

**BACKGROUND MATERIALS:
A PRIMER ON THE APPLICATION OF ANTITRUST LAW
TO THE PROFESSIONS IN THE UNITED STATES**

**To Accompany Remarks before the
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These materials provide background on the application of the antitrust laws to the professions in United States. Over the past four decades the courts in the United States have made clear that law, medicine, engineering, and other professional services are governed by traditional, mainstream antitrust principles. In reaching this result, the courts have rejected arguments that markets for professional services operate differently from other markets and that the professions should be exempt from antitrust enforcement or subject to special rules. Because the professions are often subject to additional forms of governmental oversight, however, the application of traditional antitrust principles will sometimes be accepting of limited displacement of competition in furtherance of other objectives.

The professions have traditionally distinguished themselves from other trades, businesses, and occupations by a code of ethics under which the goal of professional activities is to serve the public, rather than merely to earn personal profit. Each member of the profession swears to uphold those ethics. The details of the ethical codes typically dictate the obligation of the professionals to the community and further dictate practices in the performance of their services; consequently the codes provide substantial public benefits. Insofar as the codes of ethics usually are promulgated by professional associations comprised primarily of competitors, however, the drafters have an incentive to include limitations on competition.

* The views expressed in these materials are those of the speaker and do not necessarily represent the position of the Federal Trade Commission or of any individual Commissioner. The speaker is grateful to Thomas J. Klotz of the FTC's Office of General Counsel for preparing these materials.

