

Competition Group Of The Year: Covington & Burling

By **Matthew Perlman**

Law360 (February 10, 2020, 4:02 PM EST) -- Covington & Burling LLP's competition team worked on several high-profile transactions last year, including Disney's transformative deal with 21st Century Fox, while also representing several entities on important conduct matters, landing the practice among Law360's 2019 Competition Groups of the Year.

A team from Covington helped Walt Disney Corp. through the review process for its blockbuster \$71 billion purchase of film and television studios and other assets from 21st Century Fox Inc. The U.S. Department of Justice ultimately signed off on the deal in June 2018 after Disney agreed to sell 22 regional sports networks owned by Fox.

The transaction officially closed in March, with the required divestitures wrapping in August.

Thomas Barnett, a partner in the firm's Washington, D.C., office and co-chair of the antitrust and competition group, told Law360 the deal was an important one for Disney as the company deploys a direct-to-consumer strategy to offer more content through its own streaming services. While the team of attorneys was able to present that "pro-consumer message" clearly and consistently to enforcers across the globe, Barnett said they had to deal with a number of different jurisdictions that have different schedules and need different information.

"Trying to be responsive to each jurisdiction in a timely manner ... that's a lot of places to coordinate and shepherd forward," he said.

Attorneys from Covington also worked for Northrop Grumman on its \$9.2 billion purchase of defense technology services company Orbital ATK Inc. The Federal Trade Commission cleared the move in June 2018 with a behavioral fix, requiring Grumman to sell certain rocket motors to competitors on a nondiscriminatory basis.

The FTC generally disfavors behavioral fixes, but said it accepted one in Orbital's case because the defense industry has a single buyer, the U.S. Department of Defense. The commission approved a final



order for the deal in December 2018.

On the conduct side, Covington represented the National Football League and its member teams, except for the Raiders, in the city of Oakland's lawsuit over the relocation of the Raiders to Las Vegas. A California federal court dismissed the case in July, finding that the city "cannot recover damages based on lost tax revenue from the broad scope of economic activity associated with the presence of a professional football team."

Barnett said the litigation involves a host of issues "including whether Oakland has standing to challenge the team's decision to relocate and whether the league had a duty to maintain a team in Oakland."

The city filed an amended complaint in September and the case is ongoing.

Covington attorneys also represented the NFL in a suit alleging the league and a majority of its teams conspired to suppress the wages of cheerleaders. A Ninth Circuit panel affirmed the suit's dismissal in December 2018, after the lower court found too much divergence in the way the different teams treat cheerleaders and a lack of evidence of a conspiracy.

The firm has also been active in the financial services sector on antitrust issues, especially cases alleging manipulation of the Libor benchmarking rate. In April, a Second Circuit panel refused to revive a suit from real estate mogul Sheldon Solow over \$100 million in losses that allegedly stemmed from Libor manipulation. Covington represented Citigroup in the litigation, which dated back to 2013 and also named more than dozen other global banks.

The court found Solow's tanked municipal securities portfolio was too far removed from the alleged Libor manipulation to allow the case to proceed.

Anne Lee, a Washington-based partner with Covington and co-chair of the antitrust and competition group, told Law360 the firm's accomplishments last year show "the breadth of the practice in terms of handling major antitrust matters of all kinds."

"The common theme across these cases is that they raise interesting and challenging antitrust issues — whether it's in the context of it being a merger, or litigation, or some kind of government investigation," Lee said.

Covington's competition group includes 35 partners and 80 attorneys in all spread across offices on both coasts of the U.S. and in Brussels, London, Frankfurt, Beijing and Seoul. The firm has around 1,300 attorneys globally across 13 offices.

--Additional reporting by Dave Simpson, Hailey Konnath, Zachary Zagger and Bryan Koenig. Editing by Bruce Goldman.