

DEWEY & LeBOEUF

Antitrust



## Antitrust

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We regularly handle every type of antitrust problem, from cartel work to class action litigation to international government investigations to mergers. Our 25 offices in 15 countries give us the power to coordinate our clients' antitrust work wherever it is and no matter what it involves.

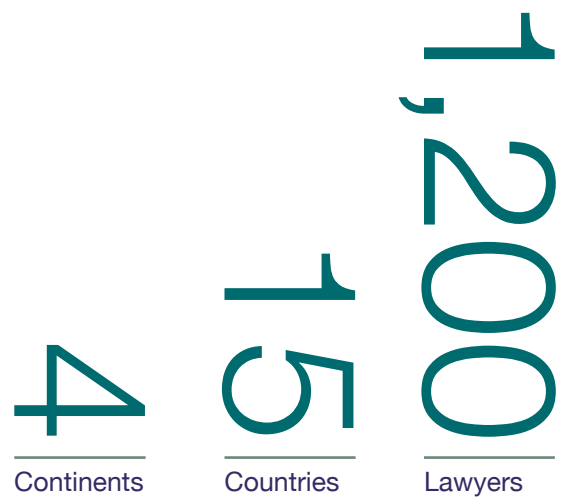
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# About Dewey & LeBoeuf

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Dewey & LeBoeuf is a full-service law firm providing counsel throughout the Americas, Europe, Russia/ CIS, the Middle East, Asia and Africa. With more than 1,200 lawyers in major financial and commercial centers, the firm represents national and global corporations, financial institutions and government agencies in their most complex legal matters.

For additional information, please visit [www.dl.com](http://www.dl.com).



# Antitrust

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For decades, lawyers in our firm have handled the most complex antitrust problems with great success. We still do today, not only in the United States, but also in Europe, Russia/CIS and China.

We regularly handle every type of antitrust problem — counseling, mergers, joint ventures, intellectual property, national and international government investigations, class action litigation, market conduct issues and cartel work. Our 25 offices in 15 countries give us the power to coordinate our clients' antitrust work wherever it is and no matter what it involves.

Our 60 antitrust lawyers have detailed knowledge in different areas of antitrust practice. We also have one of the largest litigation departments in the United States. When it's necessary, we can instantly add litigators to handle complex mergers, investigations or lawsuits.

The US antitrust agencies just announced their new commitment to aggressive enforcement. Antitrust agencies around the world have also become more vigilant. Wherever our clients are located, we can help them

solve existing antitrust problems — and help them avoid future antitrust problems with rigorous counseling.

## Antitrust Experience Coupled with Deep Industry Knowledge

Dewey & LeBoeuf offers our clients an extra tactical antitrust advantage because we have corporate and litigation lawyers with extremely specialized factual understandings of different industries.

Antitrust cases are always fact intensive. Good antitrust work comes only with a deep, accurate understanding of the industry involved. "Getting up to speed" is often not good enough, especially if you need to be in court tomorrow. In our firm, many of our 1,200 lawyers concentrate on specialized industries and have a profound knowledge of them. In fact, in some of these industries, like insurance and energy, we are generally considered among the leading law firms in the world. Different lawyers in our firm have traditionally excelled in diverse areas such finance, intellectual property, medical devices, healthcare and sports, to name just a few.

In all these industries, our combined antitrust and industry knowledge translates into a client advantage: we react quickly and can make sound informed judgments for our clients in high-risk antitrust assignments.

## Domestic and International Litigation and Government Investigations

Our lawyers have decades of experience representing major US and international corporations and executives in government investigations, criminal cases, and complex federal and state private antitrust class actions. Our lawyers play leading roles in both US and EU proceedings, often in government investigations and class-action cases that are going on simultaneously.

Size does matter sometimes. Our Antitrust Group includes over 60 lawyers with competition experience. But, as we already mentioned, we can call on over 400 litigation lawyers in our firm to handle any size assignment, anywhere in the world. This gives us the power to carry out the most complex matters, including

multinational ones. We can appear in courts or tribunals around the world, and can also organize discovery in many different locations at the same time, in many countries, and in many languages.

## Mergers and Acquisitions

Every law firm knows the same merger laws. What gives the client a strategic advantage is practical experience and good judgment applied to the unique facts of each case.

We handle multibillion dollar mergers on a daily basis and represent buyers, targets, white knights, investors and investment banks. We handle the full range of merger practice, including friendly mergers, hostile takeovers, proxy fights, busted-deal disputes, challenges to anti-takeover devices, and purchases from bankruptcy proceedings.

Our hands-on knowledge in many industries often lets us make quick, but accurate, judgments whether a transaction will trigger antitrust clearance issues. If that risk exists, we consider what to do right at the start — including whether to bring in economists and expert witnesses to

work with us on presentations to the Department of Justice, Federal Trade Commission or European Commission. Intelligent planning and timing gives our clients an advantage.

Mergers are increasingly multinational. Our clients want quick, accurate answers about what jurisdictions around the world need antitrust filings and what their filing standards are. To answer those questions, we use our own international offices — including our EU offices in Brussels, Frankfurt, London, Milan, Paris and Warsaw — and corresponding relationships with powerful antitrust lawyers in over 50 other countries.

International M&A filings need to speak with a single voice. We regularly coordinate worldwide antitrust filings for our clients. We have supervised antitrust clearances in up to 40 countries for a single transaction, from Poland to Brazil to Australia to South Korea, leaving our client's executives and in-house lawyers free to concentrate on the transaction itself.



# Antitrust (cont'd)

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## Counseling

An ounce of antitrust prevention is worth millions in litigation costs.

We help our clients avoid those costs with counseling for every area of antitrust risk. This includes relationships with suppliers, distributors, competitors, trade associations and industry groups; exclusive-dealing, tying and monopolization practices; the formation and operation of joint ventures; and merger planning.

Both antitrust agencies in the Obama administration have declared their commitment to aggressive antitrust enforcement in every area. We can help our clients contain this newly heightened risk with on-site antitrust training; special CLE antitrust seminars; compliance programs; audits; antitrust manuals and guidelines; and customized computer training materials.

## Patent Infringement and Antitrust

Many patent infringement actions also involve antitrust claims, because a patent is a monopoly.

Our lawyers have handled a wide range of civil and criminal antitrust matters for clients in the monoclonal antibody, automotive, computer, defense, entertainment, medical device, pharmaceutical and publishing industries.

## Antitrust at Specialized Administrative Agencies

Some industries, like insurance and energy, have federal or state agencies that have their own competition standards. Sometimes they are similar to antitrust law — and sometimes not. When they are not, the problems need to be analyzed or handled differently. Lawyers in our antitrust group have worked in these specialized areas for years and know exactly what to do.

## Representative Antitrust Matters:

- We are now handling the defense of four separate international cartel cases, in the power cables, compressor, CRT and potash industries. These cases allegedly involve billions in claimed damages. The power cables, compressor and

CRT cases all involve investigations by competition authorities in multiple jurisdictions, including the US and EU. The compressors, CRT and potash cases all involve direct and indirect-purchaser MDL class-action litigations. We represent foreign defendants in these cases.

- We just won a landmark food-industry price-discrimination case under the Robinson-Patman Act. We represented Feesers, a food distributor, in its antitrust claim against Michael Foods. This case, which went on for five years, is likely to have a dramatic effect on pricing practices in the food-distribution industry.
- We defeated a predatory-pricing claim against our clients Panasonic Avionics and Matsushita Electric Industrial Co. The plaintiff claimed our clients tried to monopolize the market for commercial airline in-flight entertainment systems. The district court granted our motion for summary judgment. The plaintiff filed a notice of appeal to the Ninth Circuit, but withdrew it.
- We won a jury verdict for the National Football League players, striking down free-agency

restrictions. This victory led to the *Reggie White* class action, which resulted in the current free agency/salary cap system in the NFL.

- We defeated an antitrust claim against our client, Creative Artists Agency, that claimed that several booking agencies, including CAA and concert promoters, conspired to exclude the plaintiffs from the market. We won on summary judgment, and, on appeal, the Second Circuit unanimously affirmed.

- We defeated a class action suit against Disney, claiming that Disneyland's \$10 residential discount was an illegal price preference by a common carrier under California's unfair competition laws. Again, we won on summary judgment, and, on appeal, the California Court of Appeals unanimously affirmed.

- In a Department of Justice merger transaction, we obtained clearance for a "two-to-one" merger, where the merged company ended up with 100 percent of the market. Using industry and expert witnesses, we convinced the DoJ that there were no barriers to entry and therefore no anticompetitive problems.

- In an FTC merger, our client urgently needed to buy a natural gas pipeline before the seller went into bankruptcy. The FTC's initial reaction was that the transaction would require months to clear, if it would clear at all. We prepared 20 industry witnesses and five expert witnesses and economists, and showed that the transaction did not create the anticompetitive threat the agency had feared. It approved the transaction in 17 days.

- In a complex multinational acquisition, we represented the buyer in a sporting goods transaction that created a global market leader. In this transaction, Amer Sports, which already owned Atomic skis, acquired Salomon skis. The transaction went through a complicated EU procedure involving a referral from the Member States up to the European Commission, which cleared the transaction with minor conditions. US clearance was unconditional.

- We won a case for Novartis Pharmaceuticals in a landmark jury trial. A class of retail pharmacists demanded billions in damages, claiming that pharmaceutical manufacturers and wholesalers conspired

to deny them discounts that had been given to other buyers of brand-name drugs. After a ten-week trial, the court granted our motion for judgment as a matter of law.

- We successfully defended Geneva Pharmaceuticals, Inc. (now Sandoz, Inc.) in FTC and state attorney general investigations, and nationwide direct and indirect purchaser class actions, arising from claims that a so-called "reverse payment" settlement of a patent infringement suit with an innovator company violated the antitrust laws.

- We won a successful challenge for a major energy company against the Federal Energy Regulatory Commission's decision on "forward" energy contracts in the highly controversial California energy crisis back in 2000-2001. The Ninth Circuit ruled that FERC misapplied the filed rate, Mobile-Sierra and public interest doctrines.



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