Portfolio Media. Inc. | 111 West 19th Street, 5th Floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

M&A Group Of The Year: Cravath

By **Adam Rhodes**

Law360 (January 14, 2019, 11:23 AM EST) -- This past year, Cravath Swaine & Moore LLP steered Time Warner through a fight over a $108.7 billion deal with AT&T and guided Disney through an $85 billion deal for 21st Century Fox’s film and television studios, earning the firm a spot among Law360's Mergers & Acquisitions Groups of the Year.

This marks the firm’s seventh year being recognized as an M&A Group of the Year, having been recognized from 2011 to 2015 and again in 2017.

In mid-June, AT&T Inc. announced it had closed its deal for Cravath-guided Time Warner Inc., a deal inked in October 2016 that faces a still-pending legal challenge by the U.S. Department of Justice. Cravath also represented The Walt Disney Co. in a fierce battle with Comcast for Fox's film and TV studios. After boosting its cash-and-stock offer to $71.3 billion in June and assuming $13.8 billion of Fox’s debt, Disney walked away with the studios.

Richard Hall, head of the firm’s M&A practice for Europe, the Middle East and Africa, told Law360 that the practice makes up the bulk of the firm’s transactional work and is almost entirely anchored in New York with roughly 20 partners. One lone partner is based out of the firm's London office, Hall added.

Despite its largely domestic headquarters, the firm’s M&A practice has also found success in steering international clients through landmark cross-border deals. Recently, the firm represented Linde AG in its $70 billion merger with Praxair Inc., which closed in October.

Those large deals aren’t just the bread and butter of the practice, head of Cravath’s M&A practice for North America, Robert I. Townsend III, said. They’re also what keep the attorneys coming back every day.

“One of the things that gives us the most professional satisfaction is representing clients on some of their most significant matters,” Townsend said.

While none of the aforementioned deals were simple to complete, Hall highlighted the Disney-Fox deal as particularly complex.

“The Disney-Fox deal was legally and structurally very complex and raised a number of innovative legal issues and will set the standard, frankly, going forward for transactions of this kind,” Hall said.

The firm’s work on the deal dates back to December 2017, when the original $52.4 billion deal was first announced. Six months later, Comcast Corp. lobbed its own $65.03 billion cash offer for the Fox assets.

Disney eventually raised its offer to roughly $71.3 billion and agreed to assume about $13.8 billion of Fox’s debt. Roughly a month later, both companies’ shareholders approved the deal.

Hall detailed that the most standout legal complexities of the deal came out of Disney’s bid for Fox running alongside the spinoff of a portion of Fox’s businesses, adding U.S. securities law and tax structuring complexities to the already elaborate transaction.

While competing for the Fox assets amid those complexities was indeed a challenge for the firm, Hall said making Disney’s offer more attractive to Fox shareholders was crucial to securing their victory.

Townsend said the process helped him understand the answers to certain questions. “How do you compete to secure what’s becoming a scarce asset, and how do you prevail over someone who’s got a more straightforward offer?”

The Disney-Fox tie-up wasn’t the only hard-fought media mega-deal the firm helped steer this year, however. The firm guided Time Warner, which has been a firm client for nearly a century, through plans to be bought by AT&T for $85.4 billion in a deal worth $108.7 billion. The tie-up, announced in October 2016, was met with a court challenge more than a year later in November 2017.

Cravath also represented Time Warner in that litigation, which ended in a favorable ruling in mid-June that rejected claims by the DOJ that the merger, if completed, would likely create a substantial anti-competitive harm. Townsend touted the ruling as “the successful enforcement of what we all believed to be the correct antitrust laws to permit vertical mergers."

Days after that ruling, AT&T said it completed the takeover. The case is currently on appeal before the D.C. Circuit.

Adding to the firm’s accomplishments in 2018 was the successful closing of a $70 billion merger between German chemical company and Cravath client Linde AG and Connecticut-based industrial gases producer Praxair Inc. after a few bouts of proposed antitrust fixes to regulators in the U.S. and Europe.

The pair had previously called off deal discussions in 2016 before they eventually agreed to merge in June 2017 in what Hall called the first major U.S.-European cross border merger-of-equals-style deal after the announcement of Brexit.

Roughly a year later, the companies offered undisclosed fixes to the European Commission. Linde additionally agreed to offload various parts of its North and South American business interests to a joint venture between Messer Group GmbH and a CVC Capital Partners fund for $3.3 billion.

Two months after the German chemical company said the Federal Trade Commission wasn’t yet satisfied with its divestitures in August, Linde said in October that the companies reached a deal with the FTC to sell several assets in exchange for the agency’s blessing on the deal. On Oct. 31, Linde said the deal had been completed.

Court challenges and competing bidders weren't the chief challenges of this tie-up, however, Hall said. As part of its work on the deal, Cravath had to work to marry "German rules on conditionality on tender offers with the commercial imperatives imposed on the deal structure by U.S. tax rules," Hall said.

The product of that work, Hall added, is a brand new deal structure he expects to be seen as a significant addition to dealmakers' toolboxes, a mark on German transactional work that can be traced back to the firm and its novel approach.

--Additional reporting by Chelsea Naso, Matthew Perlman, Melissa Lipman, Bryan Koenig, Benjamin Horney, Taylor Arluck, Matthew Guarnaccia and Christopher Crosby. Editing by Alyssa Miller.