

Alert | Antitrust Litigation & Competition Regulation



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2025 ABA Antitrust Section Spring Meeting Highlights

The Antitrust Section of the American Bar Association (ABA)'s 73rd Annual Spring Meeting took place from April 2 to April 4, in Washington, D.C. At the conference, over 3,900 registrants from 70 countries, global antitrust enforcers, and practitioners gathered to discuss the latest developments in antitrust. Below are some details and takeaways from the meeting with specific perspectives for the United States, European Union, and Mexico.

Go-To Guide

- **United States:** Highlighted key antitrust developments, including the implementation of the revised HSR form, retention of the 2023 merger guidelines, increased focus on AI-related enforcement, and a balanced but vigilant approach to merger review.
- **FGS Global + Capitol Forum:** Hosted discussion on “Antitrust under Trump,” highlighting expectations for enforcement.
- **European Union:** Emphasized a shift toward supporting economic growth while maintaining strong enforcement, with continued focus on mergers, cartel enforcement, and oversight of tech markets, including AI and algorithms.
- **Mexico:** Highlighted a focus to strengthen cross-border cooperation and align on sustainable and innovation-driven competition agendas.

United States

From a U.S. perspective, the panelists shared insights and opinions on several key topics, including the revised Hart-Scott-Rodino (HSR) form, retention of the 2023 merger guidelines, the growing national and international focus on AI, and ongoing developments in antitrust enforcement.

Hart-Scott-Rodino (HSR) Form: Panelists discussed the new HSR form, highlighting that the form would enable agencies to more efficiently identify anticompetitive mergers and quickly approve deals that benefit consumers. While some panelists expressed surprise, others supported its implementation as necessary. However, the consensus was that the form will lead to increased time and costs for filings in light of the significantly expanded information required upfront with all transactions, rather than only for deals under a substantive investigation.

Merger Guideline Retention: The current administration has announced a policy to retain the updated merger guidelines that were released in 2023—favoring continuity and only selective revisions as needed in the future based on how the guidelines are being used in practice. Panelists at the spring meeting were not surprised by the decision as ultimately they are not binding on either the DOJ or FTC. Panelists also highlighted how resource constraints, such as hiring freezes, may impact enforcement priorities, and speculated that DOJ and FTC may focus on sectors like agriculture, labor, and technology.

Artificial Intelligence (AI): Panelists noted an increased focus on AI at both the national and international level. Panelists discussed possible enforcement priorities under the current U.S. administration and the legal landscape more broadly. The discussion highlighted the use of AI in advertising, global cooperation, algorithmic pricing, state regulation, increased consumer protection scrutiny, and continuous AI innovation. A common theme throughout the discussions was the challenge of tackling the uncertainties involved in client counseling given the shifting legal environment around issues related to AI.

Antitrust Merger Enforcement: Panelists discussed the potential direction of antitrust enforcement under the current administration, noting that enforcers may adopt a more deal-friendly stance than in the past, while still being inclined to challenge certain mergers. Former officials predicted a greater openness to settlements and efficiency arguments but emphasized that scrutiny would remain strong in sectors such as agriculture, pharmaceuticals, labor, and technology. Panelists expected that with respect to merger remedies, structural ones—as opposed to behavioral commitments that are only in effect for the term of the settlement—will still be favored. However, the general consensus was while the authorities have signaled more openness to remedies, that should not be interpreted as a more permissive approach to deal evaluations in general.

FGS Global + Capitol Forum: Panel Discussion

Alongside the ABA's Antitrust Section of the Spring Meeting, FGS Global + Capitol Forum separately presented a panel discussion "Antitrust under Trump" on April 2, 2025, where leaders from the DOJ and FTC spoke.

Highlights from the panel include noting the return of grants of early termination of the HSR waiting period. Regulators noted that the revised HSR form gives regulators additional information sooner in the review process, enabling them to grant early termination where warranted.

The panel suggested the second Trump administration's antitrust enforcement would be similar to the first Trump administration. Thus far there has been an interest in Big Tech and censorship, as well as

other priorities focused on where Americans spend their money: housing, healthcare, insurance, transportation, food, groceries, and entertainment. Authorities also noted a continued interest in labor markets, seeking to protect Americans as consumers and workers.

FTC Chair Ferguson noted his goals of promoting certainty and clarity so that businesses can plan appropriately, noting that he kept the 2023 merger guidelines for that reason.

Assistant Attorney General Slater noted that in contrast to the Biden administration, the FTC and DOJ will be more amenable to remedies in merger cases. The agencies will support remedies where they are confident the proposed remedy will be successful. As a time saving suggestion, regulators noted an openness to parties proposing a remedy contemporaneously with HSR filing (fix it first).

The FTC's non-compete ban is currently stayed. Ferguson dissented, and it is not his priority, but authorities noted that many non-compete agreements would not meet a rule of reason standard. Those non-competes would still be challenged as needed.

European Union (EU)

With respect to enforcement practice in the EU, both by the European Commission and European nations, delegates noted a subtle shift in prioritization and enforcement practice. Agencies acknowledged the role they should play to encourage economic growth. In fringe events, senior officials from the European Commission recognized that they could do more to give guidance and to facilitate collaboration, especially where it potentially supports growth. They cited steps already taken to listen to industry and the professional community as examples of how they are part of a solution. However, there was no suggestion that their commitment to enforcement would be diluted in the forthcoming year.

Merger Control: Representatives of the European agencies argued that their enforcement practice has been highly targeted over the years and that their interventions have increased growth through competition, rather than the opposite. There also remains a desire within the EU to tackle those transactions that fall below filing thresholds but nevertheless give rise to potential competition concerns. The agencies indicated that they remain committed to addressing this issue.

Cartel Enforcement: The European Commission highlighted that cartel enforcement continues to remain a priority. The European Commission reported reducing its reliance on leniency applications, though its pipeline of cases remains strong due to an improved ability to identify suspected breaches of law through technology. The European Commission is deploying new technology to screen evidence and to identify potential breaches, and it has recently commenced investigations using these tools.

Technology Market Enforcement: The agencies additionally mentioned that enforcement within technology markets will remain a priority. Despite the adoption of bespoke regulation (e.g. the Digital Markets Act), European agencies continue to see antitrust enforcement as evolving. AI and algorithms are areas the agencies are monitoring closely.

Throughout the meeting, European agencies emphasized their desire to continue collaborating with their peers across the Atlantic. Generally, they underscored the desire to continue collaboration efforts in connection with individual cases.

Lastly, there were some identifiable differences, particularly with respect to ex ante regulation of digital platforms. This is one area that may be debated between the agencies in the months to come.

Mexico

Andrea Marvan, chair of Mexico's competition authority, attended the meeting and engaged in discussions with officials from the U.S. FTC and the National Association of Attorneys General to explore avenues for strengthening cross-border cooperation in fostering fair and dynamic markets.

Additionally, Marvan connected with European leaders, including Teresa Ribera, executive vice-president for a Clean, Just, and Competitive Transition at the European Commission, and Olivier Guersent, director-general for Competition at the European Commission. During this discussion, the group focused on aligning agendas to promote innovation and competition through sustainable practices.

Marvan emphasized the importance of international collaboration across the board to assist in driving competition policies that benefit consumers and empower micro, small, and medium-sized enterprises.

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