

## Antitrust & Trade Regulation

Lathrop GPM attorneys have a broad understanding of the complex web of interconnected federal and state antitrust laws and how these laws apply to the business conduct of companies currently doing business, or intending to do business, in the United States. We have extensive experience in matters involving price-fixing, bid-rigging, supply restrictions, market divisions (product, customer and geographic), price discrimination, monopolization and regulated industries, exclusionary practices, resale price maintenance programs, minimum advertised pricing policies, tying, market foreclosures, interlocking directorates and officers, exclusivity, distribution and pricing practices (including price and non-price vertical restraints), government investigations, state and federal investigative demands and grand jury investigations, buying cooperatives, trade associations and joint ventures, mergers and acquisitions (including pre-merger filings), and intellectual property (including licensing).

Our team counsels business clients where competition laws and business intersect. We have assisted clients—frequently conducting employee training sessions—on antitrust issues in a variety of industries, including:

- Agricultural products
- Automobiles
- Banking/financial services
- Franchise
- Health care
- Intellectual property
- Manufacturing and distribution
- Pharmaceuticals
- Retail and restaurants
- Telecommunications

- Trucking/common carriers
- Utilities

### **Antitrust Litigation**

We represent clients in private single party, multi-party, and class action treble-damage lawsuits brought under the federal and state antitrust laws. We have extensive experience with antitrust class certification issues, consolidation of multi-district cases, and other procedures governing complex litigation in the United States. Although we seek to resolve matters favorably for our clients at the earliest possible stage of litigation, we have extensive experience trying cases before federal and state judges and juries.

### **Intellectual Property**

We advise and represent clients on antitrust issues that arise from the acquisition, licensing, and enforcement of patents and trademarks. Antitrust issues often arise in the context of patent infringement lawsuits. Patent owners are frequently accused of unlawfully extending the term and economic value of the rights granted to them under the patent laws. Our lawyers have extensive experience with these issues from the perspective of both the patent holder and the alleged infringer.

### **Corporate, Mergers and Acquisitions**

We identify potential problems early in the sale or transaction-negotiation process and assist clients to structure transactions to avoid or minimize potential antitrust risk. If a transaction is reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR) we navigate the merger review process on behalf of our clients as cost-effectively and expeditiously as possible. We appear before the Federal Trade Commission (FTC) and the Antitrust Division of the U.S. Department of Justice (DOJ) in the United States and are familiar with the analytical approach and information gathering techniques employed by the federal antitrust enforcers. Many complex transactions are also reviewed by state attorneys general and/or international competition authorities.

In addition, we regularly assist clients seeking to raise concerns regarding the anticompetitive actions of suppliers or competitors with the FTC, DOJ, or relevant state attorney general(s).

### **Antitrust Compliance Counseling**

- We advise clients on the laws governing vertical distribution programs, both price and non-price related issues, including resale price maintenance (RPM) agreements and minimum advertising price (MAP) programs.
- We counsel clients on industry standards-setting policies, including those developing standards governing electronic data exchange.
- We counsel industry and trade associations on antitrust compliance issues including competitor information-gathering programs, joint purchasing, statistical reporting ethical codes, participation in litigation and regulatory proceedings, and antitrust policy and competition law issues.
- We advise clients on structuring and operating joint ventures, including R&D, marketing, and production arrangements. We also advise on applying premerger reporting requirements to joint ventures.
- We counsel clients on the premerger rules and procedures under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR).
- We counsel clients on the applicable antitrust exemptions and "safety zones" applicable to labor, employment, insurance, agriculture, and other areas.
- We advise clients on the contours of the labor antitrust exemption applicable to the collective bargaining process.
- We also advise our foreign clients on applying U.S. antitrust laws to their activities, including the reach of U.S. jurisdiction under the Federal Trade Antitrust Improvements Act as well as our domestic clients to comply with foreign antitrust/competition laws.

### **Representative Experience**

- Served as one of the lead firms in price fixing lawsuit against manufacturers of LCD Flat Panel televisions, resulting in \$1.1 billion settlement
- Obtained dismissal for equipment dealer and auction services provider against group boycott claims

- Defense of franchisor against putative class action challenging anti-poaching provision in a franchise agreement
- Represented regional health care clinic in FTC investigation and challenge to potential merger of primary health care providers
- Defense of franchisor against multiple challenges to product supply and distribution practices, including bundling and below-cost pricing
- Obtained complete defense verdict for manufacturer against claims that it conspired with dealer to restrain trade
- Obtain dismissal of price discrimination claims against equipment manufacturers and distributors
- Represented putative class of gas station dealers challenging joint venture of major oil companies