

Regulatory—Bell entry into long-distance telecommunications services.

Consultant, June 1996–November 1997.

Analyzed competitive issues posed by Bell company entry into long-distance telecommunications services, and submitted two affidavits on DOJ's behalf to the Federal Communications Commission.

Economist, January 1983–May 1995 (part time), October 1980–December 1982 (full time).

Testimony

Presented expert testimony to courts in successful challenges of merger and of consent decree.

Mergers

Investigated mergers in several industries and helped to design appropriate relief.

Business Practices

Worked on vertical-restraints cases (tying, exclusive dealing, resale price maintenance, exclusive territorial arrangements) and horizontal-conduct cases (collusion and predation).

Legislation, Congressional Matters, Division Reports

Provided input to Antitrust Division's Merger Guidelines (1992) and Vertical Restraints Guidelines (1984). Helped draft Division comments on various Congressional legislation and responses to inquiries in several areas including price discrimination and dealer termination.

Cooperation with Foreign Competition Authorities

Interacted with competition officials from several countries and agencies. Helped comment on following documents: Canadian Fair Trade Commission's guidelines on predatory pricing, and on price discrimination; Japanese Fair Trade Commission's guidelines on distribution systems, on sole import distributorships, and on joint R&D; Korean Fair Trade Commission's guidelines on unfair trade practices in international agreements; OECD papers on predatory pricing, on competition policy and franchising, and on interaction between trade and competition policies.

Other Professional Experience

Senior Advisor, The Brattle Group, Economic, Environmental & Management Counsel, Cambridge, MA and Washington DC, November 1996-August 1998, September 2000-present.

Management Group Associate, Economic Studies Program, American Institute for Contemporary German Studies, Washington DC, October 1997-present.

OECD: Lecturer in Seminar on Vertical Restraints for competition officials from Czech Republic, Hungary, Poland, and Slovakia in Cracow, Poland, November 20-22, 1995.

Consultant in private antitrust and regulatory matters.

ILADES: Participated in designing and teaching a short course in industrial organization to policy makers and executives in Santiago, Chile, June 1994.

Pew Freedom Fellows Program: Taught short course in microeconomics to twenty Fellows from transition economies, annually, January 1993–1999. (Fellows hold middle-level or upper-level positions in government and private business.)

Center for Economic Development, Slovakia: Academic Advisory Board.

World Bank: Consultant.

Abt Associates/USAID: Advised Government of Zimbabwe in Harare on formulating antitrust law, summer 1993 (consultant to Abt, work funded by USAID's Implementing Policy Change Project).

LANGUAGES

French, Hebrew, Romanian (speak and read all three fairly well; write French and Hebrew adequately)

HONORS

U.S. Department of Justice, Antitrust Division: Special Achievement Awards

Brookings Institution: Research Fellow, 1979-80

University of California, Los Angeles: Earhart Fellowship, 1977-78

University of California, Los Angeles: Regents Fellowship, 1976-77

London School of Economics: Premchand Prize in Monetary Economics, 1976.

PUBLICATIONS

Refereed Journals

"International Telecom Settlements: Gaming Incentives, Carrier Alliances, Pareto-Superior Reform," *Journal of Industrial Economics*, forthcoming 2001 (with David Malueg).

"The Economic Logic for Conditioning Bell Entry into Long Distance on the Prior Opening of Local Markets," *Journal of Regulatory Economics (Practitioners' Section)*, vol. 18, no. 3 (2000): 247-288.

"A Quality-Signaling Rationale for Aftermarket Tying," *Antitrust Law Journal*, vol. 64 (Winter 1996): 387-404 (with Gregory J. Werden).

"The Non-Existence of Pairwise-Proof Equilibrium," *Economics Letters*, vol. 49 (1995): 251-259 (with R. Preston McAfee).

"Equity as a Call Option on Assets: Some Tests for Failed Banks," *Economics Letters*, vol. 48 (1995): 389-397 (with Behzad Diba and Chia-Hsiang Guo).

"Parallel Imports, Demand Dispersion, and International Price Discrimination" *Journal of International Economics*, vol. 37 (November 1994): 167-195 (with David Malueg).

"Opportunism in Multilateral Vertical Contracting: Nondiscrimination, Exclusivity, and Uniformity," *American Economic Review*, vol. 84 (March 1994): 210-230 (with R. Preston McAfee).

"Preemptive Investment, Toehold Entry, and the Mimicking Principle," *RAND Journal of Economics*, vol. 22 (Spring 1991): 1-13 (with David Malueg).

"Patent Protection through Discriminatory Exclusion of Imports," *Review of Industrial Organization*, vol. 6, no. 3 (1991): 231-246.

"Third-Degree Price Discrimination and Output: Generalizing a Welfare Result," *American Economic Review*, vol. 80 (December 1990): 1259-1262.
Reprinted in *Readings in Microeconomic Theory*, Manfredi La Manna Ed., Dryden Press, 1997.

- “Investments in Oligopoly: Welfare Effects and Tests for Predation,” *Oxford Economic Papers*, vol. 41 (October 1989): 698-719.
- “Entry Deterrence Externalities and Relative Firm Size,” *International Journal of Industrial Organization*, vol. 6 (June 1988): 181-197 (with Michael Baumann).
- “The Competitive Effects of Vertical Agreements: Comment,” *American Economic Review*, vol. 77 (December 1987): 1063-1068.
- “The Nature and Scope of Contestability Theory,” *Oxford Economic Papers*, vol. 38 Supplement (November 1986): 37-57.
This issue of the journal was published in parallel as *Strategic Behavior and Industrial Competition*, Morris et al. Eds., Oxford University Press, 1986.
- “The Perverse Effects of the Robinson-Patman Act,” *Antitrust Bulletin*, vol. 31 (Fall 1986): 733-757.
- “Divisionalization and Entry Deterrence,” *Quarterly Journal of Economics*, vol. 101 (May 1986): 307-321 (with Earl Thompson).
- “Illinois Brick and the Deterrence of Antitrust Violations,” *Hastings Law Journal*, vol. 35 (March 1984): 629-668 (with Gregory Werden).
- “Contestable Markets: An Uprising in the Theory of Industry Structure: Comment,” *American Economic Review*, vol. 73 (June 1983): 488-490 (with Robert Reynolds).

Monographs, Book Reviews, and Other Publications

- “Conditioning the Bells’ Entry Into Long Distance: Anticompetitive Regulation or Promoting Competition?,” in Giuliano Amato and Laraine Laudati, Eds., *Proceedings of Conference on Anticompetitive Regulation*, forthcoming.
- “Competitor Cooperation and Exclusion in Communications Industries,” in Harry Davis and Rebecca Dick, Eds., *E-Commerce Antitrust & Trade Practices*, Practising Law Institute, New York, March 2000.
- “Buyer Power Concerns and the Aetna-Prudential Merger,” Address presented at 5th Annual Health Care Antitrust Forum, Northwestern University School of Law, October 20, 1999, posted on web site of the Antitrust Division, U.S. Department of Justice: <http://home.atnet.gov/subdocs/3924.htm>
- Discussant Comments on papers by Andrew Joskow, by Daniel Rubinfeld, and by Janusz Ordover and Margaret Guerin-Calvert, *Review of Industrial Organization*, Vol. 16 (March 2000): 219-223.
- Discussant Comments on papers by Patrick Rey and Ralph Winter and by Robert Anderson et al., in Robert D. Anderson and Nancy T. Gallini, Eds., *Competition Policy and Intellectual Property Rights in the Knowledge-Based Economy*, Calgary: University of Calgary Press, 1998.
- “Telecommunications Reform in the United States: Promises and Pitfalls,” in Paul J.J. Welfens and George Yarrow, Eds., *Telecommunications and Energy in Systemic Transformation*, Heidelberg and New York: Springer, 1997.
- “Protecting Intellectual Property by Excluding Infringing Imports: An Economist’s View of Section 337 of the U.S. Tariff Act,” *Patent World*, Issue 25 (September 1990): 29-35.
- Review Essay of: Jean Tirole, *The Theory of Industrial Organization*, MIT Press, 1988. *Managerial and Decision Economics*, Vol. 11 (May 1990): 131-139.

Book Review of: J. Stiglitz and F. Mathewson eds., *New Developments in the Analysis of Market Structure*, MIT Press, 1988. *Journal of Economic Literature*, Vol. 36 (March 1988): 133-135.

“Vertical Restraints,” published in German by *Forschungsinstitut für Wirtschaftsverfassung und Wettbewerb* by E.V. Köln, Heft 5, 1984.

DISCUSSION PAPERS AND WORK IN PROGRESS

“Same Price, Cash or Credit: Vertical Control in Payment Networks” (with Daniel Vincent).

“Exclusive Dealing, Product Differentiation, and Rent Extraction,” in progress (with Serge Moresi and Francis O’Toole).

“Competition in International Satellite Services: Wither INTELSAT Restructuring?” November 1997.

“Competitive Concerns with Gaming of the International Settlements Process under Asymmetric Liberalization of International Telecommunications and Above-Cost Settlement Rates,” Affidavit submitted on behalf of AT&T to FCC, in proceedings on *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB 97-142, November 18, 1997.

“The ‘Open Local Market Standard’ for Authorizing BOC InterLATA Entry: Reply to BOC Criticisms,” Supplemental Affidavit submitted on behalf of U.S. DOJ to FCC, along with DOJ’s evaluation of following BOC application(s): BellSouth in South Carolina, November 4, 1997 and in Louisiana, December 10, 1997. Internet: www.usdoj.gov/atr/statements/1281.htm

“Competitive Implications of Bell Operating Company Entry into Long-Distance Telecommunications Services,” Affidavit submitted on behalf of U.S. Department of Justice (DOJ) to FCC, along with DOJ’s evaluations of following BOC applications: SBC in Oklahoma, May 16, 1997; Ameritech in Michigan, June 25, 1997; and BellSouth in South Carolina, November 4, 1997 and in Louisiana, December 10, 1997. Internet: www.usdoj.gov/atr/statements/Affiw60.htm

“Towards Competition in International Satellite Services: Rethinking the Role of INTELSAT,” paper distributed at OECD Ad Hoc Meeting of Experts on Competition in Satellite Services, Paris, June 1995 (with Joseph E. Stiglitz and Eric Wolff).

“Competitive Markets in Generation: Economic Theory and Public Policy,” paper presented at conference on “Electric Utility Restructuring: Whither Competition?” organized by International Association for Energy Economics Los Angeles Chapter, and Micronomics Inc., Los Angeles, May 1995.

“Option Values of Deposit Insurance and Market Values of Net Worth: Some Evidence for U.S. Banks,” mimeo, December, 1992 (with Behzad Diba and Chia-Hsiang Guo).

“Do Sunk Costs Discourage or Encourage Collusion?” U.S. Department of Justice, Antitrust Division, EPO Discussion Paper 85-10 (September 1985).

“Signalling Equilibria Based on Sensible Beliefs: Limit Pricing Under Incomplete Information,” U.S. Department of Justice, Antitrust Division, EPO Discussion Paper 84-4 (May 1984) (with Maxim Engers).

OTHER SCHOLARLY ACTIVITIES

Seminars Presented

Bellcore
Bureau of Competition Policy, Industry Canada
California State University, Hayward
Center for Strategic and International Studies
Columbia University
ENSAE, Paris
Georgetown University
George Washington University
U.S. International Trade Commission
Johns Hopkins University
New York University
Pennsylvania State University
Simon Fraser University
Tulane University
University of Alberta
University of British Columbia
University of Calgary
University of California, Davis
University of California, Los Angeles
University of Colorado, Boulder
University of Maryland
University of Montreal
University of Pennsylvania
University of Toronto
University of Virginia
U.S. Department of Justice
U.S. Federal Communications Commission
U.S. Federal Trade Commission

Conferences: Speaker, Discussant or Panelist

- Practising Law Institute, "Antitrust and Trade Practices Issues in Cyberspace" New York, March 2001
- 28th Annual Telecommunications Policy Research Conference, Washington DC, September 2000
- Schwab Capital Markets LP, Washington Research Group, "Telecom, Internet and Ecommerce Conference," Washington DC, September 2000
- "Experiences with Telecommunications Deregulation," semi-annual meetings organized by AEI-Brookings Joint Center for Regulatory Studies and Centre for European Policy Studies, Washington DC, April 2000
- "Telecommunications After Bell Entry," Conference at University of Colorado School of Law, Boulder, April 2000
- 48th Annual Antitrust Spring Meeting, American Bar Association Section of Antitrust Law, Washington DC, April 2000
- Telecom-IT Americas '99 Conference, Institute of the Americas, La Jolla, November 1999
- 5th Annual Health Care Antitrust Forum, Northwestern University School of Law, Chicago, October 1999
- "Regulatory Reform in Japan, Mexico, the Netherlands and the United States," OECD, Paris, March 1999
- Federal Communications Bar Association Competition Committee, Symposium, Washington DC, January 1999
- Conference on Current Topics in Merger and Antitrust Enforcement, Charles River Associates, Washington DC, December 1998

- Conference on Anticompetitive Regulation, Robert Schuman Centre of the European University Institute, Florence, September 1999
- 47th Annual Antitrust Spring Meeting, American Bar Association Section of Antitrust Law, Washington DC, April 1999
- 25th Annual Telecommunications Policy Research Conference, Washington DC, September 1997
- Telecommunications seminar series, Canadian Bureau of Competition, Ottawa, September 1997
- Competition Policy Workshop, The World Bank, June 1997
- Economics of Interconnection Forum, Federal Communications Commission, Washington DC, May 1996
- Authors' Symposium on Competition Policy and Intellectual Property Rights, Canadian Bureau of Competition, Aylmer, Quebec, May 1996
- Electric Generation Association, Annual Meetings, West Palm Beach, April 1996
- "Wheeling & Dealing: Opportunities and Challenges in the New Electric Industry," conference sponsored by the Center for Regulatory Studies, Illinois State University and the Institute of Government and Public Affairs, University of Illinois-Urbana, Chicago, April 1996
- "New Social and Economic Approaches to a Multimedia World," OECD Symposium, Tokyo, March 1996
- "Telecommunications and Energy Regulation in Transition Economies," Center for Economic Development, Bratislava, October 1995
- "Electric Utility Restructuring: Whither Competition?" organized by International Association for Energy Economics Los Angeles Chapter, and Micronomics Inc., Los Angeles, May 1995.
- "New Learning on Barriers to Entry in Competition Policy," Canadian Bureau of Competition, Ottawa, March 1995
- Southeastern Economic Theory Meetings, Charlottesville, October 1994
- EARIE Conference, Tel Aviv, September 1993
- Midwest International Economics Meetings, Pittsburgh, October 1992
- Latin American Econometric Society, Mexico City, September 1992
- Conference on Industrial Organization, Carleton University, Ottawa, July 1991
- Workshop on Strategic and Dynamic Aspects of International Trade, SUNY at Stony Brook, July 1991
- AEI Conference on "Innovation, Intellectual Property and World Competition," Washington DC, September 1990
- EARIE Conference, Lisbon, September 1990
- Conference on "International Trade and Technology," Brussels and London, November 1989
- EARIE Conference, Budapest, August 1989
- Conference on Strategy and Market Structure, Dundee University, Dundee, August 1988
- Conference on "Firm Ownership and Competition," Graduate School of Business, Stanford University, June 1987
- EARIE Conference, Berlin, August 1986
- AEA Annual Meetings, Dallas, December 1984

Referee for Professional Journals

American Economic Review
Canadian Journal of Economics
Economica
Economic Journal
European Journal of Political Economy
International Economic Review
International Journal of Industrial Organization
Journal of Business
Journal of Business Economics
Journal of Economic Dynamics and Control
Journal of Economic Education
Journal of Economic Theory
Journal of Economics and Management Strategy
Journal of Industrial Economics
Journal of International Economics
Journal of Political Economy

Managerial and Decision Economics
Quarterly Journal of Economics
Quarterly Review of Economics and Business
RAND Journal of Economics
Review of Industrial Organization
Review of International Economics
Scandinavian Journal of Economics

Outside Evaluator—Research Proposals and Tenure & Promotion Cases

National Science Foundation
Small Business Administration
Duke University
INSEAD
University of Calgary
University of Michigan
University of Virginia

John M. Gale received his B.S. in economics and physics from Beloit College and his M.S. and Ph.D. in economics from the University of Wisconsin-Madison. Prior to joining *The Brattle Group*, Dr. Gale was an economic consultant with Charles River Associates and taught economics and finance at The Mississippi University for Women.

Dr. Gale specializes in antitrust, industrial organization, and microeconomic theory. His research includes price-war modeling and the application of game theoretic models to qualitative aspects of specific markets. His most recent research has included econometric analysis and modeling of unilateral price effects of mergers in differentiated product markets. In addition, Dr. Gale has modeled merger effects in electricity markets and markets with auctions.

Dr. Gale has experience in all phases of economic litigation and large-scale project management. He has consulted to clients in numerous industries including telecommunications (cable television set-top boxes, television distribution and programming, digital radio, mobile communications), newspaper publishing, consumer products (paper products, beer, feminine hygiene, candy, water purification), biotechnology (genetically altered hybrid corn), and professional services (accounting services, hospitals). Dr. Gale has preformed analysis on a wide variety of economic issues, including mergers, price fixing, attempted monopolization, damages estimation, and regulatory matters. Recent projects include:

- For a wireless telecommunications firm attempting to renegotiate a merger consent decree with the U.S. Department of Justice, Dr. Gale analyzed wireless communications market definition and competition, modeled competitive effects of entry and exit, and assisted in drafting an expert report. The analysis detailed the entry of new wireless telecommunications providers, the changing regulatory position of the Federal Communications Commission, and the rapid technological change that was affecting the industry.
- For a number of consumer product companies, Dr. Gale has modeled unilateral price effects of proposed mergers based on analysis of Nielsen retail sales data. This has included econometric estimation of substitutability between products and modeling the predicted price effects of merger or changes in cross-ownership. Dr. Gale has participated in presentations of the

data, methodology, and results to the Federal Trade Commission and Antitrust Division of the U.S. Department of Justice.

- For a newspaper publisher in Northwest Arkansas, Dr. Gale analyzed advertising and subscriber data to determine the degree of market overlap between two regional daily newspapers. In addition, Dr. Gale conducted advertiser interviews to determine the market overlap of the regional daily newspapers with direct mail, a statewide daily newspaper, and local weekly newspapers. Dr. Gale assisted in the preparation of expert reports and testimony on behalf of the client.
- On behalf of General Instrument Corporation, Dr. Gale co-authored two filings submitted to the Federal Communications Commission on the issue of mandating the retail availability of cable set-top boxes. The analysis applied current economic theory on network industries to predict the effects on suppliers and consumers of television programming.
- On behalf of USA Digital Radio, Dr. Gale co-authored a filing submitted to the Federal Communications Commission advocating the involvement of the Commission in standard setting for digital radio in order to solve coordination problems between broadcasters, radio transmission equipment manufacturers, and consumer radio receiver manufacturers.
- On behalf of Saudi Arabian Texaco, Dr. Gale assisted in the preparation of a lost assets damage analysis filed with the United Nations for drilling, lifting, and refinery assets destroyed during the Iraqi invasion of Kuwait. This analysis entailed the valuation of assets in the Neutral Zone between Kuwait and Saudi Arabia, some of which were jointly owned and operated by Texaco and the Kuwaiti government, using very limited documentary evidence.
- For a provider of accounting services, Dr. Gale prepared a bidding model of competition to provide services to Fortune 1000 clients. In addition, Dr. Gale determined the degree of accounting client overlap among different providers of accounting services.

PUBLICATIONS

“Standard Setting for Digital Radio.” With Stanley M. Besen. Submitted to the Federal Communications Commission on behalf of USA Digital Radio Partners, L.P. *Petition for Rulemaking In the Matter of Amendment of Part 73 of the Commission’s Rules to Permit the Introduction of Digital Audio Broadcasting in the AM and FM Broadcast Services*, October 7, 1998.

“A Further Economic Analysis of the Commercial Availability of ‘Navigation Devices’ Used in Multichannel Video Programming Systems.” With Stanley M. Besen. Submitted to the Federal Communications Commission on behalf of General Instrument Corporation. *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, June 23, 1997.

“Price Wars as Signals in Repeated Games.” Ph.D. dissertation, University of Wisconsin, 1997.

“An Economic Analysis of the Commercial Availability of ‘Navigation Devices’ Used in Multichannel Video Programming Systems.” With Stanley M. Besen. Submitted to the Federal Communications Commission on behalf of General Instrument Corporation. *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, May 16, 1997.

“Understanding Econometric Analysis of the Price Effects of Mergers Involving Differentiated Products.” With T. Overstreet and J. Keyte. *Antitrust*, Vol. 10, No. 3, Summer 1996.

“A Game-Theoretic Analysis of the FCC’s Proposed Reciprocity Rule.” With Stanley M. Besen. Submitted to the Federal Communications Commission on behalf of Sprint Communications Company L.P. *In the Matter of Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket No. 95-22, RM-8355, RM-8392, April 11, 1995.

“Learning to be Imperfect: The Ultimatum Game.” With K. Binmore and L. Samuelson. *Games and Economic Behavior*, Vol. 8, No. 1, January 1995.

“Directed Energy Warfare: Advances in Protective Armor Materials” (SECRET). With J. Perkins, P. Yip, C. Pergantis, J. Walkinshaw, and R. Brewer. Proceedings of the 1990 Army Science Conference, Durham, NC, 1990.

CERTIFICATE OF SERVICE

I, Dennette Manson, do hereby certify that on this 13th day of April, 2001 copies of the foregoing Comments of the Cellular Telecommunications & Internet Association were delivered by hand, unless otherwise indicated, to the following parties:

Honorable Michael K. Powell
Chairman
Federal Communications Commission
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Room 8-B201
Washington, DC 20554

Commissioner Susan Ness
Federal Communications Commission
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445 12th Street, SW
Room 8-C302
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