

Antitrust Overview



King Spalding’s antitrust lawyers provide sophisticated, solution-oriented advice to clients in a wide variety of industries on all aspects of U.S. and international competition law, including mergers and acquisitions, joint ventures and other strategic alliances, government civil and criminal investigations, private antitrust litigation and counseling. The key to our antitrust success is consistent, comprehensive and creative counsel to our clients. Providing solution-oriented antitrust counsel requires a keen understanding of our clients’ business. We work closely with in-house counsel to provide comprehensive antitrust compliance and training programs. The result is a deeper and more intuitive understanding of each client’s business and legal needs and, ultimately, solutions that are cost-effective and efficient.

Firsthand Agency Knowledge

Our antitrust lawyers include several who have served in significant positions within U.S. antitrust enforcement agencies, including the former Deputy Bureau Director of the Federal Trade Commission, former Deputy Assistant Attorney General for Criminal Enforcement at the Antitrust Division of the Department of Justice, and a number of other DOJ and FTC veterans. We regularly appear before these and other key competition authorities, including state attorneys general.

Comprehensive Antitrust Experience

Our clients include leading companies and private equity firms across a wide range of industries, including chemicals, consumer products, energy, financial services, and healthcare and pharmaceuticals, among others.



Named one of the leading antitrust firms in the U.S. by *Global Competition Review*

Clients rely on our antitrust lawyers to steer them through strategic transactions, including mergers and acquisitions and joint ventures. In addition to regularly achieving clearance for transactions from the DOJ and FTC, we have substantial experience coordinating efforts to gain approval of transactions from the EU and other non-U.S. antitrust authorities, including guiding clients through Phase II merger investigations, responding to Article 11 letters and advising clients on issues of jurisdiction and disclosure of information from abroad.

Our antitrust lawyers have played substantial roles defending clients in nearly every major global cartel investigation and multidistrict litigation in the past decade, including Auto Parts, Foreign Exchange Currency, LIBOR, TFT-LCD, Municipal Bonds, Ocean Shipping, Air Cargo, and Generic Pharmaceuticals. Investigations in connection with many of these matters were and are being conducted by various global jurisdictions, including Brazil, Canada, the EC, Japan, Korea and the UK.

Our antitrust litigation and trial experience focuses on complex government investigations, massive civil class actions, and strategic litigation between competitors challenging distribution, pricing and other business practices.

We also provide counseling on all aspects of competition law, including benchmarking, pricing, marketing, distribution and trade association participation. Our focus is always on providing practical and responsive advice that helps clients achieve their business goals while minimizing antitrust risk.

Representative Clients and Matters

Mergers, Acquisitions and Joint Ventures

- Successfully represented **WestRock Company** in achieving clearance from a number of international antitrust authorities for a number of strategic transactions over the past several years, including WestRock's recent acquisition of MultiPackaging Solutions in 2017, which achieved clearance in the United States, Canada, Mexico, and Europe.
- Successfully represented **Carmike Cinemas** in DOJ investigation of its merger with AMC Theatres, which created the largest movie theatre chain in the United States.
- Successfully defended **EndoChoice** in merger with competitor Boston Scientific, achieving clearance from the FTC and the Spanish Competition Authority
- Successfully represented **Forterra Building Products**, a portfolio company of **LoneStar Funds**, in the formation of North American brick joint venture. The transaction was cleared by the FTC without divestitures.
- Successfully represented **American HomePatient**, a portfolio company of **Highland Capital Management**, in its sale to Lincare. The transaction was cleared by the FTC without divestitures.
- Successfully defended University of Texas Southwestern Medical Center (UTSW) in an FTC and Texas AG investigation of its formation of a joint operating agreement with Texas Health Resources.
- Successfully defended **Houston Methodist** in an FTC and Texas AG investigation of its acquisition of two CHRISTUS hospitals in the metropolitan Houston area.
- Negotiated an FTC Consent Decree resolving an investigation of a pharmaceutical company's strategic acquisition of a competitor.

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Government Investigations and Enforcement Actions

- Defended multinational companies in criminal investigations and civil actions alleging antitrust conspiracies in myriad industries, including automotive parts, vitamins and graphite electrodes, including proceedings before the DOJ and competition enforcement agencies in Brazil, Canada, Europe, Japan and Korea.
- Represented **an international air cargo company** in connection with a multi-jurisdictional cartel investigation in that industry.
- Successfully represented an executive of international auto parts company in connection with a cartel investigation in that industry.
- Represented **a major U.S. energy company** in a DOJ bid-rigging and market manipulation investigation.
- Represented **one of the world's largest integrated petroleum companies** in FTC civil investigations involving refining, distribution and sale of light petroleum products in the U.S. and price gouging in the sale of these products.
- Represented **UCB, S.A.**, in the vitamins price-fixing investigation. Successfully avoided criminal antitrust charges and obtained a partial summary judgment decision that reduced the potential liability for all defendants by more than \$5 billion.

Litigation

- Successfully represented a pharmaceutical company in multidistrict litigation involving price-fixing claims. Obtained complete dismissal prior to filing of answer to complaint.
- Lead Counsel for **InterContinental Hotels Group** in multidistrict litigation alleging federal and state antitrust violations related to online booking of hotel rooms. Prevailed on a motion to dismiss.
- Successfully represented **Pandora Media** in a dispute concerning the antitrust consent decree governing the American Society of Composers, Authors and Publishers (ASCAP). King & Spalding secured a favourable decision from the U.S. Court of Appeals for the Second Circuit ensuring Pandora's access to the catalogues of certain ASCAP publisher members.
- Successfully represented **Progressive Casualty Insurance Company**, and several related insurance entities, in consolidated antitrust actions alleging a conspiracy to restrain trade among U.S. automobile insurance companies concerning rates and policies for repair work.
- Represented Bank of America and Merrill Lynch in the *In re Municipal Derivatives Antitrust Litigation* in the Southern District of New York involving allegations of an illegal conspiracy to fix, maintain or stabilize the price of and to rig bids and allocate customers and markets for municipal derivatives
- Defended **Hoffmann-LaRoche** in multidistrict litigation and various state attorneys general actions regarding pharmaceutical pricing issues. Successfully obtained dismissal of Hoffmann-LaRoche.
- Represented the **U.S. Postal Service** in successful defense of class action litigation pending in federal court in which plaintiffs alleged antitrust tying claims in connection with the provision of postal services and supplies. Prevailed on a motion to dismiss.