

UNILATERAL EFFECTS ANALYSIS AND LITIGATION WORKSHOP
February 12, 2008

Federal Trade Commission Conference Center
601 New Jersey Avenue, N.W.

(2) whether differences between a SSNIP selected for market definition and a projected likely post-merger percentage price increase contribute unnecessarily to confusion about the focus of unilateral effects theories; and (3) whether, as a matter of policy and law, a relevant market need be identified at all when there is direct evidence of competitive harm.

Panelists

Jonathan B. Baker, Professor of Law, American University

Kathryn M. Fenton, Jones Day

Richard G. Parker, O'Melveny & Myers

Daniel M. Wall, Latham & Watkins

Moderator

Jeffrey Schmidt, Director, Bureau of Competition, Federal Trade Commission

12:00-1:15 Lunch Break

1:15-2:15 3. Judicial Perspectives on Unilateral Effects

Only a small number of judicial decisions relate to the application unilateral effects theory in differentiated product markets, and even fewer decisions explicitly discuss unilateral

Oral Advocates

Michael J. Bloom, Director of Litigation, Bureau of Competition, Federal Trade Commission (for the government)

Richard Liebeskind, Pillsbury Winthrop Shaw Pittman LLP (for the defendants)

Moderator

William E. Kovacic, Commissioner, Federal Trade Commission

developing economic evidence (*e.g.*, formal statistical, econometric analysis; merger simulations; or “critical loss” analysis that may rely on descriptive statistics or qualitative information) is legally sufficient to prove likely anticompetitive effects.

Panelists

Orley Ashenfelter, Princeton Univ., Professor of Economics

Dennis Carlton, Professor of Economics, University of Chicago Graduate School of Business, and Senior Managing Director, Compass Lexecon

Carl Shapiro, Transamerica Professor of Business Strategy, University of California at Berkeley, and Senior Consultant, CRA International

Joseph Simons, Paul Weiss

Moderator

Michael R. Baye, Director, Bureau of Economics, Federal Trade Commission