

BigLaw On Hunt For Antitrust Talent Amid Enforcement Surge

By **Xiumei Dong**

Law360 (October 26, 2020, 6:10 PM EDT) -- Regardless of who wins the presidential election on Nov. 3, antitrust lawyers are expected to remain busy as the federal government makes more aggressive moves on enforcement, and many have already started adding to their benches to handle the anticipated increase in work ahead.

Earlier this month, Crowell & Moring LLP, Lowenstein Sandler LLP and Freshfields Bruckhaus Deringer LLP announced they had expanded their antitrust practices with partner hires in Washington, D.C. Legal recruiters and practice leaders in the market expect the hiring momentum, especially in D.C., to continue through the rest of this year and into the next.

"In my 30 years of practice, there's never been a time when antitrust has been more at the forefront of the political debate than it is now," said Eric Mahr, co-chair of Freshfields' global antitrust litigation group.

Despite disagreeing on many issues, the Democratic and Republican presidential candidates have both indicated that they would consider more aggressive antitrust enforcement, Mahr said.

As London-based Freshfields anticipates more antitrust work in the U.S., it most recently added Hogan Lovells antitrust partner Meghan Rissmiller to its D.C. antitrust team this month, and in July it hired former U.S. Department of Justice antitrust lawyer Julie Elmer. According to a firm spokesperson, Freshfields now has 17 partners and counsel leading its U.S. antitrust division.

"I think there's a bit of a 'flight to quality' now," Mahr said of the new hires. Due to the uneven impact of the COVID-19 pandemic, high-demand antitrust lawyers who see their firms struggling are evaluating whether to jump to firms that have shown greater stability and a deeper antitrust practice bench, he said.

"One reason that antitrust is a resilient practice area is that when economic times are good, we see more merger activity, which invigorates the transactional side of the practice," Mahr said. "When economic times are bad, we tend to see an increase in litigation because there are more disputes, and also in cartel activity. ... So whether the economy is good or bad, there's a role for an antitrust practice."

Jason Murray, co-chair of Crowell & Moring's antitrust and competition group and head of its Los Angeles office, also said that the challenging times have created the opportunity for his firm to

"separate from the pack" and lure high-profile talent. The D.C.-based firm this month added antitrust partner Stefan Meisner from McDermott Will & Emery LLP to its nearly 80-lawyer antitrust and competition practice.

"Crowell & Moring has been not only resilient during the COVID-19 pandemic, but even busier than we were last year," Murray said. "We continue to see a lot of client interest in antitrust work, in part [because] there is a lot of activity by the regulatory authorities, and also just a dynamic and challenging business environment for many of our clients that has led them to ask for our services."

Lowenstein Sandler also made an addition to its antitrust practice this month by hiring Jonathan Lewis as a partner in its Washington office. Meanwhile, D. Jarrett Arp, a longtime antitrust lawyer at Gibson Dunn & Crutcher LLP, joined Davis Polk & Wardwell LLP in Washington as a partner.

Legal recruiters in the market pointed out that antitrust attorneys have been in demand for several years now, even before the pandemic.

"Just in the last two years, and just in D.C., we've had 55-plus partner moves in antitrust," said Jane Roberts, a D.C.-based legal recruiter at Macrae Inc., formerly known as Mlegal. She added that about 30% of the hires came directly from government, and 70% moved from one law firm to another.

"What we're also seeing is increasing demand," Roberts added. "Over half of the AmLaw 50 firms have called and asked us for help in growing their antitrust practices, and the need ranges from merger clearance to litigation to cartel."

Some of that demand has been driven by an increase in mergers and acquisitions activities, the government's scrutiny of big technology companies and the expectation that there will be more enforcement from the next administration, Roberts said.

In recent years, both the Federal Trade Commission and the DOJ's Antitrust Division have been more aggressively pursuing antitrust oversight, particularly with regard to big tech companies. Just this past week, the DOJ filed a landmark lawsuit against Google, accusing the tech giant of stifling competition in order to maintain its control of search and search advertising markets.

"When you aggregate all of that activity from a government investigations perspective, and then you also bring it into a litigation context being brought by the government, that creates a lot of work on the private side for law firms," said Justine Donahue, a senior managing director at D.C.-based attorney recruiting firm Garrison & Sisson Inc.

Even with the increasing demand in antitrust work, both Roberts and Donahue said that it hasn't affected how law firms compensate lateral partners or associates.

"Law firms are still being very practical and thoughtful and deliberate in their ... onboarding and making a business case for lateral partners antitrust attorneys," Donahue said.

--Additional reporting by Matthew Perlman. Editing by Alanna Weissman and Brian Baresch.