



Chapter I. Organization and Functions of the Antitrust Division

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A. Creation

The Division's organizational roots can be traced to the creation in March 1903 of an Assistant to the Attorney General to take charge of all lawsuits filed under the antitrust and interstate commerce laws and to assist the Attorney General and the Solicitor General in the conduct of the general executive work of the Department. The post was created under President Theodore Roosevelt and Attorney General Philander Knox.

With the growth of the economy and corporate enterprise during the early part of the 20th century, it became evident that the Department of Justice needed its own corps of specialists in antitrust law to cope with the increasing complexities of antitrust enforcement. Consequently, in 1933, under the administration of President Franklin D. Roosevelt and Attorney General Homer S. Cummings, the Antitrust Division was established. At that time, the Division employed 16 lawyers and had a budget of \$142,000.

Harold M. Stephens was appointed the first Assistant Attorney General in charge of the Antitrust Division. Among the individuals who were in charge of the Division were John Lord O'Brian, William Donovan, Robert H. Jackson, Thurmond Arnold, and Tom Clark.

B. Purpose

The mission of the Antitrust Division is the promotion and maintenance of competition in the American economy. Private anticompetitive conduct is subject to criminal and civil actions under the Sherman and Clayton Acts, statutes that prohibit conspiracies in restraint of trade, monopolization, and anticompetitive mergers. Through participation in Executive Branch activities and in regulatory and legislative processes, the Division seeks to ensure that Government action is procompetitive or not unnecessarily anticompetitive. Through its own litigation, *amicus* filings, and in a variety of other public forums, the Division also seeks to guide the advancement of antitrust jurisprudence.

The primary functions and goals of the Division include:

- General criminal and civil enforcement of the Federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade and monopolization, including investigation of possible violations of antitrust laws, conduct of grand jury proceedings, issuance and enforcement of civil investigative demands, and prosecution of all litigation that arises out of such civil and criminal investigations.
- Intervention or participation before administrative agencies functioning wholly, or partly, under the regulatory statutes in proceedings requiring consideration of the antitrust laws or competitive policies, including such agencies as the Commodities Futures Trading Commission, Federal Communications Commission,

Federal Energy Regulatory Commission, Federal Maritime Commission, Federal Reserve Board, Nuclear Regulatory Commission, Securities and Exchange Commission, and Surface Transportation Board, except proceedings referred to any agency by a Federal court as incident to litigation being conducted under the supervision of another division within the Department.

- Advocacy of procompetitive policies before other branches of government, including:
 - Developing and presenting legislative proposals of the Department relating to the antitrust laws and competition generally and responding to requests for advice and comments on such matters from Congress and other agencies.
 - Advising the President, the departments, and other agencies of the Executive Branch on the competitive implications of governmental action.
 - Assembling information and preparing reports required or requested by the Congress or the Attorney General as to the effect of various Federal laws or programs upon the maintenance and preservation of competition under the free enterprise system.

In addition to these primary functions, additional functions of the Antitrust Division are codified at 28 C.F.R. §§ 0.40, 0.41.

C. Organization

The official organizational structure of the Division is established in a formal organization chart approved by the Attorney General and Congress. The Division is supervised by an Assistant Attorney General. The Assistant Attorney General is nominated by the President and confirmed by the Senate. The Assistant Attorney General is assisted by a designated number of Deputy Assistant Attorneys General who may be either career or noncareer employees; at least one (currently the Deputy Assistant Attorney General for Criminal Enforcement) traditionally has been a career employee. The Division's litigating sections and offices report to the Deputy Assistant Attorney General for Civil and Criminal Operations. The Director of Civil Enforcement, Director of Criminal Enforcement, Director of Litigation, and the Director of Economics, who are career employees, have additional supervisory authority for the civil, criminal, and economic programs, respectively.

The Division has eleven litigating components: six civil sections in Washington and five offices and sections that primarily handle criminal matters, located in Chicago, New York, San Francisco, and Washington, D.C. These eleven components each typically consist of a staff of attorneys and various support personnel including paralegals and secretaries. Each section and office is headed by a chief and one or

more assistant chiefs, and these components carry out the bulk of the Division's investigatory and litigation activities. The Division has several other components that perform specialized roles, including three economic sections, the Appellate Section, the Competition Policy and Advocacy Section, the International Section, and the Executive Office that oversees administrative matters for the entire Division.

[updated April 2018]

1. Office of the Assistant Attorney General

a. Assistant Attorney General

The Assistant Attorney General in charge of the Antitrust Division is responsible for leadership and oversight of all of the Division's programs and policies and is the Division's chief representative. The Assistant Attorney General is assisted by Deputy Assistant Attorneys General (DAAGs). In addition, the Assistant Attorney General may be assisted by a Chief of Staff, who is responsible for managing the Office of the Assistant Attorney General. The Assistant Attorney General may be assisted by special advisors and other counsel.

b. Deputy Assistant Attorneys General

The Division's DAAGs are of equal rank. The Assistant Attorney General may designate one of them to exercise the powers of Assistant Attorney General in his or her absence. In some cases, one of the Deputies may be given the title of "Principal Deputy"; the Principal Deputy is, in effect, "first among equals" among the Deputies and will typically assume the powers of the Assistant Attorney General in the Assistant Attorney General's absence. If a vacancy occurs in the Assistant Attorney General position, one of the deputies will be designated to serve as Acting Assistant Attorney General until a new Assistant Attorney General is nominated by the President and confirmed by the Senate.

The Deputy Assistant Attorneys General (DAAGs) currently include: the DAAG for Criminal and Civil Operations (hereinafter the DAAG for Operations), the DAAG for Civil Enforcement, the DAAG for Litigation, the DAAG for Criminal Enforcement, and the DAAG for Economic Analysis. The DAAG for Operations oversees operational matters including investigative case planning and management, matter prioritization, and resource allocation, in consultation with all other DAAGs and the AAG. Every open investigation is overseen by a DAAG or such other senior counsel as may be designated by the AAG (the "Assigned DAAG" or "Assigned Manager"). The Assigned DAAG or Assigned Manager works with section management to coordinate and supervise matters. The DAAG for Criminal Enforcement is typically a career employee.

c. Directors of Enforcement

There are three attorney Directors of Enforcement—the Director of Civil Enforcement, the Director of Criminal Enforcement, and the Director of Litigation, as well as an economist Director of Economics, who are career employees. There may also be Deputy Directors. The Directors of Enforcement have direct supervisory authority over the activities of the various litigating sections and offices; they work closely with the DAAG for Operations, as well as the Assigned DAAG or Assigned Manager, in overseeing Division activities. Each Director is responsible for matters arising out of the various Division components that fall within his or her particular area of responsibility. There are four special assistants to the Directors of Civil and Criminal Enforcement; these assistants generally serve for two years. The four special assistants each are assigned several sections and field offices and play a liaison role between those sections and the Directors, in addition to performing other activities assigned by the Directors.

[updated April 2015]

2. Office of the Chief Legal Advisor

The Chief Legal Advisor reports to and advises the AAG on the Division's jurisdiction and authority and interprets statutes such as the Hart-Scott-Rodino Act, Tunney Act, and Antitrust Civil Process Act. *See* Chapter II. In this role, the Chief Legal Advisor also provides guidance to staff on broad recurring issues such as preliminary injunction standards, contacts with represented persons and experts, leniency applications, victims' rights, and privilege and sentencing issues. The Chief Legal Advisor also creates and maintains tools, such as litigation and remedy databases and the Division Manual.

The Chief Legal Advisor provides advice regarding drafting Division consent decrees and is tasked with ensuring that all Division judgments are enforced. This responsibility includes oversight of remedy policy documents; review of issues arising out of civil and criminal settlements; and oversight of and coordination with appropriate DAAGs, senior counsel, and sections to enforce parties' compliance, including through ongoing review and evaluation of complaints and related recommendations to the AAG.

The Chief Legal Advisor also has oversight responsibilities over certain of the Division's ethical and professional obligations, including compliance with the Freedom of Information Act, the Privacy Act, and the Department's *Touhy* Regulations. The Chief Legal Advisor oversees the Division's responses to requests and inquiries from the Office of the Inspector General, Office of Professional Responsibility, Government Accountability Office (GAO) and any internal investigations, and coordinates responses to suits brought against, or subpoenas issued to, the Division.

The Office of the Chief Legal Advisor includes the Civil and Criminal Deputy Chief Legal Advisors, the Division's Ethics Officer, and the Freedom of Information Act/Privacy Act Unit (FOIA/PA Unit); in addition, the Chief Legal Advisor may seek assistance from other Division staff as necessary to carry out the Chief Legal Advisor's responsibilities.

The FOIA/PA Unit receives, evaluates, and processes all Freedom of Information Act and Privacy Act requests made to the Division. It also responds to requests for information by state attorneys general pursuant to Section 4F of the Clayton Act, 15 U.S.C. § 15f(b). See Chapter VII, Part C.3.a (describing 4F procedures). The Antitrust Documents Group of the FOIA/PA Unit also maintains and indexes pleadings, business review letters, and other frequently used files. See Chapter VI, Part A.3 (describing the FOIA/PA Unit); Chapter VII, Part G (describing FOIA procedures).

[updated April 2018]

3. Office of Operations

The Office of Operations, overseen by the DAAG for Operations, supports the Directors of Civil and Criminal Enforcement and Litigation. The Office of Operations has supervisory authority over matters within litigating sections and offices, oversight of resource allocation, and coordinates the administrative policies and procedures affecting the Division's operations and includes certain administrative and support units including: the Premerger and Division Statistics Unit, the Paralegal Unit, and the Training Unit. These units report to the Directors of Civil and Criminal Enforcement and Litigation.

The functions of the Premerger and Division Statistics Unit are described in Chapter VII, Part A. The Paralegal Unit provides paralegal support on request to investigations and cases handled in the litigating sections and offices. The Training Unit coordinates training opportunities for Division personnel. See Chapter VI, Part A.7 (describing Division training programs).

[updated April 2018]

4. Washington Civil Sections

Most of the civil investigative activity and litigation of the Division is carried out by the six Washington, D.C. civil litigating sections. Each of the civil sections is responsible for reviewing proposed mergers and investigating civil nonmerger activity in their assigned portfolio of industries. The sections' duties include all phases of the enforcement process—investigation, litigation, and settlement. The sections cooperate with state and international enforcement authorities and other Federal agencies as necessary. Additionally, as a supplement to the enforcement process, the civil sections engage in competition

advocacy when appropriate. A brief description of the activities of each section follows.

a. Healthcare and Consumer Products Section (HCP)

HCP is responsible for healthcare, insurance, pulp, paper, timber, photography, film, appliances, food products, and cosmetics industries. HCP has developed ongoing relationships with the Department of Health and Human Services and the Centers for Medicare and Medicaid Services.

[updated April 2018]

b. Defense, Industrials, and Aerospace Section (DIA)

DIA is responsible for metals, banking, avionics and aeronautics, defense, road and highway construction, industrial equipment, and waste industries. DIA has developed ongoing relationships with the Federal Reserve Board and the Department of Defense and also works with the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency as needed.

[updated April 2018]

c. Media, Entertainment, and Professional Services Section (MEP)

MEP is responsible for the entertainment and media industries. It focuses primarily on motion pictures, music, publishing, radio, television, newspapers, advertising, sports, credit cards, and real estate. MEP works with the Copyright Office, the Federal Communications Commission, Housing and Urban Development, and the Treasury Department as needed.

[updated April 2018]

d. Technology and Financial Services Section (TFS)

TFS is responsible for computer hardware and software, high technology component manufacturing, Internet-related businesses, financial services, debit cards, professional associations, and the securities industry. TFS has developed ongoing relationships with a variety of Federal agencies and departments including the Securities and Exchange Commission, the Federal Reserve Board, Commerce Department (Internet domain names), and Commodities Futures Trading Commission. TFS also engages in competition advocacy with state authorities issuing regulations relating to the practice of law.

[updated April 2018]

e. Telecommunications and Broadband Section (TEL)

TEL is responsible for telecommunications equipment manufacturers and landline, wireless, and satellite telecommunications service providers. TEL has developed an ongoing relationship with the Federal

Communications Commission (FCC) and coordinates merger reviews with FCC staff.

[updated April 2018]

f. Transportation, Energy, and Agriculture Section (TEA)

TEA is responsible for domestic and international aviation; railroad, trucking, and ocean shipping; electricity; hotel, restaurant, and travel services; oil field services; agricultural biotech; and food products, crops, seeds, fish, and livestock. TEA participates in proceedings before such agencies as the Federal Maritime Commission, Federal Energy Regulatory Commission, Environmental Protection Agency, and Department of Agriculture. TEA is active in legislative activities relating to the deregulation of various transportation, energy, and agricultural industries, and prepares a variety of reports to Congress and the Executive Branch on policy issues related to those commodities.

5. Criminal Offices

Three offices of the Antitrust Division—located in Chicago, New York, and San Francisco—and two sections in Washington, D.C. are responsible for conducting criminal investigations and litigation. Some of these offices also handle civil merger and nonmerger matters, depending on resource availability and particular expertise. These offices and the two Washington, D.C. criminal sections handle all phases of the enforcement process—investigation, litigation, settlement, and sentencing and also act as the Division’s field liaison with U.S. Attorneys, state attorneys general, and other law enforcement agencies within their areas. These offices and sections investigate and prosecute regional, national, and international antitrust conspiracies and related offenses. The offices and sections are assigned the following territories:

- Chicago Office: North Dakota, South Dakota, Nebraska, Colorado, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Ohio, and Michigan.
- New York Office: Maine, Vermont, New Hampshire, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, and Pennsylvania.
- San Francisco Office: Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Arizona, New Mexico, Alaska, and Hawaii.
- Washington Criminal I Section: District of Columbia, Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Puerto Rico, and Florida.

- Washington Criminal II Section: District of Columbia, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, Texas, and the Virgin Islands.

[updated April 2015]

6. Economic Analysis Group

The Economic Analysis Group (EAG) is comprised of three sections, the Economic Litigation Section (ELS), the Economic Regulatory Section (ERS), and the Economic Policy Section (EPS) under the oversight of the Director of Economics, who is a career employee. The economic sections do not have investigative responsibilities that correlate directly with those of specific legal sections. Instead, matters are assigned to economist-managers primarily as a result of their industry experience, and those managers draw on EAG staff in any of the sections to undertake the analysis. Thus, it is not unusual for a matter to be under the economic supervision of a manager in one section, but staffed by economists from the other two sections.

The economic issues most often analyzed by all three sections include the competitive effect of mergers and acquisitions, the competitive effects of various alleged trade restraints and proposed regulatory changes, and economic aspects of competition advocacy efforts undertaken by the Division. As part of this competition advocacy effort, economists work extensively with International Section attorneys on a variety of international matters. Most notable in recent years has been assistance to foreign governments around the world in writing antitrust laws, training antitrust officials, and evaluating specific competitive issues. Economists are assigned to all civil enforcement, regulatory proceeding, and competition advocacy matters and participate fully in them from the initial investigative stage through their final resolution. Economists are also available to serve as expert witnesses in court and agency proceedings.

ELS also includes the Corporate Finance Unit (CFU) which provides financial analyses of failing firm defenses, divestitures, and efficiencies defenses; makes recommendations as to fines; and reviews financial issues involved in damage analyses and other issues requiring financial, accounting, and corporate analysis. Financial analysts are assigned to a matter as soon as it is apparent that issues requiring their assistance are present. A full description of the activities of the CFU is contained in Chapter VI, Part A.6.b.

[updated April 2018]

7. Specialized Components

a. Appellate Section

The Appellate Section reports to the DAAG for Operations, or as otherwise directed by the AAG. The Section represents the Division in all

appeals to the United States Courts of Appeals and, in conjunction with the Office of the Solicitor General, all appeals before the United States Supreme Court. This responsibility includes filing *amicus* briefs in selected private antitrust cases and in other cases where the Division's competition advocacy is considered appropriate. In addition to antitrust matters, the Appellate Section represents the United States as statutory respondent in proceedings to review orders of several Federal agencies, such as the Surface Transportation Board and the Federal Communications Commission. Procedures relating to appeals in which the Division is involved, or may have an interest, are described in Chapter IV, Part G.

b. International Section

The International Section reports to the DAAG for Operations, or as otherwise directed by the AAG. The Section assists other sections in matters with international aspects and is primarily responsible, at the staff level, for the development of Division policy on international antitrust enforcement and competition issues. The International Section handles the Division's relations and cooperation with international organizations and non-U.S. antitrust enforcement agencies, including its compliance with notification and other obligations pursuant to various bilateral and multilateral agreements to which the United States is a party. The Division's activities regarding international organizations and notification procedures are more fully described in Chapter VII, Part D. The International Section also coordinates the Division's duties under the Export Trading Company Act of 1982, which is described in Chapter III, Part H.3.

[updated April 2018]

c. Competition Policy and Advocacy Section (CPA)

CPA reports to the DAAG for Operations, or as otherwise directed by the AAG. CPA provides analyses of complex antitrust policy matters, including issues involving the intersection of antitrust and intellectual property law and policy, for the Division and Department, as well as for submission to Congress. The Competition Policy and Advocacy Section also coordinates the Division's legislative program and handles long-range planning projects and programs of special interest to the Assistant Attorney General. CPA is involved in a broad spectrum of activities, including conducting studies and making recommendations relating to Division enforcement policies, coordinating with the Federal Trade Commission on potential premerger filing violations, advising on legal and policy considerations in Division investigations and case recommendations, and developing and researching legislative matters that are of interest to the Division. The Competition Policy and Advocacy Section's Legislative Unit is primarily responsible for coordinating the Division's relations with Congress and for responding to congressional requests and inquiries of the Division. CPA coordinates

with and assists the Chief Legal Advisor on issues within the Chief Legal Advisor's portfolio.

[updated April 2018]

d. Executive Office and Information Systems Support Group

The Executive Office formulates and administers the Division's budget and fiscal responsibilities, manages its reporting and records, handles personnel matters, coordinates procurement and contracting, manages facilities and services, oversees its library system, and provides information systems services for all Division activities. The Information Systems Support Group (ISSG) is located within the Executive Office and is responsible for providing automated services and resources to handle information in support of the Division's attorneys, economists, and managers. ISSG oversight includes: automated litigation support and economic analysis, management information systems, and office automation systems. ISSG provides these support services through both Government and contract personnel. ISSG makes extensive use of computer and database management systems. Chapter VI, Part A.6 contains a description of ISSG services.

8. Antitrust Division Library System

The Division maintains libraries in Washington and in the Chicago, New York, and San Francisco offices. Division libraries operate in conjunction with the Department of Justice Main Library. Requests for information should be made to Division Librarians, who coordinate access to automated research databases, as well as printed materials, and arrange interlibrary loans, as appropriate.

[updated April 2015]