



ANTITRUST ISSUES IN HEALTHCARE AND LIFE SCIENCES DISCUSSION DINNER

KEY TAKEAWAYS 14 JANUARY 2026 - SAN FRANCISCO

Speakers

Daniel GUARNERA

Director of the Bureau of Competition,
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Principal Deputy Director for the Bureau of
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Presenters

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University of Pennsylvania
Cornerstone Research

Jackie LEM

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OPENING REMARKS

Daniel BITTON (Axinn) moderated this discussion.

Daniel Guarnera

Director of the Bureau of Competition,
U.S. Federal Trade Commission, Washington D.C.

FTC Antitrust Priorities in Healthcare, Mergers & Labor

- Innovation is a core focus in healthcare, biotech, and medical devices; the FTC challenges mergers or conduct that could reduce R&D incentives and slow patient benefits.
- Structural divestitures are strongly preferred in merger remedies, as they ensure ongoing competition; behavioral remedies are used only in narrow, exceptional cases.
- Engaging with the FTC early in a potential merger or acquisition can prevent high-risk, time-consuming disputes and allow for smoother settlements.

- Failing or flailing firm defenses are carefully scrutinized; claims must be supported by strong evidence and thorough market testing.
- Labor markets remain a key focus; anti-competitive non-compete agreements are investigated and enforced to protect workers and competition.
- The FTC prioritizes assessing potentially significant competition issues in merger review, allowing most lawful mergers to proceed quickly while addressing real competitive concerns.
- Section 8 enforcement targets interlocking directorates to prevent information sharing and ensure independent decision-making among competitors.



Q&A SESSION

Aviv NEVO (University of Pennsylvania, Cornerstone Research) and Jackie LEM (Axinn), moderated this discussion.

Daniel Guarnera

Director of the Bureau of Competition,
U.S. Federal Trade Commission, Washington D.C.

Enforcing Competition in Healthcare, Tech & Labor

- Antitrust enforcement remains consistent across administrations, ensuring laws are actively applied to protect competition.
- Merger settlements are carefully vetted to preserve competition while allowing pro-competitive assets to proceed.
- The FTC prioritizes fast, efficient decision-making to identify violations and resolve issues quickly.
- Transparent, honest communication with staff and Commissioners is essential for productive engagement and trust.
- Economic evidence must be thorough, accurate, and aligned with business realities to support enforcement cases.
- Healthcare and technology markets, including AI, are closely monitored to ensure competition drives innovation and patient benefits.
- Labor markets and non-compete agreements are key priorities, with public input informing potential enforcement actions.
- Information sharing, algorithmic pricing, and platform practices are increasingly scrutinized to prevent anti-competitive effects. Early engagement with the FTC helps resolve potential issues before litigation becomes necessary.
- Enforcement efforts focus on real-world market dynamics, emphasizing evidence of current competition and consumer impact.

David Shaw

Principal Deputy Director for the Bureau of Competition and Bureau of Consumer Protection, U.S. Federal Trade Commission, Washington D.C.

Balancing Competition, Innovation & Market Oversight

- The agency acts as law enforcers, not regulators, applying antitrust laws case by case, including in labor markets.
- Competition functions from regional offices have been consolidated into a single, centralized group for efficiency.
- Early, rigorous, and transparent engagement with staff and economists improves understanding of complex data and avoids unsupported claims.
- The FTC balances speed and accuracy, allowing non-problematic mergers to proceed quickly while acting decisively on anti-competitive deals.
- Settlements are encouraged where remedies can preserve competition, but enforcement occurs when deals cannot be remedied.
- Focus is on dynamic competition, protecting both current and future innovation, as seen in cases like Edwards Life Sciences/Jenavale
- The agency evaluates mergers and conduct regardless of the type of investor, including private equity, acting only when anti-competitive effects are present.
- Continuous learning from merger trials informs practical improvements in investigation and enforcement strategies.
- Enforcement decisions are guided by real-world market evidence, ensuring actions reflect actual competitive dynamics, not theoretical risks.
- The agency monitors emerging technologies and platforms, such as AI, to prevent anti-competitive bottlenecks in critical inputs and innovation.