



# Antitrust and Competition

Even if a Biden Administration does not convert the “break up big tech” rallying cry into public policy, it may promote a host of antitrust-related policy reforms. At a minimum, the Biden Administration, along with its allies in Congress, could push for increased funding at the DOJ and Federal Trade Commission (FTC). There is bipartisan support for such measures. Biden may also work with Congress to give the antitrust agencies the ability to seek civil fines for monopolization. And finally, we expect a Biden Administration to support some congressional Democrats’ efforts to shift the burden of proof required for a market dominant company to prove that a merger is not anticompetitive.

**Google Litigation.** Among its first antitrust order of business, the Biden Department of Justice (DOJ) will need to decide whether to continue to litigate the antitrust lawsuit against Google that the Trump administration filed last month. While Democrats questioned the October 2020 timing of this lawsuit – believing it to be, at least in part, a pre-election, political maneuver – a Biden DOJ may continue to pursue the case.

**Big Tech.** How a Biden Administration handles other big tech issues remains an open question. House Democrats have proposed structural separations for tech platforms, including a breakup of the largest firms modeled after the Depression-era Glass-Steagall law.

**Policy Reforms.** Even if a Biden Administration does not convert the “break up big tech” rallying cry into public policy, it may promote a host of antitrust-related policy reforms. At a minimum, the Biden Administration, along with its allies in Congress, could push for increased funding at the DOJ and Federal Trade Commission (FTC). Biden may also work with Congress to give the antitrust agencies the ability to seek civil fines for monopolization. And finally, we expect a Biden Administration to support congressional efforts to shift the burden of proof required for a market dominant company to prove that a merger is not anticompetitive.

**Others to Watch.** In addition to big tech, other industries could be subject to close Biden Administration review, including the pharmaceutical and food/agriculture industries, which have undergone significant consolidation in recent years, as well as the transportation and online travel industries.