

Competition, Antitrust and Foreign Investment

Faced with heightened scrutiny of competitive practices around the globe, business leaders want to avoid challenges from the authorities – or respond swiftly if they happen. Our unrivalled team takes on the toughest assignments and develops strategies that work.

Leading businesses in Canada and internationally turn to our lawyers for their most demanding merger, cartel and antitrust cases. From Monsanto Company's US\$66-billion acquisition by Bayer AG to Rogers Communications' premium text services case, we've shown that we can navigate and resolve complex issues to meet our clients' objectives.

Our team includes some of the most highly regarded lawyers in the field. At the forefront of developments in Canada's competition landscape, we give you indispensable insight into the Competition Bureau's enforcement approach. And when disputes arise, our top litigators bring extensive experience before the Competition Tribunal and at all levels of courts to win your case.

Across the spectrum of competition and foreign investment issues – from merger reviews to ongoing compliance programs – our team combines cutting-edge knowledge with practical strategies to overcome the most complicated challenges.

Abuse of Dominance

Businesses faced with proceedings for anticompetitive practices – or those harmed by the anticompetitive practices of others – want swift and fair resolution. That's where we come in.

Our expert team has unparalleled experience in abuse-of-dominance cases. We acted in the only fully contested case to be decided by the Competition Tribunal in over a decade. We also successfully negotiated the settlement of a recent high-profile case brought by the Commissioner of Competition against the Canadian Real Estate Association.

We help you comply with Canada's abuse-of-dominance provisions and manage Competition Bureau investigations. And if your business is harmed by the anticompetitive practices of others, we advocate for remedial action, including initiating proceedings before the Competition Tribunal.

Advertising, Marketing and Distribution

Businesses in Canada are experiencing increased scrutiny from the Competition Bureau. Our team helps you stay ahead of the game and defends you against any challenges that arise.

Staying on the right side of the Competition Bureau means proactively complying with its policies and regulations. It also means acting quickly when faced with an inquiry, competitor claim or class action.

We advise on all aspects of dealing with the Bureau, from risk mitigation to compliance strategies, across the full range of advertising and distribution practices. When claims lead to injunctions, trials and appeals, our top competition litigators advocate for you, drawing on their deep experience in contested proceedings and consumer class actions.

Our team is at the forefront of this emerging area. We successfully advised on the first ever contested proceedings brought by the Commissioner of Competition under misleading advertising provisions of the *Competition Act*. And we have acted as defence counsel on significant consumer class actions regarding advertised pricing and claims.

Cartels and Investigations

“Their legal professionals were intelligent and responsive. They clearly explained the issues and the risks to us. They proposed insightful and dependable solutions. We found the firm’s professionals to be very capable, extremely dedicated, and a real pleasure to work with.”

Client – *Chambers Canada 2021*

If your company is caught up in a cartel probe – from dawn raids to fending off follow-on class actions – you want a skilled legal team with the experience to see you through from start to finish. Our team delivers. Industry leaders faced with some of the most significant and complex cartel cases in Canada have benefited from our experts’ agility, track record and insights into the workings of the Competition Bureau.

Criminal investigations and prosecutions are intense and demanding, often involving cross-border cooperation between national competition authorities. If you’re served with search warrants or must respond to compulsory written interrogatories and document production orders, we move quickly to provide the advice and support you need.

We’ve forged long-standing relationships with the Competition Bureau and the Director of Public Prosecutions. We leverage that knowledge and experience to negotiate immunity or leniency, including for those initially targeted for prosecution. In every dimension of these complex challenges, we know what you’re up against and take the issues as seriously as you do.

Foreign Investment Review

“They are the gold standard as far as I’m concerned, in terms of output. They are extremely responsive; they’re some of the sharpest minds in the profession.”

Client – *Chambers Canada 2020*

Foreign investors with complex and highly sensitive merger and investment plans need to navigate Canada’s political and regulatory landscape with as little friction as possible. And Canadian investors seeking merger approvals in other jurisdictions are looking for the same smooth progress around potential obstacles. Our foreign investment team can guide you every step of the way.

With extensive experience in all aspects of foreign investment and foreign ownership reviews, including under the *Investment Canada Act*, we establish whether restrictions apply in your case – and if they do, we advise on the best route to securing approval. Limits on foreign ownership in Canada’s cultural, telecommunications and broadcasting sectors can be particularly challenging: we provide strategic advice on the complex interplay between cultural policies, regulations and industry innovations.

In all areas of foreign investment review, we use our long-standing government relationships and leading competition and M&A expertise to identify risks and develop creative solutions.

Merger Review

“They have very strong client focus and are deal-savvy. This is a good team, which works seamlessly together.”

Client – *Chambers Canada 2020*

Getting high-stakes deals through the Competition Bureau’s merger review process can be challenging and

DAVIES

unpredictable. Drawing on our experience in tackling complex deals, particularly in regulated industries – from financial services to communications to pharmaceuticals – our lawyers help you evaluate risks and secure approvals while rigorously protecting your business interests.

Whether you're engaged in a domestic or multinational merger, we guide you through all stages of the review process, from initial planning through to management of post-closing issues. By pointing out risks and developing alternative strategies to reduce your exposure, our team focuses on getting you across the finish line – efficiently and successfully.

REPRESENTATIVE WORK

Haven Interactive Studios Inc.

Acted as Canadian counsel for Haven Entertainment Studios Inc., Montréal-based video game studio, in its sale to a wholly owned subsidiary of Sony Interactive Entertainment LLC.

ENGIE

Acting as Canadian regulatory counsel to ENGIE in the EUR7.1-billion sale of its global multi-technical services division, EQUANS, to Bouygues.

Thales Group

Acting as Canadian regulatory counsel to Thales Group in the EUR1.66-billion sale of its Ground Transportation Systems Global Business Unit to Hitachi Rail.

Hillrom

Acting as Canadian competition counsel to Hillrom, a global medical technology leader, in its proposed US\$10.5-billion sale to Baxter International Inc., a leading global medical products company.

Ali Holding S.r.l.

Acted as Canadian regulatory counsel to Ali Holding S.r.l. in its US\$3.5-billion merger with Welbilt, Inc.

RECOGNITION

Chambers Global: The World's Leading Lawyers for Business—Competition/Antitrust (Band 1 firm for 10 consecutive years)

Chambers Canada Awards—Competition Law Firm of the Year (2017)

Chambers Canada: Canada's Leading Lawyers for Business—Competition/Antitrust (Band 1 firm since inception)

GCR 100—Competition & Foreign Investment Review (Elite firm)

Benchmark Litigation Canada—Competition Firm of the Year Award (2017, 2020, 2021)

The Legal 500 Canada—Competition & Antitrust (Tier 1 firm)

The Canadian Legal Lexpert Directory—Competition Law: Toronto (Most Frequently Recommended firm)

The Best Lawyers in Canada—Competition/Antitrust Law (Law Firm of the Year 2019, 2020, 2022)

DAVIES

Global Competition Review Awards

- Merger Control Matter of the Year: Americas (2017, 2018)
- Litigation of the Year: Cartel Defence (2022)