

Trump Administration Files Statement of Interest Supporting State AG Action Against Asset Managers Accused of ESG-related Antitrust Violations

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Last week, the Trump Administration's FTC and DOJ (Antitrust Division) filed a statement of interest in support of [a lawsuit filed last November by eleven Republican state attorneys-general against three major asset managers for alleged antitrust violations](#). This lawsuit is founded upon a novel application of antitrust law; in essence, the state attorneys-general have alleged that, under the guise of responding to environmental concerns, the three asset managers engaged in a scheme to reduce coal output (enabled by their market power--i.e., extensive holdings of stock in coal companies), and so increased the price of electricity (and profits for the coal companies). It is especially unusual as it relies upon collusive efforts by minority shareholders to reduce output across an entire industry in the pursuit of additional profits, rather than an explicit agreement among competitors to reduce competition or increase prices. Nonetheless, the use of antitrust law to pressure ESG-focused investing has been a legal tactic embraced over the past few years by elements of the GOP.

The fact that the FTC and the Antitrust Division have decided to weigh in on a prominent lawsuit is not especially surprising; noteworthy cases attract substantial attention from *amici curiae*, including the federal government, due to the potential significance of such cases for future litigation or the development of the law. Other prominent organizations, such as SIFMA, have also made filings in the case.

What is perhaps more interesting is how the positions adopted in the legal filing by the federal government are directly tied to the policy priorities of the Trump Administration. Indeed, the press release issued by the DOJ in conjunction with this filing makes that point clear, as it specifically invokes recent executive orders by President Trump concerning energy policy--including Exec. Order 14261, which expressly encouraged increasing domestic coal production--and how this statement of interest was intended to combat efforts "to harm competition under the guise of ESG." While the fact that the policy priorities of the Trump Administration are guiding legal strategy is not especially surprising, this case provides a noteworthy and concrete example of this broader agenda.

Justice Department and Federal Trade Commission File Statement of Interest on
Anticompetitive Uses of Common Shareholdings to Discourage Coal Production Thursday,

May 22, 2025 Today, the Justice Department, joined by the Federal Trade Commission (the “Agencies”) filed a statement of interest in the Eastern District of Texas in the case of Texas et al. v. BlackRock, Inc. The States’ lawsuit—led by the Texas Attorney General—alleges that BlackRock, State Street, and Vanguard used their management of stock in competing coal companies to induce reductions in output, resulting in higher energy prices for American consumers. This is the first formal statement by the Agencies in federal court on the antitrust implications of common shareholdings.

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