

Most Admired Attys: Covington's Deborah Garza

By **Mike Cherney**

Law360, New York (August 18, 2010) -- As chair of a bipartisan committee tasked by Congress to review the nation's antitrust laws, Covington & Burling LLP's Deborah Garza built consensus among 11 other strong-willed commissioners over three years to produce a 449-page report on antitrust reform — a feat qualifying her for Law360's list of the 10 Most Admired Competition Attorneys.

Garza led the Antitrust Modernization Commission from 2004 to 2007, the same time she was a partner at Fried Frank Harris Shriver & Jacobson LLP. The commission concluded the nation's antitrust laws were overall well-suited to deal with both traditional industries and the new sectors of the Internet age, though it did recommend changes to merger guidelines and antitrust immunities, as well as other tweaks.



Deborah Garza

"She did a very good job of herding 12 rather disparate viewpoints of people, none of whom were shy, into a cohesive report that involved some dissent on some particular points," said Jonathan Jacobson, a fellow commissioner and a partner at Wilson Sonsini Goodrich & Rosati PC. "But on the main issues facing the commission, there was a strong consensus which Deborah was important in leading and in forging."

Her service on the commission exemplifies why Garza is an exceptional antitrust attorney, colleagues said. More concerned with getting things done than nabbing any special recognition for herself, Garza — a former head of the Antitrust Division at the U.S. Department of Justice, who now co-chairs Covington & Burling's antitrust practice — is calm under pressure and has a keen understanding of competition law after more than 20 years in the public and private sectors.

"She's somebody who works well behind the scenes," said Gregory Sidak, the chairman of Criterion Economics and a former attorney at Covington & Burling, the Federal Communications Commission and the Council of Economic Advisers. "Deb is not someone who tries to grab a lot of attention. She is not a flashy person. I think that matters to clients; clients can see through the flash."

In private practice, Garza has worked on some of the biggest mergers to date. She represented Exxon in its \$81 billion merger with Mobil in 1999 and represented MCI Worldcom Inc. when it tried to buy Sprint for \$129 billion, also in 1999.

More recently, she advised Merck & Co. Inc. in its \$41 billion merger with Schering-Plough Corp. and ExxonMobil again in its \$41 billion takeover of XTO Energy Inc.

“Deb, if anything, deserves far more limelight than she gets,” said Tom Barnett, who serves with Garza as co-chair of Covington & Burling's antitrust practice group and led the Antitrust Division as assistant attorney general during Garza's most recent tenure there. “She is very well-known and very well-respected in the antitrust community, but she is not someone who goes out of her way to seek press or credit.”

Observers were skeptical Garza's antitrust commission would be able to make much progress, some saying it chose to address too many issues while others thought the committee, with 12 commissioners appointed by both Republicans and Democrats, would be subject to politicization and polarization, Garza said.

Instead, the commission produced a well-regarded report that continues to be cited elsewhere, her colleagues said. Commissioners also had a chance to write their own separate statements disagreeing with certain aspects of the report without upsetting the consensus gained on the majority of issues.

Among the report's larger proposed reforms are repeal of the anti-consumer Robinson-Patman Act; reform of indirect purchaser litigation; and repeal of existing judicial rules forbidding claim reduction and contribution among antitrust defendants. Not all of the proposed tweaks have been made, but the report nonetheless provides a framework for future reforms if the political will develops.

“By helping to craft a bipartisan consensus report, she helps solidify that antitrust is really a bipartisan discipline on the vast majority of issues,” Barnett said. “And that's going to help antitrust laws be implemented going forward in a way that's going to better help consumers.”

Garza's legal career began with an unlikely source: Abraham Lincoln. Growing up in Illinois, she said she received a heavy dose of Abraham Lincoln in school and became fascinated with his career as a lawyer. Her family also encouraged her legal interest.

“When you have kids that are sort of argumentative and debate everything, and their family tells them, 'You ought to be a lawyer,' that was a really good reinforcement for me,” Garza said.

It was not long before she enrolled in law school at the University of Chicago, graduating in 1981. Her first job was an associate at Jones Day, where she was exposed to antitrust while working on a case involving an ATM network. Soon afterward, in 1983, she received a phone call that put her on the antitrust track for good.

It was from J. Paul McGrath, then the assistant attorney general in charge of the Antitrust Division. Garza had applied for a staff attorney position in the Antitrust Division, but a hiring freeze derailed her hopes. A friend, however, had passed on her resume to McGrath, who was looking for a special assistant. When he called, Garza thought it was a friend playing a joke.

“It was serendipity, being in the right place at the right time,” she said. “It was the true start of my antitrust career. Timing is everything, and I was very fortunate to have gotten that extra push.”

Garza has moved freely between the DOJ and private practice since then. She was the special assistant from 1983 to 1985, then jumped to Skadden Arps Slate Meagher & Flom LLP for two years before rejoining the DOJ as chief of staff and counsel to the assistant attorney general.

She shifted to Covington & Burling from 1989 to 2001, and then to Fried Frank from 2001 to 2007. There, she received another phone call — this time from the White House, seeking to nominate her to the Antitrust Modernization Commission. Garza's secretary interrupted a meeting with a partner to bring her the news. When the White House calls, you don't take a message, Garza said.

After the antitrust commission finished its work, Garza rejoined the DOJ's Antitrust Division, this time as deputy assistant attorney general for regulatory affairs. She worked there with Barnett for about 18 months until he departed, and she took over the division as acting assistant attorney general for two months before going back to Covington & Burling.

Among her most significant work in her latest stint at the DOJ was a lawsuit it brought against the National Association of Realtors, Barnett said.

The association adopted a set of bylaws that made it easier for local realtors to curtail access to the association's multiple listing service, a database used by brokers, for real estate agents who operated principally online and were charging lower fees than brick-and-mortar realtors.

After two and a half years of litigation, the DOJ and the association settled the case in May 2008, with the association essentially agreeing to repeal the bylaws.

"She has extraordinarily good judgment, she has an encyclopedic knowledge of the antitrust laws and she's very quick to learn new things," Barnett said. "She gets to the heart of an issue quickly, and she has great recommendations for how to resolve them. That was true in the government, and I've seen her do it in the private sector."

Despite her extensive experience in private practice, Garza said she thought her work in government has had the biggest impact in the antitrust arena.

"The Justice Department is just a wonderful institution if you're a lawyer, and if you're an antitrust lawyer, it's hard to beat that job," she said. "You're working for your client, which in that case is the American consumer."

Methodology: From May 25 through June 11, Law360 invited readers to nominate attorneys they admire to be profiled for the "Most Admired" series. Readers were asked: "Is there an attorney you've argued against in court who you respect — or whose briefs you fear? What about a lawyer whose views on the latest hot-button issues you eagerly seek out? Or a former classmate who is practicing the law in novel ways?" Survey participants were not permitted to nominate attorneys from their own firms and submissions from public relations and marketing professionals were not considered.

Separately, Law360 sought out nominations from practice group heads at the 100 largest law firms in the United States. In total, 1,016 nominations were received.

Nominations were reviewed by a board comprising experienced lawyers and Law360 editorial staff. Sixty-five attorneys covering seven practice areas of the law were then selected to be profiled for the "Most Admired" series.



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