

## At A Glance

# Survey Research, Design, and Analysis

### Overview

NERA's Survey Research, Design, and Analysis Group provides scientific design, implementation, and analysis of surveys in litigation disputes. This includes the application of quantitative and qualitative methods, such as focus groups, in conducting litigation-quality survey projects. Our experts have provided advice to clients in merger cases, trademark disputes, class certification and liability cases, and other litigation in which the design and analysis of survey research has been a key form of evidence. Our surveys have been used to estimate the frequency of specific behaviors, identify how consumers choose among service or product configurations, measure which attributes sway purchase decisions, identify the representations consumers have received, assess what products consumers view as alternatives, and determine whether certain names or designs have achieved meaning in the marketplace.

NERA's survey experts combine a deep knowledge of sampling methods, survey and question design, survey administration, and analysis of complex sets of data grounded in theories of survey research and statistical sampling principles and practices. We have helped clients in industries including automotive, health care, entertainment, consumer products, software, building products, and food products, among others. Our work ranges from short-deadline constructive critiques of existing surveys to rigorous survey projects that successfully resolve multimillion-dollar lawsuits.

#### Our capabilities include:

- Identifying the relevant population for litigation—developing and evaluating methods to sample these populations, including determining appropriate sample frames (lists) and sample sizes.
- Developing and pre-testing the questions required for litigation, including the use of in-depth interviewing, cognitive interviewing, and focus groups, as well as formal quantitative pretests.
- Evaluation of complex question strategies using hypothetical choice questions, willingness to pay questions, and qualitative choice methods such as conjoint analysis or ordered logit analysis.
- Developing effective implementation methods to conduct the surveys, including telephone surveys, in-person interviews, mall intercept surveys, Internet surveys, self administered mail surveys, and mixed mode surveys.
- Cleaning and analysis of survey data, including all phases and types of survey data analysis.
- Critiques of surveys submitted by opposing parties at trial or related to Daubert motions.

## Key Areas of Application for NERA's Survey Research Expertise

### Antitrust

NERA has designed surveys used in matters ranging from unfair competition cases to merger cases. Surveys can be useful to define the market, allocate market shares, and determine the impact of product bundling. A well-designed survey can also produce empirical evidence on the substitutability of products or services for consumers. We have presented evidence before both the FTC and European Commission in a number of matters, including original survey evidence and critiques of opposing survey and sample designs.

### Intellectual Property

Our experience in survey design for trademark, tradename, and false advertising cases spans a variety of products and services including apparel, entertainment, food and drink, cosmetics, and sports equipment. We have entered successful surveys into evidence demonstrating secondary meaning and have helped owners secure trademarks for their products. Our work has been used to demonstrate confusion and dilution. We have also designed surveys used in patent disputes.

### Product Liability and Mass Torts

NERA is experienced in designing surveys and samples for use in class actions, construction defects, product liability, misleading advertising cases, omissions and misrepresentations cases, insurance disputes, asbestos, and other health-related claims. We have also developed and entered into evidence surveys testing materiality, as well as product performance and causes of product failures. Our experts design and implement surveys used to assess issues at class certification, to address liability issues, and in estimating damages.

### Labor Litigation

NERA's survey statisticians have designed research addressing issues of discriminatory promotion and hiring practices in a number of EEOC-related cases. Our experts have examined the evidence in litigation on race, gender, and age-based hiring and promotion practices in a number of industries. We have presented evidence related to litigation on meals and breaks, and conducted surveys to understand corporate and employee practices related to these issues.

## About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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