

President Trump Appoints Makan Delrahim to Lead the Antitrust Division

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Today the Trump Administration announced the selection of Makan Delrahim, currently Deputy Counsel to President Trump for Nominations and Oversight, to be the next Assistant Attorney General (“AAG”) for Antitrust at the U.S. Department of Justice (“DOJ”). We expect a Senate hearing for Mr. Delrahim in the next several weeks, with confirmation likely.

Mr. Delrahim’s antitrust views are generally in line with previous Republican-appointed AAGs, leaning towards a more flexible, industry-specific approach with greater willingness to consider the potential for conduct or transactions to increase innovation or expand markets. In what would be a major change from his most recent predecessors, we expect a greater focus on, and willingness to credit, anticipated procompetitive benefits and benefits to the U.S. economy from merger transactions and other conduct, particularly with regard to intellectual property and innovation.

Mr. Delrahim has taken several positions that indicate he is not rigidly ideological and will take a pragmatic, case-by-case approach to enforcement, evidenced by his stance on protecting innovation, his role in previous antitrust investigations during an earlier stint at the Antitrust Division, and his experience in the political sphere.

Finally, through his prior role at the Senate Judiciary Committee and his current role in the Trump Administration, Mr. Delrahim has more political experience and more direct experience inside the administration than most prior antitrust AAGs. As a result, he is likely to have a keen understanding of, and ability to navigate, the political attention and competing agendas that major deals and antitrust investigations can—and may increasingly—involve.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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