Justice Department honors Kauper for antitrust move against AT&T

It's been more than 20 years since Henry M. Butzel, Professor of Law Thomas E. Kauper filed the complaint that eventually eliminated AT&T's monopolistic control of U.S. telephone service — and, some might say, opened the way for an actress named Candace Bergen, aka Murphy Brown, to become spokesperson for a quick-out-of-the-blocks new telephone service called SPRINT.

The year was 1974 and Kauper was serving in the Ford Administration as Assistant Attorney General in charge of the Justice Department's Antitrust Division. His move against AT&T would have a profound effect on American telecommunications. To borrow from some of Ms. Bergen's SPRINT ads, it was like the drop of a pin that eventually would be heard around the world.

Last fall, in recognition of the continuing impact of the AT&T case, the U.S. Justice Department's Antitrust Division honored Kauper with its John Sherman Award, named for the author of the Sherman Act of 1890, the United States' pioneer antitrust law. Kauper shared the award with William F. Baxter, who headed the Antitrust Division in the Reagan Administration and spearheaded the negotiations with AT&T that led to the 1982 consent decree that broke up the giant communications company.

Kauper and Baxter, who now is William Benjamin Scott and Luna Scott Professor of Law at Stanford Law School and Of Counsel to the law firm of Shearman & Sterling, received the award in ceremonies at the Department of Justice in Washington, D.C., in October. The award inscription reads:

"Presented jointly to Professor Thomas E. Kauper and Professor William F. Baxter for their vision and courage demonstrated in the historic prosecution and settlement of U.S. v. American Telephone and Telegraph Company which brought the benefits of competition to American consumers and gave the United States preeminence in the field of telecommunications technology and service. With thanks from a grateful nation."

"Tom Kauper and Bill Baxter built the foundation upon which we have been constructing a competitive telecommunications industry," said Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division. "Without their visionary work on the AT&T case we wouldn't have the vigorous and innovative telecommunications industry we see developing today."

"The 1982 consent decree reached with AT&T through those negotiations created the conditions for competition in the markets for telecommunications equipment and long distance phone service — competition that led to lower prices, better service, and higher quality products for consumers."

"The Telecommunications Law of 1996 builds on the success of the consent decree by attempting to create competition in local markets — allowing competition to thrive in all sectors of the industry."

Kauper, J.D. '60, has taught at the Law School since 1964. After graduation, he clerked for two years for Associate Supreme Court Justice Potter Stewart. In 1969 he began a two-year stay at the Justice Department as Deputy Assistant Attorney General in the Office of Legal Counsel. He went back to the Justice Department in 1972 and remained there for four years before returning to the faculty at the Law School.

The Sherman Award was established in 1994. The first recipient was U.S. Senator Howard M. Metzenbaum of Ohio. The 1995 winner was Harvard Law School Professor Phillip E. Areeda.