

# GCR

GLOBAL COMPETITION REVIEW



# 100

A GUIDE TO THE WORLD'S LEADING COMPETITION LAW AND ECONOMICS PRACTICES

16th annual edition – revised and updated

# GLOBAL ELITE

Just as antitrust groups around the world undergo annual changes – partners retire, associates win promotions and lateral hires come and go – so too does GCR's Global Elite ranking shift in an effort to best identify the world's top antitrust practices. This year we have refined the formula we introduced last year that sought extensive casework information from the nearly 40 firms we survey for the Global Elite. We have also expanded our Global Elite rankings for the first time since introducing them eight years ago. Every year there are high-quality firms that land just outside of the top 20, often falling short by just a few points. Now, 25 firms are included in our table. We think the new expanded table adds depth to our rankings and includes firms that should, by any measure, appear on a list of the top antitrust shops in the world.

The makeup of the 2016 Global Elite table differs from our list last year. Although we consider a host of information about the make-up of the world's top antitrust groups – their size, shape, jurisdictional reach and *Who's Who Legal: Competition* nominees – our research also focuses on a practice's casework over the past 12 months. And casework can be a moving target. While the best firms consistently attract the best and most complex antitrust matters, even great practices can have down years, and oftentimes slow-moving investigations can mask a lot of the good work firms do over the course of a year. That's the nature of assessing this kind of quantitative data – we see the same issue when we review enforcers' records in our annual *Rating Enforcement* edition – but such fluctuation does allow for changes to our table year-on-year. That's intentional.

The top of our 2015 rankings remain the same, with Freshfields Bruckhaus Deringer and Cleary Gottlieb Steen & Hamilton occupying the top two positions in the table. But the margins between those two firms and third-place entrant Jones Day were smaller than they've ever been before. The shrinking difference between the practices at the top of our table comes down to several factors – including the aforementioned ebb and flow of casework and some additional criteria included in our formula this year.

So what changed? This year, we instituted two changes we believe helped focus our rankings and tilt the scales for some firms. First, we added a new category to our rankings: private litigation. As antitrust court cases filed by private parties – rather than government enforcers – proliferate around the globe, we believed our rankings should reflect the courtroom strength of many practices we rank. Although it's perhaps unsurprising that the our litigation top 10 is replete with American firms, Freshfields represents the future model:

- 1 FRESHFIELDS BRUCKHAUS DERINGER
- 2 CLEARY GOTTLIEB STEEN & HAMILTON
- 3 JONES DAY
- 4 GIBSON, DUNN & CRUTCHER
- 5 BAKER & MCKENZIE
- 6 ALLEN & OVERY
- 7 LATHAM & WATKINS
- 8 NORTON ROSE FULBRIGHT
- 9 WILMER CUTLER PICKERING HALE AND DORR
- 10 LINKLATERS
- 11 WHITE & CASE
- 12 HOGAN LOVELLS
- 13 ARNOLD & PORTER
- 14 WILSON SONSINI GOODRICH & ROSATI
- 15 ASHURST
- 16 KING & WOOD MALLESONS (SJ BERWIN)
- 17 HERBERT SMITH FREEHILLS
- 18 BAKER BOTTS
- 19 COVINGTON & BURLING
- 20 SKADDEN ARPS SLATE MEAGHER & FLOM
- 21 McDERMOTT WILL & EMERY
- 22 WEIL GOTSHAL & MANGES
- 23 SHEARMAN & STERLING
- 24 SIMPSON THACHER & BARTLETT
- 25 DAVIS POLK & WARDWELL

UK or EU-based firm with powerful litigation teams on each side of the Atlantic. As private antitrust litigation continues to spread through Europe and the UK, we expect this particular table to undergo significant changes.

Second, we rebalanced our rankings to give due credit to each aspect of an antitrust group's practice. This has allowed cartel defence, deal work, litigation experience and unilateral conduct to each hold sway over a firm's overall score in balance with one another. That means single-firm conduct work influenced a firm's score more than last year. Those factors in part resulted in the changes we've seen to this year's table. And frankly, the point differential between any of the top three firms – including the Jones Day team that had perhaps the best year of any competition group in the world – was marginal. Any of those firms would be right to call themselves the best in the world.

Our rankings in 2016 also sees the entry of King & Wood Mallesons, Simpson Thacher & Bartlett, Weil Gotshal & Manges and Davis Polk & Wardwell to the Global Elite for the first time. King & Wood rocketed into the top 20 on the back of their outstanding offerings in the United Kingdom and throughout Asia, while our other newcomers – and returning entrant Shearman & Sterling – are precisely the reason we expanded our list to 25. Each firm is right to be listed among the best antitrust groups in the world.

## 4. GIBSON, DUNN & CRUTCHER

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Global heads	Scott D Hammond, M Sean Royall, Gary R Spratling, Peter Sullivan, Daniel G Swanson
Number of jurisdictions with a competition team	6
Practice size	252
Partners	65
Counsel	13
Percentage of partners/counsel in <i>Who's Who Legal</i>	22
Senior associates	45
Associates	129
Lateral partner hires	0
Partner departures	0
Former enforcers	15

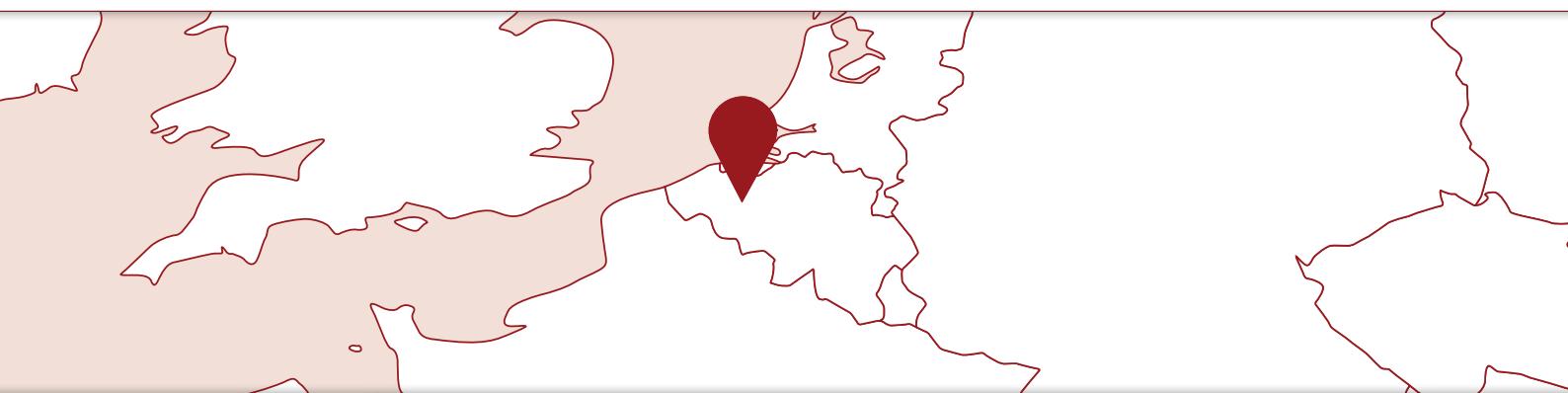
Gibson, Dunn & Crutcher has a stellar reputation for duking it out against government enforcers and private litigants alike on behalf of its clients. It's well-deserved, with the US – and in particular the West Coast, the firm's home turf – being a jurisdiction where Gibson Dunn particularly excels. Aside from its traditional strength in the contentious side of competition law, the firm also does significant deal work.

The firm consistently excels at cartel defence, with its work for key client UBS continuing to pay dividends for the bank. A Gibson Dunn team, including leniency superstar Gary Spratling, acted for the bank in the ongoing benchmark investigations that continue worldwide. Impressively, the firm secured full US Department of Justice leniency in its forex investigation. The firm has also handled defence work for a raft of follow-on litigation through the US courts, where UBS is a target of multiple lawsuits following on from alleged misconduct. It has also appealed Apple's loss in the ebooks hub-and-spoke case to the US Supreme Court – at time of writing, the top court has yet to decide whether to hear Apple's arguments.

The firm is coordinating counsel to Chunghwa Picture Tubes in ongoing CRT investigations, and persuaded the European

Commission to close its investigation of client Mitsuba, which had previously been involved in the enforcer's auto parts probe. It is also acting for MSC in the commission's liner shipping investigation. The firm has also handled an impressive number of leniency and immunity applications. Abuse of dominance and unilateral conduct is another strength – much of the firm's work is confidential, but a large number of US Federal Trade Commission matters is keeping the practice busy – and the firm is representing several complainants in the European *Google* investigation.

On the deals side, Gibson Dunn represents Altera in its acquisition by Intel, which involves antitrust review in multiple jurisdictions. AT&T also drafted the team in to assist during its merger with DirecTV, one of the most significant telecommunications mergers to have faced DoJ and US Federal Communications Commission scrutiny in 2015. Alongside counsel at Arnold & Porter and Crowell & Moring, Gibson Dunn secured clearance for the deal without any divestitures, though the FCC did force the post-transaction company to expand some of its services to address concerns.



# BRUSSELS

Brussels has one of the largest and most talent-rich competition bars in the world – large enough that it is one of two jurisdictions for which GCR has introduced a fourth tier to our standard ratings to better reflect its quality.

## HIGHLY RECOMMENDED

**GIBSON, DUNN & CRUTCHER** is on the rise and is now one of Brussels' leading cartel practices. A measure of how far the firm has come is its pivotal role in the *Libor/Euribor* settlement – the Commission's largest ever fining decision – in 2013. UBS must be extremely grateful to partner and *Who's Who Legal: Competition* nominee David Wood after his counsel allowed the Swiss bank to gain immunity for its role in the conspiracy and avoid an astonishing €2.5 billion fine.

Gibson Dunn is expanding beyond traditional cartel heartland into abuse of dominance and merger work as well. The firm

represents the Initiative for a Competitive Online Marketplace (ICOMP) as a complainant against Google, the highest-profile case making its way through DG Comp. Wood and partner Andrés Font Galarza are leading that work. On the litigation side, partner Peter Alexiadis represented Slovenian mobile operator Si.mobil and Netia, a Polish telecommunications player, against litigation arising from a DG Comp margin squeeze case. Netia ultimately settled for €36 million, as did Si.Mobil, though the value of the latter settlement remains confidential.

FIRM	HEAD(S) OF COMPETITION	SIZE	WHO'S WHO NOMINEES	CLIENTS
<b>HIGHLY RECOMMENDED</b>				
Gibson, Dunn & Crutcher	David Wood	5 partners 2 of counsel 10 associates	Peter Alexiadis Andrés Font Galarza David Wood	UBS, MSC Mediterranean Shipping Company, Scandlines, Microsoft, ICOMP, Facebook, E.ON, Intralot



# UNITED STATES: CALIFORNIA

The hectic antitrust bar in San Francisco leans on several factors for their seemingly endless stream of cases: an active office of the Department of Justice's antitrust division, a historic plaintiffs bar and friendly courts.

## ELITE

The West Coast antitrust team at **GIBSON, DUNN & CRUTCHER** continues to be the best in California, and indeed the focal point of the firm's top-10 GCR Global Elite practice overall. The firm's top-table ranking is due to the usual combination of factors – an outstanding team packed with courtroom tacticians and agency-facing mavens, and an enviable list of clients involved in the most important antitrust cases in the country. Gary R Spratling continues his run as one of the country's top-tier cartel lawyers, and he splits practice leadership duties with Daniel G Swanson in Los Angeles. Joel Sanders, Trey Nicoud, Robert E Cooper are also *Who's Who Legal: Competition* nominees.

Every antitrust group brings a different focus to its clients, and under Spratling's leadership, Gibson Dunn has become arguably the country's pre-eminent government-facing antitrust group for companies that would rather cooperate with prosecutors and aim for leniency than fight charges and hope for a win at trial. Spratling says he doesn't know how long he wants to practise – he's as active as ever

at the moment, he says – but with a talented team around him and Spratling protégé Scott Hammond on board, the practice appears well posed to maintain its place in the antitrust defence market going forward.

Client work is as robust as ever. The headline matters continue to be a series of financial services investigations the firm is handling for client UBS. The representation is enormous, with 30 authorities in eight jurisdictions around the world now involved in the Forex rate-fixing probe. That's on top of all of the work the firm has done on behalf of the bank in the Libor, ISDAfix and precious metals probes, which have included government and private-side work. Meanwhile, the company continues to act for Chunghwa Picture Tubes, which will head to trial in the Cathode Ray Tubes antitrust litigation in early March. NEC Token is the firm's client in the capacitors investigation and follow-on lawsuit, and the firm also continues to fight for Apple in its appeal in the DoJ's e-books cartel case. Woodbridge, Hewlett-Packard and Aetna are also clients, among others.

FIRM	HEAD(S) OF COMPETITION	SIZE	WHO'S WHO NOMINEES	CLIENTS
<b>ELITE</b>				
Gibson, Dunn & Crutcher	Gary R Spratling Daniel G Swanson	9 partners 3 counsel 15 senior associates 38 associates	Robert E Cooper Trey Nicoud Joel S Sanders Gary R Spratling Daniel G Swanson	Apple, Chunghwa Picture Tubes, UBS, Hewlett-Packard, Aetna, Woodbridge, NEC Token



# UNITED STATES: NEW YORK

With an economy larger than that of most countries, New York City needs antitrust lawyers, and many firms work closely with their counterparts across the country – primarily in Washington, DC – to share the workload.

## HIGHLY RECOMMENDED

Led by Peter Sullivan and John A Herfort, **GIBSON, DUNN & CRUTCHER**'s New York practice group, in conjunction with antitrust lawyers from other offices, has been representing UBS since 2010 in connection with the dozens of lawsuits and governmental investigations concerning the bank's alleged manipulation of benchmark exchange rates. In 2015, the firm negotiated a settlement of the DoJ's Forex probe that avoided a monetary penalty for that matter, although UBS's non-prosecution agreement in Libor was voided and a fine imposed. Headed by Sullivan and partner Lawrence J Zweifach, the team obtained outright dismissal of the Libor cartel and RICO claims filed against UBS in consolidated class and individual actions. In March 2015, UBS announced that it would settle with Forex plaintiffs for US\$135 million, the second lowest amount paid by a bank. Sullivan also defends the bank in the various commodity antitrust litigations – gold, silver, platinum and palladium

– for which motions to dismiss the lawsuits in New York federal courts are briefed and pending.

Randy Mastro is the New York piece of a cross-country Gibson Dunn group that represents BNSF Railway in a multibillion-dollar class action that accuses the four major US railroads of fixing the prices of fuel surcharges. After class certification was reversed on appeal, the case was remanded to Washington, DC, district court, where the defence lawyers also called into question the credibility of the plaintiffs' economic expert. Herfort has been counselling the world's largest oilfield services company, Schlumberger, for nearly 30 years. Right now, he's helping the company through its US\$14.8 billion proposed merger with Cameron International, which is under review by the DoJ and various foreign antitrust agencies. The firm also provides counsel on deals and other matters for cosmetics company Coty and computer equipment maker Brother.

FIRM	HEAD(S) OF COMPETITION	SIZE	WHO'S WHO NOMINEES	CLIENTS
<b>HIGHLY RECOMMENDED</b>				
Gibson, Dunn & Crutcher	John A Herfort Peter Sullivan	4 partners 4 associates	John A Herfort Peter Sullivan	UBS AG, Schlumberger, Brother International, Nissan, Coty, Teijin, BNSF Railway



# UNITED STATES: TEXAS

Texas' booming economy means it has plenty of corporations that need antitrust lawyers, but the impression of a business-friendly climate leads plaintiffs to file lawsuits elsewhere, frequently requiring counsel to work on the road.

M Sean Royall – *Who's Who Legal: Competition* nominee, former senior FTC official and **GIBSON, DUNN & CRUTCHER** partner – is not shy about blowing the trumpet of the firm's Texas antitrust practice, calling it the strongest in the state. The list of work for the past year makes disagreeing with him difficult. The biggest-ticket item was Royall's and partner Brian Robison's representation of Dallas-based AT&T in the DoJ review of its proposed \$49 billion acquisition of DirecTV, which was cleared with conditions imposed only by the Federal Communications Commission.

But the heart of the practice is in investigations and litigation. Royall and Robison stepped in on behalf of Austin-headquartered

Bazaarvoice, replacing prior counsel, to resolve the DoJ's concerns of the company's suspected non-compliance with a court judgment requiring it to divest PowerReviews. Other successes include Robison and partner Veronica Lewis keeping indirect purchasers from obtaining class certification in a lawsuit against Cal-Maine, the nation's largest shell egg producer, and complete dismissal of a direct purchaser class action antitrust suit against Allergan. The team continues to represent Allergan in a related case filed by competitor Apotex alleging hundreds of millions in damages, and Delta Air Lines in ongoing litigation to preserve its access to gates at Love Field airport.

FIRM	HEAD(S) OF COMPETITION	SIZE	WHO'S WHO NOMINEES	CLIENTS
Gibson, Dunn & Crutcher	M Sean Royall	4 partners 1 of counsel 10 associates	M Sean Royall Robert C Walters	AT&T, BNSF, Tenet, Metro PCS, Frito-Lay, Bazaarvoice, Leslie's Pools, Mary Kay, Aetna, Allergan, Delta Air Lines, Cal-Maine Foods



# UNITED STATES: WASHINGTON, DC

Washington, DC is the world's most competitive and highest-profile antitrust law market.

## OUTSTANDING

The arrival in 2014 of Scott Hammond, a 25-year veteran of the DoJ's criminal antitrust enforcement branch, at **GIBSON, DUNN & CRUTCHER**'s office on Connecticut Avenue, cemented the firm's place as the one of the district's, and the country's, top cartel practices. With support from San Francisco, the DC office is central command for a number of major client matters, most notably UBS' dealings with the antitrust division in the financial benchmark probes. Partner D Jarrett Arp leads an army of lawyers in these cases, in which the Swiss bank has so far avoided potentially eye-watering fines in the Libor and foreign exchange investigations because of well-timed cooperation.

This relatively young team is "loaded with talent" rivals say, and not just in its traditional stomping ground of cartels; merger work is increasing too. Partner Joshua H Soven, a hire from

the DoJ's litigation unit in 2012 and an FTC alumnus, handles deal work for Hewlett-Packard and Canadian timber company Norbord, while partner Adam Di Vincenzo is advising AT&T on antitrust aspects of its DirecTV purchase.

Rivals are full of praise, meanwhile, for the firm's ability to defend against the trickiest and most visible lawsuits, especially class actions. Here, antitrust lawyers in DC can draw from talent in gold-plated litigation and appellate practices and the work is invariably top notch. Partner Cynthia Richman is extremely busy in this area, simultaneously working for Apple as it seeks to overturn the government's e-books price-fixing victory and gearing up for a trial in polyurethane foam. Soven, meanwhile, represents BNSF in the rail freight fuel-surcharge litigation.

FIRM	HEAD(S) OF COMPETITION	SIZE	WHO'S WHO NOMINEES	CLIENTS
<b>OUTSTANDING</b>				
Gibson, Dunn & Crutcher	Scott Hammond	16 partners 3 counsel 10 associates	D Jarrett Arp Scott Hammond Joseph Kattan PC Joshua H Soven	Aetna, AT&T, HP, Intel, McDonald's, National Association of Broadcasters, Sony Music, Tenet Healthcare Corporation