

AG-Designate Gaetz’s Surprising Alignment with the New Antitrust Movement—And What It Could Mean

Client Alerts

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On the campaign trail, President-elect Donald Trump vowed to bring about the “most aggressive regulatory reduction” in US history, suggesting a break from the Biden Administration’s focus on curbing corporate power. However, President-elect Trump’s choice for Attorney General, Florida Congressman Matt Gaetz, has actually expressed surprising alignment with—and support of—key Biden antitrust and regulatory officials and actions.

In fact, a review of Congressman Gaetz’s public record indicates that under his leadership, the Department of Justice’s antitrust philosophy could bear strong resemblance to the current approach. Gaetz has emerged as a vocal ally of both DOJ Antitrust Chief Jonathan Kanter and Federal Trade Commission Chair Lina Khan, who have each taken significant antitrust, pro-consumer actions during their tenures. While other Republicans have also expressed support of Khan in particular—including Vice President-elect J.D. Vance—if confirmed as Attorney General, Gaetz would be uniquely positioned to oversee the continuation of the current antitrust enforcement priorities and may seek to influence the appointment of a DOJ Antitrust chief who will pursue an aggressive enforcement agenda similar to Kanter.

Gaetz has consistently stated his strong support for the existing approach during congressional hearings. For example, during a House Judiciary Committee oversight hearing in 2023, Gaetz told Kanter that he was “doing a good job,” praising the division’s scrutiny of technology companies and urging it to “continue to pursue” its cases against them. Gaetz honed in on the antitrust case against Google, saying that the government made “really important allegations about how Google has vertically integrated advertising brokerage and advertising monetization.” Gaetz encouraged Kanter to “continue to pursue” cases to break up purported monopolies, and he praised the Department’s work “to stop consolidation in our food supply.” He also suggested that Congress should advance legislation that would “reshape some of these companies by force of legislative power.”

Gaetz was equally complimentary of Lina Khan during another House Judiciary Committee oversight hearing in 2023, saying she was “a brilliant woman with a tremendous ability to impact how consumers are going to interface with the digital world for a long time to come.” In particular, Gaetz

has aligned with Khan's positions on corporate collection of personal data and commercial surveillance, as well as indicated his support for aggressive litigation against big business. In a March 2024 interview with *The Wall Street Journal*, Gaetz said that he hoped that "whoever is the next FTC Chair would continue many of the cases that Chair Khan has brought against predatory businesses." He boosted the article on his social media, embracing the moniker of "Khanservative" for his alignment with the FTC Chair's regulatory agenda.

Gaetz has also shown alignment with some of the FTC's rulemaking efforts, which have been a particular target for Republicans concerned about the Commission's expansive interpretation of its Section V authority and the potential to make policy through administrative rules. In June 2024, Gaetz submitted an amicus brief in *Ryan, LLC v. Federal Trade Commission* in the Northern District of Texas, backing the FTC in a battle over the agency's proposed ban on noncompete agreements. Gaetz said FTC's final rule banning noncompete clauses was "squarely within the Commission's statutory rulemaking authority" and urged the court to "reject the present effort to revive a long-settled debate regarding the Federal Trade Commission's authority to issue substantive rules."

It remains to be seen whether the Senate will confirm Gaetz's nomination as Attorney General and, if so, what the precise posture of antitrust enforcement would be under his leadership. It is also not yet clear whether Gaetz's positions will give way to those of a president who has promised less regulation and government overall.

However, Gaetz's comments offer important insight for how a Department of Justice could approach antitrust enforcement and consumer protection under his leadership. Gaetz appears to be skeptical of big business overall and to support a forceful approach to antitrust, with particular scrutiny on tech companies and corporate consolidation. His support of the FTC's rulemaking authority and actions surrounding consumer data privacy could portend additional consumer protection-related efforts, independent of any antitrust enforcement. He also appears supportive of an aggressive litigation posture overall, having praised both Kanter and Khan for cases they have brought and their victories in court—dismissing critics of their overall litigation record and noting that even surviving a motion to dismiss can have a substantial impact.

Companies who assume that the next Department of Justice will change course on antitrust enforcement should take note of this surprising appointment and what it portends. If Gaetz is confirmed to be the next Attorney General, these companies should be prepared for the possibility that antitrust enforcement will be more aggressive than was previously anticipated.

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