



**DAVID A. FENICHEL**

**Senior Vice President**

---

Compass Lexecon  
1111 Broadway, Suite 1500  
Oakland, CA 94607  
phone 510.285.1261 fax 510.285.1245

## **EDUCATION**

- 1986 M.A., Economics, Stanford University
- 1983 M.S., Engineering-Economic Systems, Stanford University
- 1980 B.S., Mathematics/Computer Science, Duke University

## **EXPERIENCE**

Mr. Fenichel has more than 20 years of experience in conducting economic and financial analyses to support business decision making and litigation efforts. Mr. Fenichel specializes in the application of quantitative modeling and analysis. He has managed projects involving a wide range of issues, including mergers and acquisitions, price fixing and price discrimination, and intellectual property licensing, in a wide range of industries. Mr. Fenichel has particular expertise in the energy industries, especially electric power. He has supported expert testimony in numerous complex litigation cases, involving class certification, liability, and damages work. Mr. Fenichel has provided expert testimony in regulatory commission, arbitration, and court proceedings.

## **Selected Projects**

- Analyzed intellectual property licensing practices for high technology industry company for proceedings in the U.S. and Europe.
- Analyzed damages for potential settlement of alleged price fixing case in transportation industry.
- Analyzed competition effects of proposed mergers in airline industry.
- Analyzed relevant markets for class certification phase of alleged price fixing case involving health care workers.
- Analyzed heterogeneity and conflicts in proposed class to support expert report on class certification issues in case involving major college athletic scholarships.

- Analyzed market conditions and transaction data to support expert testimony regarding class certification issues involving alleged price fixing of electronics components (direct and indirect purchasers).
- Analyzed damages arising from foreclose from access to distribution channel resulting from conspiracy in the credit card industry to support mediation between parties aimed at reaching a settlement.
- Analyzed damages arising from purported anticompetitive agreements involving supply of ingredients to pharmaceutical manufacturers.
- Analyzed issues of relevant market, heterogeneity, and intra-class conflicts to support expert testimony regarding class certification in purported sports labor markets.
- Analyzed market structure and competitive conditions in market for industrial products to support effort to secure regulatory approval for proposed merger.
- Reviewed documents to identify evidence of competition among alleged conspirators in an industrial chemical price fixing case to support expert testimony regarding class certification.
- Analyzed issues related to alleged conspiracy in the legal education industry to support expert testimony.
- Reviewed documents for evidence regarding competition and damages in industrial product price fixing case.
- Analyzed market structure and competitive issues in a proposed merger in the health care industry to support discussions with government agency and potential settlement.
- Analyzed issues regarding relevant market and pro-competitive benefits regarding rules for participation in post-season athletic tournaments.
- Analyzed market structure and contracting practices in support of expert testimony in defense of an antitrust counterclaims regarding patent misuse in the entertainment industry.
- Provided economic analysis to support expert testimony regarding the exercise of market power in the wholesale electric utility industry in proceedings at the Federal Energy Regulatory Commission and in federal court.
- Provided analytical support for efforts to reach a settlement with the federal government regarding alleged price fixing of industrial products.
- Provided analytical support for rebuttal and cross-examination of opposing expert witness testimony regarding damages in a retail trade price fixing case.
- Provided economic analysis in support of expert testimony in an alleged airline predatory pricing case.

- Analyzed market structure and behavior in support of expert testimony in the class certification phase of an industrial products price fixing case.
- Provided economic analysis to support expert testimony regarding wholesale pricing in a Robinson-Patman case.
- Provide economic analysis to support expert testimony in a case regarding attempted monopolization in a consumer products industry.
- Provided economic analysis to support the efforts to secure regulatory approval for a merger of vertically integrated firms in the aluminum business.
- Provided economic analysis to support expert testimony in an arbitration regarding contract terms in the entertainment industry.
- Provided analytical support for expert testimony in response to allegations of attempted monopolization in the pay telephone industry.
- Provided analytical support to contest the merger of two companies involved in the aircraft business.
- Provided economic analysis to support expert testimony and rebut opposing witnesses for an airline involved in litigation over a proposed code sharing alliance.
- Provided economic analysis in a price fixing case involving a publicly traded commodity used in a variety of industrial and commercial applications.
- Provided economic analysis to support expert testimony in federal court on behalf of the plaintiff in a dispute over a contract to purchase electric power assets.
- Provided financial and economic analysis to support expert testimony on behalf of the trustee in a bankruptcy proceeding for a cooperative electric utility in federal bankruptcy court and related proceedings before the state regulatory commission.
- Testified as expert witness regarding the financial feasibility of a pumped storage hydroelectric power project.
- Provided financial and economic support for negotiations by an industrial consumer group in a cooperative electric utility reorganization case.
- Served as expert witness for two electric utilities in fuel procurement prudence cases before state regulatory commissions.
- Served as expert witness for a municipal power agency in a resource planning arbitration.
- Served as expert witness for an independent power producer in a regulatory proceeding to determine avoided costs.

- Performed, reviewed, and responded to audits of electric utility fuel procurement practices and performance.
- Provided analytical support for expert testimony on the viability and value of an independent power project in an arbitration proceeding.
- Supported intervener filing in state resource planning regulatory proceeding.
- Intervened in electric industry restructuring proceedings on behalf of an association of financial institutions.
- Appraised market value of several energy properties for tax appeals.
- Provided analytical and strategic support for electric utility fuel supply contract renegotiations and arbitrations.
- Developed financial model to evaluate profitability of product lines and project financial performance of a manufacturing and service company involved in antitrust litigation.
- Developed financial model to evaluate the cost structure and profitability of a new telecommunications venture involved in antitrust litigation.
- Evaluated market potential, competition, and industry structure for an airline equipment manufacturer involved in antitrust litigation.
- Evaluated industry structure to support regulatory filing by an entertainment company.
- Analyzed economics and financing alternatives for \$100 million coal injection and \$250 million steel minimill projects developed by ICF. Marketed projects to potential debt and equity investors.
- Served as financial advisor to equity investors in project finance activities, including development and review of pro forma financial models.
- Appraised market value of energy properties and independent power projects for acquisitions, financing, and tax appeals.
- Performed due diligence services for debt and equity investors in numerous independent power projects, including contract reviews, power market assessments, energy rate forecasts, fuel supply evaluations, and engineering reviews.
- Developed retail electricity price forecast for industrial customers for due diligence in financing of a multipurpose energy facility.
- Evaluated power supply options in a deregulated environment for a large industrial customer.
- Developed discounted cash flow model of fuel supplier operations to support electric utility contract renegotiation.

- Developed statistical models to evaluate fuel supply project operating costs.
- Developed quantitative tools to help senior management of consulting company make key strategic decisions.
- Developed and supported quantitative models for business operations and planning, including linear programming models for oil well drilling, refinery operation, and product transportation and statistical models to evaluate direct market services, and customer credit. Developed user-friendly interfaces and supported model users.
- Estimated cost of capital for several different companies and projects.
- Evaluated a procedure developed by an electric utility to estimate supplier loads in a retail wheeling pilot. Extensively tested the procedure using statistical and database tools.
- Developed a spreadsheet model to estimate the effect on air emissions for alternative electric power sector reform scenarios in developing countries.
- Developed spreadsheet model to project hourly electricity market prices for power marketer.
- Developed spreadsheet model to evaluate capacity expansion options in a decision analysis framework.
- Helped develop, utilize, and support ICF's Integrated Planning Model, a linear programming model of electric utility planning and operations.
- Analyzed electric utility markets or several natural gas suppliers and transporters for evaluating capacity expansion decisions.
- Performed and reviewed resource and environmental compliance planning studies for electric utilities.
- Provided analytical and strategic support for utilities in fuel procurement and transportation, including policies and procedures, market assessments, strategic plans, and contract negotiation.
- Developed detailed financial model to project utility rates and impact of alternative strategies.
- Prepared and reviewed various studies of the effect on utility rates of completed and proposed projects.
- Estimated stranded costs resulting from the transition to competitive generation markets for a major electric utility.

## **PAST EXPERIENCE**

Principal, Competition Economics, Inc., 1999-2004 (acquired by The Brattle Group in 2004)

Senior Consultant, PHB/Hagler Bailly Consulting, Inc., Boulder, CO, 1996-1999

Senior Associate, Morse, Richard, Weisenmiller & Associates, Oakland, CA, 1995-1996

Independent Consultant, Falls Church, VA, 1994-1995

Senior Project Manager, ICF Resources Incorporated, Fairfax, VA, 1980-1982, 1986-1994

Operations Research Analyst, Chevron Corporation, San Francisco, CA, 1984-1985

## **HONORS AND AWARDS**

Summa Cum Laude and Phi Beta Kappa, Computer Science/Mathematics, Duke University