

Italy's competition bar

Thanks to the steady development of Italian antitrust enforcement, the rivalry is fierce among Italy's leading competition practices. DAVID VASCOTT takes a closer look at the marketplace

Italy's competition regime is almost two decades old, meaning its antitrust bar has had plenty of time to mature. Today, it boasts a healthy stock of both domestic and foreign firms. Some international players, such as Clifford Chance, Cleary Gottlieb Steen & Hamilton and Freshfields Bruckhaus Deringer, have an impressive market share. Others are still battling to make their name in Italy.

Becoming a significant player is tricky, though, thanks in part to Italy's well-established and highly-experienced homegrown firms. Indeed, two of the three 'elite' firms in this survey are local – Bonelli Erede Pappalardo and Gianni Origoni Grippo & Partners. On the flipside, several Italian firms are competing hard to establish themselves in Brussels. Many have set up bases there and are rivalling the network firms for business. Others have plans to do so soon.

What follows is an overview of Italy's vibrant competition bar. The firms that we consider the top antitrust practices are ranked either 'elite', 'highly recommended' or 'recommended'. We have based our conclusions on how the firms perceive each other, our own assessment of their recent performance, and on the frequency with which they and their lawyers appear in *The International Who's Who of Competition Lawyers and Economists* and the *GCR100*.

ELITE

Cleary Gottlieb Steen & Hamilton LLP boasts the largest antitrust and regulatory practice in Italy: it has 30 lawyers, including two partners, three counsel and 25 associates. Mario Siragusa leads the practice and is described by one rival as a "superstar". A nominee in the *The International Who's Who of Competition Lawyers and Economists*, he is unquestionably one of Italian antitrust's best-known lawyers. Siragusa practised European Community law in Brussels in the 1970s, and was one of the first Italian lawyers to specialise in competition – well before Cleary Gottlieb opened its Rome office in 1998.

Though the firm has a broad range of clients, its particular focus is on energy and finance. The firm advises Italy's largest industrial group, energy company Eni, on "a daily basis", Siragusa says. Enel and ABN AMRO are also clients, and the group is currently working for ExxonMobil in an authority investigation of alleged petrol price-fixing. Another key client is Alitalia, the airline, which it has represented in both state aid and merger cases.

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Litigation is another major focus. Cleary Gottlieb works on the "majority of telecoms antitrust litigation cases in Italy", Siragusa claims. His team is also working on an abuse of dominance case against Italy's government-owned postal service, Poste Italiane, and on behalf of logistics group Transdev in a cartel case.

Recently, the firm pleaded on behalf of Mars over a Unilever exclusivity deal: following an unsuccessful complaint against its rival, Mars drafted in Cleary Gottlieb for the final appeal, which it won. It is also at the forefront of private antitrust litigation, which is becoming more common in Italy, with parties increasingly seeking damages or interim relief.

Bonelli Erede Pappalardo has Italy's largest homegrown competition practice, and is one of two Italian firms to appear in the *GCR 100*. Its team comprises three partners – one in Milan, two in Rome – and 13 associates. It also has a large Brussels office, with two partners and 12 associates, which provides it with a European capability that many of its rivals lack. Indeed, according to partners, the firm's three offices are integrated in all but location.

In Italy, partners Claudio Tesauro in Rome and Luca Radicata di Brozolo in Milan lead the competition practice; both are nominees in *The International Who's Who of Competition Lawyers and Economists*. "Bonelli's competition practice is one of the best in Italy, some would say the best", says a partner at a rival firm.

According to Tesauro, the firm's competition clients range from large Italian companies to multinational companies that prefer to work with a local specialist, rather than a network firm. Key clients include General Electric, Philip Morris, Microsoft, Air Liquide and Telecom Italia, Italy's formerly state-owned telecoms operator. Bonelli Erede recently defended Telecom Italia against charges of price squeezing on call termination rates. It has also helped the company with its network separation programme.

Bonelli Erede is also defending Banca Nazionale del Lavoro, Europassistance and the Italian Federation for Equestrian Sports against allegations of cartel activity and abuse of dominant position. It is working for companies in the airline and airport sector in a reorganisation of Italy's flight network, after Alitalia was forced to give up some of its routes Milan when it bought struggling rival Volare.

Another key case is its representation of TNT Post Italia on its complaint against Poste Italiane. TNT Post Italia has accused the state-owned post operator of abuse of dominance, which the competition authority is investigating. Other major clients include Yellow Pages, Enel, Eni, Generali, Pirelli, Lottomatica and Barilla.

Gianni Origoni Grippo & Partners is the only other Italian law firm to feature in the *GCR 100*. Its competition practice comprises partners Alberto Pera, Piero Fattori and Denis Fosselard, and 11 associates. Both Pera and Fattori are nominees in *The International Who's Who of Competition Lawyers and Economists*. Rivals say the firm is frequently seen on high-profile competition cases.

"It's been an interesting year for us," says Pera. Last December, the firm decided to open a Brussels office, but queried whether to acquire another firm, form a partnership, or launch a new office. They eventually plumped for the latter and brought in Mario Todino, a former member of DG Comp's merger review, to run it. As well as allowing the firm to provide a purely Brussels-based service, the expansion helps its Rome office to attract new clients and expand its services for existing ones.

Gianni Origoni is renowned for its corporate and litigation capabilities, but Pera says the competition group is "frequently chosen as a standalone practice" too. Last year, mergers formed a major part of the group's work. It helped car manufacturer Fiat get clearance from the European Commission to acquire its parts supplier, Teksid Aluminium, and Milan-based STM on its worldwide 'Numonyx' joint venture with Intel for the sale of flash memory. Gianni Origoni also advised Fiamm on the sale of its car battery business to VB Autobatterie, which the European Commission conditionally cleared on a 'failing-firm' defence, following a phase II investigation.

Though Gianni Origoni occasionally advises companies on continent-wide cartel cases, the majority of its cartel defence work is national, on behalf of both domestic and foreign clients. It also assists clients, such as Telecom Italia in private enforcement cases. Last year, for example, the firm worked on three cases for the Italian Banking Association – involving payment, interchange, and access to infrastructure. It won two clearances, and one 'near clear'. And, when the Italian Insurance Association was sanctioned for the use of its 'blue book', which specified the cost of repairs in insurance claims, Gianni Origoni led the appeal, eventually managing to get the decision annulled by Italy's Supreme Court.

HIGHLY RECOMMENDED

Clifford Chance LLP appears in our second tier because its Italian competition practice is still small. But the British firm intends to develop its competition capabilities in Milan and, in practice leader Cristoforo Osti, it boasts "one of the biggest names in Italian antitrust", says one rival.

Osti, who is nominated in *The International Who's Who of Competition Lawyers and Economists*, works in Rome alongside one counsel, one senior associate and two associates. He says that much of the group's merger work stems from Clifford Chance's vast network of international offices. "The brand makes you visible, though it cannot be the deciding factor in complex antitrust cases," he says.

Indeed, Osti's team attracts plenty of behavioural work – particularly for clients in the oil industry. Recently, for example, Clifford Chance successfully defended Esso against allegations of being involved in a jet fuel cartel. It is also advising Shell in another case concerning alleged price communications among oil companies.

Italy's competition bar has had plenty of time to mature and now boasts a healthy stock of firms

The firm is strong in the pharmaceutical sector, too. It recently advised Pfizer in litigation against refusal-to-deal allegations. In the insurance sector, meanwhile, the firm is advising Generali on its merger with Toro – a tricky deal that has been challenged by Italy's Competition Authority on the grounds that it creates a collective dominant position and interlocking directorates. Clifford Chance managed to reverse the authority's decision before the court of first instance, and a final appeal is pending. The team also advised Telefónica, the world's second-largest telephone company, on its joint venture with Assicurazioni Generali, Intesa Sanpaolo, Mediobanca and the Benetton family to buy Olimpia, the investment vehicle that controls the board of Telecom Italia.

Allen & Overy LLP is another British firm making inroads into the Italian competition scene. According to one rival, its competition practice has "a very good reputation" now, while another says that

he regularly sees practice leader Silvia D'Alberti on prominent cases. D'Alberti, a nominee in *The International Who's Who of Competition Lawyers and Economists*, works alongside six associates. Before joining Allen & Overy as partner, she spent five years at Italy's Competition Authority when Giuliano Amato was at the helm. Before that, D'Alberti worked at Ughi e Nunziante.

Allen & Overy's Italian competition practice sees a healthy flow of competition cases – and contentious work, in particular. The group is advising Aeroporti di Roma on an article 82 case, Shell Italia on an alleged concerted-practices case relating to the Italian jet fuel market, and Braun in a case regarding information exchange in the disinfectants market. It also defended Dutch company SigmaKalon on the marine-coatings cartel investigation, and Fox in private antitrust litigation relating to film distribution.

Allen & Overy is busy on the deal front, too. It advised Italian defence company Finmeccanica on the notification to Brussels of the Thales/Finmeccanica/AAS/Telespazio deal, and Newscorp on its recent takeover of Dow Jones. Other merger clients include private-equity fund Clessidra Capital Partners and Shell Italia.

Meanwhile, one of the firm's largest long-term clients is British American Tobacco. The Italian competition group represented BAT when it bought Ente Tabacchi Italian in 2003 and, more recently, before the European Court of Justice in relation to a preliminary ruling on the interpretation of article 81 regarding the 'imputability of responsibility' for antitrust infringements.

Freshfields Bruckhaus Deringer is renowned for its competition capabilities and, while its Italian practice lacks the manpower of some of its other European offices, the firm is still a major player in Italy. Its competition practice is led by partners Gian Luca Zampa and Tommaso Salonico, a nominee in *The International Who's Who of Competition Lawyers and Economists*, and includes one counsel and eight associates. Salonico is a former corporate lawyer who joined Italy's Competition Authority when it was launched in 1990. He left in 1998 to join Telecom Italia during its privatisation, and joined Freshfields 18 months later to set up its Italian antitrust practice. Similarly, Zampa is a former corporate lawyer who joined Freshfields in 2001, after three years at the authority and a secondment to Wachtell Lipton Rosen & Katz in New York. He became a partner at Freshfields in 2005. They are, say rivals, "a very good team, especially for regulatory work".

Indeed, Freshfields' competition team has developed a broad expertise in regula-

tory work (some of which falls outside the scope of this survey). “There are many antitrust lawyers in Italy, but few have regulatory experience,” says Salonicco. Clients that have a competition/regulatory overlap include energy companies EdF, GdF and Enel. Most notably, the firm advised Gas Natural on Italian aspects of its hostile bid for fellow Spanish energy company Endesa.

Other significant Italian competition work that Freshfields has handled recently include advising the London Stock Exchange on its €1.63 billion friendly takeover of the Borsa Italiana stock exchange, and Generali on its acquisition of the insurance business of PPF in the Czech Republic and eastern Europe. Other key clients include ThyssenKrupp, Holcim and Solvay.

Ughi e Nunziante’s competition group is led by partner Rino Caiazzo, a nominee in *The International Who’s Who of Competition Lawyers and Economists*. His team includes of counsel Marco D’Alberty (a professor of administrative law and a former Italian antitrust commissioner), two senior associates and four associates. An additional two junior partners and two associates work on antitrust litigation.

Ughi e Nunziante has been busy on the litigation front, recently. For example, it advised International Paint, a subsidiary of the Akzo Nobel group, on a cartel case before the Italian Competition Authority in the marine-paints sector. The firm managed to get International Paint’s fine reduced by 40 per cent. It also advised telecoms firms BT Italy and Tiscali before Italy’s Supreme Court when they made price-squeezing allegations against Telecom Italia.

In a separate case, Ughi e Nunziante represented BT Italy against Telecom Italia regarding refusal to grant access and discrimination. The firm also helped Bristol Myers Squibb receive a reduction in fines before the Italian Competition Authority in a medical equipment cartel case.

On the deal front, Ughi e Nunziante advised logistics company UPS on the antitrust aspects of its deal with Poste Italiane, and Time Warner on the pre-merger notification of its purchase of the Village cinema chain in Italy. Other deal clients include BBVA Finanzia, Enel, Verizon and First Data International.

Milanese law firm **Pavia e Ansaldo’s** competition practice is led by Stefano Grassani. Another nominee in *The International Who’s Who of Competition Lawyers and Economists*, he joined in 1991 after practising with a boutique in Bologna. He became a partner and head of the antitrust team in 2000.

While the firm’s Milan practice remains relatively concentrated – it comprises one

partner and three associates – Grassani says he is keen to keep building the firm’s profile through well-chosen work. Pavia e Ansaldo strives for “quality over quantity”, Grassani insists. Much of the firm’s recent competition work has concerned behavioural matters. For instance, the group is defending an Italian executive in the worldwide air cargo cartel case, and insurance company Montepaschi Vita in a cartel case before the Italy’s Supreme Administrative Court.

Deal work is high on the agenda, too, though: the firm recently coordinated multiple filings for architectural light manufacturer Targetti on its joint takeover with 3i of rival Poulson. Other key competition clients include Saint-Gobain, Chiesi Pharmaceuticals, the Bolton Group and a “leading Italian luxury fashion house”.

International firms such as Clifford Chance and Freshfields have an impressive market share

According to Grassani, the firm has a significant expansion programme under way. In January 2008, the firm will open a new office in Brussels, with one resident partner, one senior consultant and three associates. The office will bolster not only the firm’s ability to handle European Community cases but also its litigation capabilities.

RECOMMENDED

The competition practice at well-established Italian firm **Chiomenti Studio Legale** is led by Stefania Bariatti. She replaced Gianluca Belotti, who moved to SJ Berwin (and later Lovells) last year. The group continues to perform well under Bariatti; she became partner this year and works alongside 12 associates.

On the deal front, the firm has been busy recently. For example, it notified mergers between Banca Popolare Italiana and Banco Popolare di Verona e Novara, and between Capitalia and Unicredit. It also handled Borsa Italiana’s acquisition of MTA and its subsequent takeover by the London Stock Exchange.

Significant behavioural work includes advising Sinloc on an alleged transport cartel, defending Mediaset against allegations by the Italy’s Competition Authority that it had abused its dominant position, and assisting Caronte in a complaint before the Italian supreme administrative court regarding alleged abuse of a dominant position. The group also advised the Italian Ministry of Economy on the privatisation of Alitalia. Other key competition clients include Coca-Cola, Pirelli Real Estate and Holland Coordinator & Service Company Italia.

Paolo Scarduelli became head of CMS **Adonnino Ascoli & Cavasola’s** competition group in July, after working at the firm for less than a year. Before that, he led McDermott Will & Emery’s antitrust practice. The competition practice is part of the continent-wide CMS alliance and comprises three partners, one of counsel and nine associates in its Milan and Rome offices.

During the past 12 months, the firm has notified mergers for companies including ABN AMRO, Société Générale, Meda, Nokia, Janssen Pharmaceuticals and ALD Automotive. It is also advising a “multinational energy company” on possible abuses of dominance by third parties in the energy market, and Nokia on both the organisation of its distribution structure in Italy and its compliance with EU and Italian competition law.

Macchi di Cellere & Gangemi’s EU and antitrust practice is led by partner Salvatore Lamarca, who was at Freshfields Bruckhaus Deringer until 2003. He works alongside four associates.

Though it is early days, Macchi di Cellere & Gangemi is starting to make a name for itself on the Italian antitrust scene. Lamarca is proud of the firm’s “niche” state aid specialisation – for instance, the team has advised Brandt Italia on a state aid case. It is also working for Hungarian oil producer Mol, and Italian oil company ERG in EU merger filings. Another focus is on telecoms: the firm regularly does competition and regulatory work for Wind Telecommunications and Ericsson, among others.

It is also advising companies in cartel cases before the Italian Antitrust Authority and the administrative courts, including Humana in the alleged baby milk cartel.

Grimaldi e Associati is a well-known Italian firm. Its competition practice is led

by Francesco Sciaudone and includes 12 associates. Although the bulk of the firm's competition work is handled in Brussels, it also enjoys a significant number of Italian cases. Earlier this year, the firm advised Italian bank UniCredit on its €22 billion acquisition of rival Capitalia. The deal created Europe's second-largest bank, after HSBC. The firm is also defending EdF against a damages claim brought by a rival utility in the civil court of Rome.

Another key client is Italian air carrier Alpi Eagles: the firm is representing it before the Italian Competition Authority, following allegations of abusive conducts made by the owner of the airport infrastructure. Grimaldi e Associati has also advised Italian energy and petroleum group ERG on the acquisition of Enertad, a renewable energy company. Other clients include L Capital, Solvay, Aeroporta di Roma and Sviluppo Italia.

McDermott Will & Emery's Italian competition practice works closely with the firm's European and global competition teams. It comprises partner Veronica Pinotti

and one associate. Pinotti joined the firm in July from Lovells, where she was a senior

Much of the growth in the future will involve providing a one-stop shop for national and European matters

associate. She helped fill the space left by partner Paolo Scarduelli, who joined CMS Adonnino Ascoli & Cavasola last year.

Since July, the group says it has advised a "major international company on com-

petition issues raised by a complex joint venture", as well as two Italian companies active in the rail sector in a complaint against a major competitor for abuse of a dominant position, and an international bank on compliance with EC rules. Other competition clients include Barclays Bank, Sahajanand Medical Technologies, The Art Newspaper and Nuovo Orario Grippaudo.

Jones Day's Italian competition practice is based in Milan and is led by partner Stefano Macchi di Cellere, who also heads the firm's intellectual property and technology practice. One associate works alongside him. They have assisted BT with several pre-merger filings and represent Management & Capitali on Italian competition matters, including the pre-merger notification of its acquisition of Comital Saiag. Jones Day also represents US technology company Parker-Hannifin on EU and Italian antitrust matters.

Lovells' competition practice was boosted recently when Gianluca Belotti joined from SJ Berwin. Belotti, who was also once at Chiomenti Studio Legale, works

UGHI E NUNZIANTE STUDIO LEGALE www.unlaw.it

Contact: **Rino Caiazza**
Via Venti Settembre, 1
00187 Rome
Tel. (+39) 06 474831
Fax. (+39) 06 4870397
Email: r.caiazza@unlaw.it

Other offices:
Via Sant'Andrea, 19
20121 Milan
Tel. (+39) 02 762171

Piazza San Babila, 3
20122 Milan
Tel. (+39) 02 77721511

The firm is a recognized leader in the field of antitrust law. Its services both at an Italian and European level cover joint venture agreements, vertical and horizontal agreements in various sectors (telecommunication, banking, financial, media, energy) notifications and opinions in the case of abuse of dominant positions and other situations which may potentially be affected by antitrust rules. The firm has acquired a considerable expertise in litigation before the civil and administrative courts as well as before the Italian antitrust agency in connection with anti-competition agreements and abuses of a dominant position.

