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FOREWORD

Delivered pricing systems, in one form or another, have been firmly entrenched in the economy of the United States for many years. The development of nationwide markets by sellers, taking advantage of speedier, cheaper, and more efficient forms of transportation and communication, when coupled with the physical distances comprehended in any such marketing area, has inevitably emphasized the possibility of selling on a delivered price basis. When such basic industries as steel and cement have constructed over a long period of time elaborate price structures of this type, it is evident that any attempts either to alter substantially or to abolish this form of pricing are certain to encounter strenuous opposition. In spite of this opposition, these attempts have increased rather than diminished. The fact that delivered pricing systems have, at least to some extent, admittedly been used as one weapon of conspiracies or combinations to fix prices and so restrict or eliminate competition and encourage monopoly—and many would say that their use has almost invariably been in connection with monopolistic price-fixing activities—has meant that these systems have become enmeshed in the toils of the antitrust laws.

The battle over the causes, effects, and merits of various delivered pricing systems has been furiously fought in several areas. Economists themselves have sharply disagreed as to the effects and remedies. The fight before the FTC and the courts has been long and bitter, and still continues. Recently the struggle has shifted to Congress, where the outcome is seriously in doubt. Unfortunately, as Professor Latham so skillfully shows in the case of Congress, the din, fury, and intensity of the debates have too often, as a result of the heavy pressures brought to bear on the participants, resulted in name calling and emotional appeals to free enterprise, and stock denunciations of bureaucratic interference with American business, so that the real issues and arguments have been, sometimes it seems almost deliberately, confused rather than clarified, with the participants themselves sometimes almost inexplicably changing their positions. Of late there have been vehement appeals for clarity and certainty above all else in the law relating to delivered pricing systems; yet the remedies often proposed appear to take the form of legislative action which would seem to create more problems of ambiguity and interpretation for lawyers, administrators, businessmen, and courts than it would solve. One can-

not help wondering, therefore, if the pinch comes from the clear-cut bite of the present laws against delivered pricing systems rather than from their confused imprint. The real issues may be not the alleged confusion of the law, but rather the extent of the relationship between delivered pricing systems and monopolistic and competition-restraining conspiracies and practices, as well as the relationship between the underlying policies of our antitrust laws and the type of economy we desire to have in the United States.

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