

## Memorandum 2023-7

### **Antitrust Law: Status Report**

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At its November 2022 meeting the Commission<sup>1</sup> considered Memorandum 2022-50 and its First and Second Supplements. Those materials discussed the staff's intentions on how to organize the staff work for the study of antitrust law. Specifically, the staff work will include the following:

- A series of educational sessions will be scheduled, to provide background information on different issue areas. Those sessions will consist of expert presentations, conducted by teleconference. They will either be integrated into already-scheduled Commission meetings or scheduled as separate standalone meetings.
- The staff will form small working groups, consisting of experts on different issues that are relevant to the study. Those working groups will prepare reports for the Commission that summarize the state of the law, perceived problems, and possible reforms. The discussion of reforms will be objective, noting the advantages and disadvantages of possible reforms, without advocating for a particular result. The working groups will include experts with different perspectives on antitrust policy.<sup>2</sup>

Since the November meeting, the staff has been working to implement those actions. This memorandum provides a general report on the status of the staff's efforts.

#### **Educational Sessions**

Thomas Greene is a trial attorney with the Antitrust Division of the U.S. Department of Justice, where his practice includes both civil and criminal enforcement actions. He is also currently an adjunct professor of law at UC Law SF (formerly Hastings College of Law). A fuller biography of Mr. Greene is attached in the Exhibit.

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Most materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

2. Draft Minutes (Nov. 2022), p. 3.

Mr. Greene has agreed to conduct many of the planned educational sessions, as a public service. *In doing so, he is acting as an individual.* He is not representing the Department of Justice.

The first presentation is scheduled for the meeting on January 19, 2023, at 11:00 a.m. Subsequent presentations will also take place during the Commission's scheduled meetings. The tentative schedule is as follows:

- January 19, 2023. Overview of Antitrust
- February 16, 2023. The Consumer Welfare Standard and Antitrust Injury
- March 16, 2023. Single Firm Conduct
- April 20, 2023. Mergers and Acquisitions
- May 18, 2023. Tech Platforms
- June 22, 2023. Antitrust in Foreign Jurisdictions

Additional sessions may be added later in the year. The feasibility of doing so will depend in part on whether existing waivers that make teleconference meetings lawful are extended beyond their July 1, 2023 sunset date.

The staff is working with Mr. Greene to explore other possible presenters to conduct some of the planned sessions (particularly the session on foreign antitrust law).

The staff is grateful to Mr. Greene for his assistance in this study. It will be invaluable.

### **Working Groups**

The staff has been working to invite expert antitrust scholars and practitioners to serve on small working groups, which will provide written reports to inform the Commission's deliberations.<sup>3</sup> The staff will keep in touch with the working groups, but their work will be largely independent and self-organizing.

The intention is that each group will be assigned a different topic, within the broader topic of antitrust law and policy. The exact composition and topics of the working groups are still being worked out, but the working group topics will likely include the following:

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3. To date, the recruitment effort has mostly focused on academics. In the near future, the staff will expand its efforts, primarily to include attorneys who practice antitrust law. It may be helpful to add expert practitioners to any of the working groups that are established, but the staff is particularly interested in forming groups focused on public enforcement, private enforcement and defense, and existing exemptions from antitrust law.

- Single Firm Conduct
- Mergers and Acquisitions
- Consumer Welfare Standard
- Tech Platforms
- Enforcement and Exemptions<sup>4</sup>

Those topics would cover all of the issues that were specifically enumerated in the resolution that assigned this study to the Commission:

(1) Whether the law should be revised to outlaw monopolies by single companies as outlawed by Section 2 of the Sherman Act, as proposed in New York State’s “Twenty-First Century Anti-Trust Act” and in the “Competition and Antitrust Law Enforcement Reform Act of 2021” introduced in the United States Senate, or as outlawed in other jurisdictions.

(2) Whether the law should be revised in the context of technology companies so that analysis of antitrust injury in that setting reflects competitive benefits such as innovation and permitting the personal freedom of individuals to start their own businesses and not solely whether such monopolies act to raise prices.

(3) Whether the law should be revised in any other fashion such as approvals for mergers and acquisitions and any limitation of existing statutory exemptions to the state’s antitrust laws to promote and ensure the tangible and intangible benefits of free market competition for Californians[.]<sup>5</sup>

The staff is extremely pleased with the number and caliber of experts who have agreed to participate in these working groups, as a public service. To date, those experts include:

- Prof. Jonathan B. Baker, American University Washington College of Law
- Prof. Peter C. Carstensen, University of Wisconsin Law
- Prof. Aaron Edlin, Berkeley Law
- Prof. Joseph Farrell, Berkeley Economics
- Kathleen Foote, Head of Antitrust Section, California Department of Justice (ret.)
- Prof. Warren S. Grimes, Southwestern Law School
- Prof. Prasad Krishnamurthy, Berkeley Law

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4. Some issues will cut across these divisions, being relevant to multiple working groups (e.g., consumer welfare standard). The staff will be investigating ways to coordinate content between the working groups.

5. 2022 Cal. Stat. res. ch. 147.

- Prof. Mark A. Lemley, Stanford Law School
- Prof. Christopher Leslie, UC Irvine Law
- Prof. Douglas Melamed, Stanford Law
- Dr. Diana L. Moss, President, American Antitrust Institute<sup>6</sup>
- Prof. Carl Shapiro, Haas School of Business, Berkeley
- Prof. D. Daniel Sokol, University of Southern California Law
- Prof. Steven Tadelis, Haas School of Business, Berkeley

The brief affiliations noted in the list above are intended only for identification. The listed experts have too many other affiliations and honors to be included in a readable list. Fuller biographies of the participating experts are provided in the attached Exhibit.

Again, the staff is extremely grateful for the invaluable assistance that these experts will provide. The reports that they prepare for the Commission will provide a critical foundation for the Commission’s deliberations.

The staff also appreciates the assistance of the Antitrust Section of the California Lawyers Association, which provided the staff a list of recognized antitrust experts. That list provided an important leg up in the staff’s recruitment efforts.

### **Empirical Study of Business Concentration in California**

In addition to the two efforts described above, the staff intends to conduct a third inquiry in parallel with the other work — an empirical study of business concentration in California. The intention is to work with business schools and other relevant programs at California universities to conduct original research, aggregate existing research on California, and take the steps necessary to extract California-specific data from broader studies.

The idea for this study and the general methodology were suggested by Cheryl Lee Johnson. The staff immediately saw the value of such a study. It would provide an important empirical basis for assessing the need for antitrust reform in California.

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6. The American Antitrust Institute is a national organization that describes its mission as follows: “The American Antitrust Institute (AAI) is an independent, nonprofit organization devoted to promoting competition that protects consumers, businesses, and society. We serve the public through research, education, and advocacy on the benefits of competition and the use of antitrust enforcement as a vital component of national and international competition policy.” See <https://www.antitrustinstitute.org/about-us/>.

The staff will oversee this inquiry, but has asked Ms. Johnson to act as coordinator and liaison to the scholars who will be recruited to conduct the research. Ms. Johnson has agreed to provide that assistance, as a public service. The staff is grateful for the assistance that Ms. Johnson has already provided to the staff, and is anticipating that her work on this inquiry will be invaluable.

Ms. Johnson's biography is also included in the attached Exhibit. Please note in particular her extensive work as Editor in Chief of California-specific antitrust treatises.

### **Next Steps**

In the interval before the February meeting, the staff expects to do all of the following:

- Continue to recruit experts to participate in the study. In particular, the staff will reach out to attorneys who practice antitrust law.
- Determine the membership and subject areas of the working groups.
- Work with Ms. Johnson to launch the empirical study of business concentration in California, as described above.
- Work with Mr. Greene to find other possible presenters for the educational sessions, especially the session on international antitrust law.

Respectfully submitted,

Brian Hebert  
Executive Director



## SHORT BIOGRAPHIES OF EXPERT PARTICIPANTS

### **Prof. Jonathan B. Baker**

Jonathan B. Baker is Professor of Law Emeritus at American University Washington College of Law, and Fellow and Senior Academic Advisor of the Thurman Arnold Project at Yale. He specializes in the areas of antitrust and economic regulation. Professor Baker served as the Chief Economist of the Federal Communications Commission from 2009 to 2011, and as the Director of the Bureau of Economics at the Federal Trade Commission from 1995 to 1998. Previously, he worked as a Senior Economist at the President's Council of Economic Advisers, Special Assistant to the Deputy Assistant Attorney General for Economics in the Antitrust Division of the Department of Justice, an Assistant Professor at Dartmouth's Amos Tuck School of Business Administration, an Attorney Advisor to the Acting Chairman of the Federal Trade Commission, and an antitrust lawyer in private practice. Professor Baker is the author of *The Antitrust Paradigm*, the co-author of an antitrust casebook, a past Editorial Chair of *Antitrust Law Journal*, and a past member of the Council of the American Bar Association's Section of Antitrust Law. He has published widely in the fields of antitrust law, policy, and economics. Professor Baker has received the Jerry S. Cohen Award for Antitrust Scholarship, American University's Faculty Award for Outstanding Scholarship, Research, and Other Professional Accomplishments, and the Federal Trade Commission's Award for Distinguished Service. He has a J.D. from Harvard and a Ph.D. in economics from Stanford University.

### **Prof. Peter C. Carstensen**

Peter C. Carstensen is a Professor of Law Emeritus. From 1993 to 2002 he served as Associate Dean for Faculty Research and Development at the UW Law School. He is a graduate of the University of Wisconsin, and received his law degree and a master's degree in economics from Yale University. From 1968 to 1973, he was an attorney at the Antitrust Division of the United States Department of Justice assigned to the Evaluation Section, where one of his primary areas of work was on questions of relating competition policy and law to regulated industries. He has been a member of the faculty of the UW Law School since 1973. He is a Senior Fellow of the American Antitrust Institute.

His scholarship and teaching have focused on antitrust law and competition policy issues. He has published a number of articles in the field, including a number analyzing aspects of the relationship of antitrust law and regulation. He served as co-editor and primary author of four chapters of the ABA Antitrust Section's monograph, *Federal Statutory Exemptions from Antitrust Law* (2007) and co-edited *Competition Policy and Merger Analysis in Deregulated and Newly Competitive Industries* (2008), to which he contributed three chapters. He has also done extensive research on the operation and regulation of markets for agricultural commodities. In 2017, he published *Competition Policy and the Control of Buyer Power*, which

received the Jerry S. Cohen Memorial Fund Writing Award for best antitrust book of 2017.

**Prof. Aaron Edlin**

Aaron Edlin is a leading expert in antitrust economics, antitrust law, and law and economics. He is also an entrepreneur and co-founded bepress, a SaaS provider to academia and formerly an academic publisher. He has published in the *American Economic Review*, *Econometrica*, the *Journal of Political Economy*, the *Harvard Law Review*, the *Yale Law Journal*, the *New York Times*, the *Wall Street Journal*, and numerous other venues. He is co-author of one of the leading casebooks on antitrust with P. Areeda & L. Kaplow: “Antitrust Analysis: Problems, Text, and Cases”. He served on the 2008 Obama Presidential campaign’s competition policy committee, and as Senior Economist at the Council of Economic Advisers in the Clinton White House covering industrial organization, regulation and antitrust. He is Secretary-Treasurer of the American Law and Economics Association and will be President in 2020-21. He was founding editor with Joseph Stiglitz and Brad DeLong of the *Economists’ Voice* as well as *The B.E. Journal in Economic Analysis & Policy*, and has been an associate editor of the *Journal of Law, Economics and Organization* and the *Journal of Industrial Economics*.

Today, Prof. Edlin holds the Richard Jennings Chair and professorships in both the economics department and law school at UC Berkeley and is a Research Associate at the National Bureau of Economic Research. He began his career as an assistant professor of economics at UC Berkeley in 1993. By age 31, he was a full professor with tenured appointments in both Berkeley Law School and Berkeley’s economics department. He has been a visiting professor or researcher at Stanford, Yale, Harvard, Columbia, and Georgetown. He received tenure at UC Berkeley in 1997, his Ph.D. and J.D. from Stanford in 1993; and AB Summa Cum Laude from Princeton in 1988 where he received the Herrick Prize for Best Thesis in the Woodrow Wilson School.

**Prof. Joseph Farrell**

Joseph Farrell was educated at Oxford University, where he received his D.Phil. in 1981. He joined UC Berkeley in 1989 as an associate professor and became a full professor in 1991, and Professor in the Graduate School in 2020. He was elected a Fellow of the Econometric Society in 2002, and received the Public Service Award from the Industrial Organization Society in 2016. Professor Farrell previously was Director of the Bureau of Economics at the Federal Trade Commission, Deputy Assistant Attorney General for Economics with the U.S. Dept. of Justice, Chief Economist at the Federal Communications Commission, assistant professor at MIT, a principal member of the technical staff at GTE Laboratories, and National Fellow at the Hoover Institution. He served on the Computer Science and Telecommunications Board at the National Academies of Science. He was Editor of the *Journal of Industrial Economics*, President of the Industrial Organization Society, and Chair of Berkeley’s Competition Policy Center.

Education: D.Phil., economics, Oxford University; M.Sc., mathematics, Oxford University; B.A., mathematics, First Class Honours, Oxford University.



### **Kathleen Foote**

Former Senior Assistant Attorney General Kathleen Foote joined the California Department of Justice's antitrust unit as a deputy attorney general in 1988, and was its Antitrust Chief from 2003 until her retirement in 2022. Litigation brought on behalf of the Attorney General under her leadership included successful state law challenges to tying arrangements and resale price maintenance schemes, and a ground-breaking federal challenge to asserted antitrust exemption of an employer profit-sharing agreement in *California v. Safeway*, for which she received California Lawyer magazine's Lawyer of the Year award in 2011. Her team played a lead role in the Microsoft remedies case, successfully blocked Valero's acquisition of the last independent gasoline storage and mixing facility in Northern California, and more recently filed several major cases in state court under the Cartwright Act. She led the State's merger enforcement efforts in numerous industries including gasoline, banking, telecom and healthcare. Her post-settlement work in Levi-Strauss established a research institute on healthcare markets, and in *Hartford Fire Ins. v. California* an institute on public sector risk management, and she has pioneered the development of best practices for cy pres distributions in other major consumer settlements.

Kathleen is a past chair of the multistate Antitrust Task Force of the National Association of Attorneys General, which coordinates joint multistate and state-federal investigations and litigation. She was the 2013 recipient of AAI's Alfred E. Kahn Award for Antitrust Achievement, and was named 2013 Antitrust Attorney of the Year by California State Bar's Antitrust and Unfair Competition Law Section.

### **Prof. Warren S. Grimes**

Warren Grimes honed his expertise in antitrust and other public policy issues during his 16 years in government service. Following a year as a litigator with the firm of O'Melveny & Myers and three years as a fellow at the Max Planck Institute in Germany, he began his government career as an attorney advisor to the U.S. Department of Justice, Office of Legal Counsel. There he drafted legal opinions for the President and other executive branch officials. He was then recruited by the Federal Trade Commission (FTC) and represented the agency in many federal court antitrust proceedings and at antitrust meetings of the Organization for Economic Cooperation and Development headquartered in Paris, France. Professor Grimes then moved to the U.S. House of Representatives where he served for 8 years as chief counsel of the Judiciary Committee's Subcommittee on Monopolies and Commercial Law.

After several years as an adjunct professor at Georgetown University Law Center and Columbus School of Law of Catholic University, Professor Grimes accepted an appointment to Southwestern's full-time faculty in 1988. He was recognized for his teaching excellence and scholarship with the Irwin R. Buchalter Professorship in 2000 and the Irving D. and Florence Rosenberg Professorship in 2006. Professor Grimes served as Associate Dean for Research from 2016 to 2019. With his international reputation continuing to expand, he has served as a visiting professor at Nihon University in Tokyo, Japan, and as a lecturer on international antitrust

enforcement at the Comparative Competition Law Conference at the College of Europe in Brussels, among other forums around the world.

Professor Grimes is co-author of the definitive antitrust law text for lawyers and law students, *The Law of Antitrust: An Integrated Handbook* with the late Professor Lawrence Sullivan and has written numerous scholarly articles on related topics.

Professor Grimes chaired the Los Angeles County Bar Association Antitrust and Trade Regulation Section and is a member of the Executive Committee, and serves on the Advisory Board of the American Antitrust Institute. In 2009, he was one of two American professors appointed to the Scientific Advisory Board of the Max Planck Institute for Intellectual Property, Competition, and Tax Law in Munich Germany, which is made up of experts from Europe and North America.

Education: B.A., History, Stanford University; J.D., University of Michigan; Research Fellow, Max Planck Institute for Competition Law and Max Planck Institute for Public and International Law, Germany.

### **Cheryl Lee Johnson**

Cheryl Lee Johnson recently retired from the California Attorney General's Office and has handled complex antitrust and business litigation since her graduation from Columbia Law School, where she was an editor of the *Columbia Law Review* and a Harlan Fiske Stone scholar. After some thirty years as a partner in two major national law firms, she joined the Antitrust Section of the Attorney General's office in 2006, where she led and managed major antitrust litigation cases involving healthcare, pharmaceutical, grocery, sports, electronic, and software industries. She has led or been on the Executive Committee of numerous multistate antitrust suits involving claims of monopolization, product hopping, pay-for-delay agreements, price-fixing and other forms of anticompetitive conduct. She has secured numerous major settlements and consent decrees and challenged several multi-billion dollar mergers. She co-chaired the National Association of Attorneys General Antitrust Pharmaceutical Industry Working Group for some six years, and was the Editor-In-Chief of the *California State Antitrust and Unfair Competition* treatise for over 23 years. She was the Chair of the State Bar Antitrust Section and the California Antitrust Lawyer of the Year for the California State Bar in 2017.

### **Prof. Prasad Krishnamurthy**

Prasad Krishnamurthy joined the Berkeley Law Faculty in 2010. Prasad is a graduate of Yale Law School, where he served as Essays Editor on the Yale Law Journal. He holds an M.A. and Ph.D. in economics from U.C. Berkeley and an M.A. in political philosophy from the University of Chicago. He has taught at the National Academy of Legal Studies and Research (NALSAR) in Hyderabad, India as a Yale Law School Reubhausen Fellow. Prior to law school, Prasad was a social worker at Legal Aid Foundation of Los Angeles and taught mathematics at Dominguez High School in Compton, CA.

Prasad's research and teaching interests include financial regulation, antitrust and competition policy, law and economic development, and distributive justice. Prasad's research seeks to empirically analyze legal rules and institutions and to develop the normative implications of empirical research for law and policy.

### **Prof. Mark A. Lemley**

Mark Lemley is the William H. Neukom Professor of Law at Stanford Law School and the Director of the Stanford Program in Law, Science and Technology. He is also a Senior Fellow at the Stanford Institute for Economic Policy Research and is affiliated faculty in the Symbolic Systems program. He teaches intellectual property, patent law, trademark law, antitrust, the law of robotics and AI, video game law, and remedies. He is the author of nine books and 201 articles, including the two-volume treatise *IP and Antitrust*. His works have been cited more than 300 times by courts, including 17 times by the United States Supreme Court, and more than 40,000 times in books and academic articles, making him the most-cited scholar in IP law and one of the ten most cited legal scholars of all time. He has published 9 of the 100 most-cited law review articles of the last twenty years, more than any other scholar, and is the third most cited legal scholar from 2016-2020. His articles have appeared in 24 of the top 25 law reviews, in *Nature Biotechnology*, in top economic journals such as the *American Economic Review* and the *Review of Economics and Statistics*, and in multiple peer-reviewed and specialty journals. They have been reprinted throughout the world, and translated into Chinese, Danish, Japanese, Korean, Italian, Portuguese, and Spanish. He has taught IP law to federal and state judges at numerous Federal Judicial Center and ABA programs, has testified eight times before Congress, and has filed more than 70 amicus briefs in the U.S. Supreme Court, and state and federal courts.

Mark is Of Counsel at the law firm Lex Lumina. He litigates and counsels clients in all areas of intellectual property, antitrust, and internet law. He has argued 30 federal appellate cases and numerous district court cases as well as before the California Supreme Court. He has participated in more than three dozen cases in the United States Supreme Court as counsel or amici. His client base is diverse and has included Genentech, Dykes on Bikes, video game companies, artists, computer scientists, and nearly every significant Internet company.

Mark cofounded Lex Machina, Inc., a startup company that provides litigation data and analytics to law firms, companies, courts, and policymakers. Lex Machina was acquired by Lexis in December 2015.

Mark has been named California Lawyer's Attorney of the Year twice. He received the California State Bar's inaugural IP Vanguard Award. He won the 2018 World Technology Award for Law. In 2017 he received the P.J. Federico Award from the Patent and Trademark Office Society. Back when he was young, he was named a Young Global Leader by the Davos World Economic Forum and Berkeley Law School's Young Alumnus of the Year. He has been recognized as one of the top 50 litigators in the country under 45 and one of the 25 most influential people in IP by American Lawyer, one of the 100 most influential lawyers in the nation by the National Law Journal, and one of the 10 most admired attorneys in IP by IP360. He is a member of the American Academy of Arts and Sciences, the American Law Institute, and the IP Hall of Fame.

Mark clerked for Judge Dorothy Nelson on the United States Court of Appeals for the Ninth Circuit and has practiced law with Brown & Bain, Fish & Richardson, Kecker & Van Nest, and Durie Tangri. He has previously held faculty positions at Berkeley Law School and the University of Texas School of Law.

Education: BA (with distinction) Stanford University; JD University of California Berkeley School of Law.

**Prof. Christopher Leslie**

Christopher Leslie is a Chancellor's Professor of Law at the University of California Irvine School of Law. Professor Leslie graduated from the University of California, Berkeley School of Law, where he served as an editor on the *California Law Review* and was elected to the Order of the Coif. He earned a Master's in Public Policy from the Kennedy School of Government at Harvard University and has degrees in Economics and Political Science from U.C.L.A. Before entering the academy, Professor Leslie clerked for Judge Diarmuid O'Scannlain on the Ninth Circuit Court of Appeals, and practiced law at two large San Francisco law firms, concentrating on antitrust and complex business litigation.

Professor Leslie is the past Chair of the Antitrust Law Section of the Association of American Law Schools (AALS) and has been an editor for the *Antitrust Law Journal* since 2007.

Students have voted Professor Leslie as their Professor of the Year five times. He has been a Visiting Professor of Law at Stanford Law School, the University of Texas School of Law, and N.Y.U. School of Law.

Professor Leslie authored *Antitrust Law and Intellectual Property Rights* (Oxford University Press, 2011). He co-authors *IP And Antitrust: An Analysis of Antitrust Principles Applied To Intellectual Property Law* (3rd ed. 2016 with Hovenkamp, Janis, Lemley, and Carrier). He is also a co-author of *Antitrust Law, Policy And Procedure* (8th ed. 2019 with Sullivan, Hovenkamp and Shelanski). Professor Leslie has published over 50 scholarly articles, including in the *Columbia Law Review*, the *NYU Law Review*, the *University of Pennsylvania Law Review*, the *California Law Review*, the *Georgetown Law Journal*, the *Duke Law Journal*, the *Texas Law Review*, the *UCLA Law Review*, the *Vanderbilt Law Review*, the *Northwestern Law Review*, the *Iowa Law Review*, the *Minnesota Law Review*, and the *William & Mary Law Review*, among others.

Professor Leslie is among the Top 5 Most-Cited Antitrust Professors in the United States.

**Prof. Douglas Melamed**

Doug Melamed practiced law for 43 years before spending the 2014-15 academic year at the Law School as the Herman Phleger Visiting Professor of Law. He was appointed Professor of the Practice of Law in 2015.

From 2009 until 2014, Professor Melamed was Senior Vice President and General Counsel of Intel Corporation and was responsible for overseeing Intel's legal, government affairs and corporate affairs departments. Prior to joining Intel in 2009, he was a partner in the Washington, D.C., office of WilmerHale, a global law firm in which he served as a chair of the Antitrust and Competition Practice Group. His practice included appellate and trial court litigation, counseling, and representing clients in matters before government law enforcement and regulatory agencies. He joined WilmerHale's predecessor in 1971. From 1996 to 2001, Professor Melamed served in the U.S. Department of Justice as Acting Assistant Attorney General in

charge of the Antitrust Division and, before that, as Principal Deputy Assistant Attorney General.

Professor Melamed has received numerous professional awards and honors. He has been the Distinguished Visitor from Practice and an adjunct professor at the Georgetown University Law Center, and he has authored numerous articles on antitrust and on law and economics. He is a member of the boards of directors of the Nasdaq exchanges and the American Law Institute and a Contributing Editor of the *Antitrust Law Journal*. He was for many years a member of the Yale University Council and a member of the board of trustees of Sidwell Friends School in Washington, D.C. After graduating from law school, he clerked for Judge Charles M. Merrill of the U.S. Court of Appeals for the Ninth Circuit.

Education: BA, Yale University; JD, Harvard Law School

### **Dr. Diana L. Moss**

Diana Moss became the President of the American Antitrust Institute in January 2015. Since joining AAI in 2001, Dr. Moss has developed and expanded AAI's advocacy channels and strategies, and strengthened communications with public and private enforcers, Congress, other advocacy groups, and the media. Her work spans both antitrust and regulation, with industry expertise in digital technology, energy, agriculture, airlines, telecommunications, media, and healthcare. From 1995 to 2001, Dr. Moss served in the Office of Economic Policy and Office of Markets, Tariffs, and Rates at the Federal Energy Regulatory Commission. There, she coordinated the agency's economic analysis for electricity mergers and contributed to the development of the landmark open access rules. From 1989 to 1995, she consulted in private practice in the areas of regulation and antitrust. Dr. Moss is also Adjunct Faculty in the Department of Economics at the University of Colorado at Boulder.

Dr. Moss has spoken widely on various topics involving competition policy and enforcement, testified before Congress, appeared before state and federal regulatory commissions, at industry and academic conferences, and made numerous radio and television appearances. She has published articles in numerous economic and legal journals, including: *American Economic Review*, *Journal of Industrial Organization*, *The Antitrust Bulletin*, *The Antitrust Source*, *Antitrust Magazine*, and *Energy Law Journal*. She is editor of *Network Access, Regulation and Antitrust*, and has contributed chapters to *The Structure of American Industry*, and the *Global Competition Review's (GCR's) The Guide to Merger Remedies*.

Dr. Moss was named to the GCR's Women in Antitrust in 2016 and again in 2021. She has long championed the advancement of women in the law and economics profession and in the antitrust bar, in particular. In 2021, Dr. Moss was inducted into the American Bar Association Antitrust Law Section's Hall of Fame-inism. At AAI, Dr. Moss has prioritized and integrated diversity and inclusion into AAI's programs, staff, and governance. Dr. Moss engages regularly with law school student antitrust organizations on the importance of diversity and attracting and engaging the next generation of practitioners, enforcers, and policymakers in law and economics. She holds a M.A. degree from the University of Denver and a Ph.D. from the Colorado School of Mines.

**Prof. Carl Shapiro**

Carl Shapiro is a Professor at Berkeley Haas and the Department of Economics at the University of California at Berkeley. He also is the Berkeley Haas Transamerica Professor of Business Strategy Emeritus.

Shapiro served as a Senate-confirmed Member of the President's Council of Economic Advisers during 2011 to 2012. For the two years immediately prior to that, he was the Deputy Assistant Attorney General for Economics at the Antitrust Division of the U.S. Department of Justice; he also held that position during 1995 to 1996. From 1998 to 2008, he served as Director of the Institute of Business and Economic Research at UC Berkeley.

Shapiro has been editor and co-editor of the *Journal of Economic Perspectives* and a Fellow at the Center for Advanced Study in the Behavioral Sciences, among other honors. He earned his PhD in Economics from the Massachusetts Institute of Technology in 1981, taught at Princeton University during the 1980s, and served on the faculty at UC Berkeley since 1990.

Shapiro has published extensively in the areas of industrial organization, competition policy, patents, the economics of innovation, the design and use of patents, and competitive strategy.

Shapiro is the co-author, with Hal R. Varian, of "Information Rules: A Strategic Guide to the Network Economy," published by the Harvard Business School Press. "Information Rules" has received critical acclaim for its application of economic principles to the Information Economy and has been widely read by managers and adopted for classroom use.

**Prof. D. Daniel Sokol**

D. Daniel Sokol is the Carolyn Craig Franklin Chair in Law and Business at the USC Gould School of Law and an Affiliate Professor of Business at the Marshall School of Business, where he teaches in the marketing department. He serves as faculty director of the Center for Transnational Law and Business and the co-director of the USC Marshall Initiative on Digital Competition. Additionally, in a part time capacity, he serves as Senior Advisor at White & Case LLP.

Professor Sokol is among the top 10 most cited antitrust law professors in the past five years. He focuses his teaching and scholarship on complex business issues from early stage start-ups to multinational businesses and the issues that businesses face regarding competition: antitrust, data breaches, corporate governance, compliance, innovation, M&A, digital transformation, and global business regulation.

He is a member of the American Law Institute. He also serves as academic advisor to the United States Chamber of Commerce and as a non-governmental Advisor to the International Competition Network. His work has appeared in a variety of journals: *Strategic Management Journal*, *Journal of Law and Economics*, *Harvard Business Review*, *Sloan Management Review*, *Michigan Law Review* and *Northwestern Law Review*, among others.

**Prof. Steven Tadelis**

Steve Tadelis is a Professor of Economics and Sarin Chair in Leadership and Strategy at Berkeley Haas. His research primarily revolves around e-commerce and the economics of the internet.

During the 2016-2017 academic year he was on leave at Amazon, where he applied economic research tools to a variety of product and business applications and worked with technologists, computer and ML scientists, and business leaders. During the 2011-2013 academic years he was on leave at eBay research labs, where he hired and led a team of research economists who focused on the economics of e-commerce, with particular attention to creating better matches of buyers and sellers; reducing market frictions by increasing trust and safety in eBay's marketplace; understanding the underlying value of different advertising and marketing strategies; and exploring the market benefits of different pricing structures.

Aside from the economics of e-commerce, his main fields of interest are the economics of incentives and organizations, industrial organization, and microeconomics. Tadelis explored firm reputation as a valuable, tradable asset; the effects of contract design and organizational form on firm behavior with applications to outsourcing and privatization; public and private sector procurement and award mechanisms; and the determinants of trust.

Education: PhD, Economics, Harvard University; MSc, Economics, Technion, Haifa, Israel; BA, Economics, University of Haifa, Haifa, Israel

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