2009 Antitrust Spring Meeting: Breakfast with FTC Bureau Directors

David P.

Very Active Year

- Mergers
 - Record number of filed challenges

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- <u>Blocked</u>
 - Inova/Prince William
 - CCS/Newpark
 - Oldcastle/Pavestone
 - CCC/Mitchell
- Pending

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- Polypore/Microporous
- Ovation

Very Active Year

- Whole Foods
 - Successful appeal 13(b)
 - Remand/plenary trial
 - Settlement

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- Chicago Bridge & Iron
- Sixteen consent agreements
- Several abandoned transactions
- Amendments to rules of practice

Very Active Year

• Conduct

- Pay-For-Delay Cases
 - Cephalon (Provigil)
 - Solvay (AndroGel)
- Real Estate Cases
- Physician Cases
- Standard Setting
- Non-Compete/Market Division
- Facilitating Practices
- Petroleum Market Manipulation Rulemaking

Future – What To Expect

More Activity From FTC.....

"Frankly, I don't see how the FTC could possibly be *more* aggressive"

• Commission Priorities?

- Healthcare
 - Exclusion payment cases
 - Mergers
- Energy
 - Market manipulation rulemaking

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- Conduct
- Conduct

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- Standard setting
- Resale price maintenance
- Monopolization

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TRADECOM

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- Section 5 Deluge?
 - No "Zombies from the Crypt"
 - Guiding principles/limitations
 - Usual suspects
 - Invitations to collude/MAP
 - Exploring the "penumbra"
 - Standard setting?
 - Pharma cases?
 - Section 5 Workshop



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- Less Merger Work?
 - HSR filings down
 - But, pipeline full
 - Continued strategic deals

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Consummated deals

• Closer Relationship with DOJ?

- Section 2
- Exclusion payment cases
- Merger Guidelines
- Clearance

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