Election Effects on Antitrust

November 19, 2026

Summary. The recent elections in the United States reinforce the ongoing trend toward more robust state antitrust enforcement. Despite the significant shift in control of Congress, the election results are not expected to meaningfully change the nature of federal antitrust enforcement in the near term. For companies, the practical result is that enforcement and uncertainty will remain high, which can impact deal timelines and transacting parties' confidence.

State Antitrust Priorities. Before the election, Republicans held 27 State AG offices, while Democrats held 23. In 2027, Republicans will hold 21 and Democrats will hold 29 – a six-seat swing, pending final appointment of Alaska's AG by the newly elected Democratic governor. We expect state antitrust enforcement to continue to grow from already historically high levels.

Historically, Democratic administrations have been more inclined to pursue aggressive antitrust enforcement. At the federal level, under the first and second Trump administrations, we have seen this trend crossing party lines, but we have not yet seen the same approach with Republican-led states. However, with "affordability" continuing to be a central political issue, State AGs-elect on both sides of the aisle ran on platforms focused on the consumer's bottom-line and dedicating enforcement efforts to antitrust issues.

- **Affordability & Prices**. Cost-of-living concerns were a central theme of this cycle's State AG races, and incoming State AGs are expected to translate that message into pricing-focused antitrust enforcement. E.g. Colorado AG-elect Jena Griswold has pledged to pursue price gouging, with a focus on rent increases and rising grocery prices, among many other issues.

- **AI & Algorithmic Pricing**. Algorithmic and personalized pricing will also be a leading focus for the new State AGs. Texas AG-elect Nathan Johnson campaigned on fighting emerging technology risks alongside price gouging and consumer scams. Similarly, Michigan AG-elect Eli Savit has pledged to issue new rules under the Michigan Consumer Protection Act addressing the misuse of AI, including

algorithmic price-setting. This would continue the active role that State AGs have recently taken in litigating against algorithmic pricing software, reflecting the cost-of-living concerns for the average consumer, e.g. the coalition of State AGs that sued over rental-pricing software.

- **State Legislation**. The recent election results are expected to increase the risk that additional states impose merger notification requirements or otherwise provide state enforcers with new enforcement tools. Several states have already moved in this direction:

  - Washington and Colorado currently require parties to certain HSR-reportable transactions with a local nexus to provide a copy of their HSR filing to the state AG.

  - California will impose a similar requirement for HSR filings made on or after January 1, 2027, and has also enacted the COMPETE Act, effective January 1, 2027, which broadens the state's ability to litigate anticompetitive single-firm conduct, such as monopolization and monopsonization claims.

  - States that have flipped to a Democratic trifecta are well positioned to follow Washington, Colorado, and California with new legislation to support state antitrust enforcement.

  - For additional information regarding the current HSR filing regimes, *see* Debevoise's earlier alert "The Chaotic State of U.S. Merger Control" (May 2026), linked here.

Consistency at the Federal Level. Although the recent elections are expected to put pressure on federal antitrust enforcement, we expect the DOJ and FTC will remain focused on their existing enforcement priorities. Investigations by the new Congress may impact parties who seek or have recently sought clearance of transactions presenting antitrust risk, but the federal agencies themselves are expected to continue to focus on AI and kitchen-table "affordability" issues such as healthcare, energy, and food supply.

- **Executive Branch**. The recent election does not directly change senior leadership at the federal antitrust agencies. The pending nomination of Adam Candeub to serve as Assistant Attorney General for the Antitrust Division is ready for a final confirmation vote, which may take place before the new Congress takes office in January. Likewise, the pending nomination of Chris Mufarrige, Director of the FTC Bureau of Consumer Protection, to serve as an FTC Commissioner will not shift the FTC's current enforcement priorities; his confirmation would add a third Republican

to a Commission that currently has two Republican Commissioners and no Democratic Commissioners.

- **Legislative Branch**. Democrats won control of both the House and the Senate, but any substantive changes to the federal antitrust statutes would require either an agreement with President Trump or sufficient bipartisan support to overcome a veto. As a result, congressional investigations are the more likely source of any potential change. *See* Debevoise In Depth, "Preparing for a New Era of House Oversight" (Apr. 1, 2026), linked here.

- **Interaction with State AGs and Congress**. The increased enforcement expected by State AGs may complicate any efforts to settle with the federal agencies, while the Democratic-controlled Congress can use its subpoena power to investigate closed deals that were not litigated before closing. In other words, a decision by the federal agencies may not be the last word on the matter. Parties are best served by retaining a high-quality antitrust legal team to secure clearance on the merits.

Practical Implications. Heading into 2027, companies should consider the following:

- **Role of the states**. Companies should pay close attention to state antitrust enforcers. Thirteen State AG offices will have new leadership in January 2027, and some of the new State AGs may use high-profile competition matters to define their offices, and in many cases to build their profiles for higher office, potentially leading to an uptick in investigations. Companies should understand that this uptick may be present in both red and blue states.

- **Effect on Mergers & Acquisitions**. While divestitures and other remedies should continue to be available to resolve potentially anticompetitive acquisitions, the Federal antitrust enforcement actions may remain consistently unpredictable. While more certainty in investigations lies at the state level, the uncertain amounts of success and impact on timing will continue. Parties should involve counsel in determining whether there are potential state-level risks or additional filing obligations resulting from the election results.

    - For a discussion of similar dynamics in the insurance sector, *see* our Debevoise Update, "U.S. Elections – Implications for Regulation and M&A in the Insurance Sector" (November 12, 2026), linked here.

- **Engage counsel early**. Companies should engage antitrust counsel early to review pricing, algorithm, and data-sharing practices, manage open matters through the January transitions, and discuss any potential antitrust regulatory risks relating to any upcoming mergers or acquisitions.

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Debevoise lawyers regularly advise clients on state and federal premerger notification requirements, and both state and federal antitrust matters. Please do not hesitate to contact us with any questions.



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