

# Human Resources: The Next Antitrust Frontier?

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Seasoned antitrust counselors and sophisticated corporations invariably know to train sales teams and personnel involved in pricing or competitor collaborations how to comply with the antitrust laws. But what many overlook is an emerging area of antitrust exposure that is forcing practitioners and in-house counsel to know to re-evaluate new pockets of antitrust risk arising not from the sales force, but rather from the Human Resources Department. Recent antitrust investigations by the U.S. Department of Justice (DOJ) and follow-on civil litigation against Apple, Adobe, Pixar, and other prominent firms in the high-tech sector regarding no-hire, no cold-call, no counter-offer, and related agreements have exposed the potentially crippling legal risks borne by firms that act in concert with one another to impose restrictions on their employees' ability to seek out other jobs. What some employers may see as innocuous agreements not to recruit one another's prized employees, to limit disruptions across their industry, to compete "fairly" for recruits, or merely to clamp down on cold-calling, may subject those companies both to criminal sanctions and massive civil liability running into the hundreds of millions of dollars.

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