airborne radios business, UTC's military global positioning systems business, and UTC's large space-based optical systems business.

The settlement protects American taxpayers by preserving competition for critical military and defense products. The settlement also highlights the Division's commitment to seeking structural remedies, even for vertical concerns. Raytheon and UTC are among the few firms capable of producing several components for certain reconnaissance satellites, which provide DoD and U.S. intelligence community customers with essential information. As originally proposed, the combination of UTC and Raytheon would have created the incentive and ability for the merged firm to harm competition for certain reconnaissance satellites by denying essential inputs to its competitors or

by refusing to supply a solution unless a party also accepted the merged firm's inputs into that solution. The divestiture of UTC's optical systems business resolved these concerns, representing a victory for competition in this important industry.



Photo credit: FabrikaCr/iStock/Getty Images Plus

Quad/Graphics and LSC

In June 2019, the Antitrust Division sought an injunction against the merger of Quad/Graphics and LSC Communications. The team's investigation uncovered evidence that the merger of the two companies—significant providers of magazine, catalog, and book printing services—would deny publishers and retailers throughout the country the benefits of competition, including lower prices and greater availability of printed products. Rather than continue with litigation, the parties abandoned the merger a month after the Division filed suit. The result is a victory for American consumers relying on competition between the two companies.



Increasing Transparency

Vertical Merger Guidelines Update

On January 10, 2020, the Antitrust Division withdrew the 1984 DOJ Non-Horizontal Merger Guidelines, and, jointly with the Federal Trade Commission (FTC), released a new draft 2020 Vertical Merger Guidelines (Draft Guidelines). Until

then, the 1984 Non-Horizontal Merger Guidelines had remained the only formal statement of enforcement priorities on vertical mergers, but they no longer reflected updated economic thinking and the most recent experience by agencies and by courts. Accordingly, the 1984 Non-Horizontal Merger Guidelines were unable to meet one of the main

functions of the guidelines: to provide transparency into current policies.

The Antitrust Division and the FTC therefore worked closely to ensure the 2020 Draft Guidelines reflect the agencies' significant experience analyzing vertical mergers, as well as more recent case law and economic

developments. The Draft Guidelines are intended to assist the business community and antitrust practitioners by providing greater transparency into the agencies' current enforcement and investigative practices.

After an extended comment period, the agencies received [70 unique comments](#) from a diverse group of voices, including a group of 26 state attorneys general and the Federal Communications Commission's Office of Economics and Analytics. To facilitate public dialogue on the Draft Guidelines, the Antitrust Division hosted a [half-day public workshop](#) on March 11, which involved a welcome address by Assistant Attorney General Makan Delrahim and opening remarks by FTC Commissioner Christine Wilson, as well as two panels covering a range of theoretical and practical topics on vertical mergers. The Division and the FTC staff are currently working on synthesizing the content from the written comments and the workshop.

The Antitrust Division remains committed to finalizing the Draft Guidelines this summer.

Applying a Standard to Standard Setting

In 2019, the Antitrust Division clarified its approach to coordinated conduct within standards development organizations. A business review letter dealing with the mobile wireless industry's eSIMs standard and a consent decree related to college admissions practices both demonstrated that competitors who work together to set industry-wide rules for how goods or services are delivered must be careful to ensure that those rules do not favor the interests of industry incumbents over consumers.

Specifically, the Division issued a business review letter in November 2019 to the GSM Association (GSMA), a trade association for mobile network operators. The letter memorialized changes that the GSMA planned to adopt after the Division's two-year investigation into its standard-setting activities. It detailed problems with the GSMA's past procedures for promulgating standards, including the outsized influence that incumbent mobile network operators had in placing technical requirements on the design of devices like smartphones and smartwatches. Those design limitations ran the risk of limiting the

role that an innovative new technology—the embedded SIM (eSIM)—could play in encouraging disruptive competition in the market for mobile wireless service.

By adopting changes to its standard-setting procedures before promulgating a new design standard for an interoperable eSIM, the GSMA reduced the risk of an anticompetitive outcome. As AAG Delrahim highlighted at the time: "The new procedures . . . should result in new innovative offerings for consumers."

The Antitrust Division's commitment to enforcing the antitrust laws with respect to trade associations and standards development organizations is further underscored by a consent decree with the National Association for College Admission Counseling (NACAC) in December 2019. As discussed further on page 17 above, NACAC established and enforced illegal restraints on the ways colleges compete to recruit students. Among other requirements, the Division's consent decree and the court's final judgment required NACAC to remove three anticompetitive rules from its Code of Ethics and Professional Practices.

Criminal Program Update

The PCSF

On November 5, 2019, the Department announced the [Procurement Collusion Strike Force](#), an interagency partnership that is leading a national effort to protect taxpayer-funded projects from

antitrust violations and related crimes at the federal, state, and local levels. Prosecutors from the Division's five criminal offices and 13 U.S. Attorneys' Offices have partnered with agents from the FBI



Procurement
Collusion
★ Strike Force ★

and four federal Offices of Inspector General, including the U.S. Postal Service and Department of Defense, to conduct outreach and training for procurement officials and government contractors on antitrust risks in the procurement process. These district-focused teams of prosecutors and agents will also work together to jointly investigate and prosecute procurement-related criminal cases.

Since its November 2019 launch, initially under the leadership of Director William Sloan, on detail to the Antitrust Division from PCSF-partner, the U.S. Attorney's Office for the Eastern District of Michigan, and now under the leadership of current Acting Director Tee St. Matthew-Daniel, the PCSF has generated an

overwhelmingly positive response from all corners of the procurement world. In particular:

- Over 50 of federal, state, and local government agencies have already reached out to the PCSF seeking outreach training, assistance with safeguarding their procurement processes, and opportunities to work with the PCSF on investigations.
- Indeed, the PCSF's attorneys had already led over 30 in-person outreach presentations in 13 states and D.C. before the March 2020 Presidential declaration of a national emergency for COVID-19. Since then, the PCSF has led over a dozen interactive virtual training programs for approximately 2,000 criminal

investigators, data scientists, and procurement officials representing nearly 500 federal, state, and local agencies.

- The PCSF website's reporting portal has also received numerous citizen complaints of possible illegal conduct for potential investigation.
- We already have opened several grand jury investigations in connection with the PCSF.
- In addition, there has been significant public attention given to the PCSF's formation in the news media and the antitrust and public contract law bars, which we anticipate will help achieve the PCSF's goal of deterring illegal conduct in the first instance.

FAQs: The PCSF

Question: Why was the PCSF created?

Answer: When competitors collude and conspire to rig bids, fix prices, or allocate markets they distort the free market and harm customers with high prices and lower quality goods and services. The problem is particularly acute in the area of public procurement, where the customer is the government and American taxpayers foot the bill for artificially high prices.

Question: Does the nature of public procurement make it particularly vulnerable to collusion?

Answer: Yes, for three reasons.

First, there are often relatively few qualified sellers for a given project, given that government agencies often require specialized goods and services.

In addition, rush or emergency projects arise in government procurement, such as disaster-relief projects, and the exigency creates opportunities to cheat. Indeed, that is one of the many reasons why the PCSF is on high alert amid the COVID-19 pandemic.

Second, the large volume and variety of goods and services contracted by the government creates monitoring difficulties. Given the growth in government spending over time, it is difficult for audit and investigation resources within agencies to keep pace with the spending at the federal, state, and local levels.

Finally, public procurement involves large sums of federal money. Roughly one out of every 10 dollars of federal spending is allocated to government contracting. In 2018, the federal government spent more than \$550

billion, or about 40% of all discretionary spending, on contracts for goods and services. The sheer monetary value of government projects presents an enticing opportunity for greed to prevail over ethical conduct. Based on an OECD estimate that eliminating bid rigging could help reduce procurement costs by 20% or more, reducing illegal and anticompetitive collusion in procurement could save U.S. taxpayers tens of billions of dollars per year.

Question: How is the PCSF different from the Division's prior efforts?

Answer: The Division has significant experience prosecuting violations relating to government procurement going back decades. Today, more than one third of the Antitrust Division's 100-plus grand jury investigations relate to public procurement or

otherwise involve the government as a victim of criminal conduct. What separates the PCSF from the Division's prior efforts, however, is that it harnesses the combined capacity and expertise of its members.

Question: What are the advantages of a district-based strike force model?

Answer: The PCSF's decentralized, district-based structure has a number of advantages. Among them, each district team of prosecutors and agents can target their outreach efforts to reach the relevant entities on both the buy-side and sell-side of government procurement in that district, from government agencies to

contractors, trade associations, and grant recipients. Additionally, the PCSF's district teams have also welcomed the participation of additional in-district working partners. In fact, several of our district teams have more than 10 working partners.

Completed Trials

The Division's two most recent criminal trials culminated in guilty verdicts returned over a two-week span last fall. On November 20, a jury in the Southern District of New York found Akshay Aiyer—a former currency trader—guilty of fixing prices and rigging bids in the global foreign currency exchange market. On December 3, a jury in the Northern District of California found Christopher Lischewski—the former CEO and President of Bumble Bee Foods—guilty of fixing prices for canned tuna. Both trials resulted in guilty verdicts that held executives accountable for collusion that cheated consumers and distorted important food and financial markets.



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United States v. Akshay Aiyer

A trial team composed of attorneys from the Division's New York Office and Washington Criminal I Section prosecuted Aiyer. In the Aiyer case, the conduct involved a multi-year conspiracy to fix prices and rig bids in the global foreign currency exchange market. Among the evidence presented at trial, the jury heard that

Aiyer and his co-conspirators engaged in near-daily communications to coordinate trades and collude to protect each other's trading positions.

Aiyer's guilty verdict is just the most recent example of the Division's longstanding commitment to safeguarding the global financial markets from collusion. The trial team worked to distill sophisticated conduct in a complex financial market into an understandable set of facts for a layperson jury. Indeed, as Aiyer's indictment, trial, and guilty verdict show, complex markets are not an obstacle to aggressive antitrust enforcement. Aiyer awaits sentencing in the Southern District of New York.



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United States v. Christopher Lischewski

A team from the Division's San Francisco Office prosecuted Lischewski, the former CEO and President of Bumble Bee Foods, LLC. He was charged with participating in a just over three-year conspiracy to fix prices of canned tuna. During

those three years, Bumble Bee alone sold over a billion dollars of canned tuna. The evidence at trial focused both on Lischewski's direct communications with competitors, but also his authorization and supervision of subordinates' collusion. During the four-week trial, jurors also heard evidence that Lischewski and his co-conspirators employed measures to conceal the conspiracy, including meeting at offsite locations and using third-party email addresses. In June, Lischewski was sentenced to serve 40 months in prison and pay a \$100,000 criminal fine.

Lischewski's guilty verdict followed a nearly year-long litigation with his co-conspirator, StarKist Co., over its ability to pay a \$100 million statutory maximum fine. In September 2019, the district court found that StarKist had not met its burden to prove its financial circumstances justified a lower fine, and ordered StarKist to pay a \$100 million criminal fine. In addition to StarKist and Lischewski, three individuals and one corporation pleaded guilty in the investigation. Lischewski's guilty verdict and the guilty pleas obtained in the investigation are a testament to the Division's commitment to

holding high-level executives accountable and rooting out collusion affecting household staples like canned tuna.

There is more litigation on the horizon for the Division's prosecutors with upcoming trials in courts in Denver, Philadelphia, Minneapolis, and Sacramento on antitrust charges

involving broiler chickens, generic drugs, online auctions of surplus government equipment, and real-estate foreclosure auctions.



Generic Drugs

The Division's ongoing generic drug investigation targets price-fixing, bid-rigging, and customer-allocation conspiracies in one of the most important industries for the health and pocketbooks of American consumers. Indeed, nearly 90% of all prescriptions in the United States are filled with generic drugs. To date, the investigation has resulted in charges against four companies and four executives for schemes affecting critical drugs relied on by vulnerable and elderly American consumers to treat a range of diseases and chronic conditions such as high cholesterol, arthritis, hypertension, seizures, various skin conditions, and blood clots. Four companies have resolved charges by deferred prosecution agreements, which require an admission of guilt, a criminal penalty, and cooperation in the ongoing investigation. Collectively, the four

companies have agreed to pay over \$220 million in criminal penalties.

Most recently, in May 2020, [Apotex Corp.](#) resolved criminal charges for its role in a conspiracy to fix the price of pravastatin, a widely used cholesterol medication. Apotex entered into a deferred prosecution agreement (DPA), which requires the payment of a \$24.1 million criminal penalty. In March 2020, [Sandoz Inc.](#), one of the largest U.S. generic drug manufacturers, resolved criminal charges for its role in four conspiracies to suppress and eliminate competition by allocating customers, rigging bids, and fixing prices of generic drugs. To resolve felony charges, Sandoz entered into a DPA, which requires payment of a \$195 million criminal penalty. The \$195 million criminal penalty is the highest fine or penalty imposed in an Antitrust Division prosecution of a purely domestic cartel.



Photo credit: Oleh_Kucheriavyi/iStock/Getty Images Plus

Of the four executives, three have pleaded guilty and one was indicted. The three guilty pleas include a former senior Sandoz executive, who pleaded guilty to conspiring to allocate customers, rig bids, and fix prices for generic drugs. The former CEO and former president of Heritage Pharmaceuticals pleaded guilty to fixing the price of doxycycline hydrate, an antibiotic, and glyburide, a drug used to treat diabetes. In February 2020, a grand jury in Philadelphia indicted a former senior executive at a third company for his role in conspiracies to fix prices, rig bids, and allocate customers for generic drugs, and for making a false statement to federal agents.



Florida Oncology

In April, the Antitrust Division charged [Florida Cancer Specialists & Research Institute LLC](#) (FCS), one of the largest independent oncology groups in the United States, with conspiring to allocate medical and radiation oncology treatments for cancer patients in Southwest Florida. The Division and FCS resolved the

charge with a deferred prosecution agreement (DPA), under which FCS admitted to conspiring to allocate treatments for cancer patients and agreed to pay a \$100 million criminal penalty—the statutory maximum. Additionally, the DPA requires FCS to waive and refrain from enforcing any non-compete



Photo credit: yavdat/iStock/Getty Images Plus

provisions with its current or former oncologists or other employees who, during the term of the DPA, open or

join an oncology practice in Southwest Florida.

This charge is the first in the Division's ongoing investigation into collusion for oncology treatments, and the resolution is an important step toward ensuring cancer patients

in Southwest Florida are afforded the benefits of competition for life-saving treatments. The conspiracy, which lasted from as early as 1999 until at least 2016, allowed FCS and its co-conspirators to insulate themselves from competition and

thus limit valuable integrated care options available to cancer patients. FCS has agreed to cooperate fully with the Division's ongoing investigation.



Broiler Chickens

In early June 2020, [four senior executives were indicted](#) for their role in a multi-year conspiracy to fix prices and rig bids for broiler chickens sold in the United States. Broilers are chickens raised for human consumption that are sold to grocers and restaurants. The executives charged include the current President and Chief Executive Officer, and a former Vice

President, at a major broiler chicken producer headquartered in Colorado, and the President and a member of the board, as well as a Vice President, at a competing broiler chicken producer headquartered in Georgia.

These are the first charges filed in the Division's ongoing investigation into collusion in the broiler chicken

industry. Rooting out collusion affecting household staples, particularly food products, such as chicken, remains a top priority for the Division. This indictment also exemplifies the Division's continued commitment to hold individuals, including current high-ranking executives, accountable for anticompetitive conduct that affects vital American markets.

International Program Update

The Antitrust Division's International Program has spent the past year working with enforcers worldwide to build new relationships and deepen

existing ones. Through both case-specific cooperation and broader, forward-thinking policy initiatives, the International Program has

continued to encourage effective competition law and policy developments and enforcement around the world. Highlights include:



ICN 2020

As a founding member of the [International Competition Network](#) (ICN), the Division, along with the Federal Trade Commission (FTC), was very excited to host the 2020 ICN Annual Conference (ICN 2020) in Los Angeles, California last month. The COVID-19 pandemic, however, continues to disrupt our ability to meet in person. As a result, the Division, the FTC, and the ICN are currently exploring a virtual format for this year's annual conference with a continued focus on

competition in the digital economy. Like an in-person conference, a virtual conference will strive to connect competition agency representatives, lawyers, academics, and other non-governmental advisors from around the world to engage in high-level, thought-provoking discussions and projects on competition policy and enforcement.

ICN is comprised of over 130 national and multinational competition

agencies that use the ICN network to address practical competition concerns. Its mission is "to encourage the adoption of superior standards and procedures in competition policy around the world," and, for the past two decades, ICN has played a critical role in establishing global best practices on substantive and procedural antitrust issues. These efforts help to foster healthy competition regimes worldwide, and to avoid conflicting outcomes among antitrust enforcers.

International Case Cooperation

The Division's investigative teams continued to cooperate closely with their international counterparts. On the criminal side, Division staff collaborated with at least 18 jurisdictions on cross-border investigations and global cartel enforcement. In FY 2019, the Division cooperated with 12 international counterparts on 24 merger and civil nonmerger matters.

An example of this cooperation is the work the Division did with enforcement partners around the world in its investigation of [Thales S.A.](#)'s proposed \$5.64 billion acquisition of Gemalto N.V. The proposed merger would have combined close competitors in the manufacture and sale of certain hardware components used in complex encryption solutions to safeguard sensitive data. The

Division's cooperation with the European Commission's Directorate-General for Competition (DG COMP) was extensive and resulted in parallel divestiture remedies.

DOJ also coordinated with DG COMP for the review and resolution of [ZF Friedrichshafen AG](#)'s proposed acquisition of WABCO Holdings Inc. Both firms sell equipment used in large commercial trucks and buses in both North America and Europe. While distinct issues arose in each jurisdiction, the merger presented a joint competitive concern involving ZF's ownership stake in WABCO's brake equipment competitor, Haldex. Ultimately, after both staffs confronted ZF, it unilaterally divested the suspect shares. DOJ and the EC announced resolution of the matter simultaneously.

In another example, the Division worked closely with the UK's Competition and Markets Authority (CMA) throughout our parallel reviews of the [Sabre/Farelogix](#) transaction involving airline booking services. Discussions with CMA staff greatly enhanced our collective understanding of competitive conditions in the two jurisdictions. As discussed on page 14, the District Court of Delaware ultimately denied the Division's request for injunctive relief, but the U.K. Competition and Markets Authority issued a statement blocking the transaction on April 9, 2020 and the parties abandoned the transaction in May 2020. The Division has since moved to vacate the district court's decision granting judgment to defendants.



Policy Initiatives

The CAP: ICN Framework on Competition Agency Procedures

The Division continued to promote due process in antitrust investigations around the globe, working with the ICN to successfully launch the Framework on Competition Agency Procedures (CAP) in May 2019. The CAP, an initiative envisioned and developed by the Division, is an ICN-sponsored framework that promotes fundamental due process, as well as fair and effective procedures, in investigations by competition authorities. The principles to which CAP members (Participants) adhere include non-discrimination,

transparency and predictability, confidentiality protection, appropriate notification of allegations, written enforcement decisions, and availability of independent review of decisions. Membership in the CAP is open to all eligible competition agencies around the world, including non-ICN members. Thus far, over 70 competition agencies have signed on to the CAP and the Division expects that number to continue growing.

Participants recently marked the one-year anniversary of the CAP and planning is underway for the first CAP Participant meeting. A focus of that meeting will be the CAP

template—*i.e.*, a summary of a Participant's investigation and enforcement procedures illustrating how the Participant complies with the CAP. All Participants are obligated to complete and publish this template. Participants can use the completed templates as a resource for case cooperation, for benchmarking new proposals, or for identifying countries with guidelines or procedures they may want to emulate. Participants may also use the consultation procedure in the framework to seek more information from a country about its practices. The Division anticipates that information from these templates



Members of the International Section accept an award recognizing their work on negotiating the Framework on Competition Agency Procedures. From L-R: AAG Makan Delrahim, Ass't Chief Caldwell Harrop, Timothy Longman, Jessica Rodriguez, Chief Lynda Marshall, and DAAG Rene Augustine.



L-R: Former DAAG Roger Alford, KFTC Secretary General Gyu-ha Chae, and FTC Commissioner Christine Wilson.

will be aggregated and analyzed on a macro level and shared at the CAP Participant meeting to facilitate Participants' ability to better benchmark their own practices. Common themes from this analysis may also provide the basis for substantive ICN programming in the coming year.

[G7 "Common Understanding" on Competition and the Digital Economy](#)

On July 17-18, 2019, the G7 Finance Ministers and Central Bank Governors met in Chantilly, France, to discuss a multitude of issues, including competition and the digital economy. The United States was represented by the Secretary of the Treasury, Steven Mnuchin. To prepare for the meeting, AAG Makan Delrahim and his G7 counterparts met on June 5, 2019, to draft a [Common Understanding of G7 Competition Authorities on Competition and the Digital Economy](#) (*Common Understanding*), publicly released on July 18, 2019.

The *Common Understanding* explains why competitive markets are essential to well-functioning economies and how they can improve consumer welfare by unlocking the benefits of digital innovation and growth. The paper notes that competition law is flexible and can adapt to any challenges the digital economy may present; at the same time, the paper recognizes that it is crucial for competition authorities to have the tools and means to expand their understanding of new business models and their impacts on competition. The paper advocates

for use of market studies and sector inquiries, as well as adding in-house capabilities to monitor issues raised by the digital economy. The paper also states the G7 competition authorities will continue their efforts regarding the digital economy through cooperation in existing international fora and through group exchanges of information which deepen common understanding.

Consultations Under the U.S.-Korea Free Trade Agreement

In July 2019, the Antitrust Division and the Office of the U.S. Trade

Representative (USTR) participated in formal consultations with the Republic of Korea under the chapter on Competition-Related Matters of the United States-Republic of Korea Free Trade Agreement (KORUS). The United States requested the consultations to press for actions by Korea to improve procedures in competition hearings held by the Korea Fair Trade Commission (KFTC).

The focus of the consultations was Korea's non-compliance with KORUS Article 16.1.3, which states, in relevant part, that a party in an administrative hearing related to

competition must "have a reasonable opportunity to...review and rebut the evidence and any other collected information on which the determination may be based." The United States has been raising via multiple meetings, letters and formal comments, concerns with restrictive KFTC hearing procedures regarding a respondent's lack of access to evidence, including evidence used to bring allegations against it. USTR and the Antitrust Division continue to seek changes necessary for Korea to meet KORUS obligations.



Bilateral/Trilateral Meetings

Throughout FY 2019, the Division participated in over 90 meetings at home and abroad with international competition agencies and jurisdictions.

Asia

In April 2019, former Deputy Assistant Attorney General (DAAG) Roger Alford, DAAG Richard Powers, and Division staff traveled to Tokyo, Japan, to meet with the Japan Fair Trade Commission. While in Japan, the Division team also met with the American Chamber of Commerce, Japan. Former DAAG Alford, DAAG Powers, and Division staff later flew to Korea to meet with the KFTC and the Korea Ministry of Justice in Seoul, Korea.

In August 2019, DAAG Rene Augustine and the Division hosted a delegation from Japan's Cabinet Secretary and the Japanese Ministry of Economy, Trade, & Industry to discuss digital platform issues. DAAG



L-R: AAG Makan Delrahim, COFECE Chairwoman Alejandra Palacios Prieto, FTC Chairman Joe Simons, and CCB Commissioner Matthew Boswell.

Augustine and Division staff also hosted a delegation from China's State Administration for Market

Regulation and the National People's Congress to discuss revisions to China's Anti-Monopoly Law (AML).

Europe

In March 2019, AAG Delrahim, former Principal DAAG (PDAAG) Andrew Finch, former DAAG Alford, and Division staff participated in a lunch meeting with Commissioner Margrethe Vestager, Director General Johannes Laitenberger and their staff, and Chairman Joe Simons from the FTC, in Washington, D.C. While in D.C., Commissioner Vestager and the DG COMP delegation also met with Attorney General William Barr for a discussion

that included competition and digital markets.

The Americas

The Division continued to deepen its close working relationship with the Canadian and Mexican antitrust enforcers in 2019. In October 2019, AAG Delrahim, PDAAG Barry Nigro, and DAAG Augustine participated in a trilateral meeting in Ottawa, Canada with the heads of agency from Canada's Competition Bureau (CCB), Mexico's Comisión Federal de

Competencia Económica (COFECE), and the FTC. The discussions covered a range of topics, including enforcement in digital markets, updates on agency developments, international cooperation, and the challenges to antitrust enforcement each agency faces. The annual dialogue builds on the longstanding cross-border collaboration between the United States, Canada, and Mexico, and is meant to ensure a competitive marketplace for consumers across North America.



Technical Assistance

The Division has continued to provide technical assistance to agencies around the world, with programs on key topics in antitrust enforcement, such as merger

enforcement, economic investigative tools, cartel enforcement, and leniency programs. In FY 2019, Division attorneys and economists led over 22 different technical

assistance programs in 17 countries, including Barbados, Chile, Georgia, India, Israel, Kenya, Moldova, Romania, and the Philippines.



International Cooperation During COVID-19

Finally, as with the rest of the Antitrust Division, the work of the International Program has been affected by COVID-19. The spread of COVID-19 has required not only unprecedented cooperation among U.S. federal, state, and local governments, but among our international counterparts as well. In response to the health crisis, the Antitrust Division is leveraging its existing bilateral relationships and

ties to multilateral organizations, such as the ICN and OECD, to increase communication and cooperation. The International Program has also spearheaded an effort to facilitate communication among ICN members about our COVID-19 responses that has enabled exchange of rapidly developing information regarding how COVID-19 has impacted the enforcement efforts of competition

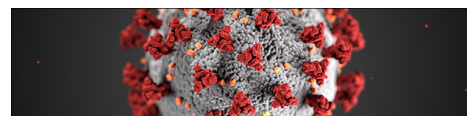


Image credit: Alissa Eckert, MS; Dan Higgins, MAMS

agencies around the world. In addition, the International Program has transitioned its technical assistance program to virtual communications platforms and has already successfully completed several training programs.

Amicus Program and Competition Advocacy

Oyez, Oyez: Statements of Particular Interest

Over the last year, the Division has filed a number of submissions at the trial and appellate court levels and has, where appropriate, submitted

joint filings with other federal and state enforcers. The Division focuses its amicus efforts on matters where the law may be unclear or

particularly subject to potential misuse by parties. Many of its amicus briefs and statements of interest are aimed at bolstering law enforcement

by ensuring the government and private plaintiffs have effective tools to protect against anticompetitive actions wherever in the economy they may arise. A number of recent amicus efforts, for instance, were aimed at ensuring courts adopt appropriately narrow interpretations of exemptions, immunities, and other related doctrines that defendants may use to try to avoid liability for anticompetitive conduct. A few of these efforts:

CRT

The Division submitted a [statement of interest](#) in *In re: Cathode Ray Tube (CRT) Antitrust Litigation*, addressing the proper implementation of two components of the Foreign Sovereign Immunities Act. The Division articulated the framework for ascertaining whether an entity qualifies as an “organ of a foreign state” within 28 U.S.C. § 1603(b)(2), and argued that proving a “direct effect” under the third prong of the commercial-activity exception of 28 U.S.C. § 1605(a)(2) does not require evidence of direct sales in the U.S. because there are many other situations—in and out of the antitrust context—in which acts

occurring outside the U.S. can cause a direct effect within the U.S. The district court called the Division’s submission “very helpful” while adopting our position. This case is currently on appeal to the Ninth Circuit.

Avanci

In February 2020, the Division submitted a [statement of interest](#) in *Continental Automotive Sys., Inc. v. Avanci, LLC*, arguing that the plaintiff’s attempts to base Sherman Act Section 2 liability upon alleged breaches of “fair, reasonable, and nondiscriminatory” (FRAND) commitments made during standard setting processes, including claims of purported deception regarding FRAND rates, failed to articulate cognizable antitrust claims. The Division submitted that breaches of FRAND commitments—*i.e.*, breaches of contractual obligations—are quintessential contract law problems, and that the Supreme Court has made clear not all contract disputes are antitrust disputes. Because the complaint failed to articulate a harm to the competitive process, Section 2 liability could not lie. The Division concluded that

recognizing a Section 2 cause of action on the conduct alleged would: run contrary to the policies encouraging market-based pricing upon which the antitrust laws are built; risk distorting licensing negotiations for FRAND-committed patents; and threaten to deter procompetitive or competitively neutral conduct.

Mountain Crest

In *Mountain Crest v. Anheuser-Busch InBev*, the Division filed an [amicus brief](#) in the Seventh Circuit arguing that, where a court can evaluate a private conspiracy—even where it is aided by government acts—without addressing the validity of those government acts, the act of state doctrine cannot be invoked to shield the conspiracy from liability. In September 2019, the Seventh Circuit issued a decision thanking the Division for its comments and adopting its views that Mountain Crest’s claims went beyond the Ontario government’s restrictions against selling beer in packages with more than six containers, and therefore were not entirely exempted from Sherman Act scrutiny by the act of state doctrine.



Roundtables and Workshops

Public Roundtable on ACPERA

On April 11, 2019, the Division held a [public roundtable to discuss the Antitrust Criminal Penalty Enhancement & Reform Act \(ACPERA\)](#). Since it was enacted in June 2004, ACPERA has created greater incentives for corporations to self-report illegal conduct to the Division in recognition of the serious

harm antitrust cartels pose to American businesses and consumers. The ACPERA roundtable provided the Antitrust Division with the opportunity to hear the views of interested stakeholders, including judges, attorneys, academics, and the business community, regarding the efficacy of ACPERA and its impact

on the Division’s criminal enforcement efforts.

Public Workshop on Competition in Labor Markets

As discussed on page 18, the Division hosted Ramogi Huma, President of the National College Players Association, to offer remarks on competition in college athletics at its



Speakers at the public roundtable on Antitrust Criminal Penalty Enhancement & Reform Act (ACPERA) L-R: Richard Powers (Deputy Assistant Attorney General of Criminal Enforcement); Makan Delrahim (Assistant Attorney General); Lindsey Vaala (American Bar Association).

[Public Workshop on Competition in Labor Markets](#) in September 2019.

[Public Workshop on Competition in Television and Digital Advertising](#)

On May 2 and 3, 2019, the Division held a [public workshop that explored industry dynamics in advertising](#) and the implications for antitrust enforcement and policy, including merger enforcement. In his opening remarks, Assistant Attorney General Delrahim called attention to the value of the workshop in addressing the Division’s “need to take into account the latest industry trends, the latest technological evidence, and the latest economics.” Professor Susan Athey of Stanford University’s Graduate School of Business delivered an opening lecture providing an overview of advertising

and raised questions that were to be explored during the workshop. The workshop’s four panels featured executives from broadcast and cable television companies, advertising agencies, online publications, digital platforms, and consumer packaged goods companies as well as economists, academics, and other experts.

[Public Workshop on Venture Capital and Antitrust](#)

On February 12, 2020 the Antitrust Division cohosted a [public workshop on Venture Capital and Antitrust](#) with Stanford University. The workshop brought together representatives from the Antitrust Division, academics, and members of the venture capital community to discuss a variety of topics at the intersection of venture capital investment and

antitrust enforcement. Panels addressed the existence of kill zones where investors may not be willing to fund innovation or new entrants, the role of data in creating new opportunities for competition or entrenching incumbents, and how investors view the competitive dynamics and opportunities in markets that operate on digital platforms. Over 200 people attended the event in Silicon Valley and nearly 1,200 people livestreamed the content, demonstrating how valuable it was to have these two communities come together and create an open dialogue between enforcers and industry participants about the real impact of competition and government action on the incentives to invest in innovative industries.

In addition to creating an opportunity to learn about industry dynamics, the workshop helped highlight the key role that the Division’s San Francisco office is playing in the on-going review of market-leading online platforms. San Francisco Office Chief Manish Kumar gave closing remarks that encouraged the Silicon Valley watchers and investors in attendance to keep an open dialogue with the staff of the Antitrust Division.

Crossword Answers

Down:	Across:
1. Salmon	4. Mink
2. Phonographs	5. Bowling
3. Banana	6. Elevator
7. Carpet	8. Peanut
9. Sardine	11. Chrysanthemum
10. Dynamite	12. Music
	13. Ice