

Identifying **12** Leading Antitrust Lawyers

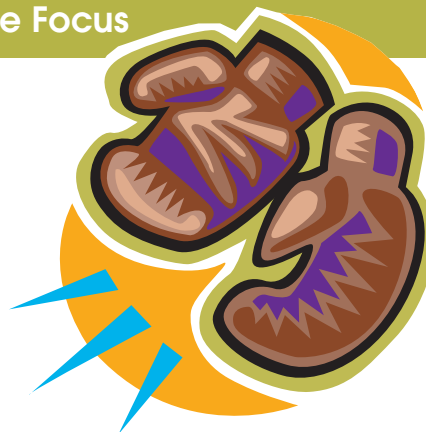
For mergers, acquisitions, and joint ventures that can make or break the business, a major corporation doesn't take a step without antitrust counsel. Good advice is worth millions, and sometimes billions. The best lawyers fight for their clients through the thicket of regulations, around the antitrust enforcers, and past the threat of private litigation.

Among the best are the 12 attorneys identified in this *Legal Times* report, part of a series on the D.C. area's top private practitioners. Plenty of skilled lawyers didn't make our short list. But when the subject turns to alleged anti-competitive practices, these dozen names get mentioned most often.

They don't come cheap. They typically charge between \$650 and \$950 an hour (and tend to carry books of business in the \$10-million-to-\$20-million range). But time and again, they have proved their worth.

How were they chosen? *Legal Times* started with our newsroom's knowledge of local legal practice. Then we solicited readers' suggestions. Finally, freelance reporter Jenna Greene

ANTITRUST LAW A Practice Focus



(formerly a *Legal Times* editor) interviewed dozens of experts. Profiles of the chosen few appear inside.

More details about upcoming special features on D.C.'s Leading Lawyers (including how to nominate candidates for consideration) are available at www.legaltimes.com. Future sections this year will cover top attorneys in the areas of energy, tax, and food and drug law.

Leading LAWYERS

Twelve of the D.C. Area's Top Antitrust Attorneys

Michael Sohn

Arnold & Porter LLP

Finding common ground is Michael Sohn's forte. The Arnold & Porter chairman stands out for his skill as a negotiator and his ability to craft settlements on the eve of trial.

Sohn has successfully averted high-stakes showdowns with the government on behalf of the Intel Corp., the BP Amoco/Atlantic Richfield Co., and French pharmaceutical giant Sanofi-Synthelabo Inc., among others.

"The key is, you have to be ready to fight—and mean it—if you can't protect your client's interest through settlement," says Sohn, 64. "It's mostly about listening and respect. . . . If you come in and everyone's swords are drawn, sometimes you miss something that can be a win-win for both sides."

A 1963 graduate of Harvard Law School, Sohn first went to work in the general counsel's office of the National Labor Relations Board. "I got to argue eight to 10 cases a year in federal appellate courts," he recalls. "I loved it."

Sohn joined D.C.'s Arnold & Porter in 1969 as an associate and made partner in 1972, initially focusing on administrative law. He did some pro bono work for Ralph Nader's Center for Auto Safety, and Nader introduced him to Michael Pertschuk, who had been nominated to chair the Federal Trade Commission. Pertschuk was looking for an FTC general counsel. He offered the post to Sohn, who held it from 1977 to 1980.

As an insider, "you learn about the agency in a much different way than if you only practice before it," Sohn says. The experience has served him well since he returned to Arnold & Porter.

One of his major clients has been the General Electric Co., and his first significant case for GE was a trial by fire. In 1988, then-Chairman Jack Welch entered into a bidding war for thermoplastics maker Borg-Warner Chemicals. Welch agreed to a "hell or high water" clause, which meant that GE would pay the selling price whether the deal closed or not.

Only after entering into the deal did GE hire Sohn and Robert Pitofsky, of counsel at Arnold & Porter. When FTC staff lawyers recommended challenging the deal, Sohn successfully countered the agency's argument.

"We were able to persuade the commissioners that the market definition the staff was urging was wrong," he says.

Sohn recalls filling a conference room with various plastic products—hair-dryers, phones, and computers—and inviting the commissioners to try to determine which ones were made of plastics in the relevant market and which were not.

"We were right on the theory, but the demonstration really helped," he says.

In 1996, Sohn became chairman of Arnold & Porter, a position that occupies about half his time today. He also maintains a significant antitrust practice, focusing on the most complex matters.

Take the Intel case. In 1998, the FTC sued Intel, alleging that the company illegally denied customers access to technical information as a means

of coercing those businesses into licensing their patented innovations to Intel.

The case was headed for trial in 1999 before an FTC administrative law judge, when the company decided to explore settling. They hired Sohn, and on the eve of trial, he crafted a deal that he describes as "widely viewed as a win-win. It was a good solution for everyone."

"He's able to work both sides of the aisle," says Peter Detkin, who was Intel's assistant general counsel responsible for litigation, licensing, and patents at the time of the FTC matter. "He's worked enough with antitrust enforcers that he understands their concerns and can speak their language. He was able to translate what they said from an antitrust policy point of view, and in response was able to communicate my practical concerns with their position."

A year later, the FTC had filed suit to block the merger of BP Amoco and Atlantic Richfield when again Sohn was able to forge a settlement. And when FTC staff in 2001 recommended challenging PepsiCo Inc.'s bid for the Quaker Oats Co., Sohn was brought in to help. The deal squeaked past the commission.

In 2004, Sohn managed a tricky situation for Sanofi-Synthelabo, which had made a hostile offer for Aventis. Under French takeover law, the tender offer would lapse if the FTC issued a second request for information when reviewing the deal. Sohn persuaded the FTC to review the transaction in advance of any Hart-Scott-Rodino pre-merger filing. "It was the equivalent of doing the entire investigation upfront," he says.

The deal, with divestitures, went through. "There was a lot of pressure," Sohn says, "but in the end, it was gratifying to help the client achieve its objectives."



MICHAEL SOHN
ARNOLD & PORTER LLP

ROBERTO WESTBROOK