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Winston Sponsors 2024 Retail Law Conference and Presents on Antitrust Risks for Retailers

OCTOBER 9, 2024 - OCTOBER 11, 2024

Partners Dana Cook-Milligan and Kevin Goldstein spoke on a panel titled “Antitrust for Retailers: Decoding Merger Challenges and Legal Shifts in 2024 and Beyond” at the Retail Law Conference in Chicago.

Moderated by David Benck, senior vice president and general counsel at Hibbett Retail, Inc., the panel addressed some of the most pressing antitrust issues impacting retailers, including merger challenges, premerger reporting changes, the recent revival of the Robinson-Patman Act, and developments regarding noncompete agreements, as well as how antitrust trends may be impacted by the election and a changing administration. The panel emphasized that retailers face evolving challenges in antitrust enforcement, with changes that could significantly reshape how retailers structure deals, engage with suppliers, and manage their workforces. Dana and Kevin’s discussion provided attendees with practical advice and forward-looking strategies to navigate this complicated antitrust landscape.

KEY TAKEAWAYS

- **Merger Challenges and New Reporting Rules:** The panel explored recent merger challenges in the retail industry, highlighting key lessons from enforcement actions and private litigation. They discussed best practices to plan ahead for antitrust merger reviews, strategies to defend deals that raise competitive considerations, managing agency communications as a third party, and forthcoming revisions to the Hart-Scott-Rodino Act (HSR) reporting requirements. In fact, the new HSR form was issued the same day as the panel. [Read about the final HSR form here.](#)
- **Revival of the Robinson-Patman Act:** The panelists explored the Robinson-Patman Act, the federal law prohibiting certain price discrimination, and its historical under-enforcement by the DOJ, FTC, and private plaintiffs. They discussed FTC commentary and press reports of investigations signaling renewed enforcement interest. Using examples of private Robinson-Patman cases and recent FTC statements, they explained the Act’s potential impact, particularly in pricing strategies and supplier negotiations, and offered practical steps for retailers to both mitigate risks and use price discrimination limitations to their advantage in negotiations.
- **The Evolving Landscape of Non-Compete Clauses:** The panel also addressed the ongoing regulatory and legal shifts around non-compete clauses. They discussed the FTC’s proposed rule to ban non-competes, the federal

court decision blocking the rule, and the implications of this ongoing litigation. The conversation provided insights into how businesses can adapt to a patchwork of state laws or a potential federal ban.

Winston & Strawn was proud to sponsor the 2024 Retail Law Conference, a conference designed to address the new opportunities and risks retail legal counsel face and ways to provide dynamic counsel to the c-suite to accelerate business. Partner Eleni Kouimelis, chair of Winston’s Environmental Law Practice, also attended the event.
2 Min Read

Speakers

[Dana Cook-Milligan](#)

[Kevin B. Goldstein](#)

Event Information

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455 North Park Drive
Chicago, IL 60611

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[Dana Cook-Milligan](#)



Kevin B. Goldstein



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