

McDermott
Will & Emery

EU Competition

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EU Competition and Regulatory – Italy

WHAT OUR CLIENTS AND PEERS SAY

- Our lawyers offer “excellent advice” according to *Chambers Europe* 2009
- Our Italian competition team is “superb for Italian companies with international operations, since lawyers can work in many languages and are experts on both EU and national issues” according to *European Legal 500* 2008
- Veronica Pinotti was recommended by *Global Competition Review’s GCR100* – 11th Edition

Our Italian EU competition and regulatory practice offers integrated, practical and seamless advice to Italian and multinational clients on complex issues before the European Commission (EC) and the Italian and other competition and regulatory authorities, and civil and administrative courts.

Our team provides strategic advice on the feasibility and authorisation of complex domestic and international mergers and acquisitions and joint ventures. We bring cutting-edge technical skills and creativity to provide tailor-made solutions, and coordinate with advisors in various jurisdictions who are involved in international transactions.

We have extensive experience in assisting with the management of distribution networks, cartels, abuse of dominance, state aid and issues related to regulated markets, antitrust audits and risk assessments of potential antitrust liabilities within both

judicial proceedings and alternative dispute resolution. We also assist clients on consumer protection, unfair competition and misleading advertising, including any potential criminal aspects.

Our main areas of activities are the following:

- Feasibility and authorisation of mergers and acquisition and joint ventures
- Cartel investigations
- Pricing and distribution arrangements
- Compliance with sector specific provisions in various industries, such as telecom, food and beverage, and environment
- Consumer protection, unfair competition and misleading advertising proceedings before the Italian authorities
- Italian and EC contentious matters, including appeal of competition and regulatory authorities’ decisions
- Sector enquiries, government investigations and agency complaints
- Compliance and auditing

Our team, qualified in Italy, Belgium, France and the United Kingdom, works closely with colleagues in the Firm’s global offices as well as leading professionals from countries where we do not have offices. This broad network allows us to assist clients in the key sectors and markets of the world, in areas such as authorisations of joint ventures and multijurisdictional acquisitions, and coordination of legal assistance in relation to alleged global cartels or unfair competition on international groups’ web sites.

Core Areas of Practice



CARTELS

Our lawyers have a long and successful track record in cartel defence. Our experience includes advising clients faced with the threat of cartel prosecution and defending clients before the Italian Competition Authority, European Commission, national and European courts. Together with our European and US antitrust teams, we provide clients with a single integrated resource able to advise on the international repercussions of leniency negotiations, devise appropriate advice on international defensive strategies and, where necessary, conduct the defence before the appropriate tribunal.

COMPLAINTS, OPPOSITIONS AND CONTENTIOUS PROCEEDINGS

The group has represented clients before the Italian Competition Authority and the European Commission to oppose adverse transactions, restrictive agreements and dominant behaviour by competitors. The Italian EU competition and regulatory team has increased its dispute resolution/litigation work assisting clients in proceedings before the Italian Competition Authority and other national regulatory authorities, as well as civil and administrative courts, at both EC and national level.

COUNSELLING

We deliver high-level competition law advice to multinationals and other companies needing sophisticated counselling on the ramifications of Italian, European and US competition enforcement across all of the jurisdictions in which they operate. This includes advising clients on acquisitions, joint ventures, distribution issues, and technology and intellectual property licensing. We provide clients with a full range of competition law representation in Italy and throughout the European Union.

MERGER NOTIFICATION AND REVIEW

We have extensive experience in advising clients on notification processes for multinational mergers, acquisitions and joint ventures. We analyse proposed multinational transactions and advise clients on the likely substantive treatment of such transactions in multifarious jurisdictions. We also organise, manage and execute the notification processes throughout the world for large multinational transactions, and defend transactions that receive in-depth scrutiny in any jurisdiction.

PUBLIC PROCUREMENT AND STATE AID

The Italian practice forms an essential part of our wider competition practice, encompassing EC rules on public procurement and State aid.

We advise a number of clients on a wide variety of public procurement issues, including tender procedures, drafting of public procurement documents and procurement compliance programmes. We also represent clients in contentious proceedings concerning public procurement matters. Our public procurement practice advises buyers (private and public utilities and public bodies) and sellers (companies which sell to buyers bound by procurement rules). We are particularly involved in this area in the information technology sector.

REGULATORY

The Italian team advises clients on the full range of Italian and EU regulatory issues, including the development of new regulatory programmes, interpretation of and compliance with existing rules, and related international laws and treaties.



Core Areas of Practice

Our regulatory advice covers a broad range of sectors, including the following:

Agriculture	Food and beverage
Aviation	Life sciences and medical devices
Chemicals	Packaging
Cosmetics	Pharmaceuticals
Energy	Telecommunications
Environment	Transport
Financial services	

RISK ARBITRAGE

Members of our group have broad experience in merger control, including acting for investors, arbitrageurs and interested third parties. We are well situated to advise clients on how authorities will approach transactions and the likely issues that will be important in assessing whether the transaction is cleared, referred or blocked. The Firm is frequently called on to advise clients on the timing and outcome of potential transactions. We are aided by our extensive network of contacts throughout Europe and other jurisdictions which employ merger control regulations.

STRATEGIC ADVICE

A key area of focus for the Italian team is providing clients with strategic advice to help them obtain commercial goals and resolve commercial issues whilst complying with competition law. We regularly advise on the issues arising out of the interplay between competition law and intellectual property rights—for example, with respect to clients' licensing arrangements. McDermott also advises its clients on distribution and pricing matters—for instance, where the client has a strong presence in a particular market. We also regularly review government audits for competition compliance reasons.

TRANSACTIONAL SKILLS

A key component of the Italian team's work is actively assisting clients in relation to mergers. In particular, the team regularly provides bespoke advice on complex competition issues that arise out of merger control. The team is regularly instructed to advise on merger control requirements and strategies, and to manage the notification process where the corporate work is being handled by another firm.

We also advise third parties on proposed mergers, including the following areas:

- The possibility of complaining to the relevant authority about a transaction
- Methods for positioning themselves to acquire divested assets
- Risk arbitrage

Close Collaboration with the European Practice



Our Italian competition practice is fully integrated with the Firm's EU Competition Group. The group provides representation on competition issues to European, US and multinational clients, and consists of highly experienced lawyers practising in the Firm's Brussels, Düsseldorf, London, Milan, Munich and Rome offices, as well as the Firm's US offices. In Europe, the group provides comprehensive advice regarding EU, Belgian, French, German, Italian and UK competition laws, and assists clients with respect to mergers, acquisitions and joint ventures across all EU Member States as well as Central and Eastern Europe.

We provide our clients with the full range of competition services, including the following:

- Transaction counsel
- Notification and defence
- Representation in cartel investigations
- Counsel with regard to technology licensing, pricing and distribution arrangements
- Advice and representation on contentious matters, including EU and Member State litigation, arbitration and mediation
- Risk arbitration advice
- Advice and representation on State aid and public procurement
- Representation in government investigations and agency complaints

Our EU Competition Group is an integral part of the Firm's global competition practice. The worldwide group consists of more than 80 lawyers with broad experience in all aspects of antitrust and competition law. The group combines the skill of lawyers based in Boston, Brussels, Chicago, Düsseldorf, London, Los Angeles, Milan, Munich, New York, Rome and Washington, D.C. With the increasing emphasis on global transactions, it is crucial for clients to have access to integrated, practical and seamless legal advice across the United States and Europe. The Firm's global practice focuses on providing strategic value for our global client base.

EUROPEAN RECOGNITION

- "Great coverage and resources—it is able to respond quickly in different languages and give advice on laws in different countries." *Chambers Global 2009*
- "The lawyers can come up with innovative solutions to problems, no matter what time of day, even when under intense pressure during negotiations." *Chambers Global 2009*
- "Highly confident and responsive." *Chambers UK 2009*
- "McDermott Will & Emery UK LLP has a fine all-round practice, but has recently gained additional recognition in the risk arbitration and sports arenas" *Legal 500 UK 2008*

LEADERSHIP POSITIONS

Our lawyers hold leadership positions in competition-focused organisations. Our partners include the following:

- A committee officer in the International Bar Association's Section on Business Law
- A member of the Commission on Competition of the International Chamber of Commerce
- A private practice representative to the International Competition Network
- A rapporteur for the International Bar Association's competition law magazine
- A member of the Advisory Board of Competition Law Journal
- An arbitrator at the Court of Arbitration for Sport



Representative Italian Experience

- Regularly advising a leading editor in the art field in Italy, the United Kingdom, France and the United States on complex antitrust issues related to the license agreement for one of its monthly art publications abroad
- Regularly advising the Italian subsidiary of a leading international brewer on compliance of the Italian distribution network with national and EC competition rules
- Representing a major creator, manager and promoter of interactive content for mobile phone users in a number of civil and criminal proceedings on antitrust, consumer protection, unfair competition and misleading advertisement issues, as well as on regulatory issues in the telecom sector, related to the agreements with the main Italian mobile phone operators for the supply of ringtone and other interactive content for mobile phones
- Assisting the editors of Italian train timetable booklets in a complaint before the Italian Competition Authority for abuse of a dominant position by the *de facto* monopolist in the Italian railways sector in relation to the supply of train timetable data
- Representing one of the leading companies active in the manufacturing and sale of private label pasta in the alleged pasta cartel investigation under Article 81 of the EC Treaty before the Italian Competition Authority
- Advising a leading US company active in the health care equipment sector to ensure protection against serious unfair competition conduct
- Regularly advising a major international bank on compliance with EC rules
- Advising a leading international manufacturer of medical devices on potential competition issues raised by a major supply agreement in Italy
- Advising a leading international group active in the metallurgy sector on merger control issues related to the acquisition of a major Italian company active in the same sector
- Assisting two leading global companies operating in the medical devices sector on third parties' complaints before the European Commission against the merger between Boston Scientific, Guidant and Abbott
- Advising major international beer manufacturers on potential complex acquisitions and regularly advising on compliance of their distribution network
- Regularly advising major banking groups on their competition issues in relation to joint ventures and agreements in the financial services sector
- Assisting leading international private equity funds in the notification of their acquisitions to the competition authorities
- Representing global car manufacturers on the application of the Italian implementing legislation of the European Union
- Advising a multinational company active in the rolling stock sector in relation to competition issues arising from a contractual joint venture with a major competitor in Italy
- Assisting a leading chemical company in the merger control procedure before the European Commission for the acquisition of a major competitor, in one of the few cases of referral ex Article 22 Regulation EC 139/2004
- Advising a major pharmaceutical company in relation to competition law issues arising from licence and distribution agreements
- Representing an international aluminium manufacturer in the EC and international notifications of the acquisition of its main competitor

Contact Us

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