



Spotlight on: Arnold & Porter rising to the competition

The antitrust/competition team from Arnold & Porter have risen from tier 3 to tier 1 in *The Legal 500* United States rankings between 2017 and 2019. US editor (content), Helen Donegan, spoke with global head of the practice, Debbie Feinstein, and head of the practice for the US, Jonathan Gleklen, about the team's rise in the rankings and the efforts they would attribute to this

Helen Donegan: Can you please give me a brief overview of your team?

Debbie Feinstein: We have more than 100 people in our antitrust practice across the US and Europe. I lead the global group and focus on merger control, with some work on civil conduct investigations and litigation. Jonathan leads the US group and focuses on similar areas. Two DOJ veterans, Bill Baer (who led the DOJ antitrust division) and Sonia Pfaffenroth (who is one of Bill's deputies) lead our criminal cartel practice, but also do merger work, civil investigations, and litigation. In our New York office, Saul Morgenstern, Scott Lent, and Jennifer Patterson have antitrust practices that cover the full range of work, with Saul often handling matters for clients in the life sciences. DOJ veteran James W. Cooper focuses on cartel and white-collar work. Laura Shores and James L. Cooper in DC and Dan Asimow in San Francisco are primarily antitrust litigators, while Michael B. Bernstein in DC is merger focused.

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HD: Congratulations on your team’s consistent rise in the rankings over the past couple of years. What would you attribute this to?

Jonathan Gleklen: We are fortunate that our clients look to us on their most challenging government investigations, mergers, and litigations. We have a strong roster of former senior government enforcers – Bill and Sonia from the DOJ, and Debbie and Pete Levitas from the FTC. Plus, our strong team in Brussels allows us to coordinate antitrust matters across the globe. For clients that take comfort in our ability to anticipate how the FTC and DOJ will see things based on our experience in government, we’ve strengthened our capabilities in Brussels by adding Alexander Italianer, the former Director-General for Competition in the European Commissions (and, after that, the EC Secretary General – the highest-ranking EC civil servant).

HD: Our Historical Data shows you have other highly ranked teams which have enjoyed a consistent standing in certain tiers. However, with the antitrust team having gone up in the rankings, I wanted to ask if you

undertake individual practice group efforts to improve performance?

JG: Arnold & Porter’s practice groups have increasing responsibility for their performance, but they depend on the strong support of the firm overall. For example, we may have priorities as far as hiring laterals with strong government experience, but the decision to bring anyone into the firm is in the hands of the entire partnership.

HD: What do you think has been your team’s biggest success within the past couple of years?

DF: We have seen success across all areas of our practice. We have worked on our clients’ most significant transactions – AT&T’s acquisition of Time Warner, Monsanto’s acquisition by Bayer, GE’s combination with Baker Hughes, and BP’s acquisition of BHP’s onshore oil and gas business. On the litigation side, we have significant wins for Samsung, Harper Collins, General Electric, and sports teams like the Golden State Warriors and the Oakland Raiders, and are continuing to handle very large and complex matters for clients like Visa and Novartis. We have represented clients in all of the recent major cartel matters, including auto parts and generic drugs.

HD: What do you think you do differently to competitors? Do you think your team is clearly differentiated from similar practices in other firms?

DF: We understand how to work with and advocate to the government. Some of that comes from firm culture – one of our firm’s founders, Thurman Arnold, led the antitrust division under Franklin Roosevelt, and the firm has a long history of bringing in partners with government experience. And some of it comes from the recent return to the firm of senior government enforcers. We know that pounding the table is not the way to convince the government – it is in saying ‘come, let us reason together’. We are ready to go to court if that’s necessary, but you want to win before that happens because the delays and expense of litigation are significant. Many deals can’t hold together long enough to litigate with the government, and if the government sues alleging anticompetitive conduct the reputational harm is often done, regardless of the end result. There are other firms with large antitrust practices, but we don’t think any other firm has the depth of government experience or the deep bench that we do.

HD: How does the US team compare with competition teams within the firm’s European locations?

JG: We have smart, client-focused lawyers and we cover the full range of competition issues on both sides of the Atlantic. While the ‘revolving door’ from government is better-established in the US, we are somewhat unique in having senior EU enforcers – Alexander Italianer and Luc Gyselen – in Brussels as well. We’re very proud of our ability to work seamlessly on global matters. We have all worked together for a very long time, and that experience working together lets us deliver results for clients no matter where they face a competition issue.

HD: Let’s talk about clients. Has your team adopted any new processes or technology to help improve service levels for clients?

JG: Different clients have different needs, and there is no ‘one size fits all’ approach. We have recently significantly ramped-up our in-house litigation support and electronic discovery technology, and while that’s very valuable to some clients, we know others prefer to work with their own established vendors.

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HD: Arnold & Porter was named one of the 2019 ‘Best Law Firms for Women’ by Working Mother magazine. Can you tell me a bit about this?

DF: Working Mother recognises law firms and companies that utilise best practices to recruit, retain, promote, and develop women. Arnold & Porter has been on Working Mother’s Best Law Firms list for five years and on Working Mother’s 100 Best Companies for Women for more than 18 consecutive years. These accolades are important to us for a number of reasons. For example, they allow us to benchmark with peer organisations to ensure that we are staying abreast of and implementing the best practices to advance women and foster an inclusive workplace.

For almost twenty years, Working Mother has recognised our steadfast commitment to cultivating an environment that empowers women and provides opportunities that enable women to achieve their career aspirations. In addition to our family friendly benefits like our gender neutral caregiver leave and our parent mentoring programmes, we have a number of initiatives and programmes in place to support the retention and advancement of all working parents, but especially working mothers who still own a disproportionate level of parenting responsibilities. For a number of years, our partner promotion rate has averaged

at least 50% women. In fact, this year, 60% of our newly promoted partners were women.

HD: Can you expand on the firm’s wider D&I focus? Is there anything that you think you are doing differently or particularly well to recruit and support a diverse workforce within the firm?

JG: Diversity and inclusion are among Arnold & Porter’s core values. Our D&I strategy is grounded in five pillars: recruitment, retention, advancement, engagement, and service. Firm leadership, including our D&I committee which is led by the co-chair of our product liability practice group, work closely with our D&I professionals to develop and implement a broad range of initiatives that strengthen our ability to foster an inclusive workplace.

As a firm, we are always exploring opportunities to further our D&I goals. We are particularly proud of our partnerships with clients who share our commitment to D&I. In recent years, we have collaborated with clients on a number of recruitment and retention initiatives aimed at increasing the inclusivity of the legal profession and ensuring that our diverse attorneys have opportunities to interact with clients. For instance, we include client AT&T’s summer legal interns in a variety of networking and professional development programmes hosted over

the summer to provide them with opportunities to learn more about the law firm experience. We have had an AT&T intern participate in our 2L summer associate programme and then join the firm after law school.

In addition, we have participated in the Mansfield Rule since its inception. In 2018, we received Certification Plus status for our efforts to diversify key roles at the firm. Although [at the time of the interview] we are currently awaiting results for 2019’s certification, we are optimistic and look forward to continuing our participation in Mansfield 3.0.

From speaker programmes featuring authors to visiting scholar presentations on unconscious bias, we regularly seek opportunities to engage our colleagues through formal and informal education opportunities. The consensus at this point is that there is no magic bullet to achieving and maintaining a diverse and inclusive workforce, each day we strive to improve upon our efforts and explore innovative approaches to meet any challenges.

HD: What are the biggest challenges facing your team and the firm overall?

JG: Our challenges in the Antitrust/ Competition Practice are similar to the challenges of the firm overall, and are the same as the challenges across the

legal profession. We need to deliver top-quality work cost-effectively. Technology and training can help with that, but in the end success depends on having a client-focused mindset. If you view the client’s problems as your problems, you are well on your way to addressing them in a way that makes good legal and business sense for the client.

We also need to continue to recruit, train, and advance the brightest young lawyers. We do that by offering them a firm whose values they can be proud of. That includes our commitment to pro bono work and diversity as well as legal excellence. Once they’re here, we need to make sure that they get responsibility because in much of antitrust work you can only learn by doing. Letting the junior members of the team do everything they’re capable of means better value for the client and a better experience for our junior lawyers, and it helps to ensure the long-term success of the practice.

HD: What have you been doing so far this year, and what do you plan to do within the coming months, to maintain the Antitrust/Competition team’s Tier 1 ranking?

DF: We have been busy across merger work, cartels, and litigation. Our reputation depends on doing first-rate work and delighting our clients, and we have no plans to do anything any differently. ●