

Axinn Associates at the Antitrust Spring Meeting

Bridging Moats: Targeting Monopoly Entrenchment

2 MIN READ

April 11, 2025, 12:38 PM

By: Nathalia P. Kimmell, Hyung Jo (James) Choi

At the American Bar Association’s annual Spring Meeting on April 2–4, 2025, an economist and a group of antitrust practitioners, including Axinn partner Leslie Overton, came together to discuss issues of entrenchment on the panel “Bridging Moats: Targeting Monopoly Entrenchment.” Below are takeaways from the discussion.

To read all the articles in the series, [click here](#).

Monopoly entrenchment has increasingly become an area of focus in recent years from enforcers both in the United States and abroad. Indeed, the 2023 revision of the Merger Guidelines specifically added Guideline 6 to address entrenchment. With this backdrop, the panelists had a lively discussion about the following key issues:

- **Understanding entrenchment and how it happens.** According to panelists, entrenchment *can* result from the purposeful extension of a dominant position, but it need not always do so; it could also occur organically as a result of network effects or in response to regulatory regimes. The panelists identified several features of an industry that, if present, could increase the chances of entrenchment, including low-cost production, high switching costs, network effects, intangible assets (such as a strong brand, intellectual property, or proprietary technology), and efficient scale.
- **Careful analysis of the facts and relevant economics is a must.** Understanding if entrenchment has actually occurred and why requires fact-specific analysis and a careful understanding of market dynamics. What looks like entrenchment may be, for example, the result of an overly complex regulatory regime, so it is important to engage in a careful review of the facts.
- **Geopolitical pressure and shifting priorities in Europe.** European authorities are experiencing geopolitical pressure due to Russia's war with Ukraine, tension with the Trump administration, and the strength of American companies in Europe's digital economy. Panelists speculated on whether European countries will try to build their own "moats" to secure their supply chains, such as by sponsoring regional champions to compete with American companies.
- **Initiatives to reign in leading firms in non-tech industries.** While the discussion mostly focused on tech, panelists also pointed out that enforcers and legislators are looking at other industries that they believe may present entrenchment concerns. The panelists flagged the healthcare and meatpacking sectors as two examples, pointing to a Justice Department investigation into UnitedHealth in 2024 and a lawsuit against Agri-Stats in 2023, respectively. They also noted that earlier this year, Senators Josh Hawley (MO-R) and Elizabeth Warren (MA-D) introduced the Patients Before Monopolies (PBM) Act, a bipartisan bill aimed at preventing Pharmacy Benefit Managers (PBMs) from owning pharmacies, though it remains to be seen whether the legislation will garner sufficient support to pass into law.



Related People



Hyung Jo (James) Choi



Nathalia P. Kimmell

Related Services

Antitrust

To subscribe to our publications, [click here](#).

TAGS

spring meeting

News & Insights

- NJSBA Annual Meeting and Convention 2025
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- Hartford HealthCare Black and Red Gala 2025
SPONSORSHIP ANTITRUST
- Informa CompLaw Antitrust West Coast Conference 2025
SPEAKING ENGAGEMENT ANTITRUST
- AHLA Health Care Transactions Program 2025
SPONSORSHIP ANTITRUST
- IAM Live: Auto IP USA 2025
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- ACI 21st Annual Paragraph IV Conference
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- Axinn Associates at the Antitrust Spring Meeting: Examining Algorithmic Pricing Tools
AXINN VIEWPOINTS ANTITRUST
- Axinn Associates at the Antitrust Spring Meeting: Merger Trials: Winning Strategies
AXINN VIEWPOINTS ANTITRUST
- Brand Building and Buy-In: How a Strong Brand Can Drive Law Firm Growth
BYLINE ARTICLES
- Darpan Singh Awarded Distinguished Board Service Award by the South Asian Bar Association of Northern California
AWARDS & RECOGNITIONS INTELLECTUAL PROPERTY

© 2025 Axinn, Veltrop & Harkrider LLP. All Rights Reserved