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the legal profession



A conference presented by the Antitrust and Trade Law
Section of the International Bar Association and the National
Competition Law Section of the Canadian Bar Association.

International Bar Association and Canadian Bar
Association combined Spring Competition Law
Conference

North America and the globalisation of antitrust

3-4 May 2007
Sutton Place Hotel
TORONTO, Canada

Supported by



INTERNATIONAL

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**GLOBAL
COMPETITION
REVIEW**

The International Journal of competition policy and regulation

* Up to 9.5 hours available as per the
Law Society of England and Wales.
Up to 12 hours available as per the
Law Society of Upper Canada. The
number of CPD points/hours
available may vary for other bar
associations and law societies
depending on their criteria.

Who should attend?

Antitrust, competition, commercial and corporate lawyers in private
practice, in-house counsel, economists, enforcement officials and
academics.

**CLE/CPD
hours available***



Programme

Thursday 3 May

0800 – 1730

Registration

0900 – 0910

Opening remarks

By the conference co-chairs

0910 – 0945

Keynote address

Sheridan Scott *Commissioner of Competition, Canadian Competition Bureau, Gatineau, Quebec*

Introduction and appreciation by the conference co-chairs

0945 – 1230

Abuse of dominance: international convergence or divergence?

With a new ICN working group on unilateral conduct, the release of guidelines on Article 82 expected in Europe during the first half of 2007, hearings on section 2 of the Sherman Act and the first ever appellate decision on abuse of dominance in Canada, this area of law has come under a worldwide spotlight. At the same time, it has become increasingly complex and more difficult to navigate, particularly for cross-border businesses. This panel of experts from Canada, the United States and Europe will explain the implications of recent changes and cases such as *Canada Pipe*, *British Airways* and *Trinko* on firms' pricing, marketing and distribution practices.

Topics to be addressed by this panel include:

- What conduct falls foul of the rules and when? Rebates? Tying? Single branding? Low pricing?
- In what circumstances is effects-based analysis of economic evidence more appropriate than *per se* rules?
- How to minimise the burden of complying with different rules in different countries?

Co-Moderators

Brian A Facey *Blake Cassels & Graydon LLP, Toronto, Ontario*

Gregory McCurdy *Microsoft Corporation, Seattle, Washington; Vice-Chair, Antitrust Committee, IBA Legal Practice Division*

Panellists

Lorena Boix Alonso *Policy Adviser, Cabinet of the Commissioner for Competition, European Commission, Brussels*

Kenneth L Glazer *Deputy Director, Bureau of Competition, US Federal Trade Commission, Washington DC*

Gil Ohana *Director, Antitrust and Competition, Cisco Systems Inc, San Jose, California*

Richard Parker *O'Melveny & Myers LLP, Washington DC*

Madeleine Renaud *McCarthy Tétrault LLP, Montreal, Quebec*

Richard Taylor *Deputy Commissioner of Competition, Civil Matters Branch, Canadian Competition Bureau, Gatineau, Quebec*

1045 – 1115 **Coffee/Tea break**

1230 – 1400 **Lunch**

Sponsored by Cole and Partners

Keynote address

Tom Barnett *Assistant Attorney General, Antitrust Division, US Department of Justice, Washington DC*

Introduction

Ronan Harty *Davis Polk & Wardwell, New York; Senior Vice-Chair, Antitrust Committee, IBA Legal Practice Division*

Appreciation

Don Affleck *Affleck Greene Orr LLP, Toronto, Ontario; Past Chair, National Competition Law Section, Canadian Bar Association*

1400 – 1500 *Showcase panel*

Merger efficiencies in Canada, the United States and Europe

Mergers between competitors have the potential to generate significant efficiencies. Such mergers may not materialise, however, if merger rules do not accord efficiencies significant weight or agencies take too long to clear efficiency enhancing mergers. The Canadian Commissioner of Competition has recently announced that the Competition Bureau will both clear anti-competitive mergers where the efficiencies defence is met, and do so quickly, without resort to a lengthy hearing in certain circumstances.

This showcase panel will put the Bureau's new position in global context, examining the role of merger efficiencies in Canada, Europe and the United States and implications for cross-border cases. It will address issues such as:

- What role do merger efficiencies now play in Canada, the EC and the United States?
- Will US and EC agencies match the Canadian approach? Or will Canadian businesses gain a competitive advantage?
- How do different approaches affect timing/acceptance of efficiencies in cross-border cases?
- Are efficiencies being left on the table because of procedural roadblocks or substantive uncertainty?

Conference Co-Chairs

Bruno Ciuffetelli *Hogan & Hartson LLP, Caracas; Chair, Antitrust Committee, IBA Legal Practice Division*

James Musgrove *Lang Michener LLP, Toronto, Ontario; Chair, National Competition Law Section, Canadian Bar Association*

- Are efficiency enhancing mergers between competitors in the national interest? What about the multinational interest?

Co-Moderators

Calvin Goldman *Blake Cassels & Graydon LLP, Toronto, Ontario*

Inigo Igartua Arregui *Gomez-Acebo & Pombo, Barcelona; Senior Vice-Chair, Antitrust Committee, IBA Legal Practice Division*

Panellists

Melanie Aitken *Acting Deputy Commissioner of Competition, Mergers Branch, Canadian Competition Bureau, Gatineau, Quebec*

Steve Newborn *Weil Gotshal & Manges LLP, Washington DC*

Jonathan Scott *Herbert Smith LLP, London*

1500 – 1730

Mergers: advocacy with reviewing agencies

This roundtable session will explore the importance of effective advocacy to the outcome of complex merger review. Recent decisions by regulators in a number of high-profile merger cases highlight the importance of qualitative assessment criteria and regulatory strategy to the outcome of merger review. What approaches for presenting your case to regulators will tip their decision – to challenge your merger or to close their investigation without a challenge – in your client's favour?

In particular, how do you establish:

- whether entry or expansion is likely to occur post merger?
- that foreign imports will or will not be sufficient to constrain the market power of the merging parties?
- whether coordinated behaviour will occur?
- the extent to which buyers really do have countervailing power?

Drawing on their experiences in complex merger cases, including Whirlpool/Maytag, AO Smith/GSW, Airtours and Diageo/Pernod Ricard/Seagram, the panel will discuss what constitutes effective advocacy in the merger review context, and strategies for addressing the factual issues and overcoming the legal hurdles that antitrust counsel face in complex merger cases.

Co-Moderators

Ronan Harty

Jay Holsten *Torys LLP, Toronto, Ontario; Chair, CBA National Competition Law Section Mergers Committee*

Friday 4 May

Panellists

Paul Cuomo *Howrey LLP, Washington DC*

Peter Franklyn *Osler Hoskin & Harcourt LLP, Toronto, Ontario*

Malcolm Nicholson *Slaughter and May, London*

Margaret Sanderson *CRA International, Toronto, Ontario*

Jeff Schmidt *Director, Bureau of Competition, US Federal Trade Commission, Washington DC*

1545 – 1615 **Coffee/Tea break**

1800 – 1945 **Reception**

Gardiner Museum

111 Queen's Park, Toronto

Sponsored by CRA International

0815 – 1230

Registration

0845 – 1130

International cartel enforcement

Cartels continue to be a top enforcement priority in North America, Europe and, increasingly, in other jurisdictions. Over the past year there have been numerous changes to leniency programmes and practices, with a particular focus on the treatment of second and subsequent cooperating parties.

This panel will cover important developments in the following areas:

- Revisions to immunity programmes
- The treatment of subsequent cooperating parties
- Access of private plaintiffs to evidence generated from cooperation with enforcement agencies
- The implications and risks for companies which defend rather than cooperate

Co-Moderators

Neil Campbell *McMillan Binch*

Mendelsohn LLP, Toronto, Ontario;

Vice-Chair, Antitrust Committee, IBA

Legal Practice Division

Sandra Forbes *Davies Ward Phillips &*

Vineberg LLP, Toronto, Ontario

Panellists

Peter Armitage *Blake Dawson, Waldron, Sydney, New South Wales*

Randy Hughes *McCarthy Tetrault LLP, Toronto, Ontario*

Katherine Kay *Stikeman Elliott LLP, Toronto, Ontario*

James H Mutchnik *Kirkland & Ellis LLP, Chicago, Illinois*

Michael Reynolds *Allen & Overy LLP, Brussels; Immediate Past Chair, IBA Legal Practice Division, LPD Council Member*

Gary Spratling *Gibson Dunn & Crutcher, San Francisco, California*

1015 – 1045 **Coffee/Tea break**

1130 – 1230

Roundtable: judging economics

Economic theories and techniques are evolving continuously and competition litigation is becoming more complex. This panel will examine how economic evidence can best be presented to and adjudicated by courts/tribunals. In particular, the panellists will discuss:

- The uses and limitations of various types of expert economic evidence ranging from theories/models to econometric simulations
- Challenges to expert witnesses based on qualifications and methodology standards (eg the US 'Daubert' standards), acting as advocates or becoming fact witnesses
- Best practices for leading direct economic evidence and cross-examining experts
- Alternatives to the traditional 'opposing experts' model including panels of experts ('hot tubbing') and tribunal-appointed experts

Co-Moderators

Joe England *Heller Ehrman LLP, New York; Chair, Antitrust Section, American Bar Association*

J William Rowley QC *McMillan Binch Mendelsohn, Toronto, Ontario; Chair, IBA Global Forum for Competition and Trade Policy*

Panellists

Dennis Carlton *Deputy Assistant Attorney General, Antitrust Division, US Department of Justice and Commissioner, US Antitrust Modernisation Commission, Chicago, Illinois*

Hon Mr Justice Marshall Rothstein *Supreme Court of Canada; former Member of the Canadian Competition Tribunal, Ottawa, Ontario*

1230 – 1245

Closing remarks

By the conference co-chairs

The organisers may at any time, with or without giving notice, in their absolute discretion and without giving any reason, cancel or postpone the conference, change its venue or any of the other published particulars, or withdraw any invitation to attend. In any case, neither the organisers nor any of their officers, employees, agents, members or representatives shall be liable for any loss, liability, damage or expense suffered or incurred by any person, nor will they return any money paid to them in connection with the conference, unless they are satisfied not only that the money in question remains under their control but also that the person who paid it has been unfairly prejudiced (as to which, decision shall be in their sole and unfettered discretion and, when announced, final and conclusive).

Continuing Professional Development/Continuing Legal Education

For delegates from countries where CPD / CLE is mandatory, the International Bar Association will be pleased to provide a Conference Certificate of Attendance which, subject to the exact CPD / CLE requirements, may be used to obtain the equivalent accreditation in your jurisdiction. This conference has been accredited for CPD / CLE by the Law Society of England and Wales. Delegates should ask staff at the Registration Desk for information as to how to obtain the hours.

General Information

Date

3-4 May 2007

Venue

The Sutton Place Hotel
955 Bay Street, Toronto ON M5S 2A2
tel: +1 (416) 924 9221
fax: +1 (416) 324 5617
www.suttonplace.com

Language

All working sessions and conference materials will be in English.

How to register

Please complete the attached registration form and return it to Carole Roussel at the CBA together with your payment. You should receive confirmation of your registration within seven days; if you do not, please contact Carole Roussel caroler@cba.org.

Fees

Registration forms and fees received:

	on or before 23 March	after 23 March
CBA/IBA member	CAD\$845	CAD\$1200
Non-member **	CAD\$1200	CAD\$1450
CBA student members	CAD\$195	CAD\$195

Fees exclude all applicable Canadian taxes.

** By paying the non-member fee, we welcome you as a Delegate Member of the IBA for the year in which this conference is held, which entitles you to the following benefits:

- 1 Password access to certain parts of the IBA website.
- 2 Receipt of IBA e-news and access to online versions of International Bar News.
- 3 Pay the member rate for any subsequent conference registrations for this calendar year.
- 4 Advantage of IBA Member Rewards.

If you would like to become a Full or General Member of the IBA, which includes membership of one or more committees – and inclusion in and access to our Membership Directory – we encourage you to do so now in order to register for this conference at the ‘member rate’. Full details of how to join can be found at www.ibanet.org.

If you would like to become a member of the CBA, please consult the CBA website for further details and benefits at www.cba.org/CBA/membership/main. Join the CBA now and register for this Conference at the ‘member rate’.

Full payment must be received in order to process your registration.

Fees include

- Attendance at all working sessions
- Conference materials, including any available speakers’ papers submitted to the IBA before 30 March
- Access to the above conference working materials from the IBA website (www.ibanet.org) approximately seven days prior to the conference
- Lunch on 3 May
- Tea and coffee during breaks
- Invitation to hosted Reception on 3 May

Please note that registrations are not transferable.

List of participants

In order for your name to appear in the list of participants, which will be distributed at the conference, your registration form must be received by 20 April at the latest.

Payment of registration fees

By cheque or money order made payable to the Canadian Bar Association or by credit card, Visa or MasterCard only. No other credit cards are accepted.

Payment must be received along with a completed registration form prior to the conference.

Please indicate on the attached registration form should you require an invoice.

Cancellation of registration

If cancellation is received in writing at the CBA office by 6 April, fees will be refunded less a 20 per cent administration charge. We regret that no refunds can be made after this date.

Travel arrangements and visas

Participants are responsible for making their own travel arrangements. It is recommended that you check your visa requirements with your local embassy or consulate. We are unable to send out letters supporting visa applications to embassies prior to receipt of your registration form and full payment of registration fees.

Please apply for your visa in good time.

Promotional literature

Please note that no individual or organisation may display or distribute publicity material or other printed matter during the conference, unless by prior arrangement with the IBA and the CBA. Organisations and companies wishing to discuss promotional opportunities should contact the sponsorship department at the IBA sponsorship@int-bar.org or the CBA caroler@cba.org.

Hotel accommodation

A limited number of rooms have been reserved at the Sutton Place Hotel for the nights of 2-3 May inclusive.

The Sutton Place Hotel

955 Bay Street, Toronto ON M5S 2A2
tel: +1 (416) 324 5621 (reservations)
fax: +1 (416) 324 5617

The following rates are per room, per night and exclude breakfast, service charges and local taxes.

Single/double occupancy: CAD\$229

Please call the hotel on +1 (416) 324 5621 quoting ‘Canadian Bar Association’ to obtain this rate. Callers from the United States or Canada may call toll free on +1 866 378 8866

Subject to availability, the group rate will be extended to bookings two days prior to, and two days after the advertised dates.

Please note that any reservation made on or after 2 April will be subject to availability and cannot be guaranteed at the special rate.

As a limited number of rooms have been blocked at the hotel availability cannot be guaranteed once the room block is full.

Reservation cancellations and ‘no shows’ may be subject to financial penalties. Please contact the hotel directly for details.

Delegates are responsible for making accommodation reservations directly with the hotel and enter into an agreement with the hotel regarding credit card guarantees, cancellation terms and conditions, and room rates (should these differ from the special IBA rate). The IBA and the CBA cannot accept responsibility for hotel accommodation disputes between a delegate and the hotel.

Weekend in Toronto

For those people wishing to spend the weekend in Toronto, please see our fact sheet for further information and recommendations:

www.ibanet.org/conferences/Antitrust07
or www.cba.org/cba/cle/cle00/cbaiba_07.aspx

Disabled access

Please notify us if you require special assistance. Further details can be found on the hotel website www.suttonplace.com.

Social programme

Please indicate on the registration form whether you will attend the hosted cocktail reception on 3 May.

Registration Form

North America and the globalisation of antitrust

3-4 May 2007, Sutton Place Hotel, TORONTO, Canada

Please read the 'General Information' section before completing this form and return it together with your payment to
Carole Roussel at the address overleaf. (Please attach your business card or write in block capitals)

Title (Mr, Mrs, Ms, etc) _____ Given name _____ Family name _____

CBA/IBA membership No (if applicable) _____

Date of birth _____

Firm/Company/Organisation _____

Address _____

Tel _____ Fax _____

E-mail _____

Name and country to be shown on badge, if not as above

Special dietary requirements

Registration form and fees received:	On or before 23 March	After 23 March	Amount payable
CBA/IBA member	CAD\$845	CAD\$1,200	\$
Non member*	CAD\$1,200	CAD\$1,450	\$
CBA student members	CAD\$195	CAD\$195	\$
TOTAL AMOUNT PAYABLE			\$

All fees exclude applicable Canadian taxes

Hosted reception

- Yes, I will be attending the hosted reception on 3 May at the Gardiner Museum.
 No, I will not attend the hosted reception.

Full payment must be received in order to process your registration

Please note that registrations are not transferable

*Join the IBA and the CBA today and register for this conference at the member rate.
Please find the membership application forms at www.ibanet.org and www.cba.org/CBA/membership/main

Continued overleaf

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Payment _____ Ref No _____ Banked _____

Underpayment _____ Overpayment _____ Processed _____

Payment

I enclose a cheque/bank draft made payable to the CBA for the total amount payable.

Please charge the total amount due to my Visa / MasterCard. Other cards are not accepted.

Card number _____ Expiry date _____

Name of card holder _____

Signature _____ Date _____

Where did you first hear about this conference?

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ADVERTISEMENT E-MAIL EDITORIAL RECOMMENDATION OTHER

Please provide further details, quoting code (if applicable)

IBA listings are provided to third parties, are used for marketing purposes and are published on the internet and other internationally available networks and media. The IBA will treat your personal information with the utmost respect and in accordance with UK data privacy laws.

CBA's programmes are supported by preferred suppliers, sponsors and exhibitors. Subject to the following paragraph, I understand that the provision of contact information on this form constitutes my consent to such information being disclosed at this programme. For further information about the CBA's treatment of personal information, see members Privacy Policy at www.cba.org.

If you do not want your details to be passed on, please tick the box

Please send the completed form to:

Carole Roussel

Canadian Bar Association National Office

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tel: +1 (613) 237 2925 fax: +1 (613) 237 0185 e-mail: caroler@cba.org



About the International Bar Association

the global voice of the legal profession

In its role as a dual membership organisation, comprising 30,000 individual lawyers and over 195 bar associations and law societies, the International Bar Association (IBA) influences the development of international law reform and shapes the future of the legal profession. Its member organisations cover all continents, and almost all nations.

Grouped into two divisions – the Legal Practice Division and the Public and Professional Interest Division – the IBA covers all practice areas and professional interests. It provides members with access to leading experts and up-to-date information as well as top-level professional development and network-building opportunities through high quality publications and world-class conferences. The IBA's Bar Issues Commission provides its member organisations with substantive programmes and social activities in and between meetings and the Human Rights Institute works across the IBA, helping to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

Antitrust Committee

The Antitrust Committee is part of the Antitrust and Trade Law Section which, with over 1,400 members, is among one of the largest sections in the Legal Practice Division. The Antitrust Committee provides an international forum for the exchange of the most current thinking in the field of antitrust law. In addition, there is a strong commitment to bring together international practitioners to facilitate closer working relationships. The committee is increasingly consulted by government officials and members of the private sector for its scholarship and practical input into antitrust developments. It holds regular conferences and publishes its own newsletter as well as the Competition Law International journal.

International Bar Association

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INTERNATIONAL LAW OFFICE

OFFICIAL ONLINE MEDIA PARTNER TO THE IBA
WWW.INTERNATIONALLAWOFFICE.COM



About the Canadian Bar Association

The Canadian Bar Association is the essential ally and advocate of all members of the legal profession. It is the voice for all members of the profession and its primary purpose is to serve its members. It is the premier provider of personal and professional development and support to all members of the legal profession. It promotes fair justice systems, facilitates effective law reform, promotes equality in the legal profession and is devoted to the elimination of discrimination. The CBA is a leading edge organisation committed to enhancing the professional and commercial interests of a diverse membership and to protecting the independence of the judiciary and the Bar.

The CBA is a professional, voluntary organisation which was formed in 1896 and incorporated by a Special Act of Parliament on 15 April 1921. Today, the CBA represents some 37,000 lawyers, judges, notaries, law teachers and law students from across Canada. Approximately two-thirds of all practising lawyers in Canada belong to the CBA.

The mandate of the Canadian Bar Association is to:

- improve the law;
- improve the administration of justice;
- improve and promote access to justice;
- promote equality in the legal profession and in the justice system
- improve and promote the knowledge, skills, ethical standards and well-being of members of the legal profession;
- represent the legal profession nationally and internationally; and
- promote the interests of the members of the CBA.

Through the work of its sections, committees and task forces at both the national and branch levels, the CBA is seen as an important and objective voice on issues of significance to both the legal profession and the public. The CBA has branches in all of the provinces and territories.

The CBA is also affiliated with several international legal associations.

Please consult our website at www.cba.org to learn more about the CBA.