

Partner, New York

Antitrust/Competition



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## Education

J.D., Tulane Law School, 2000 (*magna cum laude*; Order of the Coif; Notes and Comments Editor, *Tulane Law Review*)

B.A., Brown University, 1996 (with honors)

## Bar Admissions

New York

## Associations

American Bar Association

New York State Bar Association

Ken Schwartz represents clients in antitrust transactional and advisory matters. He has worked in a diverse range of industries, including agriculture, airlines, chemicals, consumer products, defense and government contracting, energy, entertainment, financial services, health care, insurance, media, medical devices, natural resources, private equity, pharmaceuticals, retail and telecommunications.

Mr. Schwartz routinely appears before the U.S. Department of Justice, the Federal Trade Commission and state antitrust authorities. He has assisted in numerous high-profile transactions, including:

- the unsecured creditors committee of American Airlines with respect to the merger with US Airways;
- Ash Grove Cement Company in its \$3.5 billion acquisition by CRH plc;
- Boral Limited in its \$2.6 billion acquisition of Headwaters Incorporated;
- Caesars Entertainment Corporation in its \$17.3 billion merger with Eldorado Resorts, Inc.;
- CF Industries in the sale of its phosphate business to The Mosaic Company and in an unsolicited bid for Terra Industries, Inc.;
- CME Group Inc. in its acquisition of NEX Group plc for \$5.5 billion, including assumed debt;
- CPI International, Inc. in its acquisition of the antenna systems business of General Dynamics;
- EMC Corporation in its \$67 billion acquisition by Dell Inc.;
- EnergySolutions in a trial defending the company against the U.S. Department of Justice's lawsuit to block Energy Solutions' proposed \$367 million acquisition of Waste Control Specialists;
- E\*TRADE Financial Corporation in its \$13 billion all-stock merger with Morgan Stanley;
- Key Safety Systems in its acquisition of substantially all of Japan-based Takata Corporation's global assets and operations;
- Leidos Holdings Inc. in its \$5 billion combination with the realigned information systems and global solutions business of Lockheed Martin Corporation in a reverse Morris trust transaction;
- Pinnacle Entertainment, Inc. in its acquisition by Penn National Gaming, Inc. in a cash and stock transaction valued at approximately \$2.8 billion;
- Vantiv in its \$12 billion merger with Worldpay and Worldpay in its \$43 billion merger with FIS; and
- XL Group in its \$15.3 billion acquisition by AXA SA and its \$4.2 billion cash-and-stock acquisition of Catlin Group Limited.

Mr. Schwartz regularly appears before the antitrust agencies in a variety of investigational contexts. In the area of general antitrust counseling, Mr. Schwartz advises clients on a variety of antitrust matters, including joint ventures, competitor collaborations, unilateral conduct, and pricing and distribution issues. He also frequently works with Skadden's Financial Institutions Group on antitrust issues that arise in insurance M&A and regulatory matters.

Mr. Schwartz has repeatedly been selected for inclusion in *Chambers USA: America's Leading Lawyers for Business*. He is a regular columnist for the *New York Law Journal*. In 2012, he won the Institute of Competition Law's Antitrust Academic Article Readers Award for "'Tally Ho!': UPP and the 2010 Horizontal Merger Guidelines," co-authored with James Keyte.

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## Publications

“Anthem/Cigna Litigation Underscores Importance of Antitrust Planning in Transactions,” *Skadden, Arps, Slate, Meagher & Flom LLP*, September 16, 2020

“Axon’ Challenges FTC’s Preclusion of Constitutional Claims in 9th Circuit Appeal,” *New York Law Journal*, September 8, 2020

“To Catch a Conspiracy: Congress Renews ACPERA,” *New York Law Journal*, August 11, 2020

“Skadden Discusses FTC and DOJ Vertical Merger Guidelines,” *The CLS Blue Sky Blog*, July 15, 2020

“Transaction-Related Noncompete Agreements Face FTC Fire,” *New York Law Journal*, July 14, 2020

“FTC and DOJ Issue Vertical Merger Guidelines,” *Skadden, Arps, Slate, Meagher & Flom LLP*, July 10, 2020

“FTC Commissioner Wilson on COVID-19, AbbVie/Allergan and More,” *New York Law Journal*, June 9, 2020

“Regulators Adopt a Strategic Posture in Response to COVID-19,” *New York Law Journal*, May 12, 2020

“Anti-Price Gouging Enforcement In the Age of COVID-19,” *New York Law Journal*, April 14, 2020

“Merger Review Procedures Undergo Global Modifications,” *Skadden, Arps, Slate, Meagher & Flom LLP*, March 30, 2020

“FTC’s Power To Seek Money Damages Called Into Question,” *New York Law Journal*, March 10, 2020

“Draft Guidelines Better Reflect Current Vertical Merger Practice,” *New York Law Journal*, February 11, 2020

“Antitrust Enforcement Centers on Technology Industry,” *Law360*, January 30, 2020

“FTC and DOJ Release Draft Vertical Merger Guidelines,” *Skadden, Arps, Slate, Meagher & Flom LLP*, January 21, 2020

“Antitrust Enforcement Centers on Technology Industry,” *Skadden’s 2020 Insights*, January 21, 2020

“Antitrust Yearly Wrap-Up: Tech and Telecom in the Spotlight,” *New York Law Journal*, January 14, 2020

“The DOJ Moves to Terminate the Paramount Consent Decrees,” *New York Law Journal*, December 10, 2019

“FTC Indicates Interest in Enforcement Aimed at Consummated Mergers,” *New York Law Journal*, November 2019

“DOJ Invokes Arbitration Option For Merger Review,” *New York Law Journal*, October 8, 2019

“When Antitrust Meets Human Resources,” *New York Law Journal*, September 17, 2019

“The DOJ’s New Approach to Robust Corporate Compliance Programs,” *New York Law Journal*, August 13, 2019

“DOJ Review Creates Possibility for Large Scale Change in the Music Industry,” *New York Law Journal*, July 9, 2019

“Takeaways From the Recent Qualcomm Decision,” *New York Law Journal*, June 11, 2019

“A Caution for Retrospective Merger Reviews,” *New York Law Journal*, May 14, 2019

“FTC Holds New Hearing on Merger Retrospectives,” *Skadden, Arps, Slate, Meagher & Flom LLP*, April 25, 2019

“FTC Tech Task Force: Temporary Scrutiny or Permanent Focus?” *Skadden, Arps, Slate, Meagher & Flom LLP*, April 23, 2019

“Insights From the ABA Antitrust Spring Meeting 2019,” *New York Law Journal*, April 9, 2019

“AT&T-Time Warner and Beyond: The State of Vertical Merger Enforcement in the U.S.,” *New York Law Journal*, March 12, 2019

“Antitrust Division Increasingly Weighs In as *Amicus Curiae*,” *New York Law Journal*, February 11, 2019

“US and EU Antitrust Enforcers Remain Active and Aggressive, With Some New Wrinkles,” *Skadden’s 2019 Insights*, January 17, 2019

“Antitrust Yearly Wrap-Up: Active on All Fronts,” *New York Law Journal*, January 8, 2019

“Merger Control: US,” *International Finance Law Review*, March 2018

“New Head of Antitrust Division Commits to International Antitrust Efforts in First Public Remarks,” *Skadden, Arps, Slate, Meagher & Flom LLP*, November 2, 2017

# Kenneth B. Schwartz

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“DOJ Continues Streak of Successful Merger Challenges With Blocked Aetna-Humana, Anthem-Cigna Deals,” *Skadden, Arps, Slate, Meagher & Flom LLP*, February 13, 2017

“Agencies Release Updated Guidelines for IP Licensing and International Enforcement and Cooperation,” *Skadden, Arps, Slate, Meagher & Flom LLP*, January 19, 2017