Antitrust/ Competition

Skadden

Global businesses feel the growing impact of new competition laws and more sophisticated competition law enforcement around the world. Regardless of whether our clients' critical competition issues concern developed or emerging jurisdictions — or several jurisdictions at once — Skadden provides timely, seamless assistance with their competition law challenges. Our Antitrust/Competition Group possesses the proven ability to pilot the most sophisticated international competition investigations, merger reviews and litigations through the complexities of this new and shifting framework. Given that today's competition law enforcers increasingly coordinate, clients should expect the same from their counsel.

Our attorneys have been at the forefront of emerging trends and developments in the antitrust and competition arena. In addition to being recognized as a top-tier firm for antitrust and competition by *Chambers Europe*, *Chambers Global, Chambers USA*, *Benchmark Litigation*, *Best Lawyers* Best Law Firms, *The Legal 500 Asia Pacific*, *The Legal 500 UK* and *The Legal 500 US*, Skadden and its practitioners were:

- Named 2024 *Chambers USA* Antitrust Firm of the Year and a finalist for the recognition in 2023.
- Named Best International Law Firm: Competition and Antitrust at the *China Business Law* Awards 2023.
- Ranked among *Global Competition Review*'s Global Elite in the *GCR* 100.
- Named to The BTI Consulting Group's Fearsome Foursome 2027 list, which highlighted the four firms "clients least want to face across the table in litigation."
- Named a finalist in the General Litigation category of the Litigation Department of the Year competition at the *New York Law Journal*'s 2026, 2024, 2023 and 2022 New York Legal Awards, as well as a finalist in the Class Action category in 2026 and 2024.

Our accomplishments on behalf of clients across industries include:

- Obtaining timely clearance from antitrust merger control agencies around the globe, including in the U.S., the EU, the U.K., Japan, China, Australia, Brazil and South Africa, for highly complex mergers, acquisitions and joint ventures.
- The successful defense of major clients in treble-damage U.S. class action litigation, monopolization claims and other government and private U.S. civil disputes.
- Guiding companies through U.S. grand jury investigations and EU and EU Member State administrative investigations and court procedures for claims including merger litigation, cartel, price-fixing, excessive pricing, dominance, parallel trade, geoblocking and vertical restraints issues.
- Advising clients in connection with Federal Trade Commission (FTC) investigations and administrative proceedings.
- Coordinating strategies in leniency applications and cartel investigations in parallel actions by authorities around the world.
- Successfully completing commitment proceedings, avoiding any finding of antitrust infringement, and successful completing informal engagement with U.S., EU and EU Member State antitrust agencies, avoiding formal allegations being raised and leading to the closure of infringement proceedings.
- Establishing and maintaining global antitrust compliance programs, including audits, dawn raid training, in-house counsel workshops and in-person and online compliance training.

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Our Antitrust/Competition Group draws on the resources of Skadden's worldwide platform, which includes focused, integrated services in global mergers and acquisitions, government enforcement and white collar criminal investigations and litigation, trial-level and appellate litigation, and international arbitration. In the U.S., Skadden lawyers assist clients in hearings before the U.S. Congress and federal regulatory agencies, including those in health care, energy, transportation and communications as well as the Department of Defense. In the EU, our lawyers have capabilities in U.K., German and French competition laws.

Mergers, Acquisitions and Joint Ventures

Global Scope of Services

Skadden antitrust and competition attorneys plan and execute regulatory filings for mergers, acquisitions and joint ventures in jurisdictions around the globe by marshalling the resources of our worldwide network of offices and working closely with experienced local counsel. This well-developed practice is fundamental to our successful completion of the most complex cross-border transactions (including non-solicited acquisitions). When litigation connected to mergers and other transactions becomes unavoidable, Skadden's Antitrust/Competition Group advises on disputes globally and in the U.S., managing cases before the federal courts and at the FTC, as well as in the EU General Court and Court of Justice.

Our services include:

- Coordinating closely and continuously with clients and the M&A team to ensure that obtaining antitrust approvals is a primary objective of the overall transaction strategy.
- Advising clients regarding the potential antitrust risks of proposed business combinations.
- Helping clients structure transactions and draft transaction documents that address those risks.
- Obtaining timely antitrust approval from the Antitrust Division of the U.S. Department of Justice (DOJ), FTC, the European Commission, national authorities of the EU Member States, the Ministry of Commerce of the People's Republic of China and other jurisdictions worldwide.

In the U.S., we handle all types of business combination matters before the DOJ, the FTC and U.S. state attorneys general, including:

- Advising clients with respect to the requirements of and compliance with the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976.
- Working proactively to minimize the time required for any investigation by the FTC, the DOJ or state attorneys general.
- Managing responses to DOJ and FTC requests for additional information, facilitating client compliance quickly, completely and cost effectively.

In the EU, the assistance we provide to clients in notifications to the European Commission includes:

- Advising clients on strategic issues in obtaining European Commission approval for all types of transaction structures, consistent with the transactions' timing demands.
- Preparing the Form CO as efficiently as possible, in order to minimize the information-gathering burden for clients.
- Obtaining approval consistent with client expectations as to timing and result.

Skadden also has an extensive practice and proven track record of successfully navigating the most complex, in-depth Phase II proceedings.

In all transactions, we coordinate global notification and approval requirements, working with local Skadden offices and a global network of external counsel, selected exclusively for their antitrust merger control experience and capabilities in their home jurisdictions. Subject to the clients' preferences, we take a highly centralized approach to rest-of-world notifications, minimizing the information-gathering burden on the client and avoiding redundant data requests and inconsistent use of antitrust merits arguments.

We also assist with the antitrust considerations applicable to due diligence review (information exchanges) and planning for pre- and post-closing integration of the combined companies' global operations. Our advice regarding potential transaction structures is designed to minimize the demands and substantive risks of competition and foreign investment notifications.

In addition to mergers and acquisitions, we counsel clients regarding the unique challenges presented by the application of global antitrust and competition laws to potential joint ventures, minority investments and other strategic collaborations.

Related Regulatory Matters

A wide variety of businesses retain Skadden in connection with competition issues that arise in the context of regulatory matters. We handle the antitrust aspects of rulemaking proceedings and mergers and acquisitions that fall within the jurisdiction of agencies such as the Office of the Comptroller of the Currency, the Federal Reserve Board, the Securities and Exchange Commission, the U.S. Department of Transportation, the Federal Communications Commission, the Federal Energy Regulatory Commission and state insurance departments. In the EU, we regularly counsel clients on a variety of issues, including state aid and public procurement.

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Litigation/Controversy

Skadden has an extensive practice defending clients in private litigation, as well as those accused of criminal violations of antitrust and competition laws. Attorneys across offices coordinate closely on multijurisdictional investigations and representing clients in all phases of grand jury matters, as well as in trials, sentencings and appeals.

We have extensive counseling, litigation and jury trial experience in a broad variety of civil and criminal disputes, including treble-damage class action litigation, monopolization claims, price-fixing allegations, Racketeer Influenced and Corrupt Organizations Act (RICO) claims and other matters.

A significant part of Skadden's U.S. antitrust litigation experience includes a dedicated sports law practice. Our attorneys have served as lead trial counsel to a number of sports leagues, including the National Football League, the National Basketball Association, the National Hockey League, the National Collegiate Athletic Association, the PGA Tour and the Arena Football League, in a variety of litigations and dispute resolutions involving antitrust claims.

In the EU, a significant part of Skadden's antitrust litigation experience includes proceedings before the European General Court against European Commission findings of antitrust infringements. We have represented companies in administrative proceedings before the commission and in the defense against civil claims arising from these findings.

Government Investigations

We routinely advise clients on matters involving investigations before various government agencies. In the EU, we advise clients on Article 101 and Article 102 issues and defend clients against increasingly vigorous antitrust enforcement actions brought by the European Commission and, if necessary, in appeals of European Commission decisions concerning these issues to the European courts. We also assist clients with investigations by the DOJ and FTC into alleged violations of the Sherman and Clayton antitrust acts and Section 5 of the FTC Act.

In the context of growing coordination between global antitrust authorities in the field of cartel investigations, Skadden has built a sophisticated practice assisting clients in building integrated strategies to face such investigations.

Parallel investigations by authorities in diverse jurisdictions such as the U.S., Canada, the EU, South Africa, South Korea, Japan and Australia require carefully conceived global strategies to address often important differences in antitrust procedural requirements and policy priorities, including:

- Requirements for leniency applications.
- Document production, confidentiality and privilege.
- Jurisdictions with and without criminal sanctions for cartel behavior.
- Third-party access to evidence produced in other jurisdictions, both in litigation and administrative proceedings.

Counseling

Skadden's antitrust practice also includes counseling and regulatory advice in the U.S. and EU on matters including review of distribution agreements, intellectual property licenses (*e.g.*, patents, know-how, trademarks and copyrights) and other strategic arrangements. We also help clients design, implement and monitor global antitrust audit and compliance programs. Our services in this area include preparing the program; educating client personnel via in-person and interactive teleconference presentations; and conducting audits (surprise or announced) in consultation with clients' internal counsel.

Thought Leadership

Our antitrust attorneys have authored hundreds of articles and publications on competition issues, including what is considered the leading treatise on HSR law, "Acquisitions Under the Hart-Scott-Rodino Antitrust Improvements Act, Third Edition"; the American Bar Association's *Premerger Notification Practice Manual*; regular columns for the *New York Law Journal*; and frequent articles for the *Antitrust Law Journal*, the *European Competition Law Review* and the *Global Competition Litigation Review*. We often lecture before the Practising Law Institute, the College of Europe and other professional organizations, and our group hosts leadership seminars on developments in global competition law.