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Most Favored Nation Clauses: A Review of Enforcement Activity

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Most favored nation (MFN) clauses in vertical agreements are essentially arrangements between buyers and sellers, pursuant to which one party guarantees that the other will receive the best price or terms for a product or service. MFNs are ubiquitous and have become increasingly popular in a variety of industries, including health care, payment cards, online travel and retail. Antitrust authorities have engaged in the interplay of MFNs and competition for decades; however, recently we have seen increased MFN enforcement in a number of jurisdictions.

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