
German Antitrust and Competition Merger Control

Germany

Our German Antitrust and Competition lawyers in Berlin and Frankfurt offer a wide range of services in European and German competition law. On merger control matters, our German lawyers represent clients before the Federal Cartel Office, both as notifying and as third parties, and before the Ministry of Economics (from which we have secured approvals in some of the most complex German merger control cases). In addition, we frequently assist our clients with multinational merger control filings both within and outside Europe. We also represent clients in litigation arising out of merger proceedings. In addition to our merger control work, we have addressed the entire range of German cartel/antitrust law issues before German regulators and courts. On cartel and abusive conduct matters, we have extensive experience in developing, and, where necessary, obtaining approval for cooperative arrangements between companies. Moreover, we represent our clients in antitrust investigations and resulting litigation, and have been involved on their behalf in some of the Federal Cartel Office's largest investigations. Finally, we regularly represent our clients in private antitrust litigation.

Our German and international clients turn to us for complex, high-profile regulatory matters that involve both antitrust rules and sector-specific regulation, as well as additional legislative and policy issues. We have represented Germany's leading players in the air transport, railway, telecommunications and energy industries in major transactions and investigations. In addition, we regularly advise and represent major domestic and multinational companies in, among others, the waste treatment, logistics, finance, travel, media, shipbuilding, engineering, chemicals, and wholesale and retail sectors.

In Europe and the United States, WilmerHale is a leading firm in the field of antitrust law and merger control. Legal press commends the approximately 75 lawyers active in the field as top of the market. Our international practice group counts renowned antitrust leaders among its members, including Professor Dr. Claus-Dieter Ehlermann, the former Director-General of Competition of the European Commission. The roots of our German antitrust practice reach back to the enactment of the German Antitrust Code in the 1950s, when Karlheinz Quack began a practice that was to contribute to shaping German antitrust law over the following decades.

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Experience

MERGER CONTROL

- Representing clients in European merger control proceedings and, where applicable, in the ensuing appellate proceedings. Most recently we acted as counsel in the *Linde/BOC*, *Oracle/PeopleSoft*, *ThyssenKrupp/HDW*, *AirLiquide/Messer Griesheim* and *Tetra Laval/Sidel* deals.
- Representing clients in German merger control proceedings and, where applicable, in the ensuing appellate proceedings. Most recently we served as counsel in the *Thermo Electron/Kendro* deal and in the *E.ON/Ruhrgas* minister authorization procedure.
- Coordinating European or German merger control proceedings that may be required in jurisdictions in the United States or elsewhere.

ANTITRUST LAW

- Representing our clients in European or German merger control proceedings and, where applicable, in the ensuing appellate proceedings or civil law antitrust

processes. Most recently, we acted as counsel in the *Austrian Banks* case.

- Representing our clients in European or German abuse proceedings and, where applicable, in the ensuing appellate proceedings. Most recently, we represented *Deutsche Telekom* in reviewing its connection fees.
- Advising in the structuring of distribution, cooperation and technology transfer agreements and compliance programs.

STATE AID

Our state aid practice includes the representation of our clients in European state aid proceedings and where applicable the ensuing proceedings before courts of appeal as well as advising on national implementation law. Our experience covers the following:

- Support for recipients in obtaining and defending state aid. For example, the successful defense of the German hard coal subsidies before the European courts.
- Support against impermissible subsidies for third parties. For example, representation of EnBW Energie Baden-Württemberg in its challenge of the German emissions trading system.

Recognition

- The *JUVE Handbook* has consistently recommended WilmerHale's antitrust practice since its 2019/2020 edition and "praises the close connection of antitrust and litigation practice with experienced partners" as well as the "tried and tested cooperation with the US practice."
- In *The Global Elite* (2020) of the *Global Competition Review (GCR)*, WilmerHale's antitrust practice ranks 18th among the world's leading practice groups and 7th in the GCR 100 Cartels (2020) category. For Germany, WilmerHale is recognized as "Highly Recommended" and "the stellar litigation practice" is highlighted.
- *Chambers Europe* 2019–2021 recommend WilmerHale in the area of Competition / EU law. They "have great litigators" and are "best known for handling competition matters, often collaborating with its European and US offices to advise on transatlantic investigations, litigation and merger control proceedings" and "active across a range of sectors including automotive, airlines and food. Counts some of Germany's best-known corporations among its clients."
- In its 2020 edition, *Chambers Global* has ranked WilmerHale in the field of Competition/European Law in Germany.
- *Legal 500 Germany* 2020 and 2021 recommends WilmerHale for antitrust ("WilmerHale can field a global team and coordinate merger control filings in multiple jurisdictions.") and recognizes the firm as a TOP TIER LAW FIRM for antitrust litigation.
- *FOCUS Spezial: Ihr Recht* 2019 ranks WilmerHale among the top commercial law firms in antitrust and competition law.
- *FOCUS Spezial: Recht & Rat* 2021 ranks WilmerHale among the top commercial law firms in antitrust and competition law.

- *WirtschaftsWoche* magazine recommends WilmerHale in 2019 and 2020 as "Top Kanzlei in antitrust law."