Chapter 8

What Do You Mean We Can’t Do That?
Antitrust Law Implications for Upstream Joint Development Arrangements

Matthew C. Blickensderfer
Frost Brown Todd LLC
Cincinnati, Ohio

Kenneth J. Witzel
Michael D. Brewster
Frost Brown Todd LLC
Pittsburgh, Pennsylvania

Jeffery R. Kramer
Range Resources – Appalachia, LLC
Canonsburg, Pennsylvania

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1 The opinions expressed in this chapter are the authors’ alone and should not be attributed to Frost Brown Todd LLC or Range Resources – Appalachia, LLC. Nothing in this chapter should be construed as legal advice.
§ 8.01. Introduction and Background.

In December 2017, the Bradford County Court of Common Pleas issued a decision in the case of Commonwealth of Pennsylvania v. Chesapeake Energy Corp., et al., suggesting that oil and gas operators may have violated Pennsylvania’s common law on antitrust by entering into and acting under a joint development arrangement as to a specific geographical area that, allegedly, caused signing bonuses and royalty percentages for new oil and gas leases in the area to plummet.

The decision provides an excellent starting point for discussing the basic principles governing antitrust law and how they apply to oil and gas joint development arrangements. As discussed below, operators should exercise caution when entering into or acting under joint development agreements that could be construed as attempts to decrease or eliminate competition for new leases in a given geographical area.