

CASE/MATTER	ISSUE	NEXT STEPS	INSIGHTS
<b>DOJ Civil Conduct Litigations</b>			
United States v. Google (Search litigation in D.D.C.)	Monopolization of general search services	Evidentiary hearing for remedies scheduled for April 21, 2025	First Trump Administration originated the lawsuit; bipartisan group of state attorneys general are co-plaintiffs in the case; incoming Administration's comments on remedies have been inconsistent
United States v. Google (AdTech litigation in E.D. Va.)	Monopolization of digital advertising technology products	Closing arguments in bench trial ended November 26, 2024; awaiting Judge Brinkema's decision	Bipartisan group of state attorneys general are either co-plaintiffs in the case or joined to a parallel Texas-led lawsuit
United States v. Apple	Monopolization of the smartphone market	Motion to dismiss was argued November 20, 2024, and Judge Neals indicated he would issue a decision in January	AG nominee Pam Bondi was questioned about the Apple case during her confirmation hearing; she expressed she is "committed to that type of case"; bipartisan group of state attorneys general are co-plaintiffs in the case
United States v. LiveNation/ Ticketmaster	Monopolization of primary ticketing services, use of large amphitheaters, and concert promotion services	Motion to dismiss some claims is fully briefed and awaiting decision from Judge Subramanian	AG nominee Pam Bondi was questioned about the Live Nation case during her confirmation hearing; she expressed she is "committed to that type of case"; bipartisan group of state attorneys general are co-plaintiffs in the case
United States v. Visa	Monopolization of the markets for general purpose debit network services and general-purpose card-not-present debit network services	Motion to dismiss partially briefed (DOJ's response filed January 19)	Little commentary on the case from incoming Administration; no state co-plaintiffs
United States v. RealPage	Monopolization of the commercial revenue management software market; entering agreements to share competitively sensitive information with the effect of raising the price of rent in residential apartment buildings	Motion to dismiss partially briefed (plaintiffs' response filed January 7); answer to amended complaint due February 4 (on January 7, plaintiffs amended the complaint to add Greystar, LivCor, Camden, Cushman, Willow Bridge, and Cortland management companies as defendants in the allegedly anticompetitive agreements)	Bipartisan group of state attorneys general are co-plaintiffs in the case
United States v. AgriStats	Entering agreements to share competitively sensitive information with the effect of raising the price of meat processing	Motion to dismiss was denied on May 28, 2024; parties are in discovery	Bipartisan group of state attorneys general are co-plaintiffs in the case

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<b>DOJ Merger Litigations</b>			
UnitedHealth/Amedisys	Horizontal merger in home health and hospice services	Plaintiffs' response to motion to dismiss due (MTD filed January 8, 2025); UnitedHealth abandoned plan to sell divestiture assets to VitalCaring on January 8, 2025	Affected states are co-plaintiffs in the case; "litigating the fix" likely to be more attractive given the parties' divestiture remedy falling apart
United States v. Amex GBT/CWT Holdings	Horizontal merger in business travel management services	Complaint and answer filed as of January 14, 2025; parties will negotiate trial date	No commentary on the case from incoming Administration; no state co-plaintiffs
United States v. KKR	Hart-Scott Rodino Act (HSR Act) filing deficiencies	Complaint filed on January 14, 2025	No commentary on the case from incoming Administration; no state co-plaintiffs
<b>Known DOJ Civil Investigations</b>			
UnitedHealth Group	<a href="#">Reports</a> of a monopolization investigation involving UHG's acquisition of providers and the effect on rival payors and physician groups	Decide whether to continue investigation	No commentary from incoming Administration
The National Association of Realtors	Litigation over CIDs confirms a broad-ranging investigation into the anticompetitive effects of NAR rules including the cooperative compensation rule and the clear cooperation policy	Decide whether to withdraw pending CIDs that the First Trump Administration withdrew as part of a settlement agreement (on January 13, 2025, the Supreme Court denied cert on a D.C. Circuit decision that allowed the CIDs, reversing a district court decision that had quashed them)	First Trump Administration settled claims before jury verdicts finding NAR rules violated the antitrust laws; new leadership is likely to stay involved in any settlements involving conduct orders
<b>FTC Conduct Enforcement Actions</b>			
FTC v. Meta (Facebook)	Monopolization of personal social networking	Set for a federal district court trial on April 14, 2025 (summary judgment order limited the case to the effects from acquiring WhatsApp and Instagram)	First Trump Administration originated the lawsuit (though with two dissenting Republican votes); sitting and nominated Republican Commissioners have all made comments supporting enforcement actions against the large digital platforms
FTC v. Syngenta and Corteva	Monopolization of pesticides; entering loyalty agreements with distributors which prevent competition from generics	Motion to dismiss was denied on January 12, 2024; parties are in discovery	Unanimous decision, including Republican Commissioner (with another Republican Commissioner recused); bipartisan group of state attorneys general are co-plaintiffs in the case

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FTC v. Amazon	Monopolization of online superstore retail and online marketplace services for sellers; unfair method of competition to induce price-following by rival online retailers	Motion for judgment on the pleadings partially briefed (plaintiffs' response filed January 14); decide how to proceed with standalone "unfair method of competition" claim	No Republican Commissioners were on the Commission when the complaint was voted out; sitting and nominated Republican Commissioners have all made comments supporting enforcement actions against the large digital platforms, but then-Commissioner Ferguson (now, Chair Ferguson) and Commissioner Holyoak have indicated that standalone "unfair methods of competition" claims should comport with a balancing test similar to the rule of reason
In re Caremark et al.	Pharmacy benefits managers use of rebate schemes as an unfair method of competition	Parties are litigating in the FTC's administrative court; defendants sued to enjoin the administrative proceeding in federal court; the motion for PI is partially briefed (FTC filed its opposition on December 19, 2024)	Chair Ferguson and Commissioner Holyoak are recused and therefore the case is unlikely to change direction as a result of the change in administration
FTC v. Southern Glazer's	Robinson-Patman Act price discrimination in violation of Section 2(a)	Complaint filed in federal district court on December 12, 2024; Southern Glazer's motion to dismiss is due February 3, 2025	Chair Ferguson and Commissioner Holyoak voted against the complaint but will not have votes to withdraw it until after Mark Meador is confirmed as a Commissioner; Chair Ferguson will control the litigation, but is likely to support the legal theory at issue in the motion to dismiss briefing (his reasons for dissenting rested factual issues he described as close calls, and a conviction that the Commission's resources would be better used elsewhere)
In re Planned Building Services et al.	Entering "no hire" agreements with customers of building management services	Decide whether to enter the final consent decree (complaint and proposed decree issued on January 6, 2025)	Chair Ferguson and Commissioner Holyoak had dissented from a similar case (In re Guardian Service Industries) where they had not seen evidence of anticompetitive effects from the "no hire" agreements, but they joined this enforcement action and articulated their reasons to believe that the application of the contract provision had anticompetitive effects that outweighed procompetitive benefits; the case suggests the new Administration may prioritize showing that labor restrictions should be pursued on a case-by-case basis
FTC v. John Deere	Monopolization of the restricted repair services market for farming equipment	Complaint filed in federal district court on January 15, 2025	The Commission vote to authorize staff to file the complaint was 3-2 with Republican Commissioners Holyoak and Ferguson dissenting, primarily on the grounds that the investigation was under-developed; Chair Ferguson indicated "I

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			favor settling this litigation but only if that settlement provides real, tangible benefits to America's farmers" but, assuming a satisfactory settlement is available, he would likely need the vote of pending Commissioner-nominee Mark Meador; two affected states are co-plaintiffs in the case
FTC v. PepsiCo	Robinson-Patman Act price discrimination through advertising and promotional allowances, in violation of sections 2(d) and 2(e)	Complaint filed on January 17, 2025	The Commission vote to authorize staff to file the complaint was 3-2 with Republican commissioners Holyoak and Ferguson issuing strongly worded dissents indicating they have seen no evidence to support the case and believe it a poor fit with sections 2(d) and 2(e) of the Robinson Patman Act; however, withdrawing the complaint requires a Commission vote, and Chair Ferguson would need the vote of pending Commissioner-nominee Mark Meador
<b>FTC Merger Enforcement Actions</b>			
Microsoft/Activision	Vertical merger combining video game titles and video game consoles and distribution	Awaiting decision from Ninth Circuit Court of Appeals while proceeding in FTC's administrative court	The only Republican Commissioner to vote on the complaint (Wilson) voted against it and the FTC's high-profile loss at the district court was considered a sign of the FTC's excessively aggressive stance toward mergers; however, the vertical theory of harm is consistent with the 2020 Vertical Merger Guidelines and therefore may be supported by the current Republican Commissioners
FTC v. US Anesthesia Partners	"Roll-up" acquisitions to monopolize the anesthesia market in Texas	Motion to dismiss was denied and the associated appeal was dismissed on August 15, 2024; discovery set to close in October 2025	In a consent decree disposing of claims against the private equity partner, Chair Ferguson indicated "this case is an ordinary application of the most elementary antitrust principles"
Tempur Sealy/ Mattress Warehouse	Vertical merger combining mattresses and mattress retail	Closing arguments in federal district trial were December 16, 2024; awaiting Judge Eskeridge's decision	Chair Ferguson and Commissioner Holyoak voted to issue the complaint

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<b>Rulemakings and Guidance</b>			
FTC's Section 5 Policy Statement on Unfair Methods of Competition	"Policy Statement Regarding the Scope of Unfair methods of Competition under Section 5 of the Federal Trade Commission Act" sets out broad parameters for conduct that the FTC may prohibit beyond the scope of the Sherman Act	Decide whether to withdraw the policy statement (which would require a majority vote)	Chair Ferguson has indicated a desire to use the FTC's Section 5 enforcement authority to pursue unique causes of action where firms utilize their market power to deleterious results; however, he also declined to vote for an enforcement action where there was no evidence that the anticompetitive effects had outweighed the procompetitive benefits (In re Guardian Service Industries)
2023 Merger Guidelines	Substantive standard by which the FTC and DOJ will review horizontal and vertical mergers	Decide whether to withdraw guidelines (which each agency could do separately); adoption of new guidelines would likely be a joint effort of both agencies	No Republican Commissioners were on the Commission when the guidelines were adopted; Chair Ferguson has indicated a desire to reverse the Biden FTC's "war on mergers"
FTC's Non-Compete Rule	Broad rule banning non-compete clauses in employment agreements as unfair methods of competition;	A district court order in <i>Ryan LLC v. FTC</i> vacated the rule; the appeal is partially briefed (FTC's opening brief filed with the Fifth Circuit Court of Appeals on January 2); Chair Ferguson must decide how to proceed in the appeal	The Commission vote to promulgate the rule was 3-2, with Republican Commissioners Ferguson and Holyoak dissenting on a variety of grounds including that the rule is unlawful; their reasoning is very similar to the points petitioners have argued in challenging the rule in court
2024 HSR Rule Revision	Increase in the information and documents required for pre-merger filings	Decide whether to delay adoption of the rule (which a Trump EO asks agencies to consider); a revision of the rule would require a majority vote of the Commission and a decision of the AAG for Antitrust	The Commission vote to promulgate the revisions was unanimous, but Republican Commissioners Ferguson and Holyoak indicated they had supported the rule only to win compromise revisions
FTC's Policy Statement on Independent Contractors	"Enforcement Policy Statement on Exemption of Protected Labor Activity by Workers from Antitrust Liability" indicates the FTC will not challenge collective action by independent contractors who provide labor services and are seeking better compensation and job conditions because, in the FTC's view, such activities are exempted under the Clayton Act and the Norris-LaGuardia Act	Decide whether to withdraw the policy statement (which would require a majority vote)	The Commission vote to issue the policy statement was 3-2, with Republican Commissioners Ferguson and Holyoak dissenting on the ground that it does not state the future enforcement intentions of President Trump's Chair ("this is not the time for the Biden-Harris Commission to announce policy changes or how the agency will exercise prosecutorial discretion moving forward")