



DEPARTMENT OF JUSTICE

Presentation of the John S. Sherman Award to the Honorable Diane P. Wood

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**Remarks as Prepared for Delivery at
John S. Sherman Award Ceremony**

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And now for the presentation of today's award.

Deputy Attorney General Yates, Judge Easterbrook, and Jan McDavid have eloquently argued the case for our honoree. Throughout her distinguished career, Judge Diane Wood has deepened our understanding of antitrust law and competition policy – from the bench, from the halls of academia, and here, as part of the Antitrust Division.

In her two decades on the bench, Judge Wood has deservedly earned a reputation as a thoughtful and persuasive jurist. Indeed, Mother Jones referred to her as “a rock star of the written word.” I am not sure what that means. But it sounds really cool.

She is the author of a number of influential antitrust opinions, including a favorite of Bob Pitofsky and mine, affirming the FTC's Toys 'R Us decision on hub and spoke conspiracies.

Judge Wood's antitrust jurisprudence has helped define the limits on extraterritorial application of U.S. law. Some in the antitrust world have found a certain lack of clarity in the Foreign Trade Antitrust Improvements Act. There are many who would call that a major understatement. But in a pair of insightful opinions, first in the minority and later writing for a unanimous *en banc* court, Judge Wood found a way to discern and effectuate congressional intent on how the FTAIA applies to the Sherman Act when non-import foreign commerce is involved. And all the other courts of appeals to decide the question since then have agreed with Judge Wood that the FTAIA defines an element of an offense rather than a limitation on a court's power to hear a case.

Judge Wood is also a noted scholar of antitrust law. She is a lead author of one of the seminal casebooks in antitrust, *Trade Regulation*, with the late Harvey Goldschmid, prior Sherman Award winner Bob Pitofsky, and another DOJ veteran, Phil Weiser. Her audience is truly global: she has presented papers for the World Trade Organization in Geneva, for the

Organisation for Economic Cooperation and Development in Paris, and for a host of other international organizations and audiences.

Judge Wood knows the Antitrust Division. As a visiting professor at Cornell Law School in 1985, Judge Wood helped the Division revise the DOJ's Antitrust Enforcement Guidelines for International Operations. From 1993 to 1995, she served as Deputy Assistant Attorney General in the Antitrust Division under Assistant Attorney General Anne Bingaman. As a DAAG, she oversaw appellate matters, legal policy, and our international enforcement efforts. In that role, she was the moving force in publishing yet another revision to the International Guidelines, which came out in 1995. Those guidelines remain operative today and serve as a central tool for our international enforcement efforts. She was also a forceful advocate for increased international cooperation in antitrust enforcement while at the Division. She helped to negotiate the important cooperation agreement between the U.S. and Canada, and she worked with Congress to draft (and advocate for passage of) the International Antitrust Enforcement Assistance Act of 1994.

In a 1995 address to the DePaul Law Review Symposium, she foresaw the need for antitrust enforcers around the world to agree on core principles: "As the economic world shrinks, it will be vitally important to ensure the effective enforcement of competition laws that are designed to maximize consumer welfare and economic efficiency.... About this, I believe there is little dispute." She was right. We at the DOJ and our colleagues at the FTC spend considerable time implementing that vision.

Throughout her career, Judge Wood has been a pioneer for women in the legal profession – as a Supreme Court clerk, on the University of Chicago law school faculty, and on the Seventh

Circuit. And today she becomes the first woman to receive the Department's highest antitrust honor, the Sherman Award.

I am now going to present the award. Judge Wood has wisely reserved time for rebuttal. So in a minute I will turn the podium over to her.

Ladies and gentlemen, in recognition of a lifetime of achievement in the field of antitrust, it is my privilege to present the John S. Sherman Award to the Honorable Diane P. Wood.