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Technology Industry Trends and M&A Outlook in the U.S.: Antitrust Trends for Tech

Introduction

The tech M&A landscape is entering a new era. One year into the change in administration, antitrust enforcers have adopted a noticeably different tone, promising tougher scrutiny in some areas while easing pressure in others. This evolving approach is already visible in recent investigations and deal activity, creating both opportunities and risks for dealmakers.

These changes do not amount to a wholesale reversal of prior policy. High-profile conduct investigations and litigation against "Big Tech" remain active, signaling continuity in certain enforcement priorities. At the same time, the administration has introduced fresh areas of focus that could shape future reviews and investigations. For dealmakers, the environment may feel more accommodating overall, but vigilance is essential as enforcement patterns continue to shift. In the discussion below, we highlight several key trends and offer practical considerations for companies evaluating transactions in the technology sector.

Key Trends

The view that the technology sector is an unregulated "wild west" is well and truly antiquated—the technology sector is increasingly subject to a dizzying array of new requirements. In the EU, this now includes the Digital Markets Act (DMA) (2022), the Digital Services Act (DSA) (2022), the Data Act (2023) and the AI Act (2024). In the UK, the Online Safety Act (2023), Digital Markets Competition and Consumers Act (DMCCA) (2024) and Data (Use and Access) Act (DUAA) (2025) all create new obligations for technology businesses.

New areas of focus for enforcers

Officials in the current administration have discussed a new focus on investigating censorship as a potential antitrust violation, including in the merger context. For example, in a statement relating to the Omnicom-Interpublic merger, FTC Chairman Andrew Ferguson said that "[i]nvestigating and policing censorship practices that run afoul of the antitrust laws is a top priority of the Trump-Vance FTC."[1] The DOJ appears to have a similar view, as exemplified by filed a statement of interest the Antitrust Division filed in Children's Health Defense et al. v. Washington Post et al., to support the view that

1 https://www.ftc.gov/system/files/ftc_gov/pdf/omnicom-ipg-ferguson-statement_0.pdf

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"information quality" is a metric of competition that the antitrust laws are designed to protect.[2] In February 2025, the FTC launched a public inquiry on "tech censorship,"[3] and in August 2025, Chairman Ferguson sent letters "to more than a dozen prominent technology companies . . . . warn[ing] them that censoring Americans at the behest of foreign powers might violate the law."[4]

In addition to the relatively novel emphasis on censorship and free speech, enforcers have shown a focus on "pocketbook issues." DOJ Assistant Attorney General for the Antitrust Division Gail Slater described "protect[ing] Americans on pocketbook issues such as housing, healthcare, groceries, transportation, insurance, entertainment, and similar markets that directly impact their lives," as a principle of "America First Antitrust."[5] The DOJ's recent settlement in the RealPage litigation—which focused on concerns relating to the company's algorithmic pricing tools—exemplifies such "pocketbook issues."[6]

Openness to remedies

Another notable development in the Trump administration has been an increased openness to merger remedies. Senior officials have repeatedly underscored this change in their public statements. In February 2025, Assistant Attorney General Slater told Congress that, in contrast to the Biden administration, she "expect[s] this Administration will be more open to settlements in merger cases when effective and robust structural remedies can be implemented without excessively burdening the Antitrust Division's resources."[7] Chairman Ferguson's May 2025 statement in connection with the Synopsys-Ansys merger echoed that sentiment, noting that "remedies must be an option for the FTC as it fulfills its mission of protecting competition," and highlighting the FTC's "strong preference . . . for structural remedies over conduct remedies."[8]

The shift toward a greater openness to remedies is evident in the series of merger settlements finalized this year, including: Boeing-Spirit, Valvoline-Greenbriar, ACT-Giant Eagle, Omnicom-Interpublic, Safran-Collins Aerospace, Keysight-Spirent and Synopsys-Ansys. The federal antitrust agencies have also resolved ongoing merger litigation via settlement in two matters: UnitedHealth-Amedisys and HPE-Juniper Networks.[9]

2 https://www.justice.gov/atr/media/1407666/dl?inline ("Americans… vitally depend on viewpoint competition in the marketplace of ideas to limit the abuse of market power and ensure the free flow of information in our democracy.").

3 https://www.ftc.gov/news-events/news/press-releases/2025/02/federal-trade-commission-launches-inquiry-tech-censorship ("This inquiry will help the FTC better understand how these firms may have violated the law by silencing and intimidating Americans for speaking their minds.").

4 https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-chairman-ferguson-warns-companies-against-censoring-or-weakening-data-security-americans-behest

5 https://www.justice.gov/opa/speech/assistant-attorney-general-gail-slater-delivers-first-antitrust-address-university-notre

6 https://www.justice.gov/opa/pr/justice-department-requires-real-page-end-sharing-competitively-sensitive-information-and

7 https://www.judiciary.senate.gov/imo/media/doc/2025-02-12_-_qfr_responses_-_slater.pdf

8 https://www.ftc.gov/system/files/ftc_gov/pdf/synopsys-ansys-ferguson-statement-joined-by-holyoak-meador.pdf However, the FTC notably approved behavioral remedies as part of the Omnicom/Interpublic merger.

9 Further, the Amex GBT-CWT merger closed in September 2025 after the DOJ abandoned its complaint—filed six months earlier under the prior administration—alleging that the merger "would extinguish fierce head-to-head competition between Amex GBT and CWT and risk higher prices, fewer choices, and less innovation" in the market for business travel management services for global and multinational customers. https://www.justice.gov/archives/opa/media/1383711/dl

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Certain transaction structures continue to draw some scrutiny

A number of high-profile "acqui-hire" transactions—which, depending on the specific structure, may not be reportable under the Hart-Scott-Rodino Antitrust Improvements Act—drew scrutiny from the FTC and DOJ under the prior administration. The attention given to such deals appears to have survived the change in administration—at least to some degree—with the DOJ launching an investigation into Google's deal with Character.AI in May 2025.[10] However, the current administration has not offered an affirmative view on "acqui-hire" structures and has not brought an enforcement action to resolve competition-related concerns with such transactions, so this remains an important area to monitor.

State enforcers play an increasingly prominent role

While more than a dozen states have statutory merger notification requirements for healthcare transactions, in September 2024 Washington became the first state to enact an industry-agnostic pre-merger notification requirement, modeled on the Uniform Antitrust Pre-Merger Notification Act (UAPNA). Washington Attorney General Nick Brown described the state as a "trailblazer for the rest of the nation in adopting a premerger notification law," stating that such laws "allow state antitrust enforcers to protect consumer interests in an even more effective way."[11] In June 2025, Colorado became the second state to adopt UAPNA. Notably, both Washington and Colorado brought standalone suits seeking to block the now-terminated Kroger/Albertsons deal, independent of the FTC's own challenge.

Several other states—California, Hawaii, Nevada, Utah, Washington, and West Virginia—as well as the District of Columbia, have introduced similar legislation for consideration.

Practical Considerations

Firms evaluating transactions in the tech space should work with antitrust counsel to actively monitor the regulatory landscape and assess how these emerging trends may influence deal opportunities, structures, and timing. In particular:

- **Engage with antitrust counsel early:** Early antitrust analysis helps identify potential risks and shape deal strategy, including taking into account the regulatory review timeline. Engaging on these issues as soon as possible ensures proactive planning and reduces the likelihood of costly delays or surprises later in the process.
- **Know your audience:** Understanding the areas that enforcers are likely to focus on and engaging with the appropriate stakeholders at the right level of seniority within the agency are more critical than ever. The specific dynamics of each transaction will play a significant role—there is no universal formula for effective agency engagement.
- **Be ready to engage with enforcers early:** Opportunities for senior-level interaction may arise sooner than expected. As a result, it's important to consider your engagement strategy early in the process.
- **Anticipate remedy options early:** The same principle applies to remedy discussions. Early consideration of a remedy strategy—including on when to engage with the agency—offers the best chance of securing timely approval if remedies are necessary. In today's environment, agencies are more open to structural solutions, but those typically require meaningful time and planning.

Our antitrust practice group includes attorneys with decades of experience advising on transactions across a wide range of industries, including several who have held leadership positions at the FTC and DOJ. We offer practical, in-depth insights into how the evolving regulatory landscape may affect different types of deals. If you have any questions about the topics discussed in this post, please contact the authors.

10 https://www.reuters.com/business/google-faces-doj-probe-over-deal-ai-tech-bloomberg-law-reports-2025-05-22/

11 https://www.atg.wa.gov/news/news-releases/starting-july-27-washington-will-be-first-state-nation-implement-uniform

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