

New Trump Administration Files First Merger Lawsuit Seeking to Block HPE/Juniper



3 MIN READ

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In the first merger challenge of the second Trump Administration, on January 30, the U.S. Department of Justice (“DOJ”) Antitrust Division [filed suit](#) seeking to block Hewlett Packard Enterprise Company’s (“HPE’s”) proposed \$14 billion acquisition of Juniper Networks, Inc. (“Juniper”). The DOJ alleges that the merger would combine the second and third-largest providers of enterprise Wireless Local Area Network (“WLAN”), and result in just two companies – HPE and current market leader Cisco Systems, Inc. (“Cisco”) – controlling over 70% of the market. The lawsuit signals that, as expected, the second Trump Administration will not abandon antitrust merger enforcement, even if it may take generally more business-friendly postures relative to the Biden Administration.

The complaint describes Juniper as a disruptive and innovative competitor that HPE chose to purchase rather than compete with, and indicates that Juniper has been growing rapidly since acquiring an independent networking startup, Mist Systems, in 2019. The complaint highlights several internal HPE documents suggesting that HPE considered Juniper a growing competitive threat. These documents include a former HPE Head of Software Development stating “I (we) fully recognize the MIST threat”; and HPE’s former Senior Vice President for Sales in the Americas telling his teams to “KILL MIST!!” This is yet another reminder for merging companies of the prominent role that “hot” documents play in antitrust merger challenges.

The complaint also suggests that the companies routinely competed for the same customers, and that HPE often struggled to compete with Juniper's pricing. In at least three major WLAN bids in 2021, 2022, and 2023, HPE and Juniper were the top two contenders.

In addition to the traditional unilateral effects theory of harm, the complaint also alleges that the elimination of Juniper as a competitor would facilitate coordination among the remaining competitors due to the highly concentrated market. The inclusion of the coordinated effects theory of harm marks a more aggressive aspect of the complaint and suggests that the DOJ is not "pulling any punches" in going after this merger.

While President Trump has nominated Gail Slater, an experienced antitrust professional, to be the Assistant Attorney General for the DOJ Antitrust Division, she has not yet been confirmed. The complaint was authorized by Acting Assistant Attorney General Omeed A. Assefi, indicating that the Antitrust Division continues to make enforcement decisions during this transition period. The complaint cites to the 2023 Merger Guidelines, spurring further speculation about whether this Biden-era policy will survive the second Trump term.

In response to the complaint, HPE and Juniper issued a statement stating the WLAN market was "characterized by robust competition" and that there were "at least eight alternatives[.]" HPE and Juniper also indicated that the "complementary combination" would create an important "U.S.-based alternative globally to incumbents" and fortify "the American 'core tech' sector that serves as the backbone of U.S. networking infrastructure."

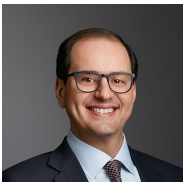
Outside the United States, the transaction has been approved by regulators in 14 other jurisdictions, including the European Commission ("EC") and the United Kingdom's Competition and Markets Authority. In a statement released on July 31, 2024, the EC stated "the transaction would raise no competition concerns in the European Economic Area" and that the market had "a wide range of competitors, including strong and established players." While there may be important market distinctions between the U.S. and these jurisdictions that cleared the transaction, that the U.S. is challenging this merger while these other antitrust authorities cleared the deal is another indication that the second Trump Administration will continue to actively police mergers.

"Justice Department Sues to Block Hewlett Packard Enterprise's Proposed \$14 Billion Acquisition of Rival Wireless Networking Technology Provider Juniper Networks"

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