



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580

**Introductory Remarks for  
AAI's 2019 Alfred E. Kahn Award for Antitrust Achievement to  
Steve Calkins**

**June 20, 2019**

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Good afternoon, everyone. It is my pleasure to introduce Steve Calkins, who is here to receive the 2019 Alfred E. Kahn Award for Antitrust Achievement from the American Antitrust Institute.

Although Steve and I never overlapped at the Federal Trade Commission (he served for two stints, and I am on my third), his indelible mark on the FTC cannot be missed. He left important ripples in many other places as well—including the American Bar Association and academia. Moreover, he has two important qualities that are very high on my personal list: he is fun to be around, and he has a talent for making antitrust both enjoyable and serious at the same time. For all these reasons, this award is well deserved.

After graduating from Harvard Law School in 1975, Steve started his legal career at the FTC. Acting on a recommendation from then-law professor Stephen Breyer, he joined the agency as an attorney advisor to Commissioner Stephen Nye. Commissioner Nye departed a year later, and Steve left the Commission to join the antitrust practice at Covington & Burling. After working in private practice for several years, Steve secured a faculty appointment at Wayne State University Law School in Detroit. He taught there on and off for much of his career, and also served in leadership positions at the law school.

In 1995, then-FTC Chairman Bob Pitofsky asked Steve to return to the FTC as General Counsel, an offer he happily accepted. I have it on good authority that the caller ID on the FTC phones at the time identified Steve merely as the “General.” Steve served in that position until 1997, when he rejoined Covington & Burling as a counsel. From 2011 to 2014, Steve served the Competition Authority of Ireland as a Member and Director of the Mergers Division and, in 2015, he served as a Member of the Irish Competition and Consumer Protection Commission. Today, Steve continues to teach at Wayne State University Law School.

As you can see, Steve has had a rich career in antitrust law, working both domestically and internationally at the highest levels of government, private practice, and academia. There is much to commend about Steve’s contributions to antitrust law, the bar, and the FTC (his CV is 33 pages)—but I want to take this opportunity to highlight just a few of his notable contributions.

For those of you who have participated in the ABA Section of Antitrust Law, you probably are familiar with Steve’s extensive contributions to the Section’s publications and programming. He served on a five-person editorial board for the Section’s first major revision of its signature publication, the *Antitrust Law Developments* treatise. This was a major undertaking for a publication that has served for decades as the bible for antitrust lawyers. In recognition of that work, the Antitrust Section awarded Steve the Fiftieth Anniversary Publications Award.

Steve also was a regular and sought-after speaker at a number of Antitrust Section events over the years. We have all enjoyed his annual review of Supreme Court antitrust cases and his Hot Topics presentations at numerous ABA Section of Antitrust Law Spring Meetings. Not only were these presentations insightful, but Steve always seemed to find a way to make them fun—and funny.

Steve had a significant effect on antitrust writ large, and a related effect on the FTC more specifically. He played an important role in solidifying the strong bipartisan consensus on

antitrust law, policy, and enforcement that persisted for decades. Back in 1988, Bob Pitofsky recruited Steve to serve as Counsel to the ABA Section of Antitrust Law Special Committee to Study the Role of the Federal Trade Commission—otherwise known as the Second Kilpatrick Commission. Former FTC Chairman Tim Muris made the following observation about Steve’s role on the project: “Steve Calkins was counsel to the ABA committee, and much of his effort involved negotiating what might modestly be called a Pitofsky/Muris view of the FTC.”<sup>1</sup> In short, Steve’s work on that ABA committee helped produce a unanimous, bipartisan report that, in turn, set the stage for an enduring bipartisan consensus, and helped improve the operation and effectiveness of the FTC.

As I mentioned earlier, Steve returned to the FTC as General Counsel in 1995. Having planted the seeds through his efforts to build bipartisan consensus, he was now able to participate fully in reaping that harvest within the agency, in ways that enhanced and strengthened the FTC’s reputation. Steve recognized this achievement in Congressional testimony, where he said: “[T]he FTC . . . has over the years developed credibility with Congress, with the States, with international observers because it operates in a bipartisan way.”<sup>2</sup> I could not agree more with those views, and I applaud Steve’s tireless work toward strengthening the bipartisan effectiveness of the agency. Even today, it remains one of the agency’s greatest assets.

Another gem in today’s FTC crown is the agency’s advocacy program, including our amicus work. This, however, was not always the case. When Steve returned to the FTC in 1995, the agency was basically M.I.A. when it came to filing amicus briefs. But Steve almost single-

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<sup>1</sup> Timothy J. Muris, FTC Chairman, Robert Pitofsky: Public Servant and Scholar (June 12, 2001), <https://www.ftc.gov/public-statements/2001/06/robert-pitofsky-public-servant-and-scholar>.

<sup>2</sup> *The Proposed Consumer Financial Protection Agency: Implications for Consumers and the FTC Hearing Before the H. Subcomm. on Commerce, Trade, and Consumer Prot., H. Comm. on Energy and Commerce*, 111th Congress (2009), <https://www.govinfo.gov/content/pkg/CHRG-111hhrg74090/html/CHRG-111hhrg74090.htm>.

handedly cajoled the Commissioners into resurrecting the program, which has maintained very strong bipartisan support ever since.

Steve also encouraged the Commission to embrace the risks of litigation, and led a special task force to revamp the Part 3 administrative adjudication process. This task force proposed extensive rule changes designed to reduce the cost, complexity, and length of FTC Part 3 adjudications. And the FTC really needed these reforms. One judge referred to the pace of FTC administrative litigation back then as “glacial,” and this was before most of us were paying attention to global warming.

The FTC has indeed heeded Steve’s call for more litigation, both administratively and in federal court. With respect to administrative litigation, I personally benefitted from Steve’s reforms when I launched an effort to re-invigorate administrative litigation in the Bureau of Competition during my tenure as Bureau Director from 2001-2003. And the agency’s litigation docket has only grown since then. When I came back to the FTC last year to serve as Chairman, there were fourteen competition cases in active litigation. For those of you who follow these types of statistics, you will know that these numbers are off the charts! I think it’s safe to say that the agency has fully embraced aggressive litigation as a critical component of vigorous antitrust enforcement.

Finally, let’s talk briefly about Professor Calkins as an author. He is prolific and has written about a variety of topics. But there is one publication that stands out. It is a “must read” for any beginning antitrust lawyer. It is the best, most concise teaching on what antitrust is all about, and how to analyze a wide range of anticompetitive conduct. Of course, I am talking about the *Antitrust Law and Economics Nutshell*, which Steve co-authored with Bill Kovacic and the late Ernie Gellhorn. The last edition was published in 2005, and although Steve and his co-author Kovacic have promised they are working on an update, it has yet to be released. In my

mind, this is the only aspect of Steve's career that might be characterized as a negative. But as they say, it is a high-class problem for a high-class, stellar career.

Please join me in honoring Steve for a career of outstanding achievement.