

## DOJ Settles Its Algorithmic Price-Fixing Case Against RealPage



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### ALERTS

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On November 24, 2025, the Department of Justice (DOJ) filed a proposed settlement to resolve its antitrust claims against the revenue management software company, RealPage Inc. (RealPage), related to certain of its algorithmic rental pricing software products. RealPage did not admit to liability, but did agree to “undertake certain actions and refrain from certain conduct,” as described in detail below. This settlement comes on the heels of a surge of lawsuits, legislation, and scrutiny relating to algorithmic pricing software over the past few years.

#### Background

RealPage is a provider of revenue management solutions in the multifamily residential housing industry. Its products utilize algorithms to, among other things, generate rental pricing recommendations for owners and operators of multifamily properties across the country. In October 2022, a collection of private plaintiffs filed a lawsuit against RealPage and dozens of its customers, arguing that they conspired to inflate the prices of multifamily residential housing units and depress their supply via the use of RealPage’s products. This action alongside other private suits were consolidated into an ongoing Multidistrict Litigation (MDL) in the Middle District of Tennessee in September 2023.<sup>1</sup>

Since then, several State Attorneys General (including the Attorney General for the District of Columbia) filed a wave of lawsuits against RealPage and a variety of multifamily residential housing owners/operators. The DOJ filed its own civil lawsuit against RealPage on August 23, 2024, joined by the Attorneys General of North Carolina, California, Colorado, Connecticut, Minnesota, Oregon, Tennessee, and Washington, in the Middle District of North Carolina.<sup>2</sup>

Similar to the allegations in the above-referenced MDL, the DOJ’s complaint alleged that RealPage contracts with competing landlords, who then allegedly agreed to share with RealPage non-public, competitively sensitive information about their apartment rental rates and other lease terms to train and run RealPage’s algorithmic pricing software. According to DOJ, this software then generates rental rate recommendations for participating landlords based on their and their competitors’ competitively sensitive information. The DOJ alleged the conduct violated Section 1 of the Sherman Act. Unlike in the MDL, the DOJ also brought a Section 2 monopolization claim, arguing that RealPage uses this alleged scheme and its substantial data access to maintain a monopoly in the market for commercial revenue management software.

#### The Settlement

After over a year of litigation, and following settlements with certain customer defendants concerning the same software, the DOJ reached an agreement with RealPage regarding the use, if any, of non-

public, competitively sensitive information in its products. The proposed consent decree also governs RealPage's collection of such information, rental pricing recommendations, and internal antitrust compliance.

If approved by the court, the proposed consent decree would require RealPage to:

- ensure its algorithms do not use competitors' non-public, competitively sensitive information to determine rental prices in runtime operation;
- avoid using active lease data for purposes of training the models underlying the software, limiting model training to historic or backward-looking non-public data that has been aged for at least 12 months;
- not use models that determine geographic effects narrower than at a state level, which is broader than the markets alleged in the complaint;
- remove or redesign features that limited price decreases or aligned pricing between competing users of the software;
- refrain from conducting market surveys to collect competitively sensitive information;
- refrain from discussing market analyses or trends based on non-public data, or pricing strategies, in RealPage meetings relating to revenue management software;
- accept a court-appointed monitor to ensure compliance with the terms of the consent judgment;
- submit a written antitrust compliance policy for approval by the DOJ; and
- cooperate in the U.S.'s lawsuit that is continuing against property management companies that have used its software.

Notably, the settlement makes a distinction between what data may be used in at runtime for RealPage's algorithms versus what data may be used to train any machine learning or AI models on which those algorithms rely.

This settlement comes after the DOJ [settled a Section 1 lawsuit against Greystar](#)—the nation's largest landlord—concerning its use of RealPage software. In that case, which was also filed in the Middle District of North Carolina, Greystar ultimately agreed to refrain from using any algorithm that generates pricing recommendations using its competitors' competitively sensitive data or that incorporates certain anticompetitive features; refrain from sharing competitively sensitive information with competitors; accept a court-appointed monitor if it uses a third-party pricing algorithm that is not certified pursuant to the terms of the consent decree; refrain from attending or participating in RealPage-hosted meetings of competing landlords; and cooperate with the U.S.'s monopolization claims against RealPage. However, the settlement provided that the terms may be modified depending on any subsequent settlement between the DOJ and RealPage—such as this one.

The RealPage consent decree, alongside the DOJ's Statements of Interest and amicus briefing in other algorithmic pricing cases, demonstrate the DOJ's emphasis on curtailing any actual or perceived sharing of confidential data through algorithmic pricing tools. Assistant Attorney General Abigail Slater of the Justice Department's Antitrust Division noted in a [statement](#) about the settlement that “[c]ompeting companies must make independent pricing decisions, and with the rise of algorithmic and artificial intelligence tools, we will remain at the forefront of vigorous antitrust enforcement.”

The scrutiny from government regulators and legislators toward pricing algorithms based on pooled data from algorithm users continues to grow. Traditional understandings of risks around such algorithms based on federal court decisions and previous federal enforcement policies are subject to change as regulators like the DOJ and State Attorneys General aim to steer both court decisions and industry practice away from real-time exchange of non-public data. And, many states and municipalities have passed or are considering passing legislation governing the use of algorithmic pricing and artificial intelligence programs used by competitors. To ensure compliance with both state and federal laws, firms should work with counsel to closely audit their usage and policies around recommendation tools that make use of shared data from other tool users.

For more information about the implications of this law or the use of algorithmic pricing or revenue management software generally, please contact any partner in Wilson Sonsini's [Antitrust and Competition](#) practice.

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[1] Wilson Sonsini currently represents a defendant in this litigation and in two related cases.

[2] The DOJ officially closed its criminal investigation into the matter without taking any action against RealPage or others. <https://www.reuters.com/legal/realpage-says-us-doj-ends-investigation-into-its-rental-house-pricing-2024-12-07/>