

M&A Under Trump: Familiar Rules, New Uncertainties

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The central question for dealmakers today isn't whether certainty or uncertainty is better—it's whether they can tell the difference. The return of a Trump antitrust administration has been widely described as a "reversion to normalcy," but that description oversimplifies reality. While many expected a different environment for mergers, the early months of this administration show that "predictable" and "pro-business" are not the same thing.

For boards and CEOs, the practical challenge is less ideological than operational: how to price, structure, and time a deal in a world where the rules appear more traditional but the enforcement dynamic reflects different priorities.

From Ideology to Instinct:

The New Deal Question

During the Biden years, antitrust enforcement was defined by expansive and novel theories—effects on labor markets, innovation ecosystems, concerns with private equity acquisitions and vertical integration—that often placed transactions under heightened scrutiny. Settlements were scarce; litigation risk was high.



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Dealmakers adapted by modeling delay, litigation, and even deal failure as part of their valuation calculus. Many deals never got off the ground due to the risk of agency opposition.

The Trump approach reflects different enforcement priorities. Early indications suggest fewer second requests and a greater willingness to negotiate structural remedies such as divestitures or product-line sales.

The shift represents a change in enforcement philosophy. Where the Biden administration emphasized novel theories and litigation, the current administration has signaled openness to

negotiated resolutions and traditional structural remedies but also has shown that its policy objectives will play an important part.

Predictability matters. For boards, the question “Can we close this deal?” now includes consideration of how transactions align with the administration’s stated policy priorities.

The Return of Structural Remedies and Policy Considerations

One of the most visible contrasts between the two administrations is in how they resolve merger concerns. The Biden agencies largely rejected behavioral or structural settlements, preferring litigation to block deals outright. The Trump agencies are signaling the opposite: a willingness to clear transactions conditioned on divestitures or other structural fixes.

This shift offers practical paths to closing, provided the parties can align their messaging with administration priorities. In this environment, remedies may reflect not only competitive effects but also alignment with the administration’s stated industrial and economic priorities.

“America First Antitrust”: Policy Framework

DOJ’s Antitrust Chief, Gail Slater, has framed the new enforcement philosophy as “America First Antitrust.” The approach emphasizes protecting workers and small businesses in manufacturing and agriculture. This approach sounds less hostile to M&A, but does embed populist unpredictability. The Trump agencies have revoked the Biden-era 2021 Executive Order on competition and launched new task forces to address federal and state regulations they identify as barriers to competition.

The focus has shifted from scrutinizing specific transactions to examining the regulatory

framework itself. For regulated industries like health care, energy, and finance, this creates a different type of uncertainty—not about enforcement actions but about the evolving legal infrastructure.

Tech remains a focus area. Large platforms are expected to remain enforcement targets, driven by concerns about market power and content moderation practices. This sector-specific approach makes enforcement patterns more varied across industries, which in turn impacts predictability.

What “Certainty” Really Means for Dealmakers

Hart-Scott-Rodino (HSR) filings are down slightly (about 3% year-over-year) but still 7% higher than in 2023. That consistency suggests that antitrust risk has not varied so significantly that it has affected appetite for mergers. Yet the nature of transactional risk has evolved. The current environment places greater emphasis on how transactions align with administration policy priorities, which is a departure from past practice.

For boards, this means due diligence now includes consideration of policy alignment. A cross-border transaction touching jobs, defense, or critical infrastructure may invite not only agency review but also broader government scrutiny.

The U.S. Steel/Nippon Steel matter illustrates this dynamic. The transaction review encompassed considerations of industrial policy and national security. The analysis extends beyond traditional antitrust metrics.

Deal modeling therefore must include an assessment of how transactions relate to administration priorities: Does the deal affect domestic production, employment, or supply-chain security? These considerations now form part of the regulatory risk assessment.

The Globalization of Uncertainty

Even as Washington recalibrates, the U.S. no longer defines the outer boundary of merger review. The European Commission and the U.K. Competition and Markets Authority have become increasingly assertive, sometimes moving faster and further than U.S. agencies.

The Microsoft/Activision transaction, cleared in the U.S. but initially blocked in London, demonstrates that transatlantic divergence can affect global deals regardless of U.S. policy.

Foreign investment regimes—CFIUS-style reviews—are also proliferating across Europe and Asia. Ten years ago, Washington dominated the risk matrix. Today, Brussels, London, and even Canberra can be decisive review points. For deal counsel, that means developing a unified narrative that resonates across jurisdictions. A remedy that satisfies the DOJ may not satisfy the CMA, and inconsistent messaging can create complications.

Changes in Private Equity Review

Another notable shift is the change in approach to private equity. Again, departing from the Biden era, the new leadership has indicated it does not view financial sponsors as inherently raising competitive concerns. That removes a layer of scrutiny but not substantive review.

Roll-up acquisitions that raise competitive concerns will still attract attention—just without the PE sector-specific focus. For sponsors, the practical implication is tactical: less need for defensive messaging about the private equity business model, more focus on deal-specific effects and remedy readiness.

M&A Strategy in the Current Landscape

For practitioners, these policy shifts translate into three actionable imperatives:

1. Integrate Government Relations Early

If a deal touches jobs, national security, or critical infrastructure, early engagement is essential. Transactions in this environment benefit from a coordinated government-relations strategy. Lobbyists, PR advisors, and political consultants can help shape the transaction narrative from the outset.

2. Prepare Dual Playbooks—Legal and Policy

Traditional merger-control analysis remains essential, but parallel assessment of policy alignment is now equally important. A transaction that appears straightforward economically may face questions if it raises concerns about domestic manufacturing or offshoring. Conversely, a deal that supports U.S. employment or supply resilience may find more receptive review even with higher concentration metrics.

3. Monitor the Policy Environment

Policy priorities can shift overnight in response to public attention, congressional activity, or administration statements. Deal teams should monitor not only agency dockets but also the broader policy environment. Election cycles, cabinet changes, and public discourse can affect timing and outcomes.

A Different Enforcement Environment

The irony of 2025 is that the formal architecture of U.S. antitrust remains stable. The agencies remain committed to the revised Merger Guidelines issued during the Biden administration. What has changed is the enforcement philosophy and priorities.

The current administration has signaled different approaches to settlements, remedies, and sector-specific enforcement. Personnel changes,

including the departure of career officials following the HPE/Juniper settlement, reflect the administration's commitment to its policy direction. For general counsel and M&A advisors, this means understanding the current enforcement personnel and priorities and how they may apply to specific transactions.

The Practical Takeaway

For transactional lawyers and corporate boards, the lessons of this evolving landscape are concrete:

- **Model policy alignment risk.** Treat it as a variable in valuation and timing.
- **Assume remedies, not rejections.** Design divestiture options in advance; it shortens negotiations. Consider remedies that may address policy concerns.
- **Globalize your clearance strategy.** Coordinate filings so that divergent outcomes abroad don't delay the deal.
- **Understand the current approach.** The administration's stated priorities provide guidance on enforcement focus.
- **Monitor personnel.** Changes in agency leadership can signal shifts in enforcement priorities.
- **Carefully message the deal.** Deal messaging, both internally and externally, should be strategically managed to address both traditional antitrust concerns (such as

effects on customers) and broader policy objectives.

The bottom line: the enforcement environment reflects different priorities than the prior administration. Policy considerations now play a more prominent role in merger review -- one that can be as significant as traditional antitrust analysis.

The Trump administration's antitrust posture blends familiar form with a different enforcement philosophy. The approach emphasizes traditional antitrust metrics—price, output, and structural remedies—while incorporating the administration's broader economic policy framework.

For dealmakers, the path forward requires understanding these priorities. Successful transactions will be those that address both legal requirements and policy considerations. Effective M&A strategies will treat Washington not as an obstacle to navigate at the end of the process, but as a stakeholder whose priorities should be understood from the beginning.

The current moment represents a shift in enforcement philosophy. The analytical framework may look familiar, but the priorities and emphasis have changed, requiring dealmakers to adapt their strategies accordingly.

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