

## **Disclosure Practices for Competition Experts and Competition Research**

The Department of Justice's Antitrust Division has adopted disclosure policies for outside competition experts who participate in Division-sponsored events and for parties who present research to the Division.

Assistant Attorney General Jonathan Kanter has [described widespread conflicts of interest](#) stemming from interested advocacy that shrouds itself as disinterested expertise. Money from powerful actors is finding its way into the academic and expert communities. Undisclosed financial support can introduce bias and taint subsequent research that unknowingly builds upon work that was shadow-funded. This has led to a pervasive breakdown in the distinction between expertise and advocacy in competition policy and contributed to the decline of our intellectual infrastructure.

The Division values candid dialogue with experts and with parties citing expert research. This open exchange requires transparency regarding parties' interest in or funding of expert research, and experts' relationships to private entities or policy organizations that might have a material interest in Division actions. All of this is aimed at assessing whether undisclosed support or affiliation may be exerting influence on an expert opinion.

### **Disclosure Practices for Parties Relying on Research Output**

As part of its investigative process, the Division may receive voluntary information in the form of research and analysis from those who advocate before the Division. When the Division evaluates research or analysis presented by parties, the Division will consider whether this research or analysis was funded, in whole or in part, directly or indirectly, by any party (or any affiliate) on whose behalf the submission is made. When a submitted piece cites additional research sources, the Division will also consider whether any cited research source was funded, in whole or in part, directly or indirectly, by any party (or any affiliate) on whose behalf the submission is made. Parties are requested to disclose any connection to works cited in their presentations. If none of the referenced material has a funding connection, parties are requested to state that affirmatively.

The Division will give substantially more consideration to expert research where the party presenting the research discloses any connection to the research output or disclaims any connection to it. Absent disclosures, the Division will generally treat expert research and analysis voluntarily submitted to its offices as forms of interested advocacy.

### **Disclosure Practices for Antitrust Division Events**

The Antitrust Division strongly favors disclosure practices designed to promote the credibility of expert work product, such as those set out by professional organizations and journals. Accordingly, every participant in an Antitrust Division-sponsored event such as a conference, workshop, or seminar is asked to disclose the information set forth below. The Division's policy draws from similar [disclosure policies](#).

*What types of information should experts disclose when participating in Division-hosted events?*

1. All sources of financial support for the material included in the presentation. Disclosure is required regardless of the monetary value of the support and when it was received.
2. Support summing to \$10,000 (or more) received within the last three years, or where there is a reasonable expectation of receiving in the future, from an interested party. The disclosure should include any support received both directly and indirectly, including funding for centers and institutes that provide material benefit to the author(s).
3. Significant personal involvement or any financial support in relation to a specific matter to be addressed by the participant at the event. Employees or former employees of government agencies or consulting firms may not be able to disclose whether they worked on a specific matter but should disclose whether they worked at the agency or firm while the matter was under consideration without any indication of their own involvement in the matter.
4. Any paid or unpaid positions as officer, director, or board member of any organization whose policy positions, goals, or financial interests relate to the topics associated with their participation in the event.
5. If the participant is subject to a nondisclosure agreement with respect to the support in question, the participant should state that they received funding along with as much information about the interested party as permitted.
6. Any third-party that had the right to review the research and/or presentation prior to its circulation.

### **Transparency Through Citations**

The Division encourages professional organizations and journals, and parties citing expert work, to look for additional ways to incorporate disclosures into their practices.

The Division encourages scholars and parties to make note of whether cited work contains funding disclosures. Disclosure notation could take a form such as one of the following:

Author, *Article Title*, V# JOURNAL TITLE, P#, publication date, link (funding disclosed).

Author, *Article Title*, V# JOURNAL TITLE, P#, publication date, link (no funding disclosure).