

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, fintech, 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 regarding 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
- Builders FirstSource, Inc. in its all-stock merger transaction with BMC Stock Holdings, Inc. to create a combined company with an equity value of \$5.5 billion
- Caesars Entertainment Corporation in its \$17.3 billion merger with Eldorado Resorts, Inc. and its \$3.7 billion acquisition of William Hill plc
- CF Industries in its \$1.7 billion acquisition of Incitec Pivot Limited's ammonia production complex located in Waggaman, Louisiana, and related assets; the sale of its phosphate business to The Mosaic Company; and an unsolicited bid for Terra Industries, Inc.
- CME Group Inc. in its acquisition of NEX Group plc for \$5.5 billion, including assumed debt; and in its joint venture with IHS Markit Ltd. to combine their post-trade services
- CPI International, Inc. in its acquisition of the antenna systems business of General Dynamics
- E. & J. Gallo Winery in its \$1 billion purchase agreement with Constellation Brands
- 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
- Hut 8 Mining Corp. in its all-stock merger of equals with US Bitcoin Corp.
- 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
- Spotify Technology S.A. in numerous acquisitions, including Findaway World, Megaphone, Anchor FM, Podsights, Chartable and Gimlet Media
- Vantiv in its \$12 billion merger with Worldpay and Worldpay in its \$43 billion merger with FIS
- The XFL in its combination with the United States Football League
- XL Group in its \$15.3 billion acquisition by AXA SA and its \$4.2 billion cash-and-stock acquisition of Catlin Group Limited

Kenneth B. Schwartz

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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 been repeatedly selected for inclusion in *Chambers USA: America's Leading Lawyers for Business* and has been named to *The Best Lawyers in America*. He is a regular columnist for the *New York Law Journal*. In 2024, Mr. Schwartz won Best Business Article (General Economics) at Concurrences' Writing Awards for "Private Equity and Competition — Comparing U.S. Agency Views to Recent Policy and Empirical Evidence," co-authored with Michael Singer and Isabel Tecu. 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.

Selected Publications

- "Antitrust Yearly Recap," *New York Law Journal*, January 9, 2024
- "DOJ and FTC Release Final 2023 Merger Guidelines Formalizing Aggressive Merger Enforcement Playbook," *Skadden, Arps, Slate, Meagher & Flom LLP*, December 21, 2023
- "Upping the Dosage: Health Care and Pharmaceuticals Antitrust Regulation in 2023," *New York Law Journal*, December 12, 2023
- "Antitrust Implications of AI Technology Remain Key Focus of U.S. Regulators," *New York Law Journal*, November 13, 2023
- "Global Antitrust Enforcement Symposium; Conference on International Antitrust Law and Policy," *New York Law Journal*, October 19, 2023
- "FTC's Shaoul Sussman Discusses Draft Merger Guidelines With Skadden," *New York Law Journal*, September 15, 2023
- "How Proposed HSR Filing Requirements May Impact the Private Equity Industry," *New York Law Journal*, August 9, 2023
- "What's New In The DOJ-FTC Proposed Merger Guidelines," *Law360*, July 20, 2023
- "DOJ and FTC Propose a New Playbook for Merger Reviews," *Skadden, Arps, Slate, Meagher & Flom LLP*, July 19, 2023
- "Divergence in Parallel Merger Reviews: How, Why, Where Do We Go From Here?" *New York Law Journal*, July 12, 2023
- "FTC and DOJ Propose Dramatic Expansion of HSR Filings' Scope," *Skadden, Arps, Slate, Meagher & Flom LLP*, July 6, 2023
- "Assessing Whether Past Airline Merger Remedies Could Impact JetBlue-Spirit Merger," *New York Law Journal*, June 10, 2023
- "ABA Spring Meeting Spotlight: Antitrust Enforcement Actions," *New York Law Journal*, May 8, 2023
- "Private Equity and Competition—Comparing U.S. Agency Views to Recent Policy and Empirical Evidence," *ABA's Antitrust Magazine*, April 24, 2023
- "Is Antitrust Having Its '70s Moment? What History Tells Us About Reform," *New York Law Journal*, March 14, 2023
- "The Wide-Ranging Impacts of the FTC's Proposed Non-Compete Clause Rule," *New York Law Journal*, February 14, 2023
- "FTC Announces New HSR Notification Thresholds and Filing Fee Structure," *Skadden, Arps, Slate, Meagher & Flom LLP*, February 1, 2023
- "Antitrust Yearly Recap: Aggressive Agency Enforcement Efforts Continue," *New York Law Journal*, January 10, 2023
- "FTC Defines Its Expanded View of 'Unfair Methods of Competition,'" *New York Law Journal*, December 13, 2022
- "FTC Claims Broader Section 5 Powers in New Policy Statement; Provides Limited Practical Guidance," *Skadden, Arps, Slate, Meagher & Flom LLP*, December 1, 2022
- "Global Competition Enforcement: Digital Markets and International Coordination," *New York Law Journal*, November 8, 2022
- "Antitrust Enforcers Intensify Scrutiny of Private Equity Deals," *Competition Policy International's Antitrust Chronicle*, October 27, 2022
- "Khan and Kanter Show No Signs of Slowing Antitrust Enforcement," *New York Law Journal*, October 11, 2022
- "State of the States: Antitrust Enforcement Gets More Aggressive," *New York Law Journal*, September 13, 2022
- "Chicken Executives Acquitted in Third Trial. What Next for the DOJ?" *New York Law Journal*, August 9, 2022