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INTRODUCTION: JUDITH BAILEY

MS. BAILEY: Good morning, and welcome to the 90th Anniversary Symposium of the Federal Trade Commission. It's a beautiful day and it's a wonderful way to begin our celebration of 90 years of a terrific institution. My name is Judith Bailey, and I am the Deputy Executive Director of the Agency and the Chairman of these 90th Anniversary events. This is our flagship event, the symposium, and I want to welcome you once again.

Henry Ford said that history is bunk. Well, we clearly don't believe that at the FTC. We think that understanding the past is valuable for charting the course for our future. Since 2001, when Tim Muris became Chairman, we have organized three different events to celebrate historic moments.

And September is our month.

In September 2001, we marked the 25th Anniversary of the Hart-Scott-Rodino Act. It took over 60 years after the 1914 enactment of the Clayton Act to finish the job, but HSR finished it in 1976 and gave the
government the tools it needed to investigate, litigate
and fashion effective remedies in response to
anticompetitive mergers. One of our speakers today,
Professor Elzinga, wrote a seminal article that was
very influential in the passage of HSR. So we thank you
for your contribution to that effort.

To celebrate HSR, the FTC held a reception and
heard from many people who were there at its birth.
Special among those recollections were those sent to us
by former Chairman Peter W. Rodino, the lone surviving
sponsor of the legislation. Although Chairman Rodino
has long since retired as a law maker, you all might be
interested to know that he's still active as a law
teacher. He is still on the faculty of Seton Hall
University School of Law at Newark, now in his mid-nineties.

Then in September 2003, we remembered the 100th
Anniversary of the Bureau of Corporations, which was
formerly part of the Department of Commerce. It's the
predecessor organization to the FTC. The duties of the
old Bureau of Corporation were to collect information,
to conduct industry and policies research and to prepare
reports at the request of Congress and the President.
Many of those duties have been assumed in the modern FTC
by the Bureau of Economics.

So, last year in a day-long roundtable discussion,
we highlighted the accomplishments of our own Bureau of Economics. Participating were 13 of the 14 living BE directors.

Now, I know when we're talking about a group of economists, the first adjective that comes to mind is not usually "exciting," but this truly was an exciting event. It was clear that the former BE directors were enjoying being in each other's company, and the atmosphere was truly infectious that day. I remember sitting here and just delighting in their delight in being together and going through their span of 50 years of the development of economics as it applied to antitrust and consumer protection law.

Well, here we are in September 2004 having the celebration of all celebrations, that is until we get to the 100th, so watch this space. We're observing the 90th Anniversary of the Federal Trade Commission. As I'm sure anyone who started to read our materials knows, and we try to tell you this as concisely as we can in this program brochure, President Woodrow Wilson signed the Federal Trade Commission Act, which created us, on September 26th, 1914. So, we're just four days shy of our actual birthday.

For the next two days, we intend to look at our whole story. Approximately 50 participants will race
through 90 years of history. We'll look at what's worked well and what hasn't worked so well, and what we can learn from it for the future.

I got an early peek at the outlines and the papers in progress, and some of them are just truly fascinating. A few teasers of what's ahead. We'll hear about the role played by some college kids who were part of Nader's Raiders back in 1968 which led to the historic Kirkpatrick Commission Report and ultimately to the revitalization of the FTC.

In the international arena, we'll learn about the path we have taken in just 14 years to move from conflict among nations over issues of competition law to a great degree of convergence, and we will ponder the challenges that lie ahead.

And we'll hear the story behind some of the FTC's biggest consumer initiatives over the past four decades. The big three that we've focused on are Cigarette Labeling, Children's Advertising, ("KidVid"), and the National Do Not Call Registry. Do Not Call is, of course, everyone's new favorite, and that includes humorist Dave Berry, who I'm sure some of you read, has dubbed the Do Not Call Program as the best federal program since the Elvis stamp. We are very proud to be compared with that fine program.
Now, that's just a smattering of the items on our program. I hope you can all stay for the full two days to hear the whole story.

Let me just address the administrative details of the symposium before we go any further. First, -- I'm sorry, but we must do this -- a few reminders about security. The fire exits are located in the front door in which you came in, and also there's one through the back that takes you out to G Street. It goes through the pantry area.

In the case of any emergency, go out the doors and what we do is collect diagonally across Massachusetts in front of the Union Life Building. If you leave the building for any time during the symposium, you will have to be rescreened through security. You'll have to sign in both days, and please wear your name tag while you're here, that shows that you've been screened and that will take care of it for the day.

A few remarks for everybody's enjoyment and comfort. Please turn off the ring on cell phones and pagers. Restrooms are located across the lobby. Finally, we have telephone rooms where you can duck in to make a private cell phone call.

Some comments on panel procedures. We're going to try very hard to stick to the schedule. So, please
return promptly to the symposium room after the breaks so you won't miss the beginning of the later panels. We're going to allow about ten minutes at the end of each panel for questions, and we've left question cards along the aisles and in the back. If you write down your questions on them, we have someone who will collect them. Heather will collect the cards and bring them to the moderator, who will address them to the panelists.

We understand that sometimes if people turn their heads, our mikes don't pick up everything, so if at any time you can't hear the discussion, raise your hand and that will be a cue for people to speak into the mike more clearly or to repeat what has been missed.

Finally, a number of our panelists are current members of the FTC staff. On their behalf, I am going to provide the standard disclaimer, which is that their remarks are their own and do not necessarily represent the views of the Commission or any Commissioners. So, that's taken care of.

Well, just as we're celebrating the FTC's past today with 90 years of our past, we have also begun a brand new chapter in our future. A little over a month ago, we swore in our newest Chairman, Deborah Platt Majoras. Debbie is the FTC's 52nd permanent Chairman, but she's only...
the 16th permanent FTC Chairman appointed by the President. Now, those of you who have studied your FTC history, or want to race ahead and look in our program brochure's cheat sheet, you will see that only since 1950 has the FTC's Chairman been selected by the President, and not selected from among the other Commissioners. Since 1950, we've had 16 permanent and four acting Chairmen.

Debbie came to us most immediately from the Law Firm of Jones Day, but before that, she served at the Department of Justice as the principal Deputy Assistant Attorney General in the Antitrust Division. During her three-year tenure at Justice, she oversaw matters involving software, financial networks, defense, health care, media and entertainment, and banking. She also was deeply involved in international activities and served as the Chair of the International Competition Network's Merger Working Group. We are looking forward to a new era with Chairman Majoras, and I'm pleased to introduce her to you now.

Thank you.

(Applause.)
OPENING REMARKS: CHAIRMAN DEBORAH PLATT MAJORAS

CHAIRMAN PLATT MAJORAS: Good morning. It is my great pleasure to welcome you to our celebration of the 90th Anniversary of the Federal Trade Commission. In our daily routine, the urgency to address the immediate crisis or deadline generally presses us to focus on the present, and we hope with the occasional glimpse to the future. This week, however, we have chosen to reflect extensively on the past.

Our first aim is to celebrate the Commission's accomplishments, and more important, to honor the many individuals who have built and sustained this Agency over the course of nine decades. A great institution never forgets that it prospers only by the contributions of those who serve it. This week, scholarly, social and ceremonial activities are a modest way for us to show our respect and gratitude for the people who invested years of their lives, sometimes entire careers, to create a better future for consumers.

Government officials are often exhorted to pick the low-hanging fruit. This week, we thank the generations of FTC employees who planted the trees.

Although the perspective of our symposium is
highly historical, its second aim is emphatically forward-looking. We study the past to increase our understanding of what our Agency must do today and tomorrow to improve the well-being of consumers.

My predecessor, Tim Muris, who conceived this symposium, often emphasized the continuity of modern antitrust or modern FTC policy and underscored the cumulative nature of good governance. Tim stressed the theme that our greatest achievements have emerged far less from efforts marked by sharp recurring discontinuities in philosophies than by the cumulative progressive search for better practice and policy.

Let me offer another metaphor that I believe is true to our history by its power to highlight how successful programs require continuous evolutionary improvement. Properly viewed, those of us fortunate enough to hold government office are members of a relay team, not participants in individual events. From this perspective, success stems from the collective effort of the team, not from individual initiative alone.

For several reasons, I find this metaphor appealing, and not just because I just took the baton at the FTC. Rather, it illuminates the characteristics of good policy at the FTC and other government agencies.

First, a good relay team demands superior effort from
each individual member, but its overall performance is inherently a collaboration. No team member runs exactly the same, and no matter how well each runner performs, the significance of the individual contribution ultimately depends on the performance of the runners who have gone before or follow. And this should ring true to this audience. It does not take long for any public official to realize how much she depends on her predecessor and, ultimately, successor.

Good policymaking is frequently and unmistakably cumulative. In the next two days, participants in our symposium will examine, for example, successful and unsuccessful programs in protecting consumers. They will document the progression in antitrust enforcement from a focus on protecting competitors to a focus on protecting competition. They will analyze the continuing formulation and reformulation of the role of economic analysis in FTC thinking.

In these and other areas, the cumulative nature of good policymaking stands out. And a recurring admonition in the discrete historical episodes that we will explore is that each leader of this institution must define success in terms of making contributions to the team's performance.
A second attractive feature of the relay metaphor is its recognition that success is a product of obvious and non-obvious achievement alike. At some time, I suspect, we have all watched a four by one hundred meter relay. The sprinting ability of individual runners is plainly important to the team's success. The grace and power of each runner naturally seize our attention in sequence as the race unfolds. But success often does not reside solely in the raw speed of the individual runners, but instead depends vitally on a far more mundane exercise, the hand-off.

During the Olympics in Athens, for example, we watched with disappointment as a collection of dazzling athletes faltered because of a botched exchange. This, too, provides a powerful message for public leadership at the FTC and other government agencies. Key elements of good policy-making are not necessarily dramatic or flashy. There is an inevitable tendency for all of us to measure success by the frequency of the big case.

I do not denigrate the importance of the big case, no more than I would slight the value of a runner who could cover one hundred meters in nine seconds flat. By the very fact, of course, that the big case attracts substantial public interest or affects the substantial segment of the market makes it very important to us, but
the lesson is that too much attention devoted to the big case or to other headline-grabbing initiatives can deflect needed attention away from more subtle but equally necessary steps that agencies must take to achieve good policy results. Like corporate officers who must resist the temptation to focus only on the next quarter's results, we, too, must resist the temptation to become heroes by looking just for the next big case.

Our obligation at the FTC is to identify and recognize the equivalence of a good hand-off in the formulation of competition and consumer protection policy. This symposium demonstrates how we have achieved many of our greatest successes more through a series of incremental changes, using all of the policy instruments at our disposal.

For example, the pivotal contributions from the application of nonlitigation tools, such as advocacy, education, and policy research and development, have been significant. And not only is this integration of instruments a proven path to improvement, but it is, in fact, a multidimensional approach that is a realization of the model that the Congress conceived of 90 years ago.

As any junior lawyer or economist quickly learns, the reward for good work is new challenges. Undoubtedly, our discussions over the next two days will
remind us that there is still a great deal of work to be
done to address current and oncoming challenges.

   As adjusted over time, the Commission's design
and statutory authority have provided an excellent
platform for responding quickly to market changes and
confronting the new tactics that harm consumers. What
specific challenges does our past experience teach us to
anticipate, and what can we distill from our history
about how to respond? I hope this symposium will enlighten
you, and I offer two observations now.

   First, we know that the FTC has a vital role to
play in speaking for reliance on market processes and
standing up for consumer interests. As I mentioned in
my confirmation testimony, our aim is to develop
policies that recognize and take advantage of the
remarkable consumer benefits inherent in the largely
decentralized economic organization that is our free
market system.

   To serve their own purposes, however, there are
many who would drive a wedge between business and
consumers, simply reducing the equation to good and bad,
while ignoring the mutuality and complexity inherent in
the relationship. That false dichotomy is uniquely
uninformative as a basis for deciding how and when the
FTC should use its authority.
Our central aim must be to make discriminating judgments that permit us to channel our energies toward challenging private and public measures that injure consumers. To an important degree, successful FTC as well as DOJ efforts to oppose private trade restraints have increased the attractiveness to some entities of pursuing public measures that would protect them from the sometimes harsh competitive consequences of the market.

We live in a city to which all manner of folks flock in search of dispensation. Now, they may say they believe in free markets, and that they must serve consumers to achieve their own success, but they, of course, are obliged to pursue their own interests. The FTC, though, has a special charter, to speak for measures that protect the consumer and the vitality of market forces. The challenge to oppose private and public policies and actions that subvert those interests is unending, but we must never lose our focus, despite pressure from all those who seek exceptional treatment.

Second, our past informs us that effectively meeting future policy challenges depends on our willingness to invest great effort at improving our base of knowledge and then having the courage to put that knowledge into practice. From the time of its creation

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to the present, the FTC has existed in a highly dynamic policy environment. Every decade, we have encountered important changes in economic and legal theory, economic phenomena, including technology that virtually changes the complexion of commercial transactions political conditions, and institutional arrangements for economic policymaking here and abroad.

Our ability to account for these developments demands conscious continuing efforts to understand them and to devise appropriate policy responses. We must keep up, or better yet, stay ahead. The process of regeneration and improvement demands an unflinching willingness to explore the consequences of our past initiatives, the openness to account for new developments, and a commitment to explore the interdependencies and infrastructure of policymaking within our own country and across jurisdictions.

This need to improve our knowledge base and to incorporate that knowledge into our work proceeds with unequaled urgency today. We can take nothing for granted save the need to improve. On countless occasions, by reason of our relatively long and collective experience, foreign competition and consumer protection authorities, especially the newer agencies which are proliferating, use our experience to inform
their own choices concerning institutional design and
operational practice.

To exercise leadership in a world of great
jurisdictional complexity and dynamism, we must
undertake a continuing process of self-assessment and
improvement. Our opinions about competition and
consumer policy will be influential only to the extent
that foreign observers perceive that the content and
implementation of our policies are worthy of emulation.

Our capacity to persuade today hinges upon, and
will continue to require, superior analysis and
demonstrated achievement. Intellectual leadership and
proven results, not the sheer volume of experience,
comprise the global currency of policymaking of the
present and the future in our world.

And so, with that, I invite you to join me in
the next two days, not only in celebrating what we have
accomplished, but in reflecting upon what we must do to
continue to serve consumers in the future. Thank you
very much.

(Applause.)