

**Jonathan M.
Jacobson**
RETIRED MEMBER

Antitrust and
Competition
New York

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FOCUS AREAS

Antitrust Civil Enforcement
Antitrust Compliance and Business
Strategy
Antitrust Criminal Enforcement
Antitrust Litigation
Antitrust Merger Clearance
Antitrust and Competition
Antitrust and Intellectual Property
Federal Trade Commission
Global Generics
Supreme Court and Appellate
Third-Party Merger and Non-Merger
Antitrust Representation

HIGHLIGHTS

Highly Regarded Antitrust Litigator

Jonathan was appointed by Congress to serve on the Antitrust Modernization Commission, is a former Chair of the ABA's Section of Antitrust Law, and has been a leader in many high-profile antitrust litigations, investigations, trials, and appeals.

Notable Representations

Jonathan served as lead counsel for Coca-Cola, American Express, Mylan, Google, Netflix, Live Nation, and Clear Channel, among other leading companies.

Substantial Speaking Engagements

During his career, Jonathan frequently made appearances at conferences and symposiums, and presented at various FTC, DOJ, and DOJ/FTC hearings, series, and workshops.

Thought Leadership

Jonathan has been a well-published author of articles and books on various antitrust topics since 1980.

EXPERIENCE

Jonathan Jacobson retired as Senior Of Counsel from Wilson Sonsini Goodrich & Rosati in 2024. Considered one of the country's preeminent antitrust litigators and thought leaders during his career, Jonathan took a lead role in many high-profile antitrust litigations, investigations, trials, and appeals. He also served as the Chair of the ABA's Section of Antitrust Law from 2017-2018.

Among other noteworthy representations, Jonathan served as lead counsel for Coca-Cola in several cases, including *PepsiCo v. Coca-Cola*, a leading monopolization case under Section 2 of the Sherman Act. He also argued the *Vitamin C* case in the Supreme Court and on remand; led the representation of American Express in *United States v. Visa USA*; defended Google in the *Dreamstime, Digital Advertising, KinderStart, Person, TradeComet*, and *myTriggers* cases; defended Netflix in *In re Online DVD Rental Antitrust Litigation*, and Live Nation and Clear Channel in *Heerwagen, In re Live Concert Antitrust Litigation*, and *It's My Party v. Live Nation*.

Jonathan also was appointed by Congress to serve on the Antitrust Modernization Commission, responsible for reviewing and recommending potential changes to the nation's antitrust laws. In addition to serving as a past Chair of the ABA's Section of Antitrust Law, he previously served as an officer, council member, and in several other Antitrust Section positions, including editorial chair of *Antitrust Law Developments (6th ed.)*.

Jonathan was a presenter in the DOJ/FTC 2020 Vertical Merger Guidelines Hearing, the FTC's 2018 Competition Hearings, the DOJ's 2018 Roundtable series, the DOJ/FTC Intellectual Property Hearings, the DOJ/FTC Single-Firm Conduct Hearings, the DOJ/FTC Merger Guideline Workshops, the DOJ/FTC Most Favored Nations Clause Workshop, and the DOJ/FTC Conditional Pricing Practices Workshop. He has written or edited numerous articles and books spanning the gamut of antitrust topics, including exclusionary practices, merger enforcement, government and other civil litigation matters, and cartel enforcement. His most recently published papers, prior to his retirement, include "Acquisitions of 'Nascent' Competitors," *The Antitrust Source*, August 2020, and "Missing the Forest for the Trees: The Application of Amex in *United States v. Sabre*," *The Antitrust Source*, June 2021.

CREDENTIALS

Education

- J.D., Brooklyn Law School, 1976
Magna Cum Laude; Co-Editor-in-Chief, Brooklyn Law Review; Editor, Journal of International Law
- A.B., Columbia College, 1973

Associations and Memberships

- US NGA to the ICN Unilateral Conduct Working Group, International Competition Network, 2020
- Commissioner, Antitrust Modernization Commission, U.S. Congress, 2002-2007
- Chair, Section of Antitrust Law, American Bar Association, 2017-2018
- Officer, Section of Antitrust Law, American Bar Association, 2010-2019
- Council Member, Section of Antitrust Law, American Bar Association, 2007-2010
- Editorial Chair, *Antitrust Law Developments (Sixth)*, Section of Antitrust Law, American Bar Association
- Co-chair, Committee on Books & Treatises, Section of Antitrust Law, American Bar Association, 2001-2004
- Editorial Co-chair, *Annual Review of Antitrust Law Developments*, Section of Antitrust Law, American Bar Association, 2000-2001

Honors

- Winner, 2024 Antitrust Writing Awards: Business Articles, Unilateral Conduct
- Recognized as an all-star litigator for antitrust and competition law by *Lawdragon 500 Leading Litigators in America*
- Named "2021 Litigator of the Year" by *Global Competition Review*
- Named annually in *Chambers USA: America's Leading Lawyers for Business* from 2008-2023
- Recognized in the Competition/Antitrust category of the *Chambers Global: The World's Leading Lawyers for Business* editions from 2012-2023

- Selected for inclusion in *Best Lawyers in America*, 2016-2023
- Selected for inclusion in *The International Who's Who of Competition Lawyers & Economists* editions from 2008-2023
- Selected as one of the "Top 10 U.S. Antitrust Defense Litigators" by *Global Competition Review*
- Recognized as one of the "Top 30 Experts in Competition and Antitrust Law in the USA" by *Best of the Best USA Expert Guide*, Legal Media Group, 2020
- Named "Lawyer of the Year in New York" for antitrust law by *Corporate INTL Global Awards*, 2023
- Selected for inclusion in the 2023 edition of *Global Competition Review/Who's Who Legal: Competition* and named a 2021 "Thought Leader" by the publication
- Selected as a 2016 "Competition Law MVP" by *Law360*
- Named "Litigator of the Week" by *Global Competition Review* in February 2015

Admissions

- State Bar of New York
- Numerous U.S. District Courts
- Numerous U.S. Courts of Appeals
- U.S. Supreme Court

CLIENTS

Select Clients

Jonathan's notable clients included:

- The Coca-Cola Company
- Google
- Live Nation
- Symantec
- Netflix

INSIGHTS

Select Publications

- Co-author with A. Wang, "Competition or Competitors? The Case of Self-Preferencing," *Antitrust*, Vol. 38, No. 1, pp. 13-20, Fall 2023
- "The FTC's Prior Approval Mischief," *CPI Antitrust Chronicle*, November 2023
- Co-author with B. Buffler, J. Ferris, J. Philipoom, and S. Sher, "FTC Defeats Facebook Motion to Dismiss Amended Complaint," Wilson Sonsini Alert, January 18, 2022
- Co-author with L. Edwards, "Missing the Forest for the Trees: The Application of *Amex* in *United States v. Sabre*," *The Antitrust Source*, June 2021
- Co-author with J. Bank and S. Chung, "Second Circuit Upholds Settlement Agreements Among Competitors Not to Bid on Rivals' Names as Keywords," Wilson Sonsini Alert, June 14, 2021
- Co-author with S. Vinayek, "Market Shares in Digital Markets," Webinar on Market Share Analysis in Multi-Sided Markets, International Competition Network, Unilateral Conduct Working Group, February 23, 2021
- Co-author with C. Mufarrige, "Acquisitions of 'Nascent' Competitors," *The Antitrust Source*, August 2020
- "The AMC Indirect Purchaser Recommendation: Twelve Years Later," American Bar Association, January 24, 2020
- "The Tax Theory in Conditional Pricing Analysis," *CPI Antitrust Chronicle*, September 2019
- "Vertical Mergers: Is It Time to Move the Ball?" *Antitrust*, Vol. 33, pp. 6-11, Summer 2019
- "The 'Patent Monopoly,'" *Antitrust*, Vol. 32, No. 3, pp. 3-4, Summer 2018
- "When Antitrust Met Economics," *Antitrust*, Vol. 32, No. 2, pp. 3-4, Spring 2018
- "Tackling the Time and Cost of Antitrust Litigation," *Antitrust*, Vol. 32, No. 1, pp. 3-4, Fall 2017
- Co-author with D. Weick, "Countering Exclusion: The Complainant's Obligation," *Antitrust Law Journal*, Vol. 81, Issue 2, July 2017
- "Another Take on the Relevant Welfare Standard for Antitrust," *The Antitrust Source*, August 2015
- Co-author with E. Dorsey, "Exclusionary Conduct in Antitrust," 89 *St. John's Law Review* 101, 2015
- Co-author with K. Piro, "The Clayton Act, Innovation Markets, and Potential Competition Doctrine," American Bar Association, November 2014
- "Monopsony 2013: Still Not Truly Symmetric," *The Antitrust Source*, December 2013
- Co-author with S. Creighton, "Twenty-Five Years of Access Denials," *Antitrust*, Vol. 27, No. 1, pp. 50-55, Fall 2012
- Co-author with D. Weick, "Contracts That Reference Rivals as an Antitrust Category," *The Antitrust Source*, April 2012
- Co-author with J. Choi, "Curtailling the Impact of Class Actions on Antitrust Policy," 66 *NYU Annual Survey of American Law* 549, 2011
- "A Note on Loyalty Discounts," *The Antitrust Source*, June 2010
- "Towards a Consistent Antitrust Policy for Unilateral Conduct," *The Antitrust Source*, February 2009
- Co-author with S. Walsh, "Merger Enforcement in an Obama Administration," *The Threshold*, Vol. IX, No. 1, Fall 2008
- "Exploring the Antitrust Modernization Commission's Proposed Test for Bundling," *Antitrust*, pp. 22-29, Summer 2007
- Co-author with Scott Sher, "'No Economic Sense' Makes No Sense for Exclusive Dealing," 73 *Antitrust Law Journal* 779, 2006
- "Exclusive Dealing, 'Foreclosure,' and Consumer Harm," 70 *Antitrust Law Journal* 311, 2002
- "Do We Need A 'New Economy' Exception for Antitrust?" *Antitrust*, pp. 89-93, Fall 2001
- "Twenty-One Years of Antitrust Injury: Down the Alley with *Brunswick v. Pueblo Bowl-O-Mat*," 66 *Antitrust Law Journal* 273, 1998
- "Joint Purchasing, Monopsony & Antitrust," 36 *Antitrust Bulletin* 1, 1991
- "Monopsony Revisited: A Comment on Blair & Harrison," 37 *Antitrust Bulletin* 151, 1992
- "Kodak: Daguerreotype or Laser Projection," *New York Law Journal*, July 30, 1992
- "Applying the Attorney-Client Privilege in Multi-Party Contexts," 4 *Antitrust* No. 3, pp. 18-22, 1990
- "The New Federalism of Unfair Pricing Suits by Competitors," *New York Law Journal*, August 30, 1990
- "Price-Fixing: An Overview," 30 *Antitrust Bulletin* 199, 1985
- "On Terminating Price-Cutting Distributors in Response to Competitors' Complaints," 49 *Brooklyn Law Review* 677, 1983
- "Contribution among Antitrust Defendants: A Necessary Solution to a Recurring Problem," 32 *University of Florida Law Review* 217, 1980

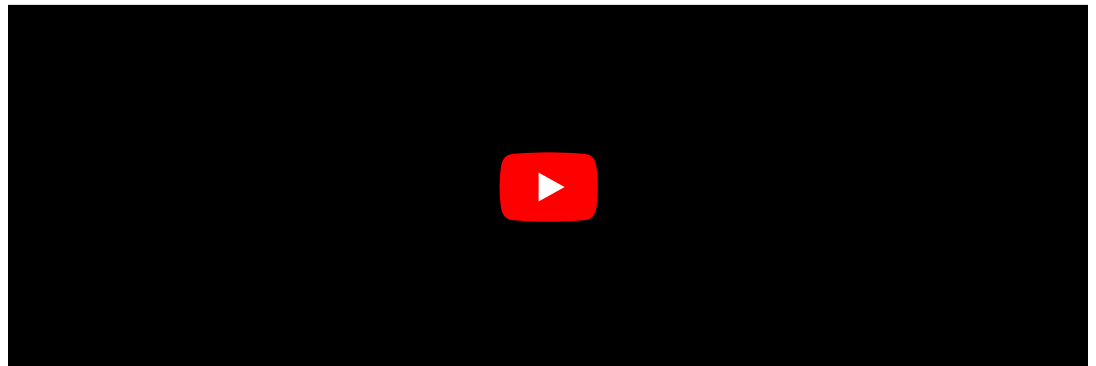
Select Speaking Engagements

- Speaker, *Fordham Antitrust Law Symposium*, November 4, 2022
- Conference Chair and Speaker, American Bar Association, Antitrust Masters Conference, October 2022
- "Can Antitrust Repair the World? Should It?" Chair's Showcase, ABA Antitrust Law Spring Meeting, April 7, 2022
- "Missing the Forest for the Trees: The Application of *Amex* in *United States v. Sabre*," ABA Section of Antitrust Law, 2021 Spring Meeting, March 24, 2021
- "Current Antitrust Enforcement in Media and Technology: An Interview with Jon Jacobson," *Icarus*, pp. 42-46, Summer 2020
- Speaker, "Apples and Economics: Is Illinois Brick Obsolete?" ABA Section of Antitrust Law, 2020 Virtual Spring Meeting, June 10, 2020
- Speaker, "Antitrust Analysis of Platform Markets: Beyond American Express," Competition Policy International, March 30, 2020
- Speaker, U.S. DOJ and FTC Workshop on Vertical Merger Guidelines, March 11, 2020
- Speaker, "Rock Can't Get No Satisfaction? Antitrust and Rock 'n' Roll," Our Curious Amalgam podcast, American Bar Association, August 12, 2019

- Speaker, "The Antitrust Division's New Guidance for Evaluating Compliance," NYU Law School, New York, New York, July 11, 2019
- Speaker, "Judicial Review in Competition Cases: the U.S. Experience," The Organisation for Economic Co-operation and Development (OECD), Paris, France, June 4, 2019
- "The Merger Review Process," Columbia Law and Yale School of Management, April 2019
- "Vertical Mergers," ABA Section of Antitrust Law, 67th Spring Meeting, March 27, 2019
- "Implications of the *American Express* Decision," Feeling the Heat: Antitrust in the Era of Platforms and Big Tech, Global Antitrust Institute and Charles Koch Institute, November 17, 2018
- "Labor Markets and Antitrust Policy," FTC Hearings on Competition and Consumer Protection in the 21st Century, George Mason University, Arlington, Virginia, October 16, 2018
- "Enforcers' Roundtable," ABA Section of Antitrust Law, 2018 Spring Meeting, April 13, 2018
- "Chair's Showcase Program," ABA Section of Antitrust Law, 2018 Spring Meeting, April 12, 2018
- "Annual Section Luncheon Remarks," ABA Section of Antitrust Law, 2018 Spring Meeting, April 11, 2018
- "Disruptive Forces: Antitrust in 2018," Credit Suisse 2018 Washington Perspectives Conference, Sofitel Washington DC Lafayette Square, January 10, 2018
- "The Updated Antitrust Guidelines for the Licensing of Intellectual Property and Practical Guidance for Counselors and Companies," Antitrust Section Unilateral Conduct Committee, New York State Bar Association, New York, New York, July 18, 2017
- Moderator, "Update with DOJ's Directors," ABA Section of Antitrust Law, 2017 Spring Meeting, March 28, 2017
- Moderator, "Hong Kong's New Competition Ordinance," ABA Section of Antitrust Law, Antitrust in Asia, June 2, 2016
- Moderator, "Update with DOJ's Deputy Assistant Attorneys General," ABA Section of Antitrust Law, 2016 Spring Meeting, April 6, 2016
- Presenter, "Scholarship and Antitrust," 2016 Next Generation of Antitrust Scholars Conference, New York University School of Law, January 22, 2016
- "Another Take On the Relevant Welfare Standard for Antitrust," Chair's Showcase Program, ABA Section of Antitrust Law, 2015 Spring Meeting, April 16, 2015
- "Future Competition and the Clayton Act at 100," ABA Clayton Act 100th Anniversary Symposium, Washington, D.C., December 2014
- "Exclusionary Conduct in Antitrust," 2014 Lewis Bernstein Memorial Lecture, St. John's University School of Law, October 22, 2014
- "Conditional Pricing Practices," DOJ-FTC Workshop, Washington, D.C., June 23, 2014
- "Monopsony 2013: Still Not Truly Symmetric," ABA Section of Antitrust Law, 2013 Spring Meeting, April 12, 2013
- "Contracts That Reference Rivals as an Antitrust Category," ABA Section of Antitrust Law, 2012 Spring Meeting, March 28, 2012
- "Deception or Disparagement as Exclusionary Conduct? Some Observations from the Trenches," ABA Section of Antitrust Law, 2011 Spring Meeting, March 30, 2011
- "Curtailing the Impact of Class Actions on Antitrust Policy," NYU Annual Survey Symposium, Critical Directions in Antitrust, February 19, 2010
- "Implications of the Google Book Search Settlement," The Federalist Society, New York, December 14, 2009
- "Cost-Based Rules in the New Economy," ABA Antitrust Section, 2009 Spring Meeting, March 25, 2009
- "History of Antitrust & High-Tech Markets," CCA Antitrust Summit, October 24, 2008
- "Bundled Pricing and Antitrust: Turning the Page on *LePage's*?" Recent Developments in Bundled Pricing and Exclusive Dealing," ABA Antitrust Section, 2008 Spring Meeting, March 26, 2008
- Questioner, Roundtable Conference with Enforcement Officials, ABA Antitrust Section, 2007 Spring Meeting, April 20, 2007
- "Challenges to Dominant Firm Exclusionary Conduct," The Conference Board 2007 Antitrust Conference: Tying—Antitrust Law and Policy, March 2007
- "'No Economic Sense' Makes No Sense for Exclusive Dealing," ABA Section of Antitrust Law, 2006 Spring Meeting, Exclusive Dealing Agreements: A New Frontier in Antitrust Litigation?, March 29, 2006
- "What's New and Horizontal? Horizontal Restraint Developments 2005-2006," The Conference Board 2006 Antitrust Conference: Antitrust Issues in Today's Economy, March 1, 2006
- "International Coordination in Defending Cartel Cases," ABA Antitrust Corporate Counseling Program, January 23, 2004
- "The *LePage's* Case and the Law of Bundled Discounts," American Bar Association, Section of Antitrust Law, 2003 Spring Meeting, April 2, 2003
- "Problems in the Use of Econometrics in Antitrust Matters," The Conference Board 2003 Antitrust Conference, March 18, 2003
- "The Antitrust Modernization Commission," American Bar Association, Section of Antitrust Law, Spring Meeting 2005, March 31, 2005
- "Competition, Distribution, and the Modernization Commission," The Conference Board 2005 Antitrust Conference, March 3, 2005
- "The Importance to Consumers of Competition among Credit Card Networks," American Bar Association, Section of Antitrust Law, Spring Meeting 2004, April 1, 2004
- "Merger Policy & Innovation," New York State Bar Association, Antitrust Section, Annual Meeting, January 25, 1996

VIDEO

"Fundamentals of Antitrust Law," February 11, 2022



"Jon Jacobson Reflects on Arguing Before the U.S. Supreme Court," June 6, 2018

