

## DOJ Antitrust Division AAG Slater Announces “Comply With Care” Task Force

### WRITTEN BY

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On August 29, 2025, during a speech at Ohio State University Law School, Assistant Attorney General Gail Slater announced the creation of a “Comply With Care” task force within the Antitrust Division of the Department of Justice (DOJ), which will focus on enforcement actions against parties flouting disclosure obligations. The speech and task force are a continuation of the Antitrust Division’s recent lawsuits against companies for failing to make merger filings under the Hart-Scott-Rodino (HSR) Act or responding properly to investigations.

AAG Slater stated the DOJ’s commitment to counter those who “undermine sound antitrust enforcement for everyone,” specifically claiming that “a few actors—many of them at Big Law firms” have used “[t]actics designed to circumvent legal process and hinder our investigations.”

The speech highlighted alleged violations of the HSR Act, which are subject to a fine of up to \$53,088 per day. The targeted practices include failing to make HSR filings and failing to submit relevant documents.

AAG Slater criticized other practices in investigations and pointed to court rulings finding that corporate defendants failed to preserve evidence and live up to discovery obligations. Specific objectionable practices include delay tactics, overuse of the attorney-client privilege, deficient privilege logs, and failure to preserve documents, including ephemeral messages. Her remarks took aim at practices aimed at hiding material information from investigators or courts, such as “systematic behavior that led to the destruction of relevant evidence,” particularly regarding the use of messaging apps due to the automatic deletion of messages within 24 hours and the failure of hold notices to prevent such deletions.

AAG Slater highlighted that privilege logs must not be abused and noted, for example, that simply listing “Legal Department” as the basis of privilege is not sufficient. Accordingly, “[p]rivilege abuses are grounds for enforcement actions and sanctions motions.” Examples included an enforcement action filed against a company for claiming a “blanket privilege” over an entire category of documents, and a company that instructed employees to add attorneys to communications and to “ask the lawyer a question” whenever they dealt with a sensitive issue, and to “avoid using certain ‘antitrust buzzwords’ in their communications.”

To combat these abuses, the Antitrust Division has established a “Comply With Care” task force targeting “problematic tactics from outside lawyers and law firms” that could distort the process and obfuscate the potential anticompetitive effects of transactions or conduct. The responsible Antitrust Division officials will focus on “abuses” by respondents in investigations “and take decisive action to address them.” The task force will likely issue guidance and continue to bring investigations and enforcement actions against companies viewed as not

complying with their legal obligation to make filings or respond to process.

The importance of parties' and counsels' credibility before the agencies and the courts cannot be overstated. Although the substantial burden of any agency investigation, including the detailed privilege logs called for by Second Requests and other agency civil investigative demands, and the preservation obligations arising from the ever-evolving technologies and methods of communication, do not make compliance simple or easy, consultation with counsel well in advance of making required HSR filings and at the earliest stage of any internal or external investigation can assist with counterbalancing some of those burdens and mitigating the cost of litigating compliance or imposition of sanctions.

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