

## Will Healthcare Mergers Feel the Trump Effect?

By Alisha Mahalingam, J.D. Candidate 2018 | December 4, 2016

The election of Donald Trump has shone a new light on healthcare insurance mega-mergers currently being challenged by the Obama administration. With the Anthem-Cigna trial in motion, and Aetna-Humana soon to follow, the future of health care insurance is up in the air. If successful, these two mergers will significantly reshape the market, reducing the five major health insurers to just three.

Health care insurers and the government have different understandings of what is at stake. Attorney General Loretta Lynch argues that consumers benefit from more competition, receiving lower premiums, higher quality healthcare and better benefits. Insurers instead claim that the power and size of post-merger insurers allows greater efficiency and bargaining power with hospitals and doctors, all of which will lead to lower prices.

Now, more than ever, it is unclear which argument will prevail. While it is likely that these two cases will be decided before the Trump administration takes over, a change in the government's position could affect any appeals or settlement options. For example, during the transition from the Clinton to Bush administrations, the antitrust challenge to Microsoft was softened by the Bush administration's offer of a less punitive settlement.

Further, looking forward, the effects of a Trump administration will likely have ramifications beyond these two mergers. Experts suggest that we are in a [global merger wave](#), with talks rising even amongst smaller health insurers like WellCare Health Plans, Universal American, Catholic Health Initiatives, and more. The decision whether or not to challenge these mergers will ultimately lie with the new administration. Though healthcare mergers have been a source of concern for both Democrats and Republicans making them relatively immune from fundamental policy shifts thus far, experts have referred to a Trump presidency as a [“wildcard for antitrust enforcement.”](#)

Though Trump's particular views on healthcare mergers are unknown, he has spoken on regulation and mergers more generally. Throughout his campaign, Trump has emphasized reduced government regulation of businesses. On the other hand, while campaigning in Pennsylvania, Trump spoke disparagingly of the pending AT&T- Time Warner mega-merger, referring to it as “poison” for democracy that puts “too much concentration of power in the hands of too few.” He also took aim at the 2013 merger of NBC Universal and Comcast, threatening to push for its break up. So far, Trump's antitrust rhetoric has [targeted the media](#), an industry he has taken particular issue with over the course of his campaign. It remains uncertain whether it will similarly apply to the healthcare industry or turn into policy at all.

In the meantime, healthcare insurers are sure to be keeping a watchful eye on the upcoming trials, the filling of key positions in the Justice Department, and any thoughts from the President-elect, waiting to see just how this wildcard will play out.