

Food, Beverage & Pet

Food, beverage and pet industries increasingly face putative class actions, governmental investigations, regulatory actions, and lawsuits brought by both individuals and competitors, following increased attention to advertising, product labeling, natural ingredients, genetically modified organisms, and consumer fraud concerns.

Williams & Connolly has extensive experience with these challenges in the food, beverage, and pet industries. We represent a broad range of industry-leading companies that produce, distribute, and/or sell food, alcoholic and non-alcoholic beverages, and pet products and services. We help clients effectively navigate the industry's most challenging investigations, enforcement actions, and litigation matters. Our diverse litigation experience includes: defending against unfair competition, false advertising, product labeling, misbranding, slack-fill, contract, warranty, and antitrust disputes brought in courts throughout the country.

Members of our Food, Beverage & Pet practice regularly counsel global, national, and local manufacturers, wholesalers, retailers, distributors, processors, brewers, vintners, and industry associations in commercial and consumer disputes involving food labeling and packaging, supply chain issues, fraud, product recall and safety matters, competition, labor issues, false advertising, and breach of contract matters.

Our experience includes enforcement actions, commercial disputes, complex litigation and consumer class actions, product liability matters, and antitrust matters. Over recent years, the firm has defended food and pet companies in multiple consumer class action claims, over a dozen of which were based in California. In several cases, the plaintiffs' lawyers chose not to file suit following Williams & Connolly's response to their demand letters.

We also work closely with industry leaders and start-ups alike to evaluate and mitigate risk in order to avoid litigation. In addition, when serious issues do arise, our attorneys are adept at crisis management. We partner with clients to swiftly assess unfortunate events, develop strategies to minimize exposure, and help them through difficult situations.

Representative Experience

Though all cases vary and none are predictive, our experience includes:

Food

- Successful representation of a leading multinational food company in a wave of false labeling class actions and private attorney general matters filed in California, New York, New Jersey, the District of Columbia, Florida, and other state and federal courts.
- Secured dismissal in two federal class actions for a leading multinational food and consumer products company alleging the violation of various consumer protection laws for failure to make certain supply chain disclosures. The firm continues to represent the company in appeals filed in the Ninth Circuit.
- Dismissal secured in a federal class action for a global confectionery company in the federal court involving state consumer protection laws and product labeling, alleging certain of the company's gum and hard candy labeling was misleading. With more than 30 similar class actions pending against food companies in the same court, this was one of very few that won dismissal of the entire case with prejudice.
- Representation of a leading global food delivery franchise in the Eighth Circuit in a case determining whether the district court erred by certifying a class of drivers claiming that a fixed charge customers paid for delivery was a gratuity under Minnesota law.

- Representation of a leading global food delivery franchise in putative class actions under the Telephone Consumer Protection Act, including a case against the parent company and one of its franchisees seeking more than a billion dollars in damages. The case settled with our client paying nothing; we also achieved a favorable settlement in follow-on litigation against and insured that breached its duty to defend.

Agriculture, Processing & Dairy

- Lead trial counsel to the nation's largest dairy cooperative in multiple consumer antitrust class actions alleging conspiracy to suppress output and increase dairy prices.
- Representation of global agri-processor in antitrust litigation in numerous class-action antitrust suits relating to alleged price-fixing in several industries.
- Representation of one of the nation's leading seafood companies in an ongoing prosecution alleging criminal violations of workplace safety/OSHA rules in connection with a plant accident.

Alcoholic Beverages

- Represented vintners' association in twice opposing certiorari to the United States Supreme Court and in opposing review by the California Supreme Court in litigation challenging the constitutionality of California law imposing stricter wine labeling requirements than federal law. The constitutional challenges involved free speech, preemption by federal law, the Takings Clause, and the Commerce Clause.
- Defended liquor manufacturer in RICO action brought in federal court by foreign governments, resulting in voluntary dismissal of action.
- Representation of a beer and wine wholesaler seeking to set aside state law provisions that prohibit beer wholesalers from wholesaling liquor on the ground that those provisions violate the Equal Protection Clause and its state-law counterpart.
- Representation of a beer wholesaler and transportation company with common ownership in litigation to enjoin various actions by the state tobacco and alcohol commission on the ground that the commission's actions were preempted by federal law and violated the Equal Protection Clause.
- Advised winery and vintners' association on constitutionality of bill being considered by the California legislature regarding wine labeling that includes brand names indicative of the wine's geographic origin.
- On behalf of industry association, drafted (along with co-counsel) petition for rulemaking by the Alcohol and Tobacco Tax and Trade Bureau ("TTB") regarding regulations governing labeling of a wine's class or type.
- Advised liquor manufacturer concerning litigation risk related to by-product of alcohol distillation process.
- Advised wine industry association regarding ability of the State of California to impose taxes and fees in light of California's constitutional requirements for imposing new taxes, which were more stringent than the requirements for imposing new "fees," and a decision of the California Supreme Court regarding the distinction between taxes and fees.
- Advised wine industry association regarding provision in California's Constitution granting exclusive authority to the State, as opposed to local governments, with respect to certain kinds of regulation and taxation of the beverage alcohol industry.

Non-Alcoholic Beverages

- Representation as lead counsel for a beverage company with one of the fast-growing non-alcoholic beverages in the country in a trademark and trade dress infringement action. The company's success has spawned a variety of competitors, some of which seek to imitate its name and distinctive trade dress.

Pet

- Successful patent litigation and associated representation as lead counsel for global pharmaceutical company in an Administrative Procedure Act challenge to FDA's approval of generic versions of the client's veterinary antibiotic drug.
- Successfully resolved putative class action for a leading nationwide veterinary services company operating veterinary hospitals nationwide brought in federal court concerning claims for common law fraud and violations of state consumer protection laws based on the alleged deceptive marketing of its products and services.
- Representation of a leading national pet food company in a nationwide class action (excluding California) alleging claims for equitable fraud, negligent misrepresentation, and violation of state consumer fraud statute based on the alleged mislabeling of certain pet food.
- Representation of leading national pet retailer in licensing and contractual disputes with a multinational e-commerce corporation.

Other

- Successful representation of one of the world's leading commercial provider of weight management services, securing motion to dismiss a putative class action lawsuit alleging breach of contract and deceptive trade practices in connection with the company's website and mobile app.
- Representation of multi-national corporations as opt-out plaintiffs in price fixing cases involving bulk vitamins.