

## Competition Group Of The Year: Dechert

By Nadia Dreid

*Law360 (December 8, 2020, 3:58 PM EST)* -- Dechert helped end the FTC's five-year merger challenge winning streak when it led PeroxyChem to victory earlier this year, allowing the company's \$635 million union with fellow chemical producer Freshfields-led Evonik to move forward and landing the firm among Law360's 2020 Competition Groups of the Year.

Out of nearly 1,000 attorneys worldwide, Dechert has a relatively small number — about 4% — dedicated largely to antitrust matters. But numbers aren't where the practice group's strength lies, global antitrust co-leader Mike Cowie said.

"We're not going to win the contest for having the most lawyers," he said. "But if you look at the high-profile matters — merger investigations, trials, trans-Atlantic investigations, if you look at the visibility of the projects relative to our size, we're as strong as anyone."



The Dechert antitrust team said it's had a handful of sizeable achievements over the past year, including going head-to-head with the Federal Trade Commission in D.C. federal court and coming out on top, something that hasn't happened in a merger challenge in more than a decade.

But that victory only came after a "very bad day" in 2019, when the agency unanimously voted to block the merger of Evonik and PeroxyChem and to sue to stop it from happening if it had to.

Usually that's when companies give up, Cowie said.

"It's hard to hold these deals together when companies get advised that the FTC almost always wins these cases," the attorney said. "Our client had to make a strategic decision. But one thing we told them is that the FTC is missing hot documents."

Instead of strong evidence that the merger would lead to high pricing, which it usually had, Cowie said the agency was leaning on a presumption it made based on market share.

In the words of the judge that later denied the agency's bid for an injunction blocking the deal, the FTC was missing a smoking gun and instead appeared to be "fir[ing] away with a few squirt guns."

Occidental Petroleum Corporation — parent company of Occidental Chemical Corporation, or OxyChem — also managed to extricate itself from a tangle of lawsuits accusing the company of taking part in an illegal scheme to fix the price of caustic soda, better known as lye, thanks to Dechert.

That kind of thing is the competition group's bread and butter, global antitrust co-leader Steven Bizar said.

Though OxyChem remains party to the litigation, Bizar said the firm was able to deploy its skills at combating litigation to get the chemical company's parent out from under the suits.

"That is one of the core practice areas that Dechert has been known for for decades," Bizar said. "And it's something we are well-suited to handle because we have a lot of institutional experience."

The firm has been busy in Europe, too.

Dechert managed to fend off an appeal of the European Commission's approval of a European space sector joint venture snapping up launch service provider Arianspace. In a rare move, Italian competitor Avio challenged the European competition authority's decision to preliminarily bless the deal, the firm said.

About four years after the watchdog handed down its contested decision, Avio was convinced to withdraw its appeal just as the parties were gearing up for oral argument at the European Court of Justice.

Because private antitrust litigation in Europe is rare, Dechert's competition work across the pond often largely focuses on advising clients about and helping them through their interactions with the continent's antitrust authorities.

When pressed as to the reason behind Dechert's success in the competition arena, Bizar credited the firm's ability to prepare clients for every eventuality and then go hard at accomplishing whatever the client's end goal is after that.

Their experience in court puts them above the rest as well, he said.

"We see a lot of times lawyers that are really strong and confident on the call and then they get to court and they melt like the Wicked Witch in the 'The Wizard of Oz,'" he said.

But Paris office partner Mélanie Thill-Tayara said the secret is relatively simple.

"[It's] because we are good," she quipped.

--Editing by Amy Rowe.