ABA Antitrust Webinar Recap: What Comes Next? Competition across the UK, EU, and US

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The Women.Connected Committee of the American Bar Association Antitrust Law Section hosted a town hall on May 6, 2025, titled "What Comes Next? Competition across the UK, EU, and US." The panel discussion was moderated by Jane Choi (Analysis Group) and included panelists Angeline Woods (Uber), Gail F. Levine (Mayer Brown), and Katherine Kirrage (Osborne Clarke). During this program, the panelists examined global merger enforcement, the Digital Markets Act (DMA), competition issues in labor markets, and AI, with a focus on the UK, EU, and US. Below, we provide an overview of the discussion.

Global Merger Enforcement Strategies

The moderator, Dr. Choi, began the panel by exploring the expected changes to merger enforcement in the US given the new administration. Ms. Levine noted that the new administration is continuing with the Biden Administration's HSR reforms, contrary to some initial expectations of a reversal. She warned that the reforms will require companies engaging in transactions to provide more information and documents in their filings, and that companies should be ready for a longer HSR preparation timeline. Ms. Levine also observed that the new leadership at the US Department of Justice

(DOJ) and Federal Trade Commission (FTC) appears more amenable to consenting to divestitures in cases of competitive overlap, as opposed to the previous tendency to challenge such deals. She stated that the antitrust authorities will review the proposed divestitures to ensure that they adequately address competition concerns and that the divested assets will be able to maintain a competitive role in the market.

The discussion then shifted to anticipated changes to merger enforcement within the EU. Ms. Woods observed that, despite the setback following the Court of Justice of the European Union's (CJEU's) ruling on Article 22, the European Commission (EC) remains willing to review below-threshold mergers. She then commented on the evolution of theories of harm beyond traditional abuse of dominance and gap theory, with growing scrutiny of deals involving potential self-preferencing — such as Amazon's proposed acquisition of iRobot — or concerns over customer acquisition channels and customer inertia, as seen in the Booking/eTraveli case. Ms. Woods mentioned the EC's effort to balance rigorous merger control enforcement with maintaining competitiveness and noted signs that the new administration may take a softer approach in strategic sectors such as telecoms and batteries, while overall competition policy will remain largely consistent.

Turning to the UK, Ms. Kirrage noted similar policy rhetoric following the election of a new government last year. Amid concerns about economic growth, the Competition and Markets Authority (CMA) has faced criticism for an expansionist approach to mergers and for diverging from EU and US decisions. Ms. Kirrage expects the CMA to streamline and avoid re-examining cases reviewed in other jurisdictions.

As a final point on this topic, panelists discussed the need to coordinate on merger control timelines across jurisdictions for the review of multinational deals.

Digital Markets Act

Dr. Choi then turned the panel to the EU's landmark DMA. Ms. Woods highlighted two enforcement actions taken earlier this year: fines imposed on Apple for deficiencies in its anti-steering provisions and on Meta for its "consent or pay" advertising model. Although the DMA appears to provide a basic list of rules for conduct, Woods highlighted that enforcement is specifically tailored to each gatekeeper and core platform service. With only two gatekeepers sanctioned so far, despite the DMA's coverage of seven gatekeepers and 21 designated core services, she noted that a significant enforcement journey still lies ahead.

Ms. Levine commented that the current administration has critiqued the DMA considerably. Ms. Woods explained that the perception of EU competition policy as biased against US companies is not new and dates back to the 1990s, when Microsoft was first investigated.

Ms. Kirrage compared the DMA to the UK's own legislation, the Digital Markets, Competition and Consumers Act (DMCCA). She highlighted two distinctive features of

the DMCCA: first, its potential to cover AI activities, and, second, its flexible approach. Rather than applying a fixed threshold test, the CMA can choose which digital activities to investigate, identify relevant players, and determine whether to designate them for further regulation.

Ms. Woods concluded that, regardless of the merits of such regulation, a fragmented global framework poses a serious challenge to international businesses, as even clearly defined compliance demands complex engineering and forces companies to sacrifice uniformity in their business models.

Labor Markets and Antitrust

Panelists noted that labor markets are an emerging focus for competition authorities, with the US leading the way and the EU and UK beginning to follow suit. Ms. Kirrage identified wage-fixing and no-poach agreements as key practices under scrutiny and referred to the UK's first public labor case this year involving salary information sharing and wage-fixing in the broadcasting sector. She noted that UK companies were caught off guard by the idea that including no-poach clauses in agreements such as NDAs, or sharing detailed salary data, could violate competition law, given the general perception of labor markets as transparent. Finally, she observed that labor market cases challenge the typical market definitions, as firms that do not compete in their core business may still be considered competitors if they are vying for the same talent.

On the US side, Ms. Levine expects further developments in labor market investigations with the launch of a new FTC labor taskforce on the topic. She also discussed the FTC's proposed rule to ban non-compete agreements, which was challenged last year and lacks support from the current administration. Such a shift increases uncertainty in the US on such topics.

Ms. Woods commented that the first labor cases in the EU also came as a surprise, as employment contracts have traditionally fallen outside the scope of competition law since they are not considered "agreements between undertakings."[1] She noted that EU institutions and national competition authorities are debating who should handle labor issues due to their localized nature.

AI and Antitrust

Moving to a discussion of AI and antitrust, panelists agreed that competition authorities strive to balance regulating competitive threats with fostering innovation. Ms. Levine also noted that the new US administration has raised a concern about overregulation of AI on consumer protection issues. Ms. Kirrage stated that the CMA is currently focusing on understanding the AI models and ecosystems, rather than rushing to impose regulations. She noted the focus on data privacy and the value of data in training AI.

Ms. Woods outlined key antitrust considerations for businesses integrating AI-powered tools, emphasizing the importance of being able to clearly explain to regulators in plain, accessible language how these tools function. Another central issue, she argued, is how AI is engineered: businesses must ensure they do not design systems that inadvertently violate the law. Specifically, Ms. Woods cautioned that generative AI could potentially violate competition regulations without proper human oversight.

Conclusion

The panel concluded that, in an increasingly unpredictable regulatory environment, it is more important than ever for companies to proactively plan for risk. They also emphasized the need to coordinate timelines and processes across jurisdictions in international deals, given heightened scrutiny, and to maintain strict consistency in responses to RFIs, as agencies are communicating and cooperating more closely across borders.

Endnotes

1. *See Article* 101(1) of the Treaty on the Functioning of the European Union (TFEU).