



GCR

GLOBAL COMPETITION REVIEW

AWARDS

2014

TOKYO 19-24 OCTOBER 2014

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GCR

GLOBAL COMPETITION REVIEW

AWARDS

2014

For the fourth year running, the GCR Awards stood as a celebration of the world of antitrust and competition law – the matters, the people, the papers and the enforcers who brought the bravest cases, fought the smartest battles and ultimately played a role in protecting consumers and fighting for their clients.

Once again, the competition community voted for the people and matters they felt represented the best of the best in 2013. They chose from

shortlists of nominees in which any of the people, cases or agencies listed would have been a deserving winner. In all, more than 3,000 ballots were cast – almost double the number of voters from the year prior.

On 25 March, GCR held its annual awards ceremony at the W Hotel in Washington, DC. Almost 300 people attended the ceremony, which was capped by the presentation of the Lifetime Achievement Award to Judge

Douglas Ginsburg, one of the great modern antitrust thinkers and jurists.

All proceeds from the charity dinner went to the Swawou School, a girls school in Sierra Leone funded by Law Business Research, the parent company of GCR. Proceeds from the dinner will provide about half of the funds needed to support the school for the coming year.

In this special edition of GCR, it is our pleasure to present the awards winners and photos from the gala event.

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Matter of the Year



US Airways/American Airlines

above
Richard Parker

To create the world's largest airline and further consolidate an already concentrated market, antitrust advisers to US Airways and American Airlines had to stave off a US Department of Justice lawsuit to block the deal. They helped to secure the settlement the airlines essentially expected from the beginning – slot divestitures at Reagan and LaGuardia airports and a handful of other minor concessions.

Finalists

AB InBev/Grupo Modelo

Omnicom/Publicis

Thermo Fisher/Life Technologies

Toshiba's victory against Best Buy in LCD Trial

Americas

Merger Control Matter of the Year

*Office Depot/Office Max, US*

Nearly 15 years ago, the FTC blocked a deal between Staples and Office Depot, saying the three-to-two deal would hurt competition in the office supplies market. But this year, it cleared the nearly identical *Office Depot/Office Max* merger after market data showed that online retailers and big box superstores were now in direct competition. Advisers on the deal provided that data, and got the seemingly doomed deal cleared without conditions.

above, l-r

Kevin Arquit, Jonathan Orszag, Matthew Reilly, Andrew Dick, Peter Boberg, Andrew Lacy and Paul Denis

Finalists

Aetna/Coventry Health Care, US

Cinemark/Cinemex, Mexico

Oxitenol/Uruguayan American Chemical, Brazil

Warner Chilcott/Actavis, US

Asia-Pacific, Middle East and Africa

Merger Control Matter of the Year



Virgin Australia/Tiger Airways, Australia

Virgin Australia's acquisition of a 60 per cent stake in Tiger Airways was a three-to-two deal in the budget air travel market. The ACCC took six months to approve the deal, in which time counsel successfully argued a "failing firm" case for Tiger Airways and also that Virgin would make Tiger a stronger competitor in the market.

Finalists

Marubeni/Gavilon, China

Mediatek/IMStar, China

Ultratech Cement/Jaypee Cement, India

above

Gina Cass-Gottlieb and
Elizabeth Avery

Europe

Merger Control Matter of the Year



Aer Lingus/RyanAir

Aer Lingus won two victories last year in its seven-year battle with Ryanair. After a Phase II review involving four remedy packages, the European Commission prohibited Ryanair's third bid, and the UK Competition Commission required Ryanair to reduce its stake in Aer Lingus after its first bid. The UK decision rounded off several rounds of litigation involving the CAT, Court of Appeal and Supreme Court.

Finalists

Aegean/Olympic

Microsoft/Nokia

Nynas purchase of Shell's Hamburg refinery

above, l-r

Christian Lorenz, James Flynn QC, Alec Burnside, Marjolein De Backer and Christina Caffara

Americas

Behavioural Matter of the Year



Defence of Visa/MasterCard before Competition Tribunal

above
James Musgrove, Navin Joneja and Brian Facey

Canada's Competition Bureau sued Visa and MasterCard for resale price maintenance, alleging that the companies' fees to retailers constituted a resale of its products and harmed competition. The Competition Tribunal rejected that argument, finding that there was no resale, and with no resale, the resale price maintenance claims failed.

Finalists

Defence of Peter Grimm, Dominick Carollo and Steven Goldberg in municipal bonds case
Defence of Richard Bai in AUO price fixing trial
Defence of Toronto Real Estate Board before Competition Tribunal
Warner Chilcott/Actavis, US

Asia-Pacific, Middle East and Africa

Behavioural Matter of the Year



ArcelorMittal/Cape Gate access to file success – South Africa

above
Steven Langbridge and
Lucinda Verster

In 2009, South Africa's Competition Commission recommended that Arcelor Mittal and Cape Gate be fined 10 per cent of turnover for price fixing and allocating the steel market. In response, the two companies sought access to the leniency application filed by whistle-blower Scaw so they could "properly consider their responses". After many rounds of court battles, the Supreme Court of Appeal issued a landmark ruling in favour of Arcelor Mittal and Cape Gate, ordering the commission to grant access to the file.

Finalists

Defence in aluminium phosphate tablet case, India
Defence of Daum in abuse of dominance case, Korea
Defence in mortgage price-fixing case, Australia

Europe

Behavioural Matter of the Year



Libor – Defence of Barclays and UBS

The fines imposed by the European Commission for fixing the Libor and Euribor benchmark interest rates were the largest ever imposed by the commission, after one of its most complex investigations. UBS and Barclays however managed to escape fines entirely – dodging penalties of €4.3 billion through submitting leniency applications.

Finalists

- DG Comp's French water investigation
- Eurotunnel CAT appeal
- OFT's hotel bookings case
- Wabco General Court appeal

above
Nicola Northway,
Samantha Ward and
Oliver Bretz

Litigation of the Year



German Rail Cartel – Follow-on Damages Litigation

Private plaintiff Deutsche Bahn Group led the single largest follow-on litigation in Germany – and perhaps Europe – against members of an alleged rail cartel that affected as much as \$2 billion in commerce. As the lead plaintiff in the case, Deutsche Bahn is suing on behalf of federal and state governments in Germany, who financed the rails, and may carry on the litigation for indirect purchasers. Settlements have topped \$150 million.

Finalists

TFT-LCD (Flat Panel) antitrust litigation: *Best Buy v HannStar Display* and *Toshiba*

AkzoNobel/Metlac before UK Competition Appeal Tribunal

In Re Cathode Ray Tube (CRT) antitrust litigation

Freight Fuel Surcharge Antitrust Litigation before the US Court of Appeals for the District of Columbia

Cartel Damage Claims v Holcim before the District Court of Düsseldorf

above

Christina Caffara,
Christopher Rother and
Thomas Mueller

Lawyer of the Year

Christine Varney – Cravath Swaine & Moore, New York

Since leaving the government, Varney has built an impressive merger practice at Cravath. She handled the US antitrust work for Life Technologies in its tie-up with Thermo Fisher; acted for Saint-Gobain in its FTC-challenged glass deal with Ardagh; and represented Delta in its contentious joint venture with Virgin Atlantic; and also a host of other matters.

Finalists

Paul Denis, Dechert
Michael Egge, Latham & Watkins
Ilene Knable Gotts, Wachtell Lipton Rosen & Katz
Richard Parker, O'Melveny & Myers
Steven Sunshine, Skadden Arps Slate Meagher & Flom
Deirdre Trapp, Freshfields Bruckhaus Deringer
Antoine Winckler, Cleary Gottlieb Steen & Hamilton



Lawyer of the Year – Under 40

Ana Paula Martinez – Levy & Salomão, São Paulo

This year Martinez secured clearance of the sale of Automotiva Usiminas to Aethra, the only two independent producers of truck cabins in Brazil, and is representing an association of agricultural businesses as an intervener in an abuse of dominance investigation. In addition, she found time to release two books and speak at various conferences including the ABA Spring Meeting.

Finalists

Alastair Chapman, Freshfields Bruckhaus Deringer
Leonor Cordovil, Grinberg Cordovil
Casey Halladay, McMillan
Claire Jeffs, Slaughter and May
Amanda Reeves, Latham & Watkins
Warren Rosborough, McDermott Will & Emery
Pierre Zelenko, Linklaters



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Global Competition Review, GCR 100 – 14th Edition (2013)

Economist of the Year

Dennis Carlton – Compass Lexecon, Chicago

Dennis Carlton worked closely with American Airlines and US Airways for two years on their US\$17 billion merger, submitting expert reports in the run-up to litigation and helping to craft the crucial package of slot sales that eventually persuaded the government to lay down its arms. A deal that many thought impossible to settle came through, due in no small part to Carlton's expertise.

Finalists

Peter Bodberg, Charles River Associates
Christina Caffara, Charles River Associates
David Dranove, Bates White
Helen Jenkins, Oxera
Carl Shapiro, Charles River Associates



Corporate Counsel of the Year

Howard Kass – US Airways (American Airlines)

Kass was in the middle of high-level negotiations that allowed his company, US Airways, to settle a government lawsuit and eventually take over rival American Airlines, becoming the largest airline in the world. After the lawsuit was filed, the challenge appeared headed for trial, but dealmaking, and perhaps public pressure, led to a favourable settlement.

Finalists

Dina Kallay, Ericsson
Kent Walker, Google
Christoph Klahold, ThyssenKrupp
Adam Eaton, Visa
Calvin Park, Qualcomm Korea





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Academic Excellence Award



Daniel Sokol, University of Florida, Levin College of Law

University of Florida law professor Daniel Sokol is the co-editor of *Global Competition Law and Economics* (Stanford University Press) and serves as a non-governmental adviser to the International Competition Network. His research this year has taken a notably global bent, publishing on FRAND in China, merger control under China's Anti-Monopoly Law, and welfare standards in US and EU antitrust enforcement.

Finalists

Gregory Sidak, Tilburg University
John Vickers, Oxford
Damien Geradin, Tilburg University/George Mason University
C Scott Hemphill, Columbia University

above
Miguel Del Pino, Daniel Sokol and Paul Jones at the GCR Live Antitrust Law Leaders Forum

Article of the Year



Joshua D Wright and Judge Douglas H Ginsburg, “The Goals of Antitrust: Welfare Trumps Choice”, Fordham Law Review

above
Douglas Ginsburg

The authors argue that the promotion of economic welfare to the exclusion of other goals gave intellectual coherence to antitrust law, and counter Neil Averitt’s and Robert Lande’s proposal of a “consumer choice” standard as an alternative they claim takes better account of the non-price dimensions of the competitive process. “The flaw of the choice standard is that it altogether rejects the economic approach to dealing with those trade-offs and instead imposes a structural presumption that the number of firms or brands in competition is directly correlated with consumer welfare.”

Finalists

Herbert Hovenkamp, “Anticompetitive Patent Settlements and the Supreme Court’s Actavis Decision”, *Minnesota Journal of Law Science & Technology*

A Paul Victor, Seth C Farber and Brandon Duke, “The Policy Case for Eliminating The Public Identification of Carve-Outs In Antitrust Plea Agreements”, *Bloomberg BNA Antitrust & Trade Regulation Report*

John D Harkrider, “Seeing the Forest through the SEPs”, *Antitrust Magazine*

Americas

Agency of the Year



US Department of Justice, Antitrust Division

The DoJ merits its place this year for courtroom wins, most visibly in *Apple* and *Bazaarvoice*, where both district court judges bought almost every aspect of the government's version of events. It may not have had its day in court over the airline merger, but the complaint it authored was tough and novel – the sign of a skilled staff, say observers – and its settlement may yet be the best outcome for consumers.

Finalists

Brazil's Administrative Council for Economic Defence
Chile's National Economic Prosecutor
Ecuador's Superintendency for the Control of Market Power
US Federal Trade Commission

above
Brent Snyder and
Mark Ryan

Asia-Pacific, Middle East and Africa

Agency of the Year



The Australian Competition and Consumer Commission

The ACCC had an extremely busy 2013, the pinnacle of which was the upholding of its price-fixing finding against Flight Centre in Brisbane's Federal Court, one of its highest-profile matters. The enforcer opened several cartel probes, including one into the country's largest detergent makers. Merger work has also been very active, with the ACCC rejecting two supermarket deals and clearing several matters with conditions such as *Thermo Fisher/Life Technologies*, as well as releasing draft merger control amendments.

Finalists

Competition Commission of India
 China's National Development & Reform Commission
 Korea's Fair Trade Commission
 Japan's Fair Trade Commission

above
 Rod Sims, speaking at
 GCR Live Law Leaders
 Asia-Pacific 2012

Europe

Agency of the Year



The European Commission's Directorate General of Competition

above
Dorothe Dalheimer

DG Comp began 2013 by blocking the *UPS/TNT* merger and ended it by issuing a record €1.7 billion fine on companies for fixing the Libor and Euribor rates. Inbetween, it cleared important and potentially problematic deals such as *Aegean/Olympic*, *Microsoft/Skype* and *Shell/Nynas*, as well as opening investigations of credit default swaps, oil prices and smart chips. It punished members of the car part cartel and pharmaceutical companies guilty of pay-for-delay. By and large, the courts have upheld its previous decisions.

Finalists

France's Competition Authority
Germany's Federal Cartel Office
Norway's Competition Authority
Poland's Office of Competition and Consumer Protection

Europe

Regional Firm of the Year



Uría Menéndez, Spain

The competition team at Uría Menéndez is Spain's largest, as well as one of its best. The firm also has a strong presence in Brussels. It regularly advises Spain's largest telecoms company, Telefónica, including in relation to a €67 million fine imposed by the European Commission for forming a non-compete agreement with Portugal Telecom. In other EU matters, the firm is advising Cemex in an appeal before the General Court that challenges DG Comp's request for information.

Finalists

Bredin Prat
 Gide Loyrette Nouel
 Gleiss Lutz
 Hengeler Mueller
 Schoenherr

above

Antonio Guerra and
 Edurne Navarro

Asia-Pacific, Middle East and Africa

Regional Firm of the Year



Kim & Chang, Korea

The largest competition practice in the country, Kim & Chang consistently advises on several of the highest-profile matters in Korea. Perhaps most significant was its role as counsel to Google in the KFTC's two-year abuse of dominance investigation, which was closed without an infringement finding. The firm also won against the KFTC at court for S-Oil and aerospace company Kai, and won unconditional clearances for its clients in the ASML/Cymer, Sony/Olympus and Freeport-McMoran/OM Group mergers.

Finalists

Amarchand & Mangaldas & Suresh A Shroff & Co
Anderson Móri & Tomotsune
Edward Nathan Sonnenbergs
Gilbert + Tobin

above
Soojin Nam

Americas

Regional Firm of the Year



Wachtell Lipton Rosen & Katz

The elite 52nd Street merger shop remains busy on some of the largest deals in both the US and internationally, counselling Omnicom in its \$35 billion tie-up with Publicis, which was approved without remedies last year. Wachtell partners also represent Sysco on a merger with US Foods that looks to become one of the headline matters in the coming year.

Finalists

Axinn Veltrop & Harkrider
 Blake Cassels & Graydon
 Grinberg Cordovil
 McMillan
 Robins Kaplan Miller & Ciresi

above

Ilene Knable Gotts

Lifetime Achievement



Judge Douglas H Ginsburg, US Court of Appeals for the District of Columbia Circuit

At this year's annual GCR Awards ceremony, it was our honour to present the lifetime achievement award to Douglas H Ginsburg, a judge on the US Court of Appeals for the District of Columbia Circuit and a titan in modern antitrust theory and jurisprudence. Judge Ginsburg was introduced by 2013 lifetime achievement award winner William Kolasky. Here are excerpts of Kolasky's introductory remarks as delivered at the event.

above
Douglas Ginsburg
receives the award from
previous winner William
Kolasky

Judge Ginsburg has long been regarded as a “giant in antitrust law”, as Rick Rule once described him. Most will be familiar with an article by another GCR Lifetime Achievement Award winner, Bill Kovacic, in which he argues that the intellectual DNA of modern US antitrust doctrine is a double helix composed of two intertwined chains of ideas; one drawn from the Chicago School and the other from the Harvard School. Well, Judge Ginsburg embodies that DNA in one person: he was educated at Chicago and then taught at Harvard, both in the 1970s as these transformative ideas were being developed.

Following graduation, Doug clerked on the Supreme Court for Justice Thurgood Marshall. He then joined the faculty at the Harvard Law School, where he taught for eight years from 1975 to 1983. Doug left Harvard in 1983 to enlist in the Reagan Revolution. He first served for two years as administrator of OMB’s Office of Information and Regulatory Affairs – better known as OIRA – where he ran point for many of President Reagan’s early regulatory reform initiatives. He then served

for another two years as head of the Antitrust Division. There, Doug made a lasting contribution by promoting the chief economist to the deputy level, an institutional change that assured that sound economics would play a central role in the Division’s antitrust enforcement decisions.

In 1987, President Reagan appointed Doug to the DC Circuit. Judge Ginsburg has since served for more than a quarter century on the DC Circuit, including seven years as its chief judge from 2001 to 2008. During this time, he has earned a reputation as one of the truly outstanding jurists of our Baby Boom generation. Lawyers who have appeared before him consistently praise him for his “intellectual rigour” and his “meticulous and thorough” opinions.

Of his many antitrust decisions, the most notable was one he couldn’t claim authorship for – namely, the DC Circuit’s en banc decision in *United States v Microsoft*. Although that decision was rendered in the form of an unsigned per curiam opinion, we are certain Doug was one of its key craftsmen. The *Microsoft* opinion is notable for many

reasons, but one of the most important is that it laid out – for the first time, really – a well-structured rule of reason framework for applying section 2 to claims of monopolisation and attempted monopolisation.

Judge Ginsburg has also applied his understanding of sound competition policy to overturn the regulations of other agencies when they threatened to harm competition, rather than promote it. In two notable examples, he authored opinions overturning caps on the number of cable systems or broadcast stations a single company could own nationwide, holding that the FCC had failed to show any rational basis for those limits.

Yet despite hearing over 100 cases annually, Doug has continued to teach, first at George Mason and then at NYU. He has also found time to author over 40 scholarly articles, most dealing with competition law and policy. In just the last three years, Doug has co-authored four important articles with his former colleague at George Mason and now FTC Commissioner, Josh Wright, including one that just won this year’s GCR Award for Antitrust Article of the Year.

George Mason Law congratulates *Judge Douglas Ginsburg* on his GCR Lifetime Achievement Award!



- Mason Law offers an LLM in Law and Economics with the ability to focus on antitrust law
- Our program features leading faculty in U.S. competition law, including Judge Douglas Ginsburg
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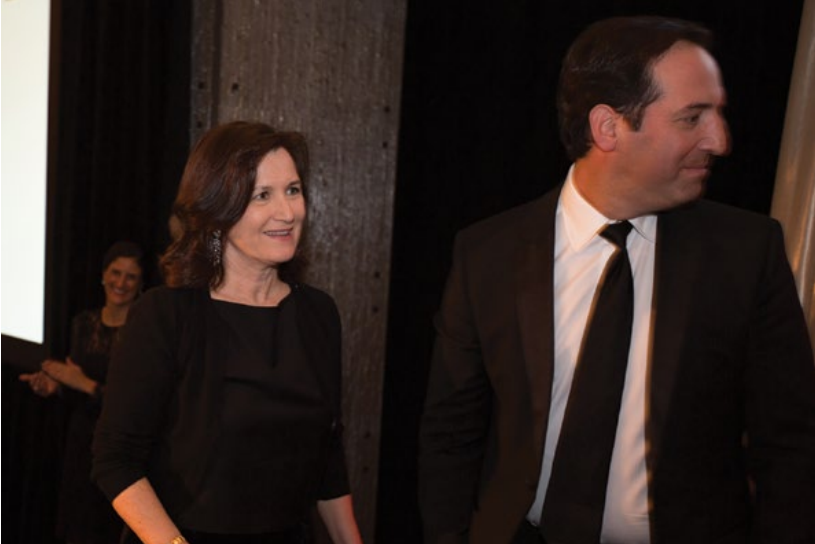
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The GCR Awards dinner will provide over half the funds needed to support the school for the coming year.

Thank you all for supporting this effort.



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- Learn the latest from top experts and receive information that is relevant to you in your international law practice area;
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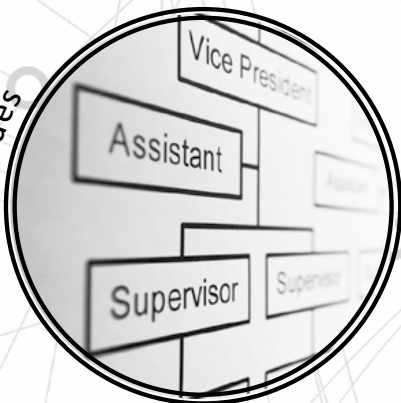
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