

Insights



Benjamin Sirota Speaks with the National Law Journal on Developments in Antitrust Enforcement

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Kobre & Kim's Benjamin Sirota, a former U.S. Department of Justice (DOJ) antitrust prosecutor, explained the relevance of an August 2022 DOJ trial to block the proposed merger of Penguin Random House and Simon & Schuster to the *National Law Journal*. The DOJ is basing its challenge on the potential harm to authors rather than to consumers, a divergence from typical antitrust challenges based on consumer welfare.

The DOJ alleges the proposed deal would harm competition for best-selling books and the authors who write them, while the publishers maintain that the industry remains competitive and have criticized the DOJ for basing its challenge on a small sector of the overall market. This signals a change in the DOJ's typical focus on consumer welfare as they take into consideration other factors such as labor exploitation and acquisition history, indicating potential impacts beyond the publishing industry.

"A lot of us in the field are interested in this case," Mr. Sirota said. "The obvious legal issue here is that instead of looking at the merger from the perspective of how it's going to affect consumers in terms of prices, quality or choice, it's looking at whether labor is going to be harmed. It's not unprecedented, but certainly very unusual to look at a merger from that perspective."

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