

Insights

PRESIDENT-ELECT TRUMP'S PICK TO LEAD DOJ'S ANTITRUST DIVISION SIGNALS CONTINUED AGGRESSIVE BIG TECH AND AGRICULTURE ENFORCEMENT

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On Wednesday, December 4, Donald Trump announced his pick to run the Department of Justice's Antitrust Division: Gail Slater.

Slater is a seasoned antitrust attorney with extensive government experience. Most prominently, she was an attorney advisor for former Federal Trade Commission Commissioner Julie Brill and served on the National Economic Council during the first Trump administration. With this pick, the public should expect DOJ's Antitrust Division to continue pursuing the same aggressive antitrust enforcement agenda that has characterized both the Biden and first Trump administrations. Two industries in the Antitrust Division's recent focus should pay particular attention to this nomination: big tech and agriculture.

BIG TECH

In his announcement of Slater, on December 4 via Truth Social, President-Elect Trump made clear the appointment was designed to challenge large technology companies:

Big Tech has run wild for years, stifling competition in our most innovative sector and, as we all know, using its marketing power to crack down on the rights of so many Americans, as well of those of Little Tech! I was proud to fight these abuses in my First Term, and our Department of Justice's antitrust team will continue that work under Gail's leadership.

This announcement strongly suggests that the Antitrust Division, which is actively pursuing several antitrust cases involving big tech companies, will continue these pursuits. It's also possible that the Antitrust Division will expand into additional enforcement actions under Slater's leadership. Slater's experience is in line with this stated objective, as she had private sector roles at Roku Inc. and Fox Corp., both of which have challenged big tech platforms.

Notably, Slater's focus on big tech is quite similar to that expressed by Commissioner Melissa Holyoak of the Federal Trade Commission in her recent [concurrence](#) to a settlement between the FTC and GOAT, an online marketplace for sneakers, apparel and accessories. In that concurrence,

Commissioner Holyoak expressed her belief that the FTC and DOJ have “spent substantial resources for years and are investigating and litigating against the market power large technology companies wield,” a trend that Commissioner Holyoak believes is “bearing fruit now.” Most critically, Commissioner Holyoak believes that this expenditure of substantial resources “should not change in the next administration.” Commissioner Holyoak is rumored to be a frontrunner for FTC Chair, which could mean both federal antitrust enforcement agencies could be united in an increased focus on big tech companies during Trump’s second term.

AGRICULTURE

Another industry that has consumed much federal antitrust agency focus is agriculture. With Slater’s technology background and lack of expressed views on agriculture, it’s very likely that Slater will lean on Antitrust Division staff when it comes to matters in that sphere, leaving in place the status quo. For example, Antitrust Division is unlikely dismiss its enforcement cases in this space, such as its [action against Agri Stats](#). In that case, the DOJ alleges that Agri Stats violated antitrust laws by conspiring to facilitate an exchange of competitively sensitive information. Like “big tech,” much of the Antitrust Division’s focus on agriculture has been in “big ag,” focusing on how large players’ agreements and unilateral actions in the space could be viewed as harmful to smaller competitors and/or farmers.

CONCLUSION

Overall, the selection of Gail Slater to be the next leader of DOJ’s Antitrust Division will likely result in more of the same enforcement priorities exhibited by the Division during President Biden’s administration. Scrutiny of big tech, which started in the first Trump administration and continued under President Biden, is likely to enhance under Slater’s watch and will likely be mirrored by the FTC. For our clients in the agriculture space, they should expect Slater to continue to pursue DOJ’s current priorities in the sector.

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MEET THE TEAM



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