

**FTC History: Bureau of Economics Contributions to Law Enforcement, Research
and Economic Knowledge and Policy
Roundtable with Former Directors of the Bureau of Economics
Thursday, September 4, 2003
New Jersey Avenue Building Conference Center**

Today's roundtable commemorates the 100th anniversary of the FTC's predecessor agency, the Bureau of Corporations. It is sponsored by the FTC's Bureau of Economics (BE) and will focus on BE history and contributions of BE and economic analysis to antitrust and consumer protection enforcement, and to research and economic knowledge and policy. BE is featured because the original functions of the Bureau of Corporations were to collect information, to conduct industry and policy research, to prepare reports at the request of the Congress and the President.

The panelists for the roundtable consist of former BE Directors and Acting Directors from the past 50 years. In an effort to capture the history of BE, they have been asked to review their experiences and to identify significant BE contributions to research and economic knowledge and policy, the nature and impact of each contribution, and the recognition (and/or criticism) received. They have also been asked to review the less visible role played by BE in addressing the economic issues that arose over time in cases, trade rules, and litigation, and what the economists contributed in terms of economic analysis. The former Directors will also put these experiences in the context of external and internal influences on the Bureau and its work.

8:00: Check-In and Coffee

8:45: Welcome and introduction by Bureau of Economics Director **Luke M. Froeb**.

Opening Remarks by FTC Chairman, **Timothy J. Muris**,

9:00 – 12:30: Bureau of Economics Contributions to Antitrust Enforcement. This panel will focus on Bureau of Economics (BE) history and significant contributions to the FTC's law enforcement mission in antitrust. Moderators: former BE Director **David T. Scheffman** (sessions 1-3), and current BE Director **Luke M. Froeb** (session 4).

Brief introduction by David Scheffman.

9:00 – 9:50 am

1. **1950s and 1960s** (J. Markham, W.F. Mueller, J.M. Folsom). Presentations by **Jesse Markham and Willard Mueller**. Jesse Markham and Fritz Mueller to discuss the economic issues confronted during this period and the role of BE and the economist in enforcement matters. It appears that BE had a limited role in the 1950s and an increasing role in the 1960s. Topics for discussion include conglomerate mergers and theories of competitive effects; structuralist school influences; BE involvement in merger screening activities; and the BE role in such cases as Cyanamid, et al. (antibiotics case with allegations of

monopolization, price fixing, and an improperly obtained patent). Mack Folsom to provide staff economist perspective on the 1960s. Q&A: 10-15 min.

9:50 – 11:00 am

2. **1970s** (F.M. Scherer, D. Gaskins, J.M. Folsom, W. Comanor). Presentations by **Frederic Scherer** and **William Comanor**. Mike Scherer to discuss the economics of the industry-wide investigations/shared monopoly (e.g., *Kellogg, et al.*) and other monopolization (e.g., *Xerox*) cases from BE's perspective, and BE's involvement in Robinson-Patman enforcement. Bill Comanor to discuss the economics of vertical restraint cases from BE's perspective (providing some context by reference to developments in the economics profession and enforcement priorities at the Commission). Mack Folsom to provide perspective of line manager and Acting Director on such issues and cases, and Darius Gaskins to speak on the *Exxon et al.* matter and predation theory related to the *General Foods* case. Other topics for discussion include BE's role in cases during the late 1970s involving facilitating practices and pre-emptive capacity expansion. Q&A: 15 min.

11:00 – 11:10 am

Break

11:10 – 12:00 noon

3. **1980s** (W. Gramm, D. Scheffman, J. Peterman, M. Lynch). Presentations by **Wendy Gramm** and **John Peterman**, supplemented by the others. Wendy Gramm to provide an overview of antitrust economics (role of economics and economists) in BE during a time of change in the early 1980s at the Miller-led Commission. John Peterman to discuss in greater detail economic issues confronted during the decade, including efforts to ensure that economic analysis was included in all matters, BE contributions to development and implementation of merger guidelines/statements, efficiency analysis, and horizontal restraints analysis. Q&A: 10 min.

12:00 – 12:30 pm

4. **1990s – present** (J. Peterman, R. Bond, J. Baker, J. Bulow, D. Scheffman). Presentations by **Jonathan Baker** and **Jeremy Bulow**, supplemented by others. Jon Baker to discuss the role he saw for BE and economic analysis to play during his tenure (staffing investigations, litigation support, case generation initiative, continuing education), including the empirical analysis of mergers. Jeremy Bulow to discuss asymmetric information issues (between the FTC and companies) in Hatch-Waxman cases and with respect to divestiture orders.

12:30 – 1:30: Luncheon and Keynote Address: “A Former Chairman’s Perspective on the Role of Economic Analysis,” presented by economist and former FTC Chairman **James C. Miller, III**. Introduction by current Chairman **Timothy J. Muris**.

1:45 – 2:45: Bureau of Economics Contributions to Consumer Protection Enforcement. This panel will focus on BE history and significant contributions to the FTC’s law enforcement mission in consumer protection. Moderator: BE Deputy Director **Paul A. Pautler**.

Brief introduction by Paul Pautler.

Presentation and discussion leader **Ronald Bond** assisted by **Wendy Gramm**, **Michael Lynch** and others. This panel will focus on the development of consumer protection cases and trade rule support efforts in BE in the 1970s and the evolution of that role over the decades. Ron Bond will begin the session with an overview of the evolution of economist activity in consumer protection. The limited role of economists in consumer protection in the 1950s and 1960s will be discussed by Jesse Markham, Fritz Mueller, and Mack Folsom. The advent of a systematic economist role via the Division of Industry Analysis and the later formation of the Division of Consumer Protection will be discussed by Mike Scherer and Darius Gaskins. The role of economists in rulemaking reviews from the late 1970s through the early 1980s will be discussed by Wendy Gramm. This will be followed by a group-wide discussion of the roles of economists in case work and the use of the economics of information, cost-benefit analysis, statistical analysis, surveys and copy tests, calculation of consumer injury and appropriate civil penalties (e.g., ill-gotten gain versus injury), and the development of policy protocols (e.g., ad substantiation statement). Q&A: 10 min.

2:45 – 3:00: Break

3:00 – 5:00: Bureau of Economics Contributions to Research and Economic Knowledge and Policy. This panel will focus on BE history and significant contributions to research and economic knowledge and policy. Moderator: BE Deputy Director **Paul A. Pautler**.

Brief introduction by Paul Pautler.

3:00 – 4:00 pm

1. Choice of Research Topics Over the Years and Identifying Influential Research Reports. Discussion to be led by **Michael Lynch** (with F.M. Scherer and J. Baker). Who chose the policy research agendas at different times and what criteria were used to make those choices? In the early years of the FTC, Congress tended to choose the study topics via formal requests. After the mid-1930s, the FTC chose the topics. How has this choice been made since the mid-1950s? Starting with Mack Folsom discussing the 1952 petroleum cartel report, this session will review various important FTC studies beginning in the mid-1950s. Each former Director will be asked to focus on one or two studies from their experience at the Commission.

4:00 – 4:30 pm

2. Data Collection at the FTC (1939-1982). Presentation and discussion leader **Frederic Scherer** (with W.F. Mueller and J.M. Folsom). This session will review the general data collection era in BE. The Commission had always collected information via subpoena and Sec 6(b) requests for general investigations of individual firms or industries, but in the late 1930s, the Commission began a more general and routine collection of information from a broad set of industries.

4:30 – 5:00

3. The Competition and Consumer Advocacy Program and BE's Role: Presentation and discussion leader **Paul Pautler** (with J. Peterman, F.M. Scherer and D. Scheffman). This session will focus on the beginnings and growth of the advocacy program, the formation of the Division of Regulatory Analysis in 1982, and the synergy between research and advocacy. There will be discussion of studies that had some impact or use in the advocacy program (e.g., Mathios and Rogers 1987 paper on the use of price-cap regulation in state telephone regulatory proceedings).