

**Association of Corporate Counsel, Westchester/Southern Connecticut Chapter  
(WESFACCA)  
Lunchtime Keynote Talk  
March 16, 2011**

**“The Role of the Commissioner at the FTC”**

Good afternoon. Thank you for inviting me here and for that kind introduction. I’m very happy to be part of this outstanding program. I’m also very happy to be back in New England – though I suspect we may be beyond the borders of Red Sox Nation and deep into Yankee

State AGs review mergers with localized effects, recover funds for state purchasers victimized by anticompetitive conduct, and provide on-the-ground antitrust advice to state entities.

In their role as first responders, State Attorneys General can hear about problems consumers are facing before the news hits the blogosphere, and often before we hear about them in Washington. This is the world I come from.

I'm frequently asked about the difference between working with State Attorneys General and being a Federal Trade Commissioner. Well, if the State Attorneys General are first responders, then the FTC is like an elite SWAT team.

At the FTC, we tackle some of the nation's most complex issues and difficult cases. On the consumer protection side, these issues include privacy, credit reporting, advertising substantiation, green marketing, telemarketing, negative option billing, and debt collection. On the competition side, we protect competition in fast-moving high-tech and health care industries

So it has been a pleasure for me to interact with FTC staff on the important issues we deal with and a comfort to know that our cases are in good hands. My role at the Commission is not to litigate cases. You are not going to find me in federal court arguing the Commission's position – as much as I might like to.

Instead, Commissioners shape the overall enforcement agenda of the agency. We make the final determination on all matters going to court and all settlements. And we work with staff to ensure that our enforcement actions and settlements are appropriate in light of applicable law and policy.

We also shape our policy agenda. From Congressional testimony to policy reports – such as our recent, much discussed report on privacy – we are deeply involved in developing and advancing the agency's policy objectives on behalf of consumers.

So the Commissioners are a bit like a Board of Directors. Like a Board, Commissioners are responsible for setting the organization's course, exercising oversight of the work of our attorneys and other employees, and acting as final decision makers in all important actions.

There are differences, of course, between the Commissioners and a Board of Directors. For one, there are only five of us. We are nominated by the President and confirmed by the Senate. And by law no more than three of us can be from any one political party.

For another, being a Commissioner is a full-time job – and more – as I can assure you from personal experience.

And it's also probably the case that a much broader range of FTC activity must undergo Commission approval than corporate activity requiring Board approval. As just one of many examples, FTC staff cannot issue a subpoena in an investigation without approval from a designated Commissioner.

Finally, on a per-hour basis, I'm afraid the pay just isn't as good.

Another thing that I'm pleased to mention is that, although the Commissioners are from different political parties, we almost always operate in a bipartisan way. And that is how it should be. There is nothing partisan about pursuing scam artists who bilk millions of dollars from desperate job seekers by advertising fake jobs online – as the FTC did in a law enforcement sweep announced a couple of weeks ago. There is nothing partisan about analyzing the likely competitive effects of a high-profile merger in the complex world of online mobile advertising, as the Commission did last year when Google acquired AdMob. After much deliberation, the Commission unanimously decided to close its investigation. So despite the fact that we are 3 Democrats and 2 Republicans, we agree on the vast majority of what we do.

That is not to say that each Commissioner does not bring a unique perspective to the Commission. We do. In my case, that includes my background in state law enforcement and in consumer protection matters in particular. So it is a natural fit for me to continue to work with colleagues in the state enforcement community and engage on a number of evolving consumer protection issues. And given my background in



Something that probably will not help your case before me is if I hear that our staff has had difficulty in obtaining compliance with Commission-approved compulsory process requests for information during our investigation. We can certainly disagree on the substantive consumer protection or antitrust issues, and I am always happy to discuss these disagreements. But I am troubled when I hear that staff has not been able to obtain the information it needs to make an informed recommendation. Because that means I likely won't have the information I need to make an informed decision. I don't think anyone is well-served if the Commission is not able to carry out its investigative process.

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I'm often asked about my substantive priorities as a Federal Trade Commissioner. One of my top priorities is privacy. I have spent much of my career focusing on privacy, so I've been

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downturn. Scams involving mortgage and foreclosure relief, debt settlement, and debt collection.

Some of my other priorities involve protecting consumers in fast-evolving technology-related markets, which includes the application of principles