



## → Ann M. O'Brien

### Partner

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Ann O'Brien is a partner and Co-Leader of the firm's Antitrust and Competition Practice Group. She also leads the firm's Criminal Antitrust and Cartels Team. Ann is based in the firm's Washington, D.C. office.

### Areas of Practice

Ann's practice focuses on advising clients facing criminal and civil government antitrust investigations or litigation. Ann's insight on antitrust agency priorities, goals and policies are a valuable asset to companies facing international, domestic and multi-agency exposure. She has substantial experience leading every aspect of domestic and international antitrust and white collar investigations and prosecutions, including litigating federal criminal jury trials. Additionally, she provides clients with cutting-edge compliance counseling and training that can help deter or quickly detect antitrust exposure, informed by what is most important to the Antitrust Division and the courts.

Ann has extensive knowledge of antitrust enforcement practices and policy decisions, gained from her time working at the U.S. Department of Justice in the Antitrust Division and as a Special Assistant United States Attorney in the District of Maryland. During her nearly 20-year tenure, she assumed numerous senior leadership and management positions in the Antitrust Division, notably as the Assistant Chief of two sections and as the Acting Director of Criminal Enforcement. She was involved in virtually every major criminal enforcement and policy decision made by the Antitrust Division for nearly two decades, and reviewed and approved hundreds of case recommendations, leniency recommendations, search warrants, and requests for grand jury or preliminary inquiry authority. Notably, she gained comprehensive knowledge of antitrust corporate compliance and developed strong relationships with domestic and foreign antitrust enforcers and regulators. Additionally, Ann served as the Antitrust Division representative on the Financial Fraud Enforcement Task Force, as well as a member of the Grant Fraud Working Group and Oil and Gas Price Fraud Working Group. Ann also has extensive experience advising clients on price-gouging issues and representative client's facing state price-gouging investigations.

Having established herself as a thought leader in the antitrust community, Ann regularly speaks and writes on a broad-range of antitrust topics, including serving as co-editor of *Competition Policy International's* Cartel column. She has also trained hundreds of antitrust prosecutors and law enforcement agents, and served as a liaison to other DOJ components and government agencies. Utilizing her in-depth understanding of antitrust policy and prosecution, Ann skillfully guides clients through their unique antitrust and white collar matters.

## Honors

Top Author, *JD Supra* Readers' Choice Awards, 2024

*Global Competition Review's* "Women in Antitrust 2021" list, which recognizes 138 women around the world for their accomplishments in the antitrust field

Recommended in Litigation: Civil litigation/class actions, The Legal 500 United States, 2021, 2023

U.S. Department of Justice, Antitrust Division

- Assistant Attorney General Award, 2006, 2015
- Special Achievement Award, 2009

Counsel of the Inspectors General on Integrity and Efficiency: Award for Excellence, 2013

U.S. General Services Administration OIG: Special Recognition Award, 2012

## Experience

- Representing a corporate subject of Antitrust Division criminal no poach investigation.
- Represented a corporate subject of one of the first criminal no poach and wage fixing prosecutions.
- Representing an individual employee in an Antitrust Division criminal price-fixing investigation.
- Represent Fortune 500 company through Antitrust Division Leniency Policy marker process in matter presenting complex legal and factual issues.
- Representing a corporate subject of an Antitrust Division criminal no poach investigation.
- Representing an individual employee in an Antitrust Division criminal price-fixing investigation.
- Providing antitrust compliance advice and training for multiple global companies.
- Representing corporate third-party subpoena recipient in *U.S. v. Google* and *State of Colorado et al. v. Google* civil antitrust lawsuits.
- Advise corporation on responding to government compulsory process for customer information and data, including the privacy, data protection and criminal procedure implications of responding to law enforcement requests.
- Representing an advertising platform third-party CID recipient in Texas attorney general antitrust investigation of Google.
- Formulated and implemented Antitrust Division criminal policy and advised Antitrust Division leadership, management, and staff on complex and high-profile criminal policy, leniency, investigative strategy, sentencing, compliance program assessment, and international issues.
- Provided insight on antitrust compliance and the evaluation of corporate antitrust compliance programs and was a primary drafter of the Antitrust Division's 2019 compliance guidance.
- Counseled clients on pricing strategy for essential products and adherence with federal, state and local price gouging laws during COVID-19 pandemic.
- Supervised antitrust policy and legislative matters. Also responded to congressional inquiries and oversight matters, briefed congressional staff on various subject matter, and drafted congressional testimony.

- Oversaw work of five criminal offices and reviewed every type of request, including hundreds of case recommendations and scores of leniency recommendations, search warrants, and requests for immunity, grand jury, and preliminary inquiry authority.
- Worked with the Criminal Division Fraud Section on a parallel FCPA investigation and worked to reach a first-of-its-kind corporate resolution binding both the Antitrust and Criminal Division and resulting in \$579 million in criminal fines and disgorgement – the second-largest FCPA fine paid by a U.S. company at that time.
- Represented the United States in criminal proceedings in multiple districts, including in dozens of sentencing, plea, and motions hearings in real estate foreclosure auction cases nationwide.
- Collaborated with other domestic and international agency leaders to coordinate law enforcement efforts for international investigations affecting the U.S. and abroad, including foreign competition and enforcement agencies, U.K.'s Serious Fraud Office and Financial Conduct Authority, DG Comp, South Africa Competition Commission, and numerous competition agencies in Latin America and Asia.
- Worked on international extraditions involving antitrust defendants and foreign assistance requests pursuant Mutual Legal Assistance Treaties (MLAT) and International Antitrust Enforcement Assistance Act (IAEAA).

## Articles

- Ensuring Cooperation Doesn't Cross the Antitrust Line  
*Food Manufacturing*, 03.05.2024
- DOJ Announces Mergers & Acquisitions Safe Harbor Policy  
*Concurrences*, 10.04.2023
- The US FTC issues a Civil Investigation Demand to an artificial intelligence company following an investigation into the use of AI technology and its potential to promote unfair methods of competition (OpenAI Chat GPT)  
*Concurrences*, 09.01.2023
- 4 Areas Of Heightened Antitrust Risk In Private Equity  
*Law360*, 05.18.2023
- Labor Collusion Loss Will Shape DOJ's Case Strategy  
*Law360*, 05.09.2023
- The Newest Wave of Antitrust "Crimes": Revival of Criminal Monopolization  
*Competition Policy International*, 02.2023

"Prepare For NLRB Collaboration With Antitrust Agencies," *Law360*, August 2022

"Not Guilty: Juries Acquit in First Criminal Antitrust No-Poaching and Wage-Fixing Trials," *Today's General Counsel*, May 2022

"Antitrust Division Wins First Round in No-Poach Case, but There Is Lots More to Watch," *American Health Law Association*, April 2022

### AI Law and Policy Blog Posts

- "AI Enforcement Update: FTC Authorizes Compulsory Process for AI Investigations," December 8, 2023

### Antitrust Law Blog Posts

- "FTC Votes to Ban Noncompete Agreements," April 24, 2024
- "Aggressive Procurement Collusion Enforcement Risk Remains High for 2024," February 12, 2024
- "DOJ Announces Mergers & Acquisitions Safe Harbor Policy," October 11, 2023
- "FTC Sues Private Equity Firm and Anesthesiology Practice for Antitrust Violations," September 26, 2023
- "AI Under the Antitrust Microscope: Competition Enforcers Focusing on Generative AI from All Angles," August 9, 2023
- "Government Contracting Companies Beware: DOJ's Procurement Collusion Strike Force is Global, Growing, and Going Strong," June 22, 2023
- "Hot Antitrust Enforcement Climate Reaches Private Equity," May 11, 2023
- "DOJ Antitrust Division Cautions SEC on Proposed Equity Market Restructuring," May 5, 2023
- "No More Games: Activision Settles with DOJ Over Esports Compensation," April 5, 2023
- "DOJ Loses Third Consecutive Antitrust Labor Trial," March 24, 2023

## Books

Sheppard Mullin Antitrust Team Contributes to the First Edition of the ABA's Antitrust Cartel Leniency and Sentencing Handbook  
03.21.2023

## Media Mentions

DOJ Ramps Up Unique Tool in Antitrust Suits to Shape Case Law  
*Bloomberg Law*, 05.13.2024

Aerospace Company Settles No-Poach Suit for \$7.4 Millions'  
*Bloomberg Law News*, 01.25.2024

Group of Engineering Firms to Settle 'No Poach' Antitrust Claims  
*Reuters*, 01.25.2024

Aerospace Contractor Inks \$7.4M Deal In Conn. No-Poach Suit  
*Law360*, 01.24.2024

Comment: No Poach, Wage-Fixing Prosecutions to Continue as US DOJ Regroups, Reviews Adverse Jury Verdicts  
*mLex*, 12.29.2023

Antitrust Hiring Slows After Spree, But Demand Stays Steady  
*Law360*, 05.12.2023

DOJ Defends Constitutionality of Criminal Sherman Act Prosecutions  
*Global Competition Review*, 05.09.2023

No Harm Means No Agreement, Acquitted No-Poach Defendants Say  
*Global Competition Review*, 03.24.2023

## Speaking Engagements

"Law Firm Leadership Panel and Networking Reception," Georgetown Antitrust & Competition Law Association, February 28, 2024

## Events

Coopetition: Navigating the Antitrust Lines Between Collaboration and Collusion When Communicating and Cooperating with Competitors  
Zoom Webinar, 05.16.2024

GCR Live: Cartels 2024

Cartel Cases Involving Competition for Talent: No Poach & Wage Fixing Trials, Tribulations and More  
WilmerHale, Washington, D.C., 05.15.2024

The FTC's Rule Banning Noncompetes is Final: What Do We Do Now?  
Webinar, 05.07.2024

HNBA Corporate Counsel Conference  
Antitrust Hot Topics & Current Developments  
Sheraton Grand Seattle, Seattle, WA, 03.22.2024

Contracting with the Government? Beware of the Department of Justice's Heightened Focus on Procurement Collusion, Antitrust & Fraud  
Webinar, 01.31.2024

17th AAI Annual Private Antitrust Enforcement Conference  
A New Era of Cartelization? Algorithmic Antitrust and the Role of Artificial Intelligence  
11.02.2023

GCR Live: Cartels  
WilmerHale, Washington DC, 06.07.2023

Beware: Private Equity Firms Facing Heightened False Claims Act and Antitrust Risks  
Webinar, 04.26.2023

## Memberships

- CYO Youth Basketball Coach (2018)
- Justice Department Child Development Center, Just Us Kids
  - Vice President (2016 to 2017)
  - Board Member (2015 to 2016)
- Shrine of the Most Blessed Sacrament Parish and School

- Giving Tree Holiday Gift Giving Program: Coordinator (2014 to 2016)
- School Advisory Board, Strategic Planning Extracurricular Committee: Member (2015 to 2018)

## Podcasts & Webinars

The FTC's Rule Banning Noncompetes is Final: What Do We Do Now?  
05.07.2024

Contracting with the Government? Beware of the Department of Justice's Heightened Focus on Procurement Collusion, Antitrust & Fraud  
01.31.2024

Beware: Private Equity Firms Facing Heightened False Claims Act and Antitrust Risks  
04.26.2023

## Practices

Antitrust and Competition

Antitrust Counseling and Compliance

Consumer Protection

Criminal Antitrust and Cartel Investigations

Government Merger and Civil Conduct Investigations

Governmental Practice

Latin America

Private Civil Antitrust Litigation

White Collar Defense and Corporate Investigations

## Industries

Artificial Intelligence

## Education

J.D., Northeastern University School of Law, 1999

B.A., Government and International Studies, University of Notre Dame, 1996

## Admissions

U.S. Supreme Court

U.S. Court of Appeals, Fourth Circuit

U.S. District Court, District of Connecticut

U.S. District Court, District of Columbia

U.S. District Court, District of Maryland

Maryland

District of Columbia