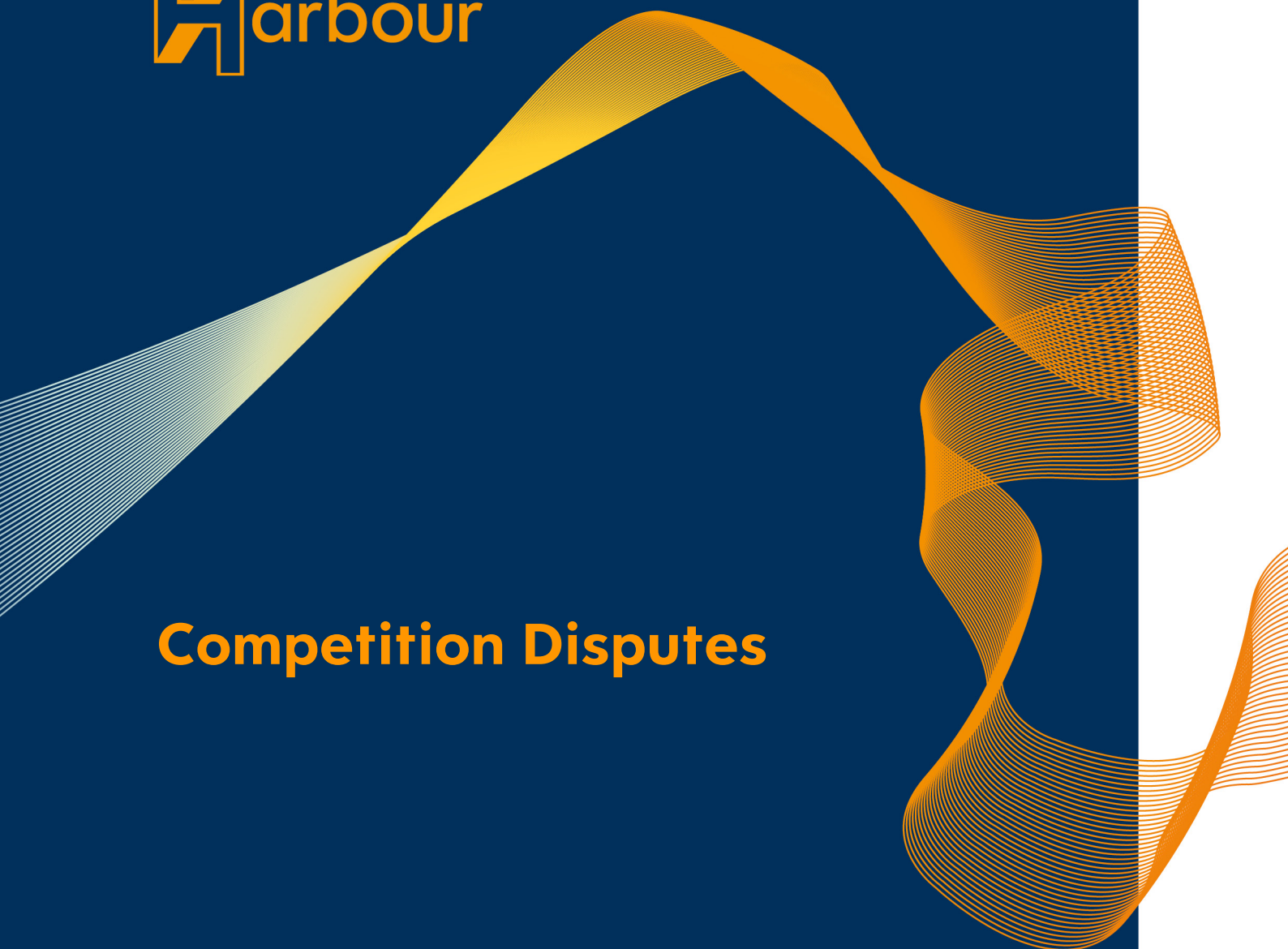




Competition Disputes





What are competition disputes?

Competition disputes are claims brought by consumers or businesses who believe they have suffered loss arising from a breach of competition law. Good examples include claimants who have paid too much for a product due to the existence of a price-fixing cartel, or suffered a loss as a result of the illegal actions of a dominant company or monopolist. Claimants may benefit from bringing a collective competition damages claim (see our separate document on Class and Group Actions. Harbour has experience of funding both:

- ‘Follow-on’ claims, where liability has already been established by a public competition authority such as the European Commission, the US Department of Justice, or the Federal Trade Commission.
- Standalone actions, where both liability and the quantum of damages payable must be established by a claimant in the courts.

Is funding right for your claim?

We need to understand the details of your claim to ascertain whether it could be funded. It is also important for us to know we can rely on your support in bringing the claim to a successful resolution. Answers to the following questions will help us to quickly assess your claim.

Merits	<ul style="list-style-type: none">• Are there good grounds for bringing a claim?• Is there a related liability finding from a competition authority? Has the decision been contested? Was it a settlement?• What is the value of the claim, and how is that substantiated?
Economics	<ul style="list-style-type: none">• What amount of funding do you require?• Is any payment likely to be required for security for costs?• What is the exposure to adverse costs likely to be? If there are multiple defendants, do you expect them to have separate or joint legal representation?• How long do you expect the case will take?
Recoverability	<ul style="list-style-type: none">• Who is the claim against, and why are you confident that they can satisfy a judgment or award?
Experience	<ul style="list-style-type: none">• Who is in the legal team, and what is their track record bringing competition damages actions?• Who is in the wider team (economists, bookbuild agents, etc)?



What sets us apart?

Harbour is amongst the largest and most experienced funders in the world, having supported cases in 14 jurisdictions and 6 arbitral forums since 2007. Our experience of reviewing over 4,000 claims means we can quickly review the responses to the questions above and provide an indicative view on pricing, before guiding you through our due diligence process.

Our pricing

Harbour provides a flexible and tailored solution to suit your needs. We can cover all or part of your legal fees and disbursements, including potential adverse costs and funding for security for costs.

The pricing of our funding is bespoke and is informed by our view of the specific risks involved. We consider factors such as the claim value, the budget required, the merits, the jurisdiction of your claim, and any potential difficulties with enforcement.

A number of pricing options are available, with non-recourse funding being the most popular, where Harbour only receives a return when proceeds are recovered. Should the claim be unsuccessful, the risk is entirely ours, and you owe Harbour nothing. Pricing is generally structured as a return of capital plus the greater of a percentage of proceeds and a multiple of our capital.

Recourse funding is also available, which allows a claimant to maximise their return and free up capital. This financing is repayable at the end of the process, regardless of the outcome of the case.

We can also acquire interests in claims and judgments, providing immediate cash payments of an agreed percentage of the claim or judgment value, potentially with more to follow upon successful recoveries if the claimant wishes to remain involved.

We seek to agree pricing which fairly rewards the risk you and we are taking.

Pricing is agreed with our investment team at an early stage in our discussions, and before the case is presented to our investment committee you will know what the pricing is and how an agreement will be structured. More information on pricing and our processes is available on our website.



Competition disputes case study

We are funding claims brought by a company in the English High Court against a multinational technology company for alleged abuse of a dominant position contrary to Article 102 of the Treaty of the Functioning of the European Union and/or Section 18 of the Competition Act 1998.

The claims are follow-on claims in that they rely on a decision of the European Commission finding that the defendant illegally abused its dominant position to the detriment of several parties, including the claimant. The decision strengthens the merits of the claims in relation to liability and causation.

The defendant has adopted a scorched-earth approach to the claim, seeking to attack it at every opportunity. Harbour's funding has thus helped to level the playing field between the claimant, a small company, and the defendant, a litigation goliath. Without Harbour's funding, it would not have been possible for the claimant to hold this large corporate to account.



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