

Partner, New York

Antitrust/Competition



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Education

J.D., Tulane Law School, 2000
(*magna cum laude*; Order of the Coif;
Notes and Comments Editor, *Tulane Law Review*)

B.A., Brown University, 1996
(with honors)

Bar Admissions

New York

U.S. Court of Appeals for the
Third Circuit

Associations

American Bar Association
New York State Bar Association

Ken Schwartz represents clients in antitrust transactional and advisory matters. He has worked in a diverse range of industries, including agriculture, airlines, chemicals, consumer products, digital platforms, defense and government contracting, energy, entertainment, financial services, fintech, health care, insurance, media, medical devices, natural resources, private equity, pharmaceuticals, retail and telecommunications.

Mr. Schwartz routinely appears before the U.S. Department of Justice, the Federal Trade Commission and state antitrust authorities. He has led the antitrust aspects of numerous high-profile transactions, including:

- the unsecured creditors committee of American Airlines regarding the merger with US Airways
- BlackRock, Inc. in its \$12.5 billion acquisition of Global Infrastructure Partners
- Boral Limited in its \$2.6 billion acquisition of Headwaters Incorporated
- Builders FirstSource, Inc. in its all-stock merger transaction with BMC Stock Holdings, Inc. to create a combined company with an equity value of \$5.5 billion
- Caesars Entertainment Corporation in its \$17.3 billion merger with Eldorado Resorts, Inc. and its \$3.7 billion acquisition of William Hill plc
- CF Industries in its \$1.7 billion acquisition of Incitec Pivot Limited's ammonia production complex located in Waggaman, Louisiana, and related assets; the sale of its phosphate business to The Mosaic Company; and an unsolicited bid for Terra Industries, Inc.
- CME Group Inc. in its acquisition of NEX Group plc for \$5.5 billion, including assumed debt; and in its joint venture with IHS Markit Ltd. to combine their post-trade services
- CPI International, Inc. in its acquisition of the antenna systems business of General Dynamics
- E. & J. Gallo Winery in its \$1 billion purchase agreement with Constellation Brands
- EMC Corporation in its \$67 billion acquisition by Dell Inc.
- EnergySolutions in a trial defending the company against the U.S. Department of Justice's lawsuit to block Energy Solutions' proposed \$367 million acquisition of Waste Control Specialists
- E*TRADE Financial Corporation in its \$13 billion all-stock merger with Morgan Stanley
- Hut 8 Mining Corp. in its all-stock merger of equals with US Bitcoin Corp.
- Key Safety Systems in its acquisition of substantially all of Japan-based Takata Corporation's global assets and operations
- Leidos Holdings Inc. in its \$5 billion combination with the realigned information systems and global solutions business of Lockheed Martin Corporation in a reverse Morris trust transaction
- NFP Ultimate Holdings LLC in its \$13.4 billion sale to Aon plc
- Pinnacle Entertainment, Inc. in its acquisition by Penn National Gaming, Inc. in a cash and stock transaction valued at approximately \$2.8 billion
- Scopely, Inc. in its \$4.9 billion acquisition by Savvy Gaming Group; and previous \$1 billion acquisition of GSN Games, Inc.
- Spotify Technology S.A. in numerous acquisitions, including Findaway World, Megaphone, Anchor FM, Podsights, Chartable and Gimlet Media
- Vantiv in its \$12 billion merger with Worldpay and Worldpay in its \$43 billion merger with FIS
- The XFL in its combination with the United States Football League
- XL Group in its \$15.3 billion acquisition by AXA SA and its \$4.2 billion cash-and-stock acquisition of Catlin Group Limited

Kenneth B. Schwartz

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Mr. Schwartz regularly appears before the antitrust agencies in a variety of investigational contexts. In the area of general antitrust counseling, Mr. Schwartz advises clients on a variety of antitrust matters, including joint ventures, competitor collaborations, unilateral conduct, and pricing and distribution issues. He also frequently works with Skadden's Financial Institutions Group on antitrust issues that arise in insurance M&A and regulatory matters.

Mr. Schwartz has been repeatedly selected for inclusion in *Chambers USA: America's Leading Lawyers for Business* and named to *The Best Lawyers in America*. In addition, he has been honored as one of Lawdragon's 500 Leading Dealmakers in America. Mr. Schwartz is a regular columnist for the *New York Law Journal*. In 2024, he won Best Business Article (General Economics) at Concurrences' Writing Awards for "Private Equity and Competition — Comparing U.S. Agency Views to Recent Policy and Empirical Evidence," co-authored with Michael Singer and Isabel Tecu. In 2012, he won the Institute of Competition Law's Antitrust Academic Article Readers Award for "Tally Ho!: UPP and the 2010 Horizontal Merger Guidelines," co-authored with James Keyte.

Selected Publications

"FTC Blocks Tapestry/Capri 'Affordable Luxury' Deal, but Court Applies Traditional Horizontal Merger Analysis," *Skadden Publication*, November 1, 2024

"Final HSR Rules: Major Changes Ahead for Premerger Filings," *Skadden Publication*, October 17, 2024

"A Review of Fordham's Annual Conference on International Antitrust Law & Policy, and Antitrust Economics Workshop," *New York Law Journal*, October 8, 2024

"The Modernization of the US Bank Merger Review Process Begins," *Skadden Publication*, September 20, 2024

"Deal or No Deal? Anticipating Antitrust Under the Next Administration," *New York Law Journal*, September 11, 2024

"Antitrust Criminal Update: Adventures in Cartel Enforcement," *New York Law Journal*, August 26, 2024

"FTC's Competition Rulemaking Authority In the Post-'Chevron' Era," *New York Law Journal*, July 26, 2024

"Increased Antitrust Scrutiny Is the Fashion Industry's Newest Trend," *New York Law Journal*, June 11, 2024

"Skadden Discusses FTC-DOJ Request for Information on Serial Acquisitions and PE Roll-Ups," *The CLS Blue Sky Blog*, June 10, 2024

"Private Litigation and Government Rhetoric Signal Increased Legal Headaches Under the Robinson-Patman Act," *Skadden Publication*, June 6, 2024

"FTC-DOJ Inquiry on Serial Acquisitions: Cracking Down on PE Roll-Ups?," *Skadden Publication*, May 30, 2024

"ABA's 2024 Antitrust Spring Meeting: Key Topics and Takeaways," *New York Law Journal*, May 13, 2024

"No More Safety Under the Radar: Antitrust Enforcement Against Roll-Ups and Serial Acquisitions," *New York Law Journal*, April 11, 2024

"Artificial Intelligence Is Monopolizing the Attention of Regulators and Lawmakers," *New York Law Journal*, March 11, 2024

"Caution, Merging Ahead: The FTC and DOJ's New Merger Guidelines," *New York Law Journal*, February 12, 2024

"FTC Announces 2024 HSR Notification Thresholds and Filing Fees," *Skadden Publication*, February 8, 2024

"Antitrust Yearly Recap," *New York Law Journal*, January 9, 2024

"DOJ and FTC Release Final 2023 Merger Guidelines Formalizing Aggressive Merger Enforcement Playbook," *Skadden Publication*, December 21, 2023

"Upping the Dosage: Health Care and Pharmaceuticals Antitrust Regulation in 2023," *New York Law Journal*, December 12, 2023

"Antitrust Implications of AI Technology Remain Key Focus of U.S. Regulators," *New York Law Journal*, November 13, 2023

"Global Antitrust Enforcement Symposium; Conference on International Antitrust Law and Policy," *New York Law Journal*, October 19, 2023

"FTC's Shaoul Sussman Discusses Draft Merger Guidelines With Skadden," *New York Law Journal*, September 15, 2023

"How Proposed HSR Filing Requirements May Impact the Private Equity Industry," *New York Law Journal*, August 9, 2023