



States Expanding Antitrust and Consumer Protection Scrutiny

Updated 23 June 2026

Action: State attorneys general are increasing their activity in antitrust and consumer protection enforcement. Recent examples have included a multistate verdict against a concert promoter and ticketing company for antitrust violations, an injunction blocking the merger of two broadcasting companies, and ongoing scrutiny of the merger of two major media companies.

Trusted Insights for What's Ahead®

- The increased state activity comes as the Federal government has taken a lighter regulatory approach under the current Administration. In a notable example, a coalition of 34 State attorneys general continued an antitrust lawsuit that the US Department of Justice had opted to settle. The states successfully argued at trial that the company in that lawsuit had violated both Federal and state antitrust laws.¹
- In some cases, state policymakers are strengthening their laws to give regulators more authority over mergers under their state antitrust laws. For example, Washington, Colorado, and California have enacted laws that may require certain companies pursuing mergers to notify the states at or near the same time they notify Federal authorities under the Hart-Scott-Rodino Act.²
- State consumer protection actions dealing with issues such as pricing transparency, algorithmic or “surveillance” pricing, junk fees, subscription practices, and retail pricing accuracy are also increasing. For example, in December 2025, the Pennsylvania Attorney General reached a settlement with a retailer for allegedly overcharging consumers, requiring payment of a \$1.55 million penalty and other measures.³
- Managing potential legal exposure at both levels can increase compliance costs, leading some to call for consolidating state lawsuits, aligning state and Federal requirements, and using Federal antitrust law rather than state laws in considering national markets.⁴
- Several ongoing antitrust cases (e.g., *Texas v. Google* and *Plaintiff States v. Nexstar Media Group, Inc. and Tegna Inc.*) could eventually give appellate courts, and potentially the Supreme Court, an opportunity to clarify any limits on state antitrust enforcement, particularly on issues of state standing, timeliness, and remedies. However, state attorneys general have the right to bring suit in state courts under state antitrust laws under principles of federalism, and in *California v. ARC America Corp.* the Supreme Court held that Federal antitrust law does not generally preempt state antitrust remedies.⁵ Federal law also expressly authorizes state attorneys general to bring antitrust actions to Federal court.⁶ Therefore, broad changes to the current dual Federal-state role in antitrust enforcement are unlikely absent Congressional action.⁷
- **What this means for business:**
 - Companies contemplating significant transactions should assess state laws to review the transaction, especially in markets affecting consumers directly.
 - Companies using personalized pricing, subscription models, add-on fees, auto-renewals, or consumer data for pricing should expect increased state scrutiny in many cases.
 - Businesses facing a state inquiry should prepare for the possibility that a matter could expand across jurisdictions, continue even if Federal antitrust reviews resolve favorably, and possibly generate private litigation.

1. <https://www.doj.state.or.us/media-home/news-media-releases/ag-rayfield-and-coalition-win-trial-against-live-nation-ticketmaster/>

2. <https://www.atg.wa.gov/news/news-releases/starting-july-27-washington-will-be-first-state-nation-implement-uniform>
3. <https://www.attorneygeneral.gov/taking-action/attorney-general-dave-sunday-obtains-1-55-million-settlement-with-dollar-general-for-allegedly-overcharging-consumers/>
4. https://www.americanbar.org/groups/antitrust_law/resources/magazine/2025-spring/state-antitrust-enforcement-national-economy/
5. <https://supreme.justia.com/cases/federal/us/490/93/>
6. <https://uscode.house.gov/view.xhtml?edition=prelim&num=0&req=granuleid%3AUSC-prelim-title15-section15c>
7. <https://tile.loc.gov/storage-services/service/ll/usrep/usrep490/usrep490093/usrep490093.pdf>

The Conference Board is the Member-driven think tank that delivers **Trusted Insights for What's Ahead**®. Founded in 1916, we are a nonpartisan, not-for-profit organization holding 501 (c) (3) tax-exempt status in the United States. [TCB.org](https://www.tcb.org) | [Learn about Membership](#)

© 2026 The Conference Board, Inc.