

Rising Star: Cleary's Dan Culley

By **Matthew Perlman**

Law360 (July 20, 2020, 1:29 PM EDT) -- Daniel P. Culley of Cleary Gottlieb Steen & Hamilton LLP helped guide T-Mobile through a web of regulatory approvals needed for its blockbuster purchase of Sprint and has also handled important deals for companies across a variety of other industries, earning him a spot among antitrust attorneys under age 40 honored as a Law360 Rising Star.

ON THE BIGGEST DEAL OF HIS CAREER:

Culley said the biggest deal of his career so far has to be T-Mobile's purchase of Sprint, a \$56 billion merger of national mobile carriers that closed in April. In order to get the deal done, the companies had to negotiate approvals from the U.S. Department of Justice and Federal Communications Commission, which ultimately saw the sale of Sprint's prepaid business and other assets to Dish Network.

The deal also had to beat a court challenge from a contingent of state attorneys general and had to hit other regulatory guideposts along the way.

Culley called it "an approval process that was more complicated, longer and faced more obstacles than, I think, any deal in the history of antitrust in the United States."

Culley's work focused on the economic and engineering rationale for the transaction and how to explain to agency enforcers and eventually a court how the merger will create a more efficient network and company, despite general skepticism about efficiencies that merging parties claim result from mergers.

"The physics is not intuitive to people, in terms of how putting these assets together results in a lot more than just the sum of the two parts," Culley said. "It really multiplies the capacity ... several times over, just by virtue of the way spectrum works, and wireless networks work."



Dan Culley
Cleary

Age: 36
 Home base: Splits time between Washington, D.C., and Brussels
 Position: Partner
 Law school: Georgetown University Law Center
 First job after law school: Associate at Cleary

ON ANOTHER NOTABLE DEAL HE'S WORKED ON:

Another deal that sticks out to Culley was the 2018 merger of Essilor International SA and Luxottica Group SpA, a \$49 billion deal that received unconditional clearance from 20 jurisdictions around the globe, including from the U.S. Federal Trade Commission and European Commission.

The deal was considered a vertical merger, or a merger between companies at different points in the supply chain, rather than a horizontal merger between direct competitors. Essilor focuses on supplying lenses and providing eyeglass lab services, while Luxottica operates retail stores and supplies frames.

Vertical deals are interesting to work on, Culley said, because they don't get scrutinized closely as often as horizontal deals and because the economics are much more challenging.

"Everybody can understand when you knock out a competitor, that could lead to a price increase," he said. "In a vertical transaction, the theories of harm are more complicated and that means they're not only more complicated for the agencies to pursue, but they're also more complicated for you as an advocate to disprove."

Culley noted that the FTC was reviewing the transaction around the same time the DOJ was preparing to challenge another vertical deal, AT&T's purchase of Time Warner. The Essilor-Luxottica deal cleared without a challenge or any conditions, he said, despite involving more concentrated markets.

"We were pretty proud of that," he said. "It doesn't end up being as high-profile as a litigated case, but it was a better result for the client."

ON WHY HE'S AN ANTITRUST ATTORNEY:

Antitrust provides attorneys an opportunity to move from business to business, learning intricate details about the companies and how they operate, which Culley said he finds very interesting and "makes you an amateur expert in basically every industry."

He also said it's one of the few practice areas where you are dealing with important executives from large companies, even as a junior attorney.

"I really love that, all the personal interaction you get to have," he said. "People really love explaining what they do. Especially on the deal work side, the people you talk to are generally pretty excited to be talking to you."

ON WHERE HE THINKS ANTITRUST LAW IS HEADING IN THE NEXT 10 YEARS:

Populous critiques of antitrust in recent years have advocated for consideration of a broader set of issues when evaluating mergers or potential anti-competitive conduct beyond the current focus on overall consumer welfare, Culley said. These issues can include labor, environmental or other social concerns that are not typically looked at during a competitive analysis.

Culley said that while he believes the consumer welfare standard should stay, there are legitimate concerns about the way enforcers have executed the antitrust mission, and added that it may be time to hold merging parties, especially direct competitors, "to a higher standard to demonstrate that their deals are going to create efficiencies."

"We ought to be more aggressive about asking that companies come forward and show us why their

deals are going to make the world a better place," he said.

— *As told to Matthew Perlman*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.

All Content © 2003-2020, Portfolio Media, Inc.