ANTITRUST AND
COMPETITION

Our Clients

We handle diverse and challenging antitrust and competition problems for clients across a wide range of businesses, including health care, financial services, consumer products, manufacturing, energy, entertainment, insurance, pharmaceuticals, military and consumer electronics, media, paper and transportation services.

Our Services

Katten's Antitrust and Competition attorneys handle the full range of antitrust engagements. We advise clients on issues arising from relations with competitors, pricing, product distribution, monopolization, tying, group boycotts, price discrimination and intellectual property matters. Our antitrust litigation work includes representation of clients in government and private suits (including class actions), competitive tort situations, civil and criminal investigations (such as grand juries), and competition claims arising out of intellectual property matters. Katten's antitrust litigators include former Assistant US Attorneys and Department of Justice attorneys.

We also possess deep experience with mergers and acquisitions and the design and operation of joint ventures and other competitor collaborations. We have obtained antitrust merger clearances for hundreds of transactions, both under the Hart-Scott-Rodino Act and foreign merger control regimes. On transactions that raise substantive competition concerns, Katten's Antitrust and Competition team gets involved in the matter early to minimize substantive antitrust risk and position the deal for quick antitrust clearance. Where transactions are investigated by the Federal Trade Commission, the Department of Justice, or state attorneys general, we appear before the investigating agency and defend the deal. Where transactions are investigated by foreign competition regulators, we work with local counsel to obtain antitrust clearance.

The Antitrust and Competition practice additionally has extensive experience with foreign antitrust investigations, cross-border transactions and international business operations. We have strong relationships with foreign competition lawyers who can be retained quickly when the need for overseas counsel arises, enabling us to work with foreign counsel seamlessly.

Katten's philosophy is to learn how our clients' businesses work, understand their business objectives and help them navigate through an increasingly complex antitrust and regulatory environment. We work with our clients closely to help them achieve their business objectives.

RECOGNIZED BY

- U.S. News – Best Lawyers® "Best Law Firms"
  - Litigation – Antitrust (Chicago) 2017, 2016
Our Experience

Government Investigations

- Representation of foreign and domestic affiliates of a German entity in a global price-fixing investigation.
- Representation of an international carbon brush manufacturer and individuals in grand jury investigation relating to allegations of involvement in international cartel.
- Representation of a major international media company in two major investigations: (1) US Department of Justice investigation of international joint ventures created to offer music video cable television programming in the United States and abroad. After an extended investigation, the matter was closed without action. (2) US Department of Justice investigation and parallel European Union competition inquiry of joint venture created with a competitor to offer Internet-based music subscription services. Inquiries were closed without action.
- Representation of investment bank/stock brokerages in a US Department of Justice investigation of price fixing on the NASDAQ stock exchange.
- Representation of a large copyright portfolio owner in state attorney general antitrust investigation.

Litigation

- Successful defense of Speedo USA, the US distributor of the Speedo brand swimsuit, in a false advertising, Lanham Act, antitrust and unfair competition case brought by a competitor in connection with the marketing and promotion of the Speedo LZR, the revolutionary competitive racing suit worn by more than 70 percent of the medalists at the 2008 Summer Olympics in Beijing. Plaintiff, Speedo's primary competitor in the sale of competitive racing swimsuits, sued Speedo in the US District Court for the Central District of California for false leading advertising, Lanham Act violations, monopolization, exclusive dealing and other alleged torts. Plaintiff claimed that Speedo misrepresented the test results of swim time improvements achieved using the LZR Racer. Plaintiff also claimed that Speedo's sponsorship of USA Swimming—the national governing body for amateur swimming in the United States—and its head coach gave Speedo an unfair advantage in marketing its suits to elite swimmers and other swimmers who race. After a motion to dismiss, in which some of plaintiff's claims were dismissed, the parties engaged in extensive discovery. After two motions for summary judgment, plaintiff's remaining claims were dismissed. Plaintiff did not appeal.
- Successful defense of Children's Memorial Hospital in class action suit on behalf of almost 20,000 putative class members in the US District Court for the Northern District of Illinois against five Chicagoland hospitals alleging a conspiracy to depress registered nurse wages. Successful defense of the plaintiffs' request for class certification after a four-day hearing.
- Representation of a large class member in antitrust class action in the US District Court for the Eastern District of New York alleging price fixing of air cargo shipping services by the world's 30 largest air carriers.
- Defense of a major freight forwarder in antitrust class action in the US District Court for the Eastern District of New York alleging price fixing in the provision of freight forwarding services by more than 60 domestic and foreign defendants.
- Defense of a major foreign supplier of carbon graphite products in multi-district litigation class action and opt-out litigation in federal district court in New Jersey alleging international price fixing by client and its competitors. After approximately three years of litigation in which major portions of the plaintiffs' claims were dismissed, the cases brought by direct and opt-out purchasers of client's products were favorably settled.
- Defense of an investment bank/broker-dealer in class action alleging price fixing by market makers in the purchase and sale of publicly traded securities on the NASDAQ stock market. At the time the case was brought, it was the largest antitrust class action in history; the litigation involved more than 30 major investment banking firms and broker-dealers. After several years of litigation, the case settled for a small percentage of potential total damages.
- Defense of a major recorded music company in antitrust suit brought by association of record retailers alleging various antitrust violations. After moving to dismiss the plaintiffs' complaint, the district court requested the Department of Justice
Antitrust Division to submit its views on the complaint and motion to dismiss. The Department of Justice supported Katten’s motion and the plaintiffs ultimately withdrew the case.

- Representation of TEAC, a manufacturer of retail music components, in litigation relating to resale price maintenance allegations in federal district court.

**Mergers and Acquisitions**

- Provision of antitrust compliance advice, including conducting clinical integration audits, to multiple health care provider networks.
- Representation of Iowa Health System in winning approval of transaction that consolidated Iowa Methodist and Iowa Lutheran into Iowa Health System following extensive US Department of Justice investigation.
- Representation of ImClone Corp. as seller in antitrust investigation of $6 billion acquisition of pharmaceutical manufacturer.
- Representation of The Clearing Corporation as seller in antitrust investigation of acquisition of credit default swap clearinghouse.
- Representation of a software developer as purchaser in acquisition of software developer that held key patented technology for use in digital rights management systems. Obtained expedited merger clearance after simultaneous investigations by the Department of Justice and the European Commission's Merger Task Force.
- Representation of an aircraft entertainment system manufacturer as seller in sale of business to competitor. Deal was cleared by the Federal Trade Commission after 60-day investigation. Deal also required merger clearance in Brazil and South Africa.
- Representation of Phillips-Van Heusen as purchaser in acquisition of Calvin Klein.
- Representation of a defense contractor as seller in sale of its business to competitor. Deal was cleared after preliminary meetings with the US Department of Justice and US Defense Department.

**Counseling**

- Provision of advice to a major international media company in connection with the distribution of recorded music products (both CD and digital music sales), including review of new business models for the sale of digital downloads and the wireless sale of music.
- Counsel to one of the world's largest manufacturers of automotive batteries in connection with distribution advice.
- Representation of Northeast Medical Center in connection with analysis of application of "own use" doctrine under NPIA to a variety of potential pharmaceutical transfer arrangements.
- Counsel to Enteral Products regarding distribution and discount arrangements.
- General counsel to Delta Dental Plans Association in connection with numerous antitrust issues, many of which pertain to territorial restraints and cooperative arrangements.
- Representation of a major urban newspaper in distribution arrangement with closest competitor.