

**Trench
Rossi
Watanabe.**



ANTITRUST

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WINNING BY THE RULES

We help you comply with the rules – and protect your competitive position

Antitrust is taken seriously in Brazil. The Brazilian antitrust authority has been stepping up its level of antitrust enforcement. For Brazilian companies doing business abroad, cross-border transactions are also required to comply with different competition policies worldwide.

Ignoring Brazilian antitrust laws can have severe consequences. Criminal and administrative liabilities can extend the risks from the company to its executives, and fines may be imposed by as much as 20 percent of annual company revenues. Penalties can be imposed on top of the fines and can include disqualification from participating in public financing programs or debarment from public procurement, blacklisting by the Brazilian Consumer Protection Agency and withholding of patent rights.

At Trench Rossi Watanabe, we can help you play and win by the rules. We have a thorough understanding of Brazilian competition regulations, having been active in the field since 1991, when the former

Secretariat of Economic Law of the Ministry of Justice was created. We live and work in Brazil's major business and industrial centers and understand the market dynamics. Our lawyers have advised on hundreds of merger control proceedings in Brazil, including some of the most complex deals ever reviewed by the Brazilian antitrust authority.

We can defend your interests if you are being investigated, as well as protect your business if your competitors are violating Brazilian antitrust law. We can also help you obtain approvals from the Brazilian antitrust authority for your transactions. Our cooperation agreement with the international law firm Baker McKenzie enables us to guide your company towards compliance with competition rules in several jurisdictions.

DID YOU KNOW?

- The seat of our antitrust practice is divided between Brasília, where the Brazilian antitrust authority is located, and São Paulo, where most clients are based.
- We are involved in most important cartel investigations in Brazil.
- Since 1991, our office has submitted hundreds of merger control proceedings to the Brazilian antitrust authority, having acted in some of the most complex merger control proceedings in the country.



Trench Rossi Watanabe cooperates with international law firm Baker McKenzie, present in more than 40 countries.

HERE ARE WAYS WE HELP

Negotiation and due diligence.

We help your company in all antitrust aspects related to the due diligence and negotiation of a transaction, such as creation of clean teams, advice on limits to the exchange of information and gun-jumping, contractual allocation of the antitrust risk, among others.

Cartels.

We represent both defendants and claimants in cartel investigations, assisting your company from the onset of the investigation by the investigatory arm of the Brazilian antitrust authority until a final decision is reached by its Tribunal. We also assist you in potential challenges of decisions issued by the Brazilian antitrust authority before Court.

Leniency and settlement.

We can help you identify cartel practices through internal investigations and evaluate the appropriate circumstances to apply for immunity or fine reduction, as well as representing you in the negotiation of either one with the Brazilian antitrust authority.

Judicial review.

We are actively involved in judicial proceedings related to Brazilian antitrust law, and we can help you file lawsuits challenging decisions issued by the Brazilian antitrust authority. We also represent you as a claimant if your business has been damaged as a result of an antitrust violation, as well as defend you against such claims brought by third parties.

Merger control proceedings.

We help you work with the Brazilian antitrust authority by filing merger notifications and securing approvals for reportable mergers. We can also represent you before the Brazilian antitrust authority to defend your company's interests that might be affected by a transaction involving third parties.

Unilateral Conduct.

We represent both defendants and claimants in abuse of dominance practices, assisting your company from the onset of the investigation by the investigatory arm of the Brazilian antitrust authority until a final decision is reached by its Tribunal. We also assist you in potential challenges of decisions issued by the Brazilian antitrust authority before Court, or even in case of related regulatory discussions.

Audits, business strategy and compliance program.

We conduct antitrust audits and help you identify competition rules that are relevant to your business. We also provide advice to support you to achieve your business goals while reducing the risk of breaching Brazilian antitrust law both by devising and implementing tailored compliance programs and providing day-to-day antitrust advice.

AWARDS AND RECOGNITIONS

Global Competition Review - GCR 100. Trench Rossi Watanabe has been named as "Highly Recommended" in Brazil by the 2018 edition. The publication highlights the leadership of Francisco Todorov. Partners Adriana Giannini and of counsel Tulio Coelho are also mentioned.

Latin Lawyer 250. The 2018 edition recommends Trench Rossi Watanabe, highlighting the quality and expertise of our lawyers in the Antitrust and Competition area. According to the publication, Trench Rossi's client-commended competition practice is among the best in Brazil. Partners Francisco Todorov, Adriana Giannini and of counsel Tulio Coelho were once again recognized for their excellent reputations.

Lacca Approved. Our partner Francisco Todorov was acclaimed as a leading antitrust private practitioner in Brazil, as voted for by the region's leading corporate counsel, in the 2018 edition.

Who's Who Legal. Partners Francisco Todorov, Adriana Giannini and of counsel Tulio Coelho were mentioned as antitrust experts by the 2017 edition of the publication. Who's Who Legal explores local markets, identify leaders and serves as a reference for companies seeking to check the reputation of its legal counsel.

Legal 500. The Firm is in the 2017 edition of the Legal 500 ranking. Partners Francisco Todorov and Adriana Giannini are mentioned as leaders in antitrust. Associate Lorena Leite Nisiyama was ranked as a 'Next generation lawyer'.

Chambers Latin America. Trench Rossi Watanabe was acknowledged for advice across all Competition & Antitrust areas in Brazil in the last nine editions. In the 2018 edition, clients said that the Firm is known and well-regarded in advising multinational companies on antitrust matters, as well as experienced in handling cross-border cartel investigations, merger filings and sector-related litigation. Also for the handling of negotiations related to leniency and settlement agreements. Clients describe the team as "knowledgeable and business-oriented," adding: "They are extremely available and fast at providing answers". Partner Francisco Todorov receives strong praise from clients, who comment: "He is very pragmatic and hands-on." They go on to assert: "We trust him implicitly. He is responsive, efficient and effective". Interviewees are also impressed with partner Adriana Giannini's responsiveness and negotiation skills. Of counsel Tulio Coelho is described by market sources as "a knowledgeable and respected professional."

Leaders League. The antitrust practice group at Trench Rossi Watanabe was ranked as "Leading" by Brazil Best Law Firms - Ranking 2018 guide, published by Leaders League, the media and rating agency for top international executives. Partners Francisco Todorov and Adriana Giannini were ranked as "Leading lawyers". Associate Lorena Nisiyama was ranked as 'Rising star'.



RELEVANT CARTEL PROJECTS

We can help you navigate complex regulatory frameworks and coordinate the interests arising from different areas of law:

- We represent *Siemens* in the so-called "subway cartel case", which is one of the most high-profile cartel investigations in Brazil and which has had repercussions in multiple fields of law, such as litigation and criminal law
- We represent *Biotronik* in a high-profile cartel investigation into alleged big-rigging in the Brazilian orthoses, prostheses and special materials market. This investigation has repercussions in different fields, such as litigation, criminal, and regulatory law, and showcases our ability to provide tailored advice in a coordinated manner.
- We represent *Mitsubishi Electric Corporation* in a cartel investigation into alleged bid-rigging in the market of GIS equipment for power transmission and distribution in Brazil – which reinforces our ability to advise multinational companies acting in regulated sectors in our country.
- We advised a multinational industrial company in the successful negotiation of settlement agreements in connection with cartel investigations into alleged bid-rigging in the market of equipment for power transmission and distribution in Brazil, coordinating a simultaneous complex and extensive internal investigation on antitrust compliance.

We offer tailored advice in high-profile investigations on industry sectors that have been on the spotlight of antitrust enforcers in Brazil and around the world:

- We represent *Standard Chartered Bank* in a complex cartel investigation into the foreign exchange market, a sector that has also been investigated in several other jurisdictions. We are ready to help you navigate the intricate interface between Brazilian antitrust law and the regulatory framework for financial institutions.
- We represent *Tokai Rika* in two investigations into an alleged international cartel for different segments of the auto parts industry, as well as representation of *Federal-Mogul* in two investigations into an alleged anticompetitive conduct for different segments of the Brazilian auto parts market. The auto parts industry has received great attention from the Brazilian antitrust authority and other authorities worldwide, and we are particularly well-positioned to advise you in cases with either a local or international dynamics.
- We also represented *Modine* in another cartel investigation into the auto parts industry, including the successful negotiation of a settlement agreement with the Brazilian antitrust authority.
- We represent *Liquigas*, a Petrobras subsidiary, in a number of cartel investigations related to the distribution of liquefied petroleum gas in multiple regions of Brazil, including in litigation against a decision that imposed sanctions and also in successful negotiations of settlement agreements with the Brazilian antitrust authority.

We have plenty of experience in connection with both international and local cartel cases, and are particularly well-positioned to foster your interests in these investigations – both by defending you and by negotiating agreements with the Brazilian antitrust authority.

- We represented *Showa Denko K. K.* in a Brazilian investigation of an alleged international cartel in the graphite electrode market, obtaining success in terminating the investigation without sanctions.

- We represented *Mitsubishi Electric Corporation* in a cartel investigation in the international market of dynamic random access memory ("DRAM"), in which we successfully managed to reduce the fines initially levied by the Brazilian antitrust authority from BRL 1.6 million (USD 459 thousand) to BRL 435 thousand (USD 125 thousand).

- We represented *LG Display* in a cartel investigation in the international TFT-LCD panel market, including the successful negotiation of a settlement agreement with the Brazilian antitrust authority.

- We represented *Panalpina* in a cartel investigation related to freight forwarding, including the successful negotiation of a settlement agreement with the Brazilian antitrust authority.

- We represented a Japanese company in the successful negotiation of leniency agreements with the Brazilian antitrust authority in relation to different segments of the auto parts industry, a sector that has received great attention from the Brazilian antitrust authority.

- We represented *"K" Line* in a cartel investigation related to the shipping of automobiles, including the successful negotiation of a settlement agreement with the Brazilian antitrust authority.

- We represented *Nippon Electric Glass* in a cartel investigation on the international market of CRT Glass.

- We represent *SI Group* in a cartel investigation on the Brazilian resins market.

- We represent *Bemis* in a cartel investigation in the Brazilian market of flexible packaging, showing our strength to advise the local businesses of multinational companies in cases where the Brazilian antitrust authority's focus is on the domestic market.

- We represented *Emerson* in the successful negotiation of a leniency agreement with the Brazilian antitrust authority in relation to the building maintenance services market.

- We represented *Cimento Tupi* in a cartel investigation into the cement market, a highly relevant sector targeted by the Brazilian antitrust authority, which resulted in the successful termination of the proceedings without the imposition of any sanctions.

- We represented *Alpha Therapeutic Corporation* in a cartel investigation into alleged bid-rigging in the market of blood derivative products, which resulted in the successful termination of the proceeding without the imposition of any sanctions.

We defend your interests in Court, challenging decisions issued by the Brazilian antitrust authority and helping to foster your interests in the context of damage claims:

- We represented *Air Liquide do Brasil Ltda.* in a lawsuit seeking to reverse the Brazilian antitrust authority's decision that fined the company with a cartel investigation in the industrial and medical gases market, which led to the fine being cancelled by the Brazilian antitrust authority.

- We represented *Boehringer Ingelheim* in a lawsuit seeking to reverse the Brazilian antitrust authority's decision to fine the company in a cartel investigation into the pharmaceutical industry, which led to the Brazilian antitrust authority cancelling their fine on the grounds that the minimum standard of proof required for a conviction had not been met by the Brazilian antitrust authority. Since then, this has been a

leading case regarding the standard of proof required for a cartel conviction.

- We represented *Air Liquide do Brasil Ltda.* in a lawsuit filed by a third party seeking compensation for damages allegedly resulting from the so-called "Gas cartel", in which we successfully reversed the lower court verdict that had ordered Air Liquide to pay approximately BRL 650 thousand (USD 186 thousand) in damages.





RELEVANT MERGER CONTROL PROJECTS

- We represented *AT&T* in the USD 85.4 billion acquisition of Time Warner. After a contentious review process, with five competitors formally opposing the deal, we were able to clear the merger upon commitments from the company.
- Representing GE in a range of merger control proceedings in recent years in Brazil, including key transactions for the group such as:
 - USD 23 billion acquisition of Baker Hughes, which created one of the largest oil & gas services provider globally.
 - Divestiture of GE's water treatment business line for EUR 3.24 billion.
 - EUR 1.65 billion acquisition of sole control of LM Wind Power, which was unconditionally cleared by the Brazilian antitrust authority, despite fierce opposition from a local competitor.
 - EUR 12.35 billion acquisition of Alstom's power and grid business.
 - Divestiture of GE's appliance division to Electrolux AB for USD 3.3 billion. This was a cross-border deal and TRW also coordinated the filing of the transaction in other Latin American jurisdictions.
- We represented *FedEx* in the USD 4.8 billion acquisition of TNT, which was unconditionally cleared despite UPS appeal to block the transaction.
- We represented Abbott in a number of merger control proceedings, including complex transactions such as:
 - Acquisition of St. Jude Medical, approximately USD 25 billion deal that established Abbott as a new leader in the medical device arena.
 - USD 5.8 billion acquisition of Alere, which significantly improved Abbott's global position as diagnostic provider.
 - Divestiture of Abbott's non-US developed markets branded generics pharmaceutical business.
- We represented *Unilever* in the divestiture of its soy-based beverage business (including the beverage brand Ades) for USD 575 million to Coca-Cola Femsa.
- We represented both sides in the *Evonik's* USD 3.8 billion purchase of *Air Products'* Performance Materials Division.

- We have a long term partnership with *Honeywell*, by representing and advising the group in various merger control proceedings, such as:

- USD 1.5 billion acquisition of Intelligrated, a privately held leader in supply chain and warehouse automation solutions;
- USD 5.1 billion deal that resulted in the acquisition of the Elster division of Melrose Industries plc, a leading provider of thermal gas solutions;
- Acquisition of the Germany-based laboratory research chemicals business from Sigma-Aldrich;
- USD 185 million acquisition of all shares in Datamax-O'Neil, a global manufacturer of fixed and mobile printers.

- We represent *3M* in several merger control proceedings related to both local and global deals, including more recently:

- Acquisition of USD 2.5 billion of Scott Safety business, held by Johnson Controls International;
- Acquisition of HB Fuller's hot melt adhesives division;
- Acquisition of Capital Safety from KKR for a total enterprise value of USD 2.5 billion.

- We advise *Yara* in its businesses expansion throughout Brazil by representing the company in all merger control proceedings, including important projects such as:

- USD 255 million acquisition of Vale Cubatão, fertilizer and chemical assets previously operated by Vale Fertilizantes;
- USD 318 million acquisition of the control of Galvani, a local fertilizers producer;
- USD 750 million acquisition of Bunge's local operations related to fertilizer production.

- We represented *Bemis* in the complex merger control proceeding regarding the acquisition of the operations of EMPLAL, a Brazilian manufacturer of plastic packaging for food and consumer applications.

- We advise and represent clients as interested third parties in relevant merger control proceedings:

- We represent *Air Liquide* in the Praxair/Linde global merger that creates a leading company in the industrial gas sector;
- We represented *Sika AG* in the merger control proceeding related to its hostile control acquisition by Saint Gobain.

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