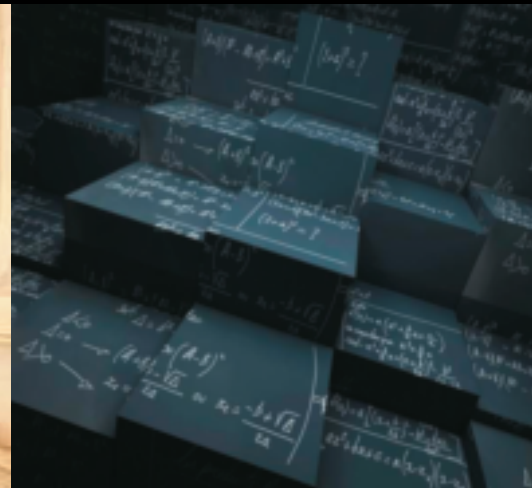
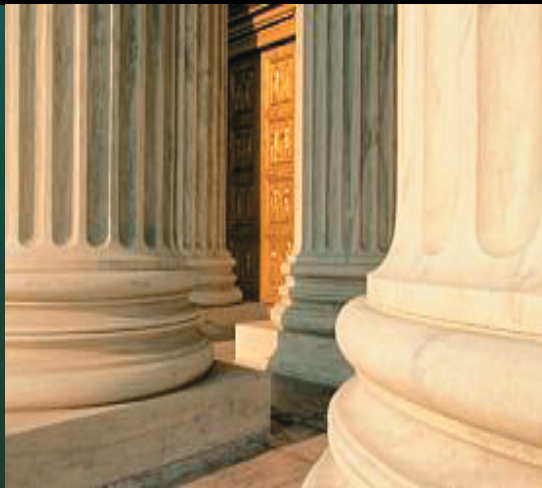
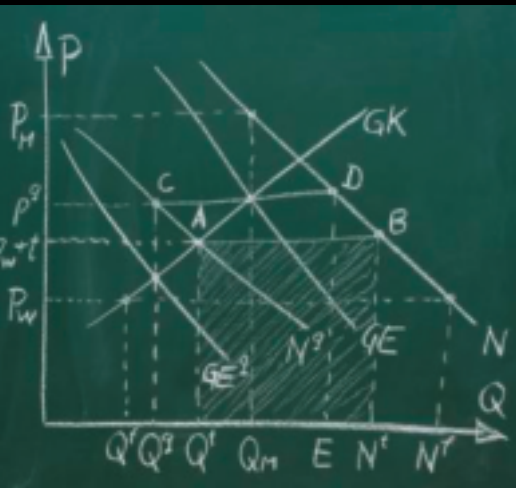


# Antitrust Economics



Where Powerful Ideas Work

# ADVANCED ANALYTICAL

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## CONSULTING GROUP

### **About Advanced Analytical Consulting Group (AACG)**

*Founded by former Senior Managers and national leadership of the Economics and Statistical Consulting Group of Deloitte's Financial Advisory Services in 2009, AACG provides economic, statistical, and computing consulting for business decisions and litigation. AACG assists business clients with strategic and operational consulting based on in-depth quantitative analysis of corporate data and the client's position in the market. AACG provides expert testimony, support for academic experts, and assistance in identifying the right expert from academic and business settings. AACG has served clients in Afghanistan, Australia, Belgium, Britain, Canada, Cambodia, India, Indonesia, Kazakhstan, South Korea, Malaysia, Mexico, New Zealand, Peru, Qatar, Russia, Singapore, Thailand, Trinidad and Tobago, United Arab Emirates, and the United States.*

# Antitrust Economics

*Competition is the ubiquitous organizing mechanism of the U.S. economy, a powerful impetus for both the innovation and advances in efficiency that benefit consumers. The immediacy of competition to the vitality of the U.S. economy has made antitrust laws that promote competition both far-reaching and hotly debated. The fundamental economic justification for these laws has made the economic and statistical methods used to interpret antitrust laws some of the most sophisticated in the legal arena. Moreover, the breadth of legal issues encompassed by antitrust laws calls for an array of economic and statistical techniques. Although motivated by the same economic concepts, the analyses required in a predatory pricing claim, for example, typically differ significantly from those found in a price-fixing analysis. And distinct from either of these, merger analyses before the Department of Justice or the Federal Trade Commission typically have their own set of common practices. AACG's Economic Consulting Group has the Ph.D.s, industry experts and professors with the extensive antitrust experience and academic background to develop and deliver the economic models, statistical analyses, and often subtle arguments that are the hallmark of U.S. antitrust law.*

## How We Can Help

Antitrust and Competition Ph.D. economists with academic and corporate experience comprise the senior level of AACG. Our experts have experience analyzing complex economic and statistical issues related to antitrust litigation and merger/acquisition analyses in both the U.S. and abroad. We combine these economic skills with expertise across multiple industries to deliver the powerful analytical tools of economics and statistics called for in many antitrust cases and merger analyses. Our experts are adept at communicating these analyses to audiences in corporate and legal settings.

## Litigation Support Services

AACG provides expert analysis in all facets of antitrust litigation and merger analysis including:

- Monopolization
- Collusion, Price-fixing
- Predatory Pricing and Anticompetitive Price Squeezes
- Tying
- Mergers
- Consumer Fraud
- Class Action Issues
- Damages Analysis

In addition to expert testimony, our litigation team has provided economic and statistical advice during the certification, discovery and/or the settlement stages of the process.

**Mergers and Acquisitions** AACG has extensive experience analyzing the impact of a merger or acquisition on consumers. Our economists have presented merger analyses before commissions and understand the unique challenges that are part of the tight timeframes associated with merger-related analysis. In addition, our industry expertise developed through decades of corporate analysis allows AACG's economists to start a merger analysis at full speed based on up-to-date industry information.

**Large-Scale Data Analysis** Antitrust analyses often require analysis of large amounts of data, typically from corporate databases, including sales, inventory, shipping, and production costs information. The size and complexity of these datasets often call for a team of economists and econometricians versed in applied economic analysis. Economists at AACG have worked on some of the most data-intensive antitrust cases and have synthesized concise, persuasive analysis and arguments based on reliable and tested, empirical research.

**Industry Expertise** AACG's economists have participated in antitrust matters in numerous industries in which competitive conditions and other characteristics can be essential considerations. These industries include (among others) beverages, health care, government procurement, vitamins, electronics manufacturing, airlines, and telecommunications.

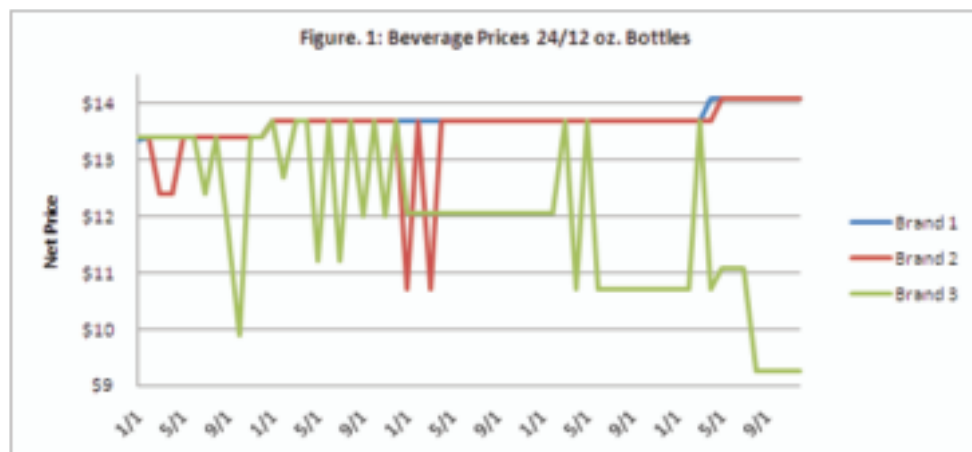
## Our Experience

### Price-Fixing in the Beverage Industry

In one case, a group of beverage manufacturers faced a claim of price-fixing facilitated through a price posting mechanism. The claim alleged that since price-fixing is a *per se* violation of antitrust law, once the practice of price posting was established, no further empirical analysis was required to establish an antitrust violation.

Economists at AACG addressed both the theoretical premise of the allegation and the empirical facts evident in the market. On the theoretical front, AACG economists clarified the distinction between the illegal process of colluding on prices and the simple legal process of posting prices with no effort to achieve agreement.

On the empirical front, AACG economists demonstrated that prices of beverages in question did not move together, providing clear evidence of non-coordination in prices. As Figure 1 from the case illustrates, the empirical evidence simply did not support any claim of coordination of prices.



In addition, AACG economists demonstrated that the industry exhibited various characteristics of a highly competitive industry, including introduction of new products, advertising specific to individual products, and significant changes in market share among competitors in response to competitive price variations.

### **Merger Analysis in the Healthcare Industry**

A large regional health insurer planned to take over a health plan in another state. The state insurance commission needed assurance that the acquisition would not harm consumers. Due to the close association between certain medical institutions and the PPO and HMO insurers, the state insurance commission was particularly concerned that consumers of emergency room services and certain specialties such as cardiology could be negatively impacted. Economists at AACG gathered information about the total number of lives covered by insurers within the state, the number of institutions providing various services in medical specialties and the affiliations of each healthcare provider with the insuring institution. The analysis provided an overall picture of the health insurance market within the state and demonstrated the strengths and weaknesses of the competitive landscape before and after the acquisition.

### **Bid Rigging**

Economists at AACG analyzed bid rigging in municipal tax lien auctions. Based on data about each lien auctioned, AACG used statistical models to identify patterns of auction wins and losses that departed from what would have existed in a purely competitive bidding process that had been described. The analysis identified unusual win and loss patterns among a number of participants who had been convicted of bid rigging in other cities at about the same time. Further, subsequent to AACG's analysis, AACG was presented with transcripts from depositions of some of the identified parties admitting to bid rigging.

### **Price-Fixing in Vitamins**

For a class action antitrust matter in vitamins, economists at AACG assessed the structure of the market and the similarities and differences among plaintiffs to determine the extent of a viable class. The damages phase of this analysis called for an analysis of the price elasticities of products from producers to various levels of intermediate distributors and processors through to the final customer.

### **Robinson-Patman Pricing Analysis**

An electronics manufacturer was accused of selling products to some of its distributors at lower prices than to other distributors. For this secondary line Robinson-Patman claim economists at AACG investigated numerous issues to determine whether the manufacturer was discriminating against some of its distributors. First, sales data was collected, including all discounts and returns. From these detailed records, real transaction prices were constructed. Second, the value of differential levels of service provided to different customers was assessed and factored into the price differences charged. Once the prices were adjusted for all relevant discounts and differences in services, the true prices were not as different as originally claimed.

In addition, AACG 's economists investigated the extent to which the remaining price differences resulted from the manufacturer's response to competitors' offers of lower wholesale prices to some retailers.

### **Airlines**

Economists at AACG have worked extensively on multiple cases related to both the air passenger and air cargo industries.

#### **Predatory Pricing**

In the air passenger industry, economists at AACG analyzed transaction-level data from multiple airlines in order to understand how the number of carriers on a route influences the market power of the dominant carrier. The analysis investigated market power in multiple fare classes, for individual routes and hubs. A second aspect of the study was an analysis of whether prices charged were below costs and whether these undercharges could be recouped after some airlines exited specific origin and destination pairs.

#### **Impact of Market Entry**

Economists at AACG analyzed methods to measure the impact of airport expansion on regional development. This analysis involved a major international airport and a proximate regional airport, which was looking to expand flights at existing gates. The analysis related to the methods used to measure how businesses both in the international airport and the broader local economy would be impacted by the expansion of flights at the regional airport.

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