

AntitrustConnect Blog

Will 2022 be the year in which antitrust reforms become law?

Jeffrey May (Wolters Kluwer) · Friday, December 31st, 2021

With 2021 coming to a close, a look back at antitrust legislation introduced in Congress over the last year will provide a sense of what new antitrust laws could come in 2022. More than a dozen bills are currently pending in Congress that could impact the future of antitrust law. Bipartisan support for strengthening the laws to rein in the tech giants could push some of these measures over the finish line in 2022.

While calls for antitrust reform and tougher antitrust enforcement have been heard for years in Washington, D.C., these pleas grew ever louder in 2021. With the new Biden Administration picks to head the Department of Justice Antitrust Division and Federal Trade Commission settling in, policy changes are being made and new priorities are being identified at the federal antitrust agencies. The White House even issued an [executive order](#) on promoting competition. But on Capitol Hill, Democratic lawmakers, in some cases joined by their colleagues across the aisle, are moving to make more lasting, structural changes to antitrust law. With the Democrats—for the most part—leading the charge in control of both houses of Congress and the White House, 2022 may see passage of a legislative package that has a lasting impact on the future of antitrust law.

Concerns about the accumulation of monopoly power and allegations of anticompetitive conduct by the tech giants have fueled the movement. Many of the concerns are memorialized in a 2020 staff report of the House Judiciary Committee's Subcommittee on Antitrust, Commercial, and Administrative Law, titled [Investigation of Competition in Digital Markets](#). The report detailed the findings of a 16-month-long investigation and called for strengthening antitrust enforcement. A number of the legislative proposals are outgrowths of this study.

Both Democratic and Republican lawmakers have couched their calls for reform in terms of addressing the tech sector abuses. It is not necessarily a Democratic or Republican issue. Notably, the high-profile antitrust cases brought by the Antitrust Division against Google and the FTC against Facebook were filed during the Trump Administration. However, there remains opposition from some lawmakers who continue to argue that the current antitrust laws adequately address anticompetitive conduct and acquisitions by powerful companies. Republican lawmakers have expressed concern that the FTC in particular, under new Chair Lina Khan, is moving

too quickly and in a partisan fashion to “advance the White House’s partisan progressive agenda.” In response, legislation has been introduced in an effort to avoid radical changes to antitrust law and agency procedure.

As with most legislation, there are proponents and opponents. Many bills have already been reported favorably by the House Judiciary Committee. The Senate has been slower to advance these measures, and it is likely where these proposals could be stymied.

The bills impacting antitrust run the gamut from encouraging enforcement through increased funding measures to making technical changes to the Clayton Act, Sherman Act, and FTC Act to address conduct by large tech platforms.

Click [here](#) to read the full article, including a chart a chart listing the legislation by status.

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