WEDNESDAY, OCTOBER 16, 2019

12:00 - 21:00  COMPETITION BUREAU CHARITY GOLF TOURNAMENT & DINNER | RIVERMEAD GOLF CLUB

THURSDAY, OCTOBER 17, 2019

WI-FI ACCESS:  Network: FREEMAN AV WIFI | Password: KLDISCOVERY1

Sponsored by:

8:30 – 8:50  REGISTRATION AND HOT BREAKFAST | Rideau Canal Atrium South Foyer – Level 2

Sponsored by:

8:50 – 9:05  WELCOME AND INTRODUCTION | Room 214

CBA Competition Section Chair:  Huy Do, Fasken (Toronto, ON)
Conference Chair:  Neil Campbell, McMillan LLP (Toronto, ON)

9:05 – 10:30  OPENING PLENARY: LESSONS FOR 2020 FROM THE YEAR IN REVIEW | Room 214
(1.5 hours of substantive law)

The opening session will examine the key developments from the past year and will assess the trends and implications for future competition law enforcement in Canada. In addition to key cases and the Commissioner’s enforcement priorities, the discussion will include: the implications of recent institutional developments at the Bureau such as the appointment of a Chief Digital Enforcement Officer; the Bureau’s intelligence gathering and enforcement action regarding non-notifiable transactions; and the Bureau’s use of examinations under oath in merger reviews.

Moderator:  Elisa Kearney, Davies Ward Phillips & Vineberg LLP (Toronto, ON)
Speakers:  Adam S. Goodman, Dentons Canada LLP (Toronto, ON)
           Susan Hutton, Stikeman Elliott LLP (Ottawa, ON)
           Dr. Paul Johnson, Rideau Economics (Ottawa, ON)
           John Pecman, Fasken (Ottawa, ON)

Sponsored by:

NERA ECONOMIC CONSULTING

*Topics and speakers subject to change
REFRESHMENT BREAK | Rideau Canal Atrium South Foyer – Level 2

Sponsored by: edgeworth economics

CONCURRENT SESSIONS (1.5 hours of substantive law)

SESSION I: VERTICAL, CONGLOMERATE, NATIONAL CHAMPION AND KILLER ACQUISITIONS: HAS MERGER REVIEW ABANDONED THE CHICAGO SCHOOL? | Room 210

Non-traditional theories of harm appear to be on the rise as seen in AT&T/Time Warner, Qualcomm/NXP, the renewed debate over national champions in Europe and claims that the burden of proof should be shifted to the acquirer in potential “killer acquisitions” by incumbents. This session will explore the approach and experience of competition authorities in Europe, the U.S. and Canada in grappling with these newer theories of harm. The panelists will then utilize a debate format to consider the merits of defending or modifying the traditional, Chicago school approach – keeping in mind the types of data economists bring to bear in merger cases – and will highlight key takeaways for the Canadian merger review process.

Moderator: Oliver Borgers, McCarthy Tétrault (Toronto, ON)

Speakers: Elizabeth Bailey, NERA Economic Consulting (San Francisco, CA)
Anita Banicevic, Davies Ward Phillips & Vineberg LLP (Toronto, ON)
Jessica Delbaum, Shearman & Sterling (New York, NY)
Frank Montag, Freshfields Bruckhaus Deringer (Brussels, Belgium)

SESSION II: PROSYS v. MICROSOFT – ANATOMY OF A CLASS ACTION TRIAL | Room 212

After the Supreme Court of Canada’s seminal decision on certification in 2013, this proceeding moved into an extended discovery and modified trial process until it was settled in 2018. This case study will dissect how a competition law class action actually goes to trial, including the approaches taken by plaintiffs and defendants in respect of factual and expert evidence as well as the customized procedures adopted by the BC Supreme Court to manage this type of litigation.

Moderator: Catherine Beagan Flood, Blake, Cassels & Graydon LLP (Toronto, ON)

Speakers: Russell Cohen, Orrick Herrington & Sutcliffe LLP (San Francisco, CA)
Geoffrey Cowper, Fasken (Vancouver, BC)
Michael Jacobs, Hinkle Shanor LLP (Santa Fe, NM)
Reidar Mogerman, Camp Fiorante Matthews Mogerman (Vancouver, BC)
SESSION III: A ROUNDTABLE WITH CORPORATE COUNSEL—ADVISING IN A WORLD OF DIGITIZATION, POPULISM, PRIVACY AND CONSUMERISM | Room 209

This roundtable discussion will feature leading corporate counsel discussing the challenges of achieving compliance and approaches for advising on competitor interactions as well as pricing, marketing, and distribution practices. The panel will consider the changes arising from the digital economy including online platforms and the collection and use of data in the context of populist political pressures for increased consumer protection and privacy.

Moderator: Jennifer Hefler, Walmart Canada (Toronto, ON)

Speakers: Janet Bolton, TD Bank Group Legal Department (Toronto, ON)  
David Emanuelson, Intel Corporation (Santa Clara, CA)  
Kelly Kwan, Uber Canada (Toronto, ON)  
Neil Morgan, ATS Automation Tooling Systems Inc. (Cambridge, ON)

12:15-13:45 LUNCHEON | Trillium Ballroom – Level 4
(0.5 hours of substantive law)

OPENCING REMARKS
PRESENTATION OF THE BILL MILLER MEMORIAL AWARD
FIRESIDE CHAT WITH THE CHIEF JUSTICE OF THE FEDERAL COURT

Moderator: Antonio Di Domenico, Fasken (Toronto, ON)

Speaker: The Honourable Chief Justice Paul Crampton, Federal Court (Ottawa, ON)

Sponsored by: Analysis Group

13:45-15:15 PLENARY: IS THE BUREAU’S ENFORCEMENT APPROACH TO ABUSE OF DOMINANCE TOO LENIENT, TOO AGGRESSIVE OR OPTIMAL? | Room 214
(1.5 hours of substantive law)

This session will explore the scope of abuse of dominance in Canada, including the Competition Bureau’s updated guidelines, recent changes to its enforcement approach, including plans to seek injunctive relief where warranted, how Canadian enforcement compares to that of the US and EU and current economic thinking about unilateral conduct.

Moderator: Chris Hersh, Cassels Brock & Blackwell LLP (Toronto, ON)

Speakers: Chris Cook, Cleary Gottlieb Steen & Hamilton LLP (Brussels, Belgium)  
Jonathan Gleklen, Arnold & Porter Kaye Scholer LLP (Washington, DC)  
Michelle Lally, Osler, Hoskin & Harcourt LLP (Toronto, ON)  
John Syme, John Syme Law (Ottawa, ON)

*Topics and speakers subject to change
15:15-15:30  REFRESHMENT BREAK | Rideau Canal Atrium South Foyer – Level 2

Sponsored by:

15:30-17:00  CONCURRENT SESSIONS (1.5 hours of substantive law)

SESSION IV: RESOLVING CARTEL MATTERS WITHOUT GUILTY PLEAS | Room 210

This session will examine the recent return to use of prohibition orders under the Competition Act in the Genivar and Dessau cases, as well as the possible scope for employing deferred prosecution agreements in regimes with leniency programs, as has occasionally occurred in the United States.

Moderator:  Rob Kwinter, Blake, Cassels & Graydon LLP (Toronto, ON)

Speakers:  Scott Hammond, Gibson, Dunn & Crutcher LLP (Washington, DC)
           Professor Jennifer Quaid, University of Ottawa Faculty of Law (Ottawa, ON)
           John Rook, Bennett Jones LLP (Toronto, ON)
           Dominic Thérien, McCarthy Tétrault (Montréal, QC)

SESSION V: COMPETITION LAW ENFORCEMENT IN AID OF A DIGITAL CHARTER | Room 212

The Canadian government has introduced a broad-based Digital Charter and enlisted the Competition Bureau as one of the key institutional contributors in respect of data, privacy and innovation competition issues. This session will explore what role competition law and enforcement may play in addressing concerns arising from profound changes in how consumers and suppliers transact and communicate, taking cues from European developments and the recent FTC hearings.

Moderator:  Subrata Bhattacharjee, Borden Ladner Gervais LLP (Toronto, ON)

Speakers:  Chantal Bernier, Dentons Canada LLP (Ottawa, ON)
           Bill Hearn, Fogler, Rubinoff LLP (Toronto, ON)
           Alex Okuliar, Orrick Herrington & Sutcliffe LLP (Washington, DC)
           Dr. Christian Steinle, Gleiss Lutz (Stuttgart, Germany)

SESSION VI: THE FUTURE OF COMPETITION CLASS ACTIONS AFTER GODFREY | Room 209

The Supreme Court of Canada’s Godfrey decision is the latest word on class certification, umbrella purchasers, competition torts and limitation periods. The panelists will discuss what’s new, what’s the same, what questions still remain, the implications for future class action litigation and how Canada’s regime will interface with the US and UK/EU on international cases.

*Topics and speakers subject to change*
CBA COMPETITION LAW FALL CONFERENCE
OCTOBER 16-18, 2019 | SHAW CENTRE, OTTAWA, ON

Moderator: The Honourable Marshall Rothstein, C.C. Q.C., Osler, Hoskin & Harcourt LLP (Vancouver, BC)

Speakers: Kim Dietzel, Herbert Smith Freehills LLP (London, England)
          John Roberti, Allen & Overy LLP (Washington DC)
          Linda Visser, Siskinds LLP (London, ON)
          Kevin Wright, DLA Piper (Vancouver, BC)

17:00-18:30 NETWORKING RECEPTION | Rideau Canal Atrium South Foyer – Level 2

Sponsored by: CRA

18:30-22:00 DINNER WITH KEYNOTE SPEAKER | National Arts Centre – O’Born Room
(0.75 hours of substantive law)

THE ROAD AHEAD FOR CANADA: NAVIGATING A NEW POLITICAL LANDSCAPE

In his keynote address, Jaime Watt will address the prevalent trends in the federal election as well as recent regional elections, which indicate the way forward for Canada. Jaime will consider the changes taking place around the world and whether Canada is sufficiently prepared for the challenges and competitive shifts of 2020. Focusing on macro political changes as well as more localized trends, his remarks will evaluate what shifts Canadians can expect with regard to competition law and business more broadly.

Keynote Speakers: Jaime Watt, Navigator Ltd. (Toronto, ON)

Sponsored by: Deloitte

22:00 -24:00 CALL TO THE BAR NETWORKING EVENT | Clocktower Brew Pub – Rideau Street

A long-time informal Fall Conference tradition, you are invited to the Young Lawyers Committee’s first formal “Call to the Bar” at a local pub. Stop by for an opportunity to catch up with colleagues after an exciting conference day and meet new friends throughout—and across—the bar.

Sponsored by: CounselQuest

*Topics and speakers subject to change
FRIDAY, OCTOBER 18, 2019

WI-FI ACCESS:  Network: FREEMAN AV WIFI | Password: KLDISCOVERY2

Sponsored by:

8:00–8:30 REGISTRATION AND HOT BREAKFAST | Rideau Canal Atrium South Foyer – Level 2

Sponsored by:

8:30-9:45 CONCURRENT SESSIONS (1.25 hours of substantive law)

SESSION VII: THE EXPANDING SCOPE AND SCALE OF NATIONAL SECURITY REVIEWS | Room 210

National security reviews of investments in the US and in Canada are expanding beyond traditional issues, investors and industries to include personal data and privacy, financial sector regulation, and an evolving understanding of critical infrastructure. In addition, national security concerns continue to intersect with international agreements and alliances and other domestic business regulations. This panel will explore how the expanding scope and scale of potential national security concerns may impact foreign investment strategies and reviews and suggest best practices for advising clients on these risks.

Moderator: Kaeleigh Kuzma, Osler, Hoskin & Harcourt LLP (Toronto, ON)

Speakers: Kevin Ackhurst, Norton Rose Fulbright Canada LLP (Toronto, ON)
Milos Barutciski, Borden Ladner Gervais LLP (Toronto, ON)
Phil Harwood, Longview Communications and Public Affairs (Toronto, ON)
Mario Mancuso, Kirkland & Ellis LLP (Washington, DC)

SESSION VIII: SCHOLARS PANEL: PERSONALIZED PRICING — AN ANTITRUST ISSUE? | Room 212

The dramatic growth in digital platforms and the corresponding increase in the use of artificial intelligence enables price discrimination on an unprecedented scale. This session will explore whether and how competition law can address this type of pricing activity.

Moderator: Markus von Wartburg, Analysis Group (Montreal, QC)

Speakers: Professor Ramsi Woodcock, University of Kentucky College of Law (Lexington, KY)
Antonio Gomes, OECD (Paris, France)
David Rosner, Goodmans LLP (Toronto, ON)

*Topics and speakers subject to change*
SESSION IX: WHEN DOES AGGRESSIVE MARKETING CROSS THE LINE? | Room 209

This panel will examine the boundaries between aggressive and unfair comparative advertising, when unfairness becomes misleading, and possible remedies available to an “injured” party.

Moderator: Mona Shah, Kellogg Canada (Mississauga, ON)

Speakers: Catherine Bate, Advertising Standards Canada (Toronto, ON)
Janine MacNeil, McMillan LLP (Toronto, ON)
Donnelly McDowell, Kelley Drye & Warren LLP (Washington, DC)
Cynthia Spry, Babin Bessner Spry LLP (Toronto, ON)

9:45–10:00 REFRESHMENT BREAK | Rideau Canal Atrium South Foyer – Level 2

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10:00–12:00 CLOSING PLENARY: CANADA WANTS COMPETITION! | Room 214
(1.5 hours of substantive law)

Five “policy entrepreneurs” will pitch their proposals for the most important improvements that are needed to ensure that Canada’s cartel, merger and unilateral conduct laws and enforcement are effective for the 2020s. A distinguished judging panel will weigh in with their assessments and recommendations, and the audience will vote for the “Canadian competition law priority for 2020”.

Host: Dany Assaf, Torys LLP (Toronto, ON)

Judges: The Honourable Perrin Beatty, Canadian Chamber of Commerce (Ottawa, ON)
Erika Douglas, Temple University, Beasley School of Law (Philadelphia, PA)
The Honourable Howard Wetston, Senate of Canada (Ottawa, ON)

Proposals & Contestants: “Reinvigorating Canada’s Cartel Enforcement Regime”: Casey Halladay, McMillan LLP (Toronto, ON)
“Antitrust in the Age of Big Data: New Wine in Old Bottles”: Lawson Hunter, Stikeman Elliot LLP (Ottawa, ON)
“Adding Private and Class Actions for Abuse of Dominance and Other Reviewable Practices”: Nikiforos Iatrou, McCarthy Tétrault (Toronto, ON)
“Adopting a Gender Lens in Competition Policy, Review and Enforcement”: Justine Johnston, Goodmans LLP (Toronto, ON)
“Streamlining the Regulatory Review Process”: Micah Wood, Blakes, Cassels & Graydon LLP (Toronto, ON)

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*Topics and speakers subject to change
12:00-12:15  CLOSING REMARKS | Room 214

12:15-14:00  WOMEN IN COMPETITION LAW LUNCH | Colonel By Foyer – Level 1
(1 hour of ethics, professionalism and practice management)

The CWCL lunch will feature a panel of speakers with diverse experiences (inhouse, private practice, academia) who will discuss their personal paths in competition law and the opportunities and challenges they faced along the way.

**Speakers:**
- **Fiona Campbell**, CIBC (Toronto, ON)
- **Erika Douglas**, Temple University, Beasley School of Law (Philadelphia, PA)
- **Jennifer Hefler**, Walmart Canada (Toronto, ON)

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To obtain accreditation information for the entire conference in each Canadian jurisdiction, please visit the conference webpage.

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