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A 2025 Year in (Merger) Review – Settlements Are Back

One year into the Trump Administration, merger enforcement priorities and practices diverge markedly from those of the Biden Administration. Most notably, the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ) have resumed negotiating settlements with merging parties, signaling a shift back to a more traditional, pre-Biden enforcement environment.

Under the Biden Administration, the DOJ largely refused to engage in settlement negotiations to resolve competitive concerns with mergers, instead forcing merging parties to abandon their deal or litigate.[1] The Trump Administration has continued to litigate merger cases, particularly those involving industries important to its enforcement priorities, such as health care. For example, in August 2025, the FTC filed suit challenging a proposed transaction that "would reduce competition in the U.S. market for transcatheter aortic valve replacement devices (TAVR-AR devices), which treat a heart condition called aortic regurgitation," and a federal court granted the FTC's motion for a preliminary injunction to enjoin the transaction earlier this month.[2]

At the same time, the Trump Administration has demonstrated a renewed willingness to resolve merger concerns through settlements, entering into roughly a half dozen over the past year. In May 2025, the FTC Chair emphasized "remedies must be an option for the FTC as it fulfills its mission of protecting competition," citing, in part, "the FTC's finite enforcement resources."[3] While most of these settlements rely on structural remedies, *i.e.*, primarily asset divestitures, the agencies have also accepted some behavioral remedies in certain cases.

For instance, in December 2025, the FTC agreed to a remedy with structural and behavioral components, coupling a structural divestiture with behavioral requirements that the parties provide certain services and manufacturing assistance to competitors.[4] Similarly, in June 2025, the DOJ approved a settlement that paired a behavioral remedy (a software license) with a structural divestiture of business.[5]

[1] *DOJ Antitrust Chief Prefers Merger Lawsuits Over Settlements*, Bloomberg, Jan. 24, 2022, available at https://www.bloomberg.com/news/articles/2022-01-25/doj-antitrust-chief-prefers-merger-lawsuits-over-settlements?embedded-checkout=true.

[2] Statement on FTC Victory Halting Anticompetitive Medical Device Deal, Federal Trade Commission, Jan. 12, 2026, available at https://www.ftc.gov/news-events/news/press-releases/2026/01/statement-ftc-victory-halting-anticompetitive-medical-device-deal?utm_source=govdelivery.

[3] Statement of Chairman Andrew N. Ferguson, *In the Matter of Synopsys, Inc. / Ansys, Inc.*, May 28, 2025, available at https://www.ftc.gov/system/files/ftc_gov/pdf/synopsys-ansys-ferguson-statement-joined-by-holyoak-meador.pdf.

[4] FTC Requires Boeing to Divest Several Spirit Assets to Proceed with Merger, Federal Trade Commission, Dec. 3, 2025, available at https://www.ftc.gov/news-events/news/press-releases/2025/12/ftc-requires-boeing-divest-several-spirit-assets-proceed-merger.

[5] Justice Department Requires Divestitures and Licensing Commitments in HPE's Acquisition of Juniper Networks, Press Release, June 28, 2025, available at https://www.justice.gov/opa/pr/justice-department-requires-divestitures-and-licensing-commitments-hpes-acquisition-juniper.

Even so, structural remedies remain the preferred option for the agencies.[6] At least one FTC Commissioner believes that "[t]he FTC should, in all but extremely rare cases, insist on clean divestitures of standalone business lines when negotiating merger remedy packages," which "should fully and durably resolve competition concerns" and "be self-sustaining."[7] The DOJ entered into at least one settlement in 2025 reflecting this approach.[8] Additional guidance on remedies may be forthcoming, as the FTC Chair has indicated: "In due course, the Commission will publish a policy statement on its understanding of the role of remedies."[9] Stay tuned.

Takeaways

Overall, the antitrust enforcement environment has become more hospitable to mergers and acquisitions. While the Trump DOJ and FTC are more open to settlements to resolve their antitrust concerns, the agencies remain willing to litigate to block mergers they view as anticompetitive under traditional antitrust principles. Parties should analyze the competitive effects and antitrust risks of their proposed transactions early, structure transaction documents accordingly, and consider whether engaging proactively with the FTC and DOJ on potential structural or behavioral remedies could help move deals forward more efficiently.

FOR MORE INFORMATION

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[6] Antitrust Under Trump: Experts Weigh In, The Capitol Forum, Apr. 2, 2025, available at https://thecapitolforum.com/resource/antitrust-under-trump-keynote/.

[7] Statement of Commissioner Mark R. Meador, *In the Matter of Alimentation Couche-Tard, Inc./Giant Eagle, Inc.*, June 26, 2025, available at https://www.ftc.gov/system/files/ftc_gov/pdf/mark-meador-statement-act-giant-eagle.pdf.

[8] Justice Department Requires Keysight to Divest Assets to Proceed with Spirent Acquisition, Press Release, June 2, 2025, available at https://www.justice.gov/opa/pr/justice-department-requires-keysight-divest-assets-proceed-spirent-acquisition.

[9] Ferguson Statement, *supra* note 3.