

CBA COMPETITION LAW FALL CONFERENCE

October 26-27, 2017 | Ottawa (ON)

Competition Law and Innovation

WEDNESDAY, OCTOBER 25

12:00 | 21:00 COMPETITION BUREAU CHARITY GOLF TOURNAMENT & DINNER | [Rivermead Golf Club](#)

This traditional pre-conference event will be held at the exclusive Rivermead Golf Club in Gatineau, Québec (just outside of Ottawa). Space is limited. Participants will have a round of golf, a shared power cart, practice balls for the driving range and a bag drop service, with a reception and dinner to follow. Proceeds will be donated to the Government of Canada Workplace Charitable Campaign.

THURSDAY, OCTOBER 26

8:30 | 9:00 REGISTRATION AND HOT BREAKFAST | [Room: Rideau Canal Atrium](#)

Brattle

Sponsored by: THE POWER OF ECONOMICS

9:00 | 9:05 WELCOME & INTRODUCTION | [Room: 214](#)

Speakers: Anita Banicevic, Chair, Competition Law Section, CBA (Davies Ward Phillips Vineberg LLP)
Shuli Rodal, Fall Conference Chair (2017) (Osler, Hoskin & Harcourt LLP)

9:05 | 10:30 OPENING PLENARY SESSION (1.5 substantive hours)

Setting the Stage: Strategic Priorities for a Competitive Canadian Economy

Join our distinguished panel of government representatives, policy experts and private sector representatives for a discussion of the opportunities and challenges Canadian companies and policy makers face in a global economy adapting to continuous innovation and disruption. What are the key policy objectives for Canada to succeed and compete on a global stage, what can we learn from other countries and what role can and should competition policy play in encouraging innovation and fostering a competitive economy?

Moderator: Susan Hutton (Stikeman Elliott)
Speakers: Vicky Eatrides (Deputy Commissioner, Competition Promotion, Competition Bureau)
Brigitte Goulard (Deputy Commissioner of the Financial Consumer Agency of Canada)
Mark Schaan (Marketplace Framework Policy Branch, ISED)
Daniel Schwanen (Vice President, Research, CD Howe Institute)

10:30 | 10:45 REFRESHMENT BREAK | Room: Rideau Canal Atrium

10:45 | 12:00 CONCURRENT SESSIONS

Session I: Competitor Collaborations and Antitrust Compliance in a Connected World
Room: 209 (1.25 substantive hours)

Existing and emerging technologies create opportunities for pro-competitive collaborations but also create risks of increased coordination and decreased competitive rivalry. Speakers will discuss a variety of topics including the competition law implications of the use of artificial intelligence, algorithms, benchmarking, R&D collaborations, and best practices for compliance.

Moderator: Nikiforos Iatrou (Weir Foulds LLP)
Speakers: Lisl Dunlop (Manatt, Phelps & Phillips, LLP)
Jacob Glick (Centre for Law, Technology and Society, University of Ottawa)
Krista McWhinnie (Monopolistic Practices Directorate, Competition Bureau)
Mark Opashinov (McMillan LLP)

Session II: Debating the Efficiencies Defence | Room: 210 (1.25 substantive hours)

The appropriate role of efficiencies in merger analysis remains a hot topic in Canada as well as in the U.S. Join us for an engaging discussion regarding the most current perspective on the role and practical impact of efficiencies in merger analysis and recent cases in Canada and the U.S.. The panel will also discuss the relevance of the efficiencies defence in today's economy, the evolution of the defence through jurisprudence and practice, and practical observations on best practices, approach and strategy in cases where efficiencies may be a factor in the outcome.

Moderator: Michelle Lally (Osler, Hoskin & Harcourt LLP)
Speakers: Richard Annan (Goodmans LLP)
Dr. Henry Kahwaty (Berkeley Research Group)
Wilson Mudge (Arnold & Porter LLP)
Steve Sansom (Counsel, Department of Justice)

Session III: Top 10 Issues in Advertising Law | Room: 212 (1.25 substantive hours)

Misleading representations continue to be an important enforcement priority for the Competition Bureau, with a particular focus on representations made through digital media. With the Bureau securing a number of high profile settlements over the past

*** Please note that topics and speakers are still subject to change ***

year (Avis Budget/Hertz and Dollar Thrifty and Amazon) and initiating proceedings against Hudson's Bay, it is clear that businesses advertising in Canada need to pay attention to these issues. At the same time, resolution through settlements or mediation rather than court decisions leaves uncertainty as to the scope and application of the misleading advertising provisions in the digital age. Join us for a discussion on what these developments mean for advertisers in Canada and as well as best practices for compliance.

Moderator: Antonio Di Domenico (Faskens LLP)

Speakers: Michael Brown (Norton Rose LLP)
Josephine Palumbo (Deputy Commissioner of Competition, Deceptive Marketing Practices Directorate, Cartels and Deceptive Marketing Practices Branch)
Alain Murad (Vice-president, Legal and Secretary, Reitmans)

12:15 | 14:00 LUNCHEON | Room: Trillium Ballroom

13:00 – 13:05 Remarks

13:05 – 13:15 **Winner of the 2017 James H. Bocking Memorial Award:** Corinne Xu

13:15 – 13:35 Luncheon Address: The Honourable Perrin Beatty (President and Chief Executive Officer of the Canadian Chamber of Commerce)

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ECONOMIC, FINANCIAL and STRATEGY CONSULTANTS

14:00 | 15:15 CONCURRENT SESSIONS

Session I: Economics of Merger Analysis | Room: 209 (1.25 substantive hours)

Economic analysis is an increasingly important aspect of the Competition merger review and analysis. Join our panel of leading economists who will provide an overview of the key economic principles underlying merger review in Canada, as well as the latest updates on the analyses, tools and techniques employed by economists in the course of advising their clients on merger analysis and review.

Moderator: David Rosner (Blake, Cassels & Graydon LLP)

Speakers: Alan Gunderson (Economics Analysis Directorate, Competition Bureau)
Margaret Sanderson (CRAI)
Dr. Ramsey Shehadeh (NERA)

Session II: So you think you have a compliance program? | Room: 210 (1.25 substantive hours)

The Competition Bureau and U.S. antitrust authorities have provided detailed guidance to companies for what constitutes an effective compliance program. Our panel of experts will discuss expectations for an effective compliance program created based on such guidance as well as the practical challenges and best practices to fulfill these expectations, particularly in respect of auditing and monitoring a company's compliance. What does this mean in practice? How can multinational companies

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conduct such audits and not bump up against privacy law considerations in certain jurisdictions? What are the reasonable limits on such audits?

Moderator: Kevin Wright (DLA Piper)

Speakers: Jennifer Hefler (Director, Antitrust Compliance, Walmart Canada)

James Musgrove (McMillan LLP)

Terry Stechysin (Acting Director of Compliance, Competition Promotion Branch, Competition Bureau)

Gary Zanfagna (Honeywell)

Session III: 'Big Data': What is the Role for Competition Law?

Room: 212 (1.25 substantive hours)

Join our panel for a discussion on the application of competition law principles to the evolving issues arising in the area of ownership of data. How valuable is data and the ability to access and use it? What are the strengths and limitations of competition law in addressing emerging issues in the data economy relative to other enforcement alternatives? Is competition law too blunt a sword?

Moderator: Elisa Kearney (Davies Ward Phillips Vineberg LLP)

Speakers: Paul Johnson (T.D. MacDonald Chair in Industrial Economics, Competition Bureau)

Greg Sivinski (Microsoft Corporation)

Danny Sokol (University of Florida and Wilson Sonsini Goodrich & Rosati LLP)

15:15 | 15:30 REFRESHMENT BREAK | Room: Rideau Canal Atrium

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Economics

15:30 | 16:45 CONCURRENT SESSIONS

Session I: Comparative Perspectives on Class Actions Litigation | Room: 209 (1.25 substantive hours)

Join our panel of Judges and litigators as they discuss comparative experiences in class action litigation in the U.S. and Canada. Discussion topics will include comparative approaches to certification, ascertainability, remedies, and privilege as well as the unique issues presented in multi-jurisdictional actions.

Moderator: Don Houston (McCarthy Tetrault LLP)

Speakers: Stacey Anne Mahoney (Morgan Lewis & Bockius LLP)

The Honourable Paul M. Perell (Ontario Superior Court of Justice)

Charles Wright (Siskinds LLP)

Session II: Embracing Change: Innovation in the Practice and Enforcement of Competition Law
Room: 210 (1.25 Ethical, Professionalism, Practice Management hours)

Innovative technologies are already beginning to impact the practice and enforcement of competition and foreign investment law. Our panel will discuss the latest technological innovations including the use of algorithms and artificial intelligence for merger review and cartel detection and investigations, as well as the implications for in-house counsel, private practitioners, and the future enforcement of competition law

Moderator: Huy Do (Fasken Martineau DuMoulin LLP)

Speakers: Dr. Rosa Abrantes-Metz (Global Economics Group and NYU Stern School of Business)
Ben Alarie (Blue J Legal)
Felipe Leitão Valadares Roquete (Representative of Brazil's Administrative Council for Economic Defense)

Session III: Vertical Mergers - Views Across the Border | Room: 212 (1.25 substantive hours)

Vertical mergers and horizontal mergers where there is also a vertical dimension raise unique antitrust issues. Join our panel of experts who will discuss recent experiences in the review of vertical mergers in Canada and the U.S., including evolving approaches to the key issues of incentives and foreclosure, and the appropriate form of remedies to resolve vertical concerns.

Moderator: Omar Wakil (Torys)

Speakers: Pierre-Luc Hebert (BCE)
Brent Justus (McGuire Woods LLP)
Deborah Salzberger (Blake Cassels & Graydon LLP)
Sandy Walker (Dentons)

17:00 | 18:30 COCKTAIL RECEPTION | located on the 22nd floor of The Westin Ottawa Hotel

Sponsored by:  CRA Charles River Associates

18:30 | 22:00 DINNER | Restaurant 18 | 18 York Street, Byward Market
20:15 Keynote speaker: Jesse Hirsh (Futurist and Digital Strategist)

Sponsored by:  Deloitte.

FRIDAY, OCTOBER 27

8:00 | 9:00 **YOUNG LAWYERS' SPEED MENTORING EVENT AND BREAKFAST | Room: 202**



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8:00 | 9:00 **CONFERENCE BREAKFAST | Rideau Canal Atrium**

9:00 | 10:15 **CONCURRENT SESSIONS**

Session I: **Investment Canada Act Reviews – Insights and Inside Perspectives on the Foreign Investment and National Security Review Process | Room: 209 (1.25 substantive hours)**

Join our panel of practitioners, advisers, in-house counsel and government representatives for a discussion on Canada's evolving approach to foreign investment review. We'll discuss what to expect from the net benefit review process under the higher thresholds, perspectives on Canada's Guidelines on the National Security Review of Investments, and recent experiences in national security and net benefit reviews.

Moderator: Oliver Borgers (McCarthy Tetrault LLP)
Speakers: Bruce Drysdale (DFH Public Affairs)
 Justin T. Huff (Deputy Director, Office of Investment Security, U.S. Department of the Treasury)
 Michael Kilby (Stikeman Elliott LLP)

Session II: **Canada's Revised Immunity Policy - Opportunities and Challenges for multi-jurisdictional cases | Room: 210 (1.25 substantive hours)**

Canada's immunity and leniency policy is currently under review with significant changes being contemplated. At the same time, there have been developments in the application of the U.S. approach to leniency and treatment of individuals. What do these changes mean in practical terms and what are the implications of these changes and proposed changes to multi-jurisdictional criminal cases. Join us for a timely discussion of these important changes.

Moderator: Denes Rothschild (Borden Ladner Gervais LLP)
Speakers: Stephane Hould (Deputy Commissioner, Cartels and Deceptive Marketing Practices Branch, Competition Bureau)
 Randy Hughes (Bennett Jones LLP)
 Chris Naudie (Osler, Hoskin & Harcourt LLP)
 Cynthia Richman (Gibson, Dunn & Crutcher LLP)

Session III: **Scholars Panel: Essential Facilities: New Life for an Old Doctrine? | Room: 212 (1.25 substantive hours)**

The essential facilities doctrine originated with a 1912 US Supreme Court decision but was all but destroyed by another U.S Supreme Court decision in 2004. In Europe, the doctrine has been welcomed and has been adopted more recently. In Canada, however,

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it remains an open question whether the refusal to allow access to an essential facility by a dominant firm could (or should) constitute an abuse of dominant position. Join our panel of esteemed scholars to discuss the current and future of the essential facilities doctrine in antitrust.

Moderator: Renée Duplantis (The Brattle Group)

Speakers: Jeffrey R. Church (University of Calgary)

W. Michael G. Osborne (Affleck Greene McMurtry LLP)

Danny Sokol (University of Florida and Wilson Sonsini Goodrich & Rosati LLP)

10:15 | 10:30 REFRESHMENT BREAK | Rideau Canal Atrium

10:30 | 10:45 REMARKS | Room: 214

Speaker: Jonathan Jacobson (Wilson Sonsini Goodrich and Rosati, and Chair of the ABA's Section of Antitrust Law)

**10:45 | 12:00 CLOSING PLENARY SESSION: An Interview of Canada's Commissioner of Competition
Room: 214 (1.25 substantive hours)**

Join us to hear directly from Commissioner John Pecman regarding the Competition Bureau's key policy and enforcement initiatives for the year ahead as well as the Bureau's perspective on cutting edge antitrust issues. Is "big data" a big concern in Canada? Should it be? How does the Bureau intend to support Canada's innovation agenda? How does the Bureau envision its role in an international landscape where there is sometimes divergence in approach across borders?

Moderator: Anita Banicevic (Davies Ward Phillips Vineberg LLP)

Speaker: John Pecman (Commissioner of Competition, Competition Bureau)

12:00 | 12:15 CLOSING REMARKS

Thank you to our USB Key Sponsor:



12:15 | 14:00 CANADIAN WOMEN IN COMPETITION LAW (CWCL) NETWORKING LUNCH | Room: 211

Angie Morris, Senior Counsel at The Hershey Company, will join us to share her perspective as a woman and competition lawyer managing the transition from private practice to in-house, including how antitrust has given her a platform to expand into a leadership role managing legal operations for a global company. Hear how Angie balances a demanding career, family and social life and has learned to address challenges and strengthen resilience.

Speaker: Angie Morris (Senior Counsel at The Hershey Company)

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