



AMERICAN ANTITRUST INSTITUTE ANNUAL CONFERENCE

OVERVIEW

On Thursday June 21, 2018, the American Antitrust Institute will host its 19th Annual Conference “**Antitrust at a Crossroads: Plotting the Policy Course for the Next Decade.**” Experts from law, economics, and policy will offer insight via four panels:

- **Antitrust and Workers — Agreements, Mergers, and Monopsony**
As American workers struggle to navigate an economy characterized by increasing corporate concentration, experts have begun to focus greater attention on anticompetitive conduct in labor markets. This panel will explore applications of the antitrust laws to prohibit the exercise of buyer power that harms competition and suppresses wages and salaries. Among other things, panelists will discuss landmark civil cases challenging employer no-poaching and no-hiring agreements, the Department of Justice’s movement toward prosecuting naked wage-fixing and no-poaching agreements criminally, and recent scholarship addressing the role of merger enforcement in preserving buy-side competition.
- **Innovation and Antitrust — Sword or Shield?**
Promoting innovation is widely recognized to be a critical, if not the most important, goal of antitrust law. In practice, however, harm to innovation is just as often used as a defense to antitrust claims, particularly where intellectual property rights are involved. This panel of experts will address several hot topics at the edge of this divide, including: antitrust claims involving product redesign and product hopping, developments in the *Noerr-Pennington* doctrine and sham litigation, the antitrust treatment of FRAND breaches and SSO rules, and the use of the potential competition doctrine as a means to protect nascent competition and promote innovation.
- **Vertical Merger Enforcement — Competitive Effects, Remedies, and Guidelines**
Vertical merger proposals in key sectors such as telecommunications, media, agricultural biotechnology, and healthcare continue to pile up. Once a lower-profile area of enforcement, vertical mergers are now a hot topic that have generated debate over competitive effects and past remedies. This panel will take up three important, interrelated topics in vertical merger enforcement. Panelists will first discuss recent developments in framing theories of harm around bargaining leverage and exclusionary effects and anticompetitive coordination. In light of controversy in past vertical merger cases, panelists will then turn to how enforcement should address the question of effectiveness of conduct remedies. Finally, the panel will take up the question of whether more guidance on how the antitrust agencies will evaluate vertical mergers is warranted, through an update and/or formalization of the 1984 vertical merger guidelines.
- **Oyez! Antitrust and the Supreme Court**
This term at the Supreme Court has been a busy one for antitrust cases and could be quite significant. The leading case, *Ohio v. Amex*, may have wide ramifications beyond its practical

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implications for credit-card merchant fees and two-sided markets. Fundamental antitrust issues of market definition and the operation of the rule of reason are at stake. *Animal Science v. Hebei* raises important questions involving international comity and export cartels. And *Salt River v. Tesla* indicates that the Court is poised to resolve a split in the circuits over the state-action doctrine. Our panel of leading Supreme Court advocates will address these cases and other antitrust developments at the Court, including potentially momentous *cert* petitions.

The conference will include a gala luncheon featuring the presentation of the [2018 AAI Antitrust Achievement Award](#) and the [Jerry S. Cohen Award for Antitrust Scholarship](#). CLE credits will be available. This program was made possible by support from our [2018 Sponsors](#).