

TRAILBLAZERS

MERGERS & ACQUISITIONS and ANTITRUST

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PIONEER SPIRIT Thomas Mueller was always interested in antitrust work but began as a litigator. "I handled some antitrust litigation and ended up doing merger and governmental investigations work, too."

TRAILS BLAZED Mueller now focuses on cartel defense work. His first major case in the area was Parcel Tankers. "The government alleged a three-party conspiracy. The first-in-the-door usually gets the best leniency deals, but we were able to defeat jurisdiction by the European Commission and in the U.S. because the government challenged the leniency based in part on evidence we provided. Our client, who was second in, ended up much better off than the leniency applicant." In another matter, the Air Cargo case, Mueller represented Lufthansa, the leniency applicant. "It was the first truly major international case. We guided a resolution where our client was not fined anywhere in the world." Later, working on behalf of JPMorgan, Mueller obtained a non-prosecution agreement in 2011 after a bid-rigging investigation. "The DOJ took the view that the general corporate charging guidelines, including possibility of a non-prosecution agreement, were not applicable based on the special nature of its leniency program. It was the first time that the Antitrust Division ever gave out a non-prosecution agreement."

FUTURE EXPLORATIONS There will be increasing conflict between enforcers. "They will all continue to prosecute, and large economies like China and India are becoming more active. Proving these cases will also become more difficult, as people move away from email. The advent of the leniency program with the proliferation of email caused a big rise in enforcement, but going forward, encrypted apps and other technology will make things much tougher for the enforcement community."

