

Merger Enforcement Across Political Administrations In The United States

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New political administrations often come into office with assumptions, and sometimes clear statements, about how their approach to antitrust enforcement will differ from that of their predecessors. Thus, President George W. Bush took office in the wake of his statements that antitrust law “needs to be applied where there are clear cases of price-fixing” and that he would not see other roles for antitrust enforcement because “everything evolves into price-fixing over time”. Such radical sentiments stoked strong expectations that Bush administration appointees to the Antitrust Division of the U.S. Department of Justice (“Antitrust Division” or “DOJ”) and to the Federal Trade Commission (“FTC”) would greatly reduce antitrust enforcement. Indeed, during his campaign President Obama stated that antitrust enforcement under President Bush “may be the weakest” of “any administration in the last half century”, signaling that there would be increased enforcement during an Obama administration. Shortly after Christine Varney took over as President Obama’s Assistant Attorney General (“AAG”) for antitrust, she delivered a speech promising a more aggressive approach to antitrust enforcement than that of her predecessors. She also specifically withdrew a report that the Bush DOJ had issued that was viewed as establishing a less aggressive approach to alleged monopoly conduct.

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