

FTC Hearings on Resale Price Maintenance
May 21, 2009
600 Pennsylvania Ave, N.W., Room 432
Washington, DC

1:00-2:00 Legal and Business History to the Use of RPM in the United States

This Panel will explore the legal and business history of the use and treatment of RPM in this country. The Panel will focus on changes in business practices, as well as the legal and business management doctrines relating to RPM.

Moderator

Laurel A. Price, Attorney Advisor to Commissioner Harbour, FTC

Panelists

Professor Rudolph J. R. Peritz, Professor of Law, New York Law School, and author of *COMPETITION POLICY IN AMERICA: HISTORY, RHETORIC, LAW* (Oxford Univ. Press 1996, 2001)

Professor William Trombetta, Professor of Pharmaceutical Marketing, St. Joseph's University

2:00-2:15 Break

2:15-3:15 Rule of Reason Analyses Post-*Leegin*

This Panel will assess the guidance provided by the *Leegin* Court regarding the analysis of RPM under the rule of reason. Questions that may be considered include: whether the distinction between price and non-price vertical restraints has any continuing utility; whether particular presumptions might be appropriate; under what conditions might a “quick-look” rule of reason analysis be appropriate; will the *Leegin* decision preempt *per se* illegality for RPM under state law; how will the pleading standard in the *Twombly* decision affect RPM litigation; and what lessons have we learned thus far from the application of *Leegin* by the lower courts.

Moderator

Laurel A. Price, Attorney Advisor to Commissioner Harbour, FTC

Panelists

Alan M. Barr, Ass't Att'y Gen., Deputy Chief, Antitrust Div, Office of the Attorney General of Maryland

Seth E. Bloom, General Counsel to Senator Herb Kohl

Richard Brunell, Adjunct Professor of Law, Boston College School of Law, Senior Fellow and Director of Legal Advocacy, American Antitrust Institute

Edward D. Cavanagh, Professor of Law, St. John's University School of Law

Lloyd Constantine, Counsel, Constantine Cannon LLP

David H. Evans, Counsel, Arent Fox LLP

Thomas B. Leary, Of Counsel, Hogan & Hartson LLP, former Commissioner, FTC

Joshua D. Wright, Assistant Professor of Law, George Mason University School of Law.

3:15-3:30 **Break**

3:30-5:00 **Group Discussion**