AAI AMERICAN ANTITRUST INSTITUTE

2025 Impact Report

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FIGHTING FOR COMPETITION TO PROTECT CONSUMERS, WORKERS, AND SMALL BUSINESSES

In 2025, the American Antitrust Institute continued its leadership in protecting and promoting competition for the benefit of American markets and the democratic principles that support them.

The snapshots in this 2025 Impact Report show that our rigorous legal, economic and policy analyses have delivered tangible results for consumers, workers, and businesses.

We look forward to serving the public interest again in 2026, but we need your help to continue our important work, grow our capabilities, and build for the future.

Please help us fulfill our mission by supporting AAI.

Sincerely,

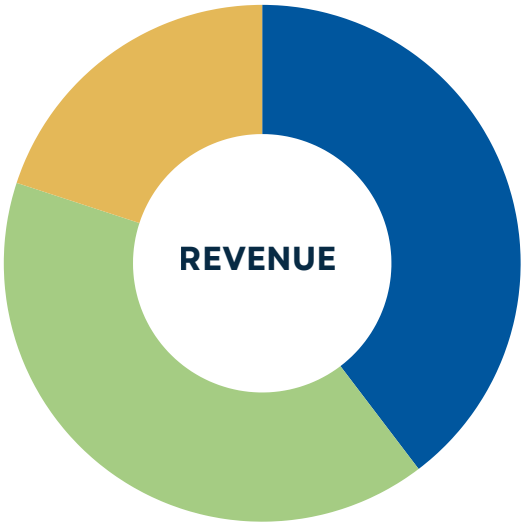
Randy Stutz
President, American Antitrust Institute

About AAI

EFFECTIVE, EFFICIENT, AND IMPACTFUL

HOW AAI WORKS

2025 FINANCIALS



REVENUE
$1.55M

- Sponsorships: 40%
- Foundation & Cy Pres Grants: 40%
- Event, Donations & Misc.: 20%

EXPENSES
$842K

- Amicus Briefs: 28%
- Comments & Filings: 14%
- Legal Analysis: 7%
- Economic & Policy Analysis: 5%
- Podcasts: 23%
- Events: 23%

Our Impact

THE NATION'S LEADING PROGRESSIVE COMPETITION RESEARCH, EDUCATION, AND ADVOCACY ORGANIZATION

22 ISSUE AREAS AND INDUSTRIES COVERED

25 MAJOR MEDIA APPEARANCES

23 AMICUS BRIEFS, ECONOMIC, POLICY, AND LEGAL ANALYSES, AND FILINGS BEFORE GOVERNMENT AGENCIES

12 SPEAKING ENGAGEMENTS AT INDUSTRY EVENTS WORLDWIDE

10 COLLABORATIONS WITH ADVOCACY GROUPS, FOUNDATIONS, TRADE ASSOCIATIONS, AND OTHERS

EVENTS

6 EVENTS

800 REGISTRANTS

100% FEEDBACK AS EXCELLENT OR EXCEEDS EXPECTATIONS

AWARDS

7 AWARD PROGRAMS

20 AWARDS PRESENTED

WEBSITE

50K USERS

110K PAGE VIEWS

PODCASTS

8 GUESTS

6K DOWNLOADS

CLE

6 PROGRAMS

15 CREDITS

Our Work

AAI AMICUS BRIEFS

AAI Joins Law and Economics Professors in Urging Principled and Practical Limits on Section 2 Defenses *(Epic v. Google)*
AAI joined a group of 22 professors to help defend the trial victory of app developer Epic in a Section 2 case challenging Google's monopolization of the markets for app distribution and in-app billing in the Android ecosystem. In response to Google's argument that the trial court erred by failing to instruct the jury to weigh the harms to developers against benefits to users, AAI and the professors explained that Section 2 prohibits courts from making the political choice to sacrifice competition in one portion of the economy for the benefit of competition in another portion. The Ninth Circuit ultimately largely affirmed Epic's trial win, holding that Section 2 does not require cross-market balancing.

AAI Counsels Fifth Circuit to Uphold FTC's Rulemaking Authority, Non-Compete Clause Rule *(Ryan v. FTC)*
AAI urged the Fifth Circuit to reverse a district court decision enjoining the FTC's non-compete rule, which would have prohibited most employee non-compete clauses, and stripping the FTC of substantive rulemaking authority to prevent unfair methods of competition. In its brief, AAI explained that, unlike the Sherman Act, the FTC Act prevents conduct that harms competition in its incipiency and that does not require proof of actual or imminent anticompetitive effects, making the conduct well suited to ex ante rulemakings. AAI also explained that noncompetes are well suited to rulemaking because they have anticompetitive tendencies in the aggregate, and that the Rule satisfies deferential arbitrary-and-capricious scrutiny under the APA. The FTC later abandoned the appeal.

AAI Asks Ninth Circuit to Prevent Trial Courts from Playing Monday Morning Quarterback with Juries' Antitrust Damages Awards *(Ninth Inning, Inc. v. NFL)*
AAI urged the Ninth Circuit to overrule a district court's judgment vacating a jury's $4.7 billion verdict against NFL teams for an illegal agreement to make out-of-market games available to live broadcast viewers only through Sunday Ticket, a bundled premium-price package on DirecTV. By engaging in a piece-by-piece analysis of the hypothetical inputs into the jury's damages calculations, the district court employed an overly stringent standard which allows defendants to profit from the uncertainty that their illegal conduct created, impinges on the constitutional right to a jury trial, and undermines the antitrust laws' ability to deter illegal conduct. The case is scheduled for oral argument in 2026.

AAI Urges Third Circuit to Overturn Dismissal of Suit Alleging Algorithmic Price-Fixing among Atlantic City Casino-Hotels *(Cornish-Adebiyi v. Caesars Entertainment)*
AAI supported a group of hotel guests in their appeal of a district court's order dismissing their class action suit against six Atlantic City casino-hotels for colluding with a revenue-management software company to raise the prices of Atlantic City hotel rooms. By engaging in a formalistic plus-factor analysis and relying on factors that are not helpful in identifying algorithmic collusion, the district court's approach would effectively immunize algorithmic price-fixing from antitrust liability. In a rare opportunity for amicus counsel, AAI participated in oral argument in September.

Our Work

AAI AMICUS BRIEFS

AAI Asks Supreme Court to Mind the Nuances of Antitrust Class Actions *(Labcorp v. Davis)*
AAI urged the Supreme Court to avoid unwittingly upending antitrust class actions in a case challenging certification of an ADA statutory damages class on the basis that the class contained uninjured class members, which Labcorp contended both violated Article III and prevented plaintiffs from satisfying Rule 23's predominance requirement. AAI explained that Article III injury can be a common question that supports a finding of predominance, that Labcorp elided important differences in the standards for establishing Article III injury and for establishing antitrust injury on the merits, and that, in antitrust cases, the presence of uninjured class members usually does not alter the amount of damages. After oral argument, the Court dismissed certiorari as improvidently granted without reaching the merits.

AAI Clarifies Aftermarket Monopolization Standards in the D.C. Circuit *(PhantomALERT v. Apple)*
AAI and Professor Eric Posner urged the D.C. Circuit to overturn a district court's order dismissing Plaintiff PhantomALERT's Section 2 tying and monopolization claims against Apple for failing to satisfy the Kodak conditions for establishing aftermarket monopolization. AAI and Posner explained that Kodak applies only where the defendant lacks market power in the foremarket, and that a plaintiff can make out a prima facie monopolization case by showing that the defendant has market power over the foremarket and uses that market power to exclude competitors from the aftermarket. The case was argued before the D.C. Circuit in December.

AAI Warns Ninth Circuit Against Robotic Application of Kodak/Epic in Aftermarket Monopolization Cases *(Surgical Instrument Service Co., Inc. ("SIS") v. Intuitive Surgical, Inc.)*
AAI supported surgical-robot repair company SIS in its appeal of a district court's order requiring it to prove the so-called "Kodak/Epic" lock-in factors in its Section 2 claim against Intuitive for using its near-monopoly in the market for minimally invasive surgical robots to monopolize the downstream repair market. AAI's brief argues that the Kodak/Epic factors can logically apply only when anticompetitive behavior in the aftermarket is constrained by a robustly competitive foremarket. When the primary market is monopolized, requiring the Kodak/Epic factors is redundant and illogical, and creates a dangerous loophole that allows entrenched monopolists to extend their dominance into an aftermarket without meaningful antitrust scrutiny.

AAI Urges Supreme Court to Recognize an Independent Misrepresentation Exception to Noerr-Pennington Immunity *(Chatham Primary Care, P.C. v. Merck & Co.)*
AAI supported drug purchasers' petition for certiorari in their suit against drug manufacturer Merck for violating Section 2 by misrepresenting the potency of its mumps vaccine on FDA labelling, which prevented competing vaccines from showing equivalence, delaying their entry to the market by several years. The Third Circuit held that Merck's misrepresentations, even if intentionally false, were government petitioning activity protected by the First Amendment and therefore immune from antitrust liability under the Noerr-Pennington doctrine. AAI noted that the Third Circuit's approach has been rejected by every other circuit to consider it, and urged the Court to resolve the circuit split and formally adopt a misrepresentation exception to Noerr-Pennington. The Supreme Court denied cert in October.

Our Work

AAI AMICUS BRIEFS

AAI Counsels Ninth Circuit on Trial Courts' Broad Powers to Enjoin Monopolistic Conduct *(Epic Games v. Apple)*
AAI encouraged the Ninth Circuit to affirm a district court's order holding Apple in civil contempt and modifying a 2021 injunction designed to prohibit Apple's practices that prevented app developers from directing users to outside payment options. AAI explained that, in response to the injunction, Apple merely replaced a contractual provision that raised rivals' costs by making it more difficult for users to discover and substitute to lower-cost sellers with pricing and design tactics that achieved the same goal. AAI also argued that allowing antitrust defendants to relitigate liability at the remedy and compliance stages would considerably compound the administrative costs of antitrust litigation. In December, the Ninth Circuit affirmed the district court's contempt finding and the modified injunction.

AAI Asks En Banc Ninth Circuit to Reconsider Panel's Algorithmic Collusion Opinion *(Gibson v. Cendyn)*
AAI urged the Ninth Circuit to reconsider its opinion affirming dismissal of a Section 1 suit against Las Vegas hotels and algorithmic pricing provider Cendyn, which used the hotels' non-public, commercially sensitive pricing information to make pricing and vacancy recommendations that had the effect of reducing room occupancy and driving up prices. AAI explained that, by insisting on a causal link between the licensing agreements and a restraint in the relevant market, the panel confused proof of an agreement with proof of the agreement's effects on competition, leading to the absurd conclusion that, because they do not "cause a restraint" in the relevant market, vertical agreements can never violate Section 1. The Ninth Circuit declined to rehear the argument in December.

AAI and COSAL Urge Supreme Court to Uphold FTC Act's For-Cause Removal Provision *(Trump v. Slaughter)*
AAI and COSAL urged the Court to uphold for-cause removal protections for FTC commissioners, arguing that the Constitution does not give the President unchecked removal power and that the FTC Act's for-cause removal provision is a critical feature of Congress's design of the agency as a consensus-driven body that carries out broad, expertise-based functions. Because they protect individual liberties, foster stable decision-making, and facilitate sound antitrust policy, the FTC Act's removal provisions have become the basis for a broad international consensus on agency design principles, and invalidating them would harm U.S. consumers and businesses at home and abroad. The Supreme Court heard oral argument in this case in December.

AAI Urges Ninth Circuit to Apply Sherman Act to Transnational Market Division Agreements *(WAIPU v. NHL)*
AAI supported junior major hockey players and their labor organizations in an appeal of their Section 1 suit challenging the NHL's agreement with the Canadian Hockey League and its member leagues to divide up the North American market for junior hockey players. The district court dismissed the claims of players recruited in Canada to play for Canadian teams as barred by the FTAIA and the claims of players that were recruited in or played in the United States on the basis of international comity. In its brief, AAI argued that transnational market allocation agreements in markets that include U.S. territory necessarily fall under the FTAIA's domestic-effects exception and that the principles of international comity support exercising jurisdiction when failing to do so would leave U.S. antitrust victims without legal recourse for violations of U.S. antitrust law.

Our Work

AAI AMICUS BRIEFS AND ANALYSIS

AAI Warns Third Circuit About the Dangers of Entertaining Meritless Class Certification Challenges that Undermine Anti-Cartel Enforcement *(In re Generic Pharmaceuticals Pricing Antitrust Litig.)*
AAI supported a class of end-payers in a bellwether action in a sprawling MDL arising out of a price-fixing scheme that caused generic drug prices to skyrocket during the early 2010s. After paying over a billion dollars to settle criminal charges for the same conduct, defendant drug manufacturers challenged class certification in the Third Circuit, arguing that the complexity of pharmaceutical payment systems raised questions of predominance, ascertainability, and superiority that made certification of end-payer classes inappropriate. Stressing the mutually reinforcing nature of public and private enforcement, AAI's brief warned against allowing antitrust defendants to avoid compensating victims of criminal, per se illegal conduct through strategic class certification challenges that exploit the very complexity they relied on to conceal the conspiracy in the first place.

AAI Asks D.C. Circuit to Stop the "Bleeding" of Plus Factors in Section 1 Cases *(In re Rail Freight Fuel Surcharge Antitrust Litig.)*
AAI supported a group of rail-freight shippers in their price-fixing suit against the nation's four largest railroad companies–BNSF, CSX, Norfolk Southern, and Union Pacific, which together control about 90% of the U.S. freight railroad market–for imposing aggressive universal fuel surcharges on customers. Plaintiffs pursued their claim under the Supreme Court's two-part framework for bringing price-fixing claims based on circumstantial evidence: (1) parallel conduct and (2) so-called "plus factors," which can be any additional evidence that is suggestive of a meeting of the minds in an unlawful arrangement. The district court granted summary judgment for the railroads on both parts, holding that Plaintiffs failed to show that Defendants engaged in parallel conduct so "unusual" that it could not be explained by oligopolistic interdependence. AAI's brief explains how the district court's reasoning conflates the two parts of the Supreme Court's framework, improperly converting certain plus factors into elements, and tipping the scale against a finding of collusion in the very markets in which collusion is most likely to occur.

Commentary: "Cleaning and Sharpening Antitrust Tools for the Age of AI"
AAI Senior Counsel David O. Fisher argues that, in addressing allegations of algorithmic collusion, courts should focus functionally on whether the challenged conduct interferes with individual firms' pursuit of their own independent self-interests, and should treat AI-powered oligopoly pricing as a tacit price-fixing agreement when it has collusive effects and is capable of being enjoined.

Commentary: "Competition, Market Failure, and Doublethink in News Markets"
AAI President Randy Stutz argues that the Trump administration's competition advocacy and enforcement to promote viewpoint diversity in digital news markets conflict with its regulatory interventions that mandate unilateral increases in the supply of viewpoint diversity in the same markets. Even if the administration's actions pass muster under the First Amendment, it is unlikely to achieve any of its goals because it has failed to formulate a coherent policy.

Our Work

AAI CONGRESSIONAL AND REGULATORY FILINGS

Letter to Department of Justice re *FuboTv v. Disney*
After a district court preliminarily enjoined the creation of Venu, a sports streaming joint venture of Disney, Fox, and Warner Bros. Discovery in a suit brought by Fubo, the parties entered into a settlement agreement in which Disney agreed to purchase 70 percent of Fubo and give it $300 million in settlement payments and loans, paving the way for the anticompetitive joint venue to proceed and eliminating Fubo as a competitor. AAI's letter urged the Antitrust Division to initiate an investigation of the settlement and, if necessary, to block both Disney's acquisition of Fubo and the joint venture.

Statement on President Trump's Removal of Democratic FTC Commissioners Without Cause
AAI's statement emphasizes that the President's firing of two Democratic FTC Commissioners without cause was a knowing violation of existing law. Although the Supreme Court may ultimately validate the President's actions by overturning Humphrey's Executor, the firings unwisely hinder antitrust enforcement, a policy that enjoys widespread bipartisan support across an otherwise polarized electorate.

Letter to the Department of Justice on Reforms Needed in Criminal Antitrust Plea Bargains
AAI wrote a letter to the DOJ explaining how its practice of foregoing restitution in criminal plea bargains when private civil damages actions are pending allows defendants to keep their ill-gotten gains and avoid making victims whole by defeating class certification in the civil case. AAI urged the DOJ to change its Model Corporate Plea Agreement such that only the actual payment of damages fulfills the defendant's restitution obligation, that the waiver of restitution is conditioned on class certification being granted, and that, where the defendant wishes to contest class certification, it must to provide an alternative plan for making restitution if class certification is denied.

Letter to the Solicitor General re *Duke Energy v. NTE Carolinas*
AAI urged the Solicitor General's Office to advocate against Duke Energy's petition for certiorari on the issue of whether a monopolization claim can be won by aggregating multiple distinct, independently lawful acts into an unlawful whole. After the Supreme Court invited the Solicitor General to file a brief expressing the views of the United States in the case, AAI wrote to the Solicitor General explaining that the case was not a good vehicle for the issue presented because the Fourth Circuit properly applied conduct-specific monopolization tests to each element of the conduct and Duke's petition mistakenly conflated course-of-conduct analysis–on which many of the government's ongoing cases rely–with the monopoly broth theory of liability. In December, the Solicitor General filed a brief following AAI's position.

Tunney Act Comments, *United States v. Hewlett Packard Enterprise Co. and Juniper Networks, Inc.*
AAI urged the district court overseeing the HPE/Juniper case to conduct discovery into allegations that two of the Antitrust Division's highest-ranking officials were fired for opposing the merger and that the DOJ dropped its merger challenge after a lobbying campaign by the merging parties. Although DOJ has said that its reversal was motivated by a desire to strengthen HPE's international competitiveness for national security reasons, that approach would contravene longstanding DOJ policy holding that domestic competition is the best way to promote international competitiveness, and is undermined by the settlement's statement that it will effectively remedy the merger's anticompetitive effects.

Our Work

AAI REPORTS AND "RULED BY REASON" PODCAST

Unrealistic Causation Standards Put Effective Monopolization Remedies at Risk
AAI Vice President and Director of Legal Advocacy Kathleen Bradish explains why certain problematic causation standards suggested by defendants and their supporting amici threaten a core principle of monopolization remedies—the need to put effectiveness first. Examining the remedy phase of ongoing monopolization cases, Bradish argues that an overly demanding causation standard will have a significant impact on antitrust law's ability to rein in monopolistic conduct in much of the modern economy.

Mergers & Cooptive Acquisitions
AAI Research Fellow Alexandros Kazimirov explores whether certain quasi-mergers by large technology incumbents are "cooptive" acquisitions harming startups' ability to grow. Using the Google-Character, Microsoft-Inflection and Amazon-Adept transactions as case studies, Kazimirov explores potential policy solutions which would allow enforcement agencies to take action against cooptive quasi-mergers without unduly limiting the exit options of startups.

PODCAST EPISODES

Experts, Daubert, and Judicial Gatekeeping: A Conversation with Edoardo Peruzzi and Christine Bartholomew

Applying Computer Science Principles to Police Modern Cartels: A Conversation with Giovanna Massarotto

Monopolizing by Conditioning: A Conversation Between Jack Kirkwood and Daniel Francis, Jerry S. Cohen Award Winner for Antitrust Scholarship

From Labor Market Theory to Antitrust Policy: A Conversation with Ioana Marinescu

The Three-Legged Stool of U.S. Antitrust Enforcement: A Conversation with Michael Kades

Taking an "Extra" Look at Addressing Monopolization: A Conversation with Jennifer Sturiale

Our Work

AAI EVENTS

VIRTUAL LUNCH & LEARN PROGRAMS

Class Certification: The Motion, the Experts and the Hearing
In this webinar, an expert panel explored class certification, with a focus on the motion, the role of experts, and key considerations at the hearing stage.

Summary Judgment and *Daubert* Motions: The Briefs and the Hearings
In this webinar, an expert panel discussed handling summary judgment and *Daubert* motions, including drafting effective briefs, preparing for hearings, and navigating common challenges.

The Lead Up to Trial
In this webinar, an expert panel examined the critical phases leading up to trial, including strategic preparation, key motions, and practical considerations that shape trial readiness.

Should I Settle, and If So, How?
In this webinar, an expert panel offered insights and practical strategies for evaluating settlement options and navigating the negotiation process effectively.

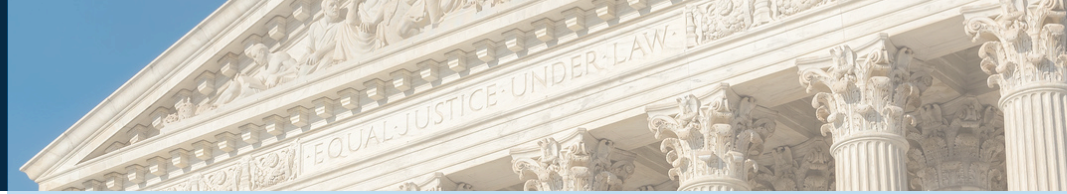
ANNUAL FLAGSHIP PROGRAMS

26th Annual Policy Conference: The State of the Antitrust Technocracy
This conference gathered competition experts to offer insights, analysis, and recommendations for applying the antitrust laws in a climate of political upheaval and skepticism of experts. The event included a gala luncheon featuring the presentation of the 2025 AAI Antitrust Achievement Award and the presentation of the Jerry S. Cohen Award for Antitrust Scholarship.

19th Annual Private Antitrust Enforcement Conference
This forum brought together leading private enforcers and experts to examine key issues in antitrust litigation, drawing lessons from recent cases on complaint drafting, discovery, and expert testimony. Discussions also addressed how courts have evaluated course-of-conduct theories, key considerations for litigants developing those claims, best practices for presenting econometric evidence, and how antitrust enforcement has evolved over time. The event also featured the annual Young Lawyers Breakfast.

AAI Antitrust Awards Night
AAI recognized outstanding achievements in the antitrust community across a variety of contributions and categories, including the Antitrust Enforcement Awards, the Private Antitrust Enforcement Hall of Fame, and the Hollis Salzman Memorial Leadership Award.

Connect & Support



THE ONLY WAY AAI CAN FULFILL ITS MISSION IS WITH YOUR SUPPORT

Promoting competition that protects consumers, businesses, and society is more important than ever. AAI is the leading progressive competition research, education, and advocacy organization in the United States. Our independent, expert, and highly respected work has significant impact and advances the case for strong enforcement and progressive competition policy. Please connect with AAI and give your support.

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- Donate to AAI

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- Connect with us on LinkedIn
- Follow us on X @AntitrustInst
- Attend AAI events

BECOME AN AAI SPONSOR IN 2026

DIAMOND	PLATINUM	GOLD	SILVER	SUPPORTER
$50,000	$25,000	$15,000	$10,000	$7,500

AAI will not accept a sponsorship or donation from a single for-profit corporation or trade association in a calendar year in excess of 5-8% of AAI's operating budget.