

The success of a health care provider or payer can be profoundly affected by the structure of the market in which it operates and the types of contracting practices that are used in that market. In many cases, a change in market structure or contracting practice is needed to achieve cost savings or improved quality. In other situations, changes in market structure or contracting practice can harm competition.

Brattle economists have the skill and expertise necessary to analyze both scenarios. We explain the efficiencies that can arise from mergers and acquisitions and from the adoption of new contracting practices and analyze the competitive effects of such changes. Where such changes are anticompetitive, we estimate the harm such changes cause both customers and competitors.

Health care providers and payers also can be harmed by false claims or deceptive practices. Having successfully analyzed many such cases, Brattle economists are able to develop economic evidence needed to assess liability and estimate damages in these matters.

The Brattle team includes both internal experts and renowned academics from leading universities. We quickly identify the key economic issues of a matter, develop the appropriate economic theories and empirical tests needed to analyze these issues, and distill our results into findings that can be readily explained to judges, juries, regulatory bodies, and other decision makers.

ABOUT US

The Brattle Group provides consulting and expert testimony in economics, finance, and regulation to corporations, law firms, and governments around the world. We aim for the highest level of client service and quality in our industry.

We are distinguished by our credibility and the clarity of our insights, which arise from the stature of our experts, affiliations with leading international academics and industry specialists, and thoughtful, timely, and transparent work. Our clients value our commitment to providing clear, independent results that withstand critical review.

For more information, please visit brattle.com.

OUR FOCUS

Mergers and Acquisitions

Brattle experts, many of whom have worked for either the U.S. Department of Justice (DOJ) or the Federal Trade Commission (FTC), are experienced in the analysis of mergers in hospital markets, physician markets, and insurance markets. We use both publicly-available patient discharge data and proprietary insurance claims data to identify geographic and product markets and to assess localized competition within those markets. Our economists use merger simulation and econometric techniques to assess the competitive effects of prospective and retrospective mergers, and have substantial experience identifying merger-related efficiencies and balancing those efficiencies against possible anticompetitive harm.

Exclusion and Price-Fixing Cases

A key issue in some antitrust cases is whether a dominant health care provider or health plan is using business practices that harm both competition and competitors. In such cases, our economists use direct and indirect measures to assess whether the health care firm has market power. Additionally, we identify those anticompetitive theories that could apply and use documentary evidence and data to assess the validity of those theories. Where the evidence suggests the health care firm's practices harmed competition, we apply both accounting and econometric techniques to assess damages. Similarly, where health care providers have acted in concert to increase prices, Brattle economists evaluate the anticompetitive behavior and estimate damages.

Fraud, False Claims, and Reimbursement

Disputes within health care markets frequently focus on claims for service reimbursement. In such cases, Brattle economists analyze claims data from public and private sources and assess whether the reimbursement paid under a particular contract diverges from what would be expected given contracts between other similarly situated parties. In cases where it does, and where liability can be shown, we estimate the appropriate damages.

REPRESENTATIVE ENGAGEMENTS

Analysis of Competitive Effects of Hospital Mergers:

- A Brattle economist was retained by the FTC to provide an independent analysis of the Reading Hospital's proposed acquisition of the Surgical Institute of Reading, a small hospital providing inpatient and outpatient orthopedic, ENT, and general surgical services. Key issues in the case involved the definition of the appropriate product and geographic markets and the likelihood of entry by new providers.
- While at the FTC, a Brattle economist provided testimony on the question of whether Evanston Northwestern's non-profit ownership structure would ensure that the hospital would act in the community interest. The testimony included an analysis of the Board of Director's past oversight of management decisions and the incentives that the hospital included in its contracts with managers.
- A Brattle economist assisted a testifying economist in preparing financial analyses to show that a hospital should be viewed as a failing firm under the Merger Guidelines. In addition to documenting the hospital's weak financial condition, the analyses showed that, but-for the merger, the hospital's assets were likely to leave the market for general acute care services, because these assets had greater value in an alternative use.

Analysis of Alleged Exclusionary Behavior by Insurer:

- While at the DOJ, a member of The Brattle Group provided economic support for the DOJ's lawsuit alleging that Michigan Blue Cross' use of most-favored nation clauses with hospitals deterred other health plans from entering certain local markets. This work included the analysis of both publicly available and confidential claims data in order to calculate market shares and estimate price and share effects from the challenged practices.

Analysis of Alleged Competitive Issues Raised by Insurer-Provider Contracting:

- A Brattle economist assisted a testifying economist who was retained by a health insurer in connection with an antitrust investigation. He assisted in developing data and analyses to help evaluate competitive issues related to the insurer's contracts with a health care provider.

Reasonableness of Reimbursement:

- In several disputes between health care providers and insurance payers, Brattle experts and academic testifiers have provided analysis to help parties interpret economic reimbursement for health services. This work commonly includes analyzing health service claims data, defining geographic markets, and comparing reimbursement levels among competing or like market participants.

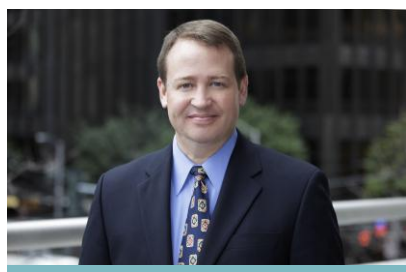


KEVIN HEARLE
Principal | Washington, DC

Kevin Hearle has extensive experience analyzing both patient flow data and hospital financial data. For prospective and retrospective hospital merger investigations, he has helped testifying economists analyze state inpatient discharge data and proprietary insurance claims data in order to define product and geographic markets and analyze competitive effects. In addition, he has helped those economists develop evidence and testimony related to hospitals' financial conditions and prospects.

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BRAD JOHNSON
Principal | San Francisco

Brad Johnson has many years of litigation consulting experience in health care addressing issues of competition, pricing, and product liability. He has conducted extensive analyses of patient service and insurance claims data, market dynamics, and product financials in disputes involving health care payers, providers, product manufacturers, and consumer classes. In addition, he is an advisor to counsel when a specialized testifier is sought, proposing and supporting the analysis of a broad range of academic and industry testifiers with health care expertise.

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JOHN SIMPSON
Principal | Washington, DC

Dr. John Simpson joined The Brattle Group after a twenty-year career with the FTC, where he provided expert testimony in several successful merger challenges. Since joining Brattle, he has continued to work on health care cases involving hospitals, physicians, and pharmacies. He has published papers on single-firm conduct and health care antitrust issues in journals such as the *American Economic Review* and the *Journal of Health Economics*.

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JEREMY VERLINDA
Senior Associate | Washington, DC

Dr. Jeremy Verlinda recently joined The Brattle Group after having worked at the DOJ for eight years. While at the DOJ, he was the lead economist in numerous antitrust investigations of mergers, horizontal restraints, and vertical restraints in the health insurance, electricity, payments, entertainment, and consumer goods industries. Dr. Verlinda has particular expertise in merger simulation and econometric analysis and has published several papers on those topics.

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