Antitrust/Competition

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A Destination Practice

Leading companies depend on Dechert’s antitrust/competition lawyers’ creative solutions to the most difficult antitrust issues in merger clearance, litigation and business planning.

We prioritize understanding our clients’ businesses inside and out. This enables us to integrate legal, economic and factual arguments into a persuasive presentation before an antitrust agency, in court or at the negotiating table.

For the past decade, Dechert has structured and defended industry-transforming transactions, shepherding clients such as Albertsons, Dean Foods, Kellogg, Medco, Monster Worldwide, OfficeMax, US Airways and Whole Foods Market through complex, high-profile and high-stakes business combinations. We overcome challenges that appear daunting at the outset. Our record in the mergers and acquisition field is unparalleled.
Our statistical analysis of changes in the mergers and acquisitions world has been featured in *The Wall Street Journal* and other leading publications. DAMITT, Dechert Antitrust Merger Investigation Timing Tracker, measures the time from transaction announcement until resolution of the investigation for Hart-Scott-Rodino Act reportable transactions resulting in a closing statement, consent order, complaint challenging the transaction, or abandonment for which the agency takes credit.

We also offer practical solutions and strategic counsel for derailing class actions, litigating monopolization and other complex cases, responding to civil investigations and securing antitrust compliance. Starting with the *Hydrogen Peroxide* decision, Dechert lawyers have helped to rewrite the law on class certification and summary judgment in antitrust cases. We have achieved a string of outright victories for our clients and succeeded in hotly disputed issues that led to favorable settlements.

Finally, we provide sound and experienced advice in responding to the antitrust grand jury process, including in the leniency process, avoiding indictment and defending criminal trials where necessary.

For global companies, antitrust matters can be complex, multijurisdictional affairs. With antitrust lawyers in Brussels, Frankfurt, New York, Paris, Philadelphia and Washington D.C., Dechert is well positioned to serve wherever antitrust issues arise.

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## GREEN LIGHT FOR MERGERS

Among other recent transactions, we successfully handled the Department of Justice (DOJ) review of the US$17 billion US Airways/American Airlines merger and the Federal Trade Commission (FTC) review of the US$2.5 billion merger of equals between OfficeMax and Office Depot. Our team also secured unconditional clearance for 2012’s largest transaction — the US$29 billion merger of Medco and Express Scripts.

Our EU competition lawyers have advised on some of the most complex merger control proceedings in the last decade and have a proven track-record in dealing with phase II merger reviews. We also regularly represent clients in high-stakes cases before European and member state courts.

**Real World Understanding**
Working with company management and on the basis of a thorough understanding of our client’s business, Dechert excels in demonstrating to antitrust agencies that proposed transactions are unlikely to produce anticompetitive effects. We translate the marketplace data into practical and persuasive presentations.

**Institutional Expertise**

Clients benefit from our hands-on, inside experience and close contact with regulatory agencies — qualifications that enable us to guide them confidently through every aspect of antitrust law relating to mergers.

Many of our U.S. lawyers have had extensive experience in the Antitrust Division of DOJ and the Bureau of Competition of the FTC, providing a balanced perspective that facilitates practical solutions. Our experience also enhances our credibility with those currently serving in government and contributes to our ability to advocate persuasively on behalf of our clients.

Dechert’s European lawyers regularly deal with the highest levels of the European Commission hierarchy and have vast experience with many other competition authorities in the EU.

**Relentless Advocacy**

We most often resolve merger investigations without challenge or even negotiated remedies. Our ability to do so is enhanced by our established reputation for successfully litigating merger challenges in court, should litigation prove necessary.

In one of the highest-profile antitrust litigations in recent years, we defeated the FTC’s motions for preliminary injunction and injunctions pending appeal clearing the way for Whole Foods Market to complete its acquisition of Wild Oats. We defended Dean Foods Company for more than a year in a litigated challenge to the company’s previously consummated acquisition of the Consumer Products Division of Foremost Farms USA. Our vigorous defense led to a settlement largely preserving the efficiencies that motivated the deal.

Dechert’s antitrust team is the go-to group to protect mergers under attack.

**LITIGATION RESULTS THAT MATTER**

We are trial-ready antitrust lawyers rather than generalists who occasionally try antitrust cases.

**Class Actions**

Dechert presented the argument to the Third Circuit in *In re Hydrogen Peroxide Antitrust Litigation*, which established a new, higher bar for class certification in antitrust cases in the Third Circuit and which has substantially influenced class certification proceedings in district and appellate courts around the United States.
When faced with a class action lawsuit, clients turn to our successful track record in complex, multi-forum class action litigation. On behalf of clients, we have represented defendants in simultaneous civil, criminal, state, federal, domestic and international proceedings.

Other Litigation Issues

Our antitrust/competition team is at the cutting edge of developments regarding single-firm conduct, including monopolization and abuse of dominance issues, as well as other potential restraints of trade in a broad range of industries.

Offensive Use of Antitrust Law

We also use antitrust law affirmatively to help clients achieve their commercial objectives. Our antitrust litigators have successfully gone on the offensive to assist clients by, among other things, forcing rivals to cease anticompetitive practices and paving the way to victory in a takeover battle.

DEFENDING CARTEL MATTERS

Our lawyers have a wealth of experience handling cartel investigations for companies and individuals. We understand the law and the process from the inside out, and we understand what is necessary to efficiently and discreetly represent clients involved in investigations – and to achieve the results that matter. Our lawyers have successfully defended clients in a number of high-profile cartel investigations, forcing the termination of proceedings or achieving significant reductions of fines. Our global presence enables us to provide seamless advice on both sides of the Atlantic, and our lawyers have represented clients in some of the most challenging past and present international investigations.

CIVIL CONDUCT INVESTIGATIONS

Dechert represents clients in civil conduct investigations conducted by U.S. agencies, the European Commission, European Member State competition authorities and state attorneys general. Our work includes counseling on proposed distribution practices, potential licensing terms and possible antitrust claims. We also represent parties and third parties in agency investigations ranging from issues arising in joint ventures to judgment compliance.

LIMITING RISK
A substantial portion of our antitrust practice is devoted to advising on antitrust risk minimization and litigation avoidance. We are committed to developing creative solutions consistent with our clients’ business objectives.

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