Editor's Introduction to the 2026–2027 edition

Corporate Counsel's Guide to Relations with Competitors is not a scholarly treatise on the minute details of antitrust risks but is instead designed to be practical in nature. It provides specific and helpful advice on what is permissible and what is not when dealing with competitors. It contains detailed summaries of the important and relevant cases and covers a range of topics including trade associations, bid rigging, antitrust concerns in joint ventures, monopolization, and agreements with competitors that trigger the antitrust laws.

Highlights to the 2026–2027 edition include:

- Expanded coverage of class action pleading standards in *Mosaic Health, Inc. v. Sanofi-Aventis U.S., LLC*, where healthcare providers alleged that major drug manufacturers conspired to restrict Section 340B drug discount pricing for insulin medications. The Second Circuit held that plaintiffs plausibly alleged parallel conduct based on the defendants' closely timed policy changes, similar restrictions on contract-pharmacy discounts, and comparable market effects, supporting an inference of a horizontal conspiracy under Section 1 (§ 2:7).
- Discussion of *Gibson v. Cendyn Group, LLC*, where hotel guests challenged agreements between Las Vegas Strip hotels and a revenue-management software provider, alleging that the use of common pricing algorithms resulted in inflated room rates. The Ninth Circuit examined whether the software-licensing agreements constituted vertical restraints, concluding that the software provider did not operate at a different level of distribution in the relevant market for hotel-room rentals and therefore did not stand in a vertical relationship to the hotel defendants (§ 2:7).

- Expanded coverage of pleading and standing requirements in antitrust actions, including *Robinson v. National Collegiate Athletic Association*, emphasizing the need for a properly defined relevant market under the rule of reason; *United States v. Visa, Inc.,* allowing monopolization and exclusive-dealing claims to proceed based on substantial market foreclosure allegations; *Rx Solutions, Inc. v. Caremark, L.L.C.*, rejecting claims based solely on harm to a competitor rather than harm to competition; and *Sonterra Capital Master Fund, Ltd. v. UBS AG*, requiring plaintiffs to plausibly allege actual injury resulting from the challenged conduct (§ 4:18).
- Discussion of *EmblemHealth, Inc. v. Alexion Pharmaceuticals, Inc.*, where the court examined the sham exception to Noerr-Pennington immunity in the patent-litigation context. The court explained that objectively reasonable patent litigation cannot constitute sham litigation, even when pursued with an alleged monopolistic intent, and further held that neither the existence of patent defenses nor an adverse outcome in the underlying case is sufficient to establish objective baselessness (§ 11:8).
- *Seagate Technology LLC v. NHK Spring Co., Ltd.*, addressing the Foreign Trade Antitrust Improvements Act's domestic-effects exception. The Ninth Circuit examined whether alleged foreign price-fixing of hard disk drive components produced a direct, substantial, and reasonably foreseeable effect on U.S. commerce and whether that domestic effect gave rise to the plaintiff's foreign injury, holding that evidence of U.S.-negotiated pricing mechanisms and contractual arrangements could support the required causal connection (§ 13:1).