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Regulation in the Midst of Deregulation: State AGs Fill the Federal Enforcement Void

Client Alerts

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By: Caroline Cease, Brian Hauck, Venus D. Johnson, Carson Smith

Federal consumer protection and antitrust enforcement and oversight have changed meaningfully since 2025. The Consumer Financial Protection Bureau (CFPB) has been substantially defunded and has withdrawn from much of its enforcement docket, and the Federal Trade Commission (FTC) reduced its staff and budget for 2026, while redirecting its remaining capacity toward the Trump administration's priorities. While consumer protection and antitrust have historically been areas of concurrent state jurisdiction, state attorneys general (AGs) have moved to fill the gap left by this administration with bipartisan coalitions and, increasingly, with dedicated institutional capacity. Notably, this past week, a bipartisan coalition of AGs secured an approximately $710 million settlement with Credit Acceptance Corporation (CAC), following the CFPB's abandonment of the case. The practical consequence of this for companies is that reduced federal activity should not be read as reduced enforcement risk.

Federal Retrenchment and Refocus Across Agencies

Since 2025, the CFPB has undergone an extensive thinning of resources. Notably, CFPB's budget was reduced by nearly 50% following the One Big Beautiful Bill Act, and the Trump administration attempted to terminate more than half of the CFPB's personnel in an effort to completely shut down the agency. Unsurprisingly, the CFPB has stepped back in enforcement and supervision, has recently released a regulatory plan focused on deregulation, and has dismissed at least nine pending enforcement cases.

The FTC's trajectory is better described as a reorientation coupled with reduced capacity than as a wholesale withdrawal. The FTC's fiscal-year 2026 budget request sought a reduction of more than $42 million, including more than $18 million from the Bureau of Consumer Protection and more than $23 million from the Bureau of Competition, and reporting in early 2026 indicated that the agency had shed close to a quarter of its workforce over the prior year. Privacy enforcement, which reached a historic peak at the close of the prior administration, slowed sharply, although FTC Chairman Andrew Ferguson has signaled that filings will increase in the second half of 2026. Meanwhile, the FTC has directed significant Section 5 attention toward matters not traditionally at the center of the consumer protection docket, including a study of platform content moderation and deplatforming, warning letters issued in March 2026 to payment services providers concerning denial of payment services based on political affiliation or religious belief, and stated interest in pursuing coordination around DEI and ESG commitments. Traditional work continues in selected areas, including unlawful telemarketing and fraud targeting older Americans and servicemembers, so companies should not assume the FTC is dormant.

State AGs Are Filling the Gaps with New and Old Enforcement Tools

In this vacuum, state AGs have continued consumer protection litigation without federal partnership, attempting to avoid federal preemption by grounding their claims in longstanding authorities such as state unfair and deceptive acts and practices statutes rather than in violations of federal law. Most recently, on September 17, 2026, the New York Attorney General and a bipartisan group of 40 other AGs entered into consent judgments with CAC, resolving litigation the CFPB had jointly filed with New York in 2023 and abandoned in April 2025. The resolution is valued at approximately $710 million, providing consumers with roughly $634 million in debt forgiveness and $60 million in restitution, requiring CAC to pay $15.5 million for the states' investigation costs, and obligating CAC to adopt additional consumer protections in its future lending practices, including off-ramps for loans that default quickly.

Earlier this year, on July 8, 2026, a bipartisan coalition of 46 AGs obtained a $45 million multistate settlement with Block, Inc. over allegations related to Cash App's fraud protections. That settlement is notable not just for its size but for its structure: the settlement agreement requires Block, Inc. to honor the $75 million to $120 million in consumer redress it had promised the CFPB in January 2025, and it authorizes the states to administer that redress program if the CFPB does not. States are therefore not only bringing their own cases but also enforcing federal settlements the federal government has, thus far, abandoned or left unattended.

In the wake of federal deregulation, state AGs are also receiving new enforcement tools as state legislatures pass laws to fill gaps where federal rules have appeared insufficient. One of these areas is algorithmic or surveillance pricing: New York's Algorithmic Pricing Disclosure Act took effect in November 2025 and supported a January 2026 inquiry into a grocery delivery platform's use of personal data in pricing; and Maryland has since prohibited food retailers and third-party delivery services from using surveillance pricing to charge higher prices. Another example is in the area of fee disclosure laws: New Jersey has issued a sweeping fee disclosure enforcement statement applying deceptive-pricing theories across industries, including consumer financial services; many other states have done or are doing the same. For national businesses, the compliance baseline in these areas is now a state patchwork rather than one federal standard.

On the antitrust side, states have been similarly willing to proceed without a federal partner. According to the National Association of Attorneys General litigation database, states have initiated eleven antitrust actions in 2026—only two with a federal partner—surpassing the annual totals for both 2024 and 2025; they have also proceeded with high-profile cases even after the US Department of Justice settled.

Looking Forward

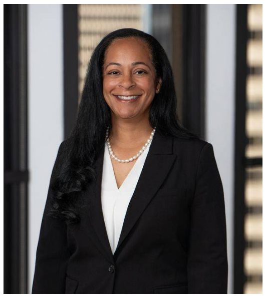
There is reason to believe that the results of this November’s election cycle will not dampen the energy or intensity seen across the country from Republican and Democratic state AGs. The coalitions described above will likely continue to be driven by basic consumer protection cornerstones of affordability, pricing transparency, and mergers. As states continue to flex and strengthen their enforcement muscles, we anticipate those muscles will only become stronger and more versatile, regardless of which party holds federal office or controls Congress.

Clients should plan accordingly: build engagement with state AGs into merger timelines on a parallel track with federal review rather than after clearance; assess pricing, privacy, fee disclosure, subscription, and cancellation practices against the most demanding applicable state standard rather than the federal one; and treat a federal settlement or closed federal investigation as a partial, not a complete, resolution of exposure.

Related Lawyers

Caroline Cease
Partner
ccease@jenner.com
+1 202 639 6056

Brian Hauck
Partner
bhauck@jenner.com
+1 415 293 5948



Venus D. Johnson

Special Counsel
vjohnson@jenner.com
+1 415 293 4833

Carson Smith

Associate
csmith@jenner.com
+1 415 293 5934

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