

# Antitrust and Trade Regulation

## Overview

Carlton Fields' global antitrust group represents businesses and individuals in civil and criminal antitrust matters in courts, administrative agencies, and other proceedings and investigations around the world. Our team includes four board certified antitrust lawyers, a leading white collar crime and investigations practitioner, and several former *Fortune* 1000 company senior executives. We take innovative approaches to bet-the-company antitrust matters and have obtained landmark decisions that helped shape the law. Our practice covers the full range of substantive antitrust and competition law issues, including defense of civil litigation and government investigations, criminal grand jury investigations and trials, merger and acquisition representation, and counseling and compliance program administration.

For example, we:

- Represented a pharmaceutical company in an antitrust tying case that involved process patent rights and a branded drug.
- Represented a manufacturer of chemical products in a nationwide price-fixing class action and obtained a decision denying class certification.
- Represented a major auto insurer against tying and restraint of trade claims brought on behalf of a national class of 70 million policyholders who claimed they were overcharged for aftermarket crash parts.
- Represented a manufacturer of fax paper in a state court indirect purchaser action and defeated class certification in first decision of its kind in Florida.
- Helped a national franchiser reorganize its supply chain and institute creative distribution and marketing programs.
- Defended a large health care conglomerate in commercial litigation alleging monopolization, group boycott, exclusive dealing, and merger-challenge claims brought by an alleged competitor.
- Represented an international appliance manufacturer in its acquisition of a competing vacuum business, including premerger notification compliance under the Hart-Scott-Rodino Act; defended multiple challenges by, and obtained approval from, federal and state enforcement authorities.

- Defended an international photographic media manufacturer in a California indirect purchaser antitrust class action alleging conspiracy to exclude a competitor and price-fixing.
- Counsel clients on various other nonpublic antitrust and competition law issues, including defense and counseling on mergers, acquisitions, joint ventures, business structure and distribution agreements (such as resale price maintenance and similar issues), antitrust compliance program design and implementation, and government investigations.

We are also one of a handful of law firms worldwide that has an antitrust subgroup dedicated exclusively to pursuing antitrust recovery opportunities for corporate clients. Our cartel recovery group has revolutionized the concept of affirmative recovery, often achieving, through negotiation, arbitration, and litigation, recoveries that are many multiples greater than those available through the class mechanism. We have recovered hundreds of millions of dollars for corporate clients in price-fixing lawsuits and pre-lawsuit settlements (focusing on both monetary and business-solution settlements), and we are at the forefront of many of the burgeoning legal issues in the antitrust world.

For example:

- We represented several computer manufacturers and mobile phone companies in actions to recover damages from an international price-fixing cartel in the flat-panel liquid-crystal display (LCD) market. We obtained several precedent-setting orders in that case (favorable to our clients) that helped redefine the scope of the Foreign Trade Antitrust Improvement Act. *In re TFT-LCD (Flat Panel) Antitrust Litigation*, No. 3:07-md-01827 (N.D. Cal. San Francisco Division). One of our attorneys was appointed by the federal judge overseeing that case to serve as “liaison counsel” for dozens of “direct action plaintiffs,” giving us a leadership role in coordinating discovery, motion practice, and communications with the court among the hundreds of interested parties in that case.
- We represented several power tool companies, health care product manufacturers, computer manufacturers, and telecommunications carriers and equipment manufacturers in opt-out multidistrict commercial litigation to recover damages from an international price-fixing cartel in the lithium-ion battery market. *In re Lithium Ion Battery Antitrust Litigation*, No. 4:13-md-02420 (N.D. Cal. Oakland Division).
- We represented several large technology companies in opt-out multidistrict commercial litigation to recover damages from an antitrust price-fixing cartel in the optical disk drive market (*In re Optical Disk Drive Antitrust Litigation*, No. 3:10-md-02143 (N.D. Cal. San Francisco Division)), and various related appellate issues in the Ninth Circuit Court of Appeals (*In re Dell Inc. v. John Doe 1*, 801 F.3d 1072 (9th Cir. 2015) (affirming order in clients’ favor requiring production of FBI tapes and establishing Ninth Circuit standard under Federal Rule of Criminal Procedure 6(e)).

We have also represented *Fortune* 1000 clients in lawsuits and pre-lawsuit negotiations to recover damages from international price-fixing cartels, monopolization claims, group boycotts, and matters related to other anti-competitive conduct in the:

- Mobile handsets market
- Pharmaceuticals market
- Beer, wine, and spirits industries
- Health care market
- Capacitor, resistor, and inductor markets
- Grocery and food distribution industry
- Payment card industry
- Restaurant industry

In addition, we have represented clients in many other nonpublic matters. We routinely handle these recovery matters using creative alternative fee arrangements such as contingency, hybrid, flat fee, and hold-back bonuses, which are tailored to provide budget certainty, risk-sharing, and minimal financial outlay for our clients.

## Insights

03.11.2024

Digital Collusion or Warp-Speed Competition Evaluating the Agreement Element in the Algorithmic Pricing Antitrust Cases

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12.20.2023

New Merger Guidelines Cap Off a Year of Hostility to Employers — 2023 Closes With Antitrust Agencies' Most Radical Foray Yet

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10.12.2023

Chevron on the Brink — the Supreme Court Could Revolutionize Administrative Law This Term (But Shouldn't)

*Westlaw Today*

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10.05.2022

Sellers Beware: Price Gouging After Hurricane Ian

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09.28.2020

Justice Ginsburg and the Taming of Antitrust's Most Notorious Branch

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05.15.2020

When Referrals Are Felonies: Health Care Providers Should Review Their Referral Practices to Avoid the DOJ's Wrath

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03.26.2020

Price Gouging During an Emergency: Coronavirus Edition

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03.12.2020

COVID-19 Prompts Florida Price Gouging Statute Affecting the Sale of Commodities

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The Latest "Hipster Antitrust" Battleground – Vertical Merger Enforcement

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09.11.2019

New York AG Leads Antitrust Investigation Into Social Media Platform

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08.26.2019

Say Cheese: With the "Right to Repair" Debate Simmering, the Supreme Court's Aging Kodak Decision Is Ready for Its Close-Up

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08.02.2019

DOJ Provides Even More Reason to Enhance (Or Create) Corporate Antitrust Compliance Programs

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05.18.2019

Supreme Court Upholds Ninth Circuit Decision: Antitrust Action Against Apple May Proceed

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03.22.2019

Brokers Beware, Next Antitrust Liability Target: Is Your Brokerage at Risk?

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04.23.2018

More Product Liability and Antitrust Class Actions, Rising Class Action Spending Among Trends in Latest Class Action Survey

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03.21.2017

Trial Graphics and Your Antitrust Story

*Trying Antitrust (PDF)*

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10.17.2013

Criminal Agreements in Antitrust Prosecutions: Through a Looking Glass

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The Federal Character of Florida's Deceptive and Unfair Trade Practices Act

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04.20.2010

Rebuilding Haiti: Beware of the FCPA

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New Case on Class Action Settlement

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Consumer Cases Brought under Rule 23(b)(3): Strategies for Defeating Class Certification

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07.15.2008

Special Report: White-Collar Crime

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12.01.2007

Knockout? - Two New Challengers Threaten the Department of Justice's Status as Undisputed King of the Antitrust Ring

*American Bar Association (PDF)*

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03.01.2007

Carlton Fields Newsflash - Supreme Court Says Resale Price Maintenance Is No Longer per se Illegal

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Harder to Prosecute?

*Legal Times (PDF)*

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Back to the Future: Toward a More Rigorous Analysis of Antitrust Class Actions

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The Treble Damages Remedy

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Checkmate in Class Actions: Defensive Strategy in Initial Moves

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