

## [Antitrust Law Daily Wrap Up, TOP STORY: Antitrust chief discusses initiatives to improve transparency, enforcement efforts, \(Nov. 13, 2020\)](#)

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At the ABA's 2020 Antitrust Fall Forum, Assistant Attorney General Makan Delrahim discussed new arbitration guidance for resolving antitrust matters, a portal for small businesses, and expansion of the Procurement Collusion Strike Force.

Speaking on the "Future of Antitrust" at the American Bar Association's 2020 Antitrust Fall Forum virtual event, Makan Delrahim, Assistant Attorney General in charge of the Department of Justice Antitrust Division, underscored three new initiatives the agency is undertaking to "improve transparency and future enforcement efforts." In his November 12 [prepared remarks](#), Delrahim noted that the Division, in an effort to "forge a better path forward," will issue "new guidance on the use of arbitration to resolve Division matters." Second, "we are launching a Small Business portal to improve accessibility for these businesses which may be interacting with the antitrust laws for the first time." And third, "we are expanding Procurement Collusion Strike Force (PCSF) to better safeguard important areas where the government and the American taxpayers are the victim."

**Arbitration guidance.** Elaborating on the Justice Department's decision to issue new guidance on the use of arbitration to resolve Division matters, Delrahim commented that the guidance "outlines case selection criteria that will help identify Antitrust Division cases that would benefit from the application of arbitration and provides guidance on specific practices that may be employed in a future arbitration." Along these lines, the Department of Justice separately released a November 12, 2020, [memorandum](#) from the Assistant Attorney General to Section and Office Chiefs on the "Updated Guidance Regarding the Use of Arbitration and Case Selection Criteria," pointing out that the memorandum "reflects the Division's experience using arbitration for the first time in *United States v. Novelis Inc. and Aleris Corporation*, to streamline the adjudication of a dispositive issue in a merger challenge."

**Small Business Portal.** Next, Delrahim spoke about the agency's launching of a "Small Business Portal on our website" that is aimed at improving "accessibility and transparency for folks who are interacting with the antitrust laws for the first time, on a do-it-yourself basis." In a November 12 release complementing Delrahim's speech, the agency [emphasized](#) that "the new 'Antitrust and Your Small Business' section of the division's website contains user-friendly guidance and links to DOJ materials on antitrust 'hot topics' relevant to small businesses, including tips on identifying potential anticompetitive conduct that harms small businesses, tips on avoiding and reporting criminal antitrust violations, requirements for applying to the criminal leniency program, tips on avoiding antitrust issues related to hiring and management, materials on COVID-19 and disaster relief, guidance on information sharing and trade associations, and more."

In addition, Delrahim remarked that, during the past year, the Antitrust Division launched "a novel program to build our expertise by training a handful of our attorneys and economists in blockchain, machine learning, and artificial intelligence." That program "has been a success and is growing," he said, and the Division's "new training initiative helps ensure that we are well-equipped to assess the competitive implications of the next transaction or course of conduct where these cutting-edge business technologies may be pivotal."

**Criminal enforcement; PCSF expansion.** Turning to the topic of criminal enforcement, the Assistant Attorney General stated that, during the past three years, the Justice Department has "obtained convictions in significant trials against high-level executives, the second- and third-ever extraditions on Sherman Act charges, significant prison sentences, and the four highest fines or penalties ever imposed for domestic cartels."

Focusing on the Procurement Collusion Strike Force (PCSF), Delrahim explained that the PCSF also has supported the Department's COVID-19 response "by creating a dedicated reporting portal for procurement collusion tips and referring hundreds of price gouging and hoarding tips to the COVID-19 task force." After surveying the PCFS's efforts during the past year, Delrahim called attention to the fact that "two new national law enforcement partners are joining the PCSF: The Department of Homeland Security's Office of Inspector General and the Air Force Office of Special Investigations. Both agencies are already deeply invested in, and have been working with, our in-district teams." Moreover, Delrahim announced that nine U.S. Attorneys from across the nation would be partnering with the PCSF and "joining our effort." In addition, Delrahim took the opportunity during his speech to acknowledge the appointment of Daniel Glad as "the first permanent director" of the PCSF; "by making this a permanent position, I am ensuring that the PCSF is woven into the fabric and structure of the Antitrust Division."

Noting the expansion of the PCFS as well, a November 12 Justice Department release [observed](#) that the "11 new national partners to the Strike Force" announced by Delrahim results in "a total of 29 agencies and offices committed on the national level to combatting collusion, antitrust crimes and related fraudulent schemes, which undermine competition in government procurement, grant and program funding."

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