

Mayer Brown Nabs Former FTC Deputy Gail Levine

By **Matthew Perlman**

Law360 (May 18, 2021, 6:41 PM EDT) -- A former deputy director for the Federal Trade Commission joined Mayer Brown LLP on Tuesday to help lead the firm's global antitrust and competition practice, bringing a wealth of experience on mergers and conduct spanning a diverse cross-section of industries.

Gail F. Levine joined the firm as a partner in the Washington, D.C., office, following a stint as deputy director of the FTC's Competition Bureau that wrapped last month. Levine previously served as an in-house lawyer for Uber as its head of U.S. regulatory affairs and director of competition, and as a vice president and associate general counsel for Verizon Communications. She also worked previously at the FTC and as a trial attorney with the U.S. Department of Justice's Civil Division.



Gail Levine

Britt Miller, who helps lead Mayer Brown's antitrust group, said in a statement Tuesday that Levine is a well-known member of the bar in the U.S. and globally, and said the firm is thrilled to welcome her to the team.

"She adds tremendous strength to the practice's government investigations and merger reviews capabilities, particularly in the high-tech, health care, pharmaceutical and life sciences sectors," Miller said.

In September 2018, former FTC Chairman Joseph Simons named Levine to the deputy director role, where she oversaw a team of 100 attorneys working on merger and conduct investigations and on antitrust litigation. Levine told Law360 that her work in the position covered a wide range of industries "from coal to chemicals to industrial paint."

"But some of the most exciting matters for me were in the high-tech and health care [and] biotech spaces," Levine said.

The agency's work during Levine's most recent stint included the challenge of Illumina Inc.'s planned \$1.2 billion purchase of fellow DNA sequencing company Pacific Biosciences, a move the companies abandoned in January last year after the FTC alleged Illumina was trying to acquire a nascent competitor in order to stave off competition.

In the health care space, the commission went after Indivior Inc. and its former parent

company ReckittBenckiser Group PLC over allegations that they falsely marketed the under-the-tongue Suboxone film as a more childproof and less addictive version of the drug's tablet form. The agency contended the switch from tablet to film was an anti-competitive "product hop" and helped the DOJ secure some \$2 billion in penalties from the companies.

While deputy director of the Competition Bureau, Levine also helped establish the new Technology Enforcement Division, a unit focused on investigating anti-competitive conduct in digital markets. She also worked on the FTC's landmark case accusing Facebook Inc. of monopolization over its purchases of Instagram and WhatsApp and other conduct.

Levine told Law360 that the creation of the technology unit was a significant development for the commission and said it was the right thing to do.

"It allows the agency to devote resources to that space in a way that's really important in terms of agenda setting and prioritization," Levine said, noting that the unit's staff is "dedicated and passionate about the mission."

The FTC has also been seeing an extraordinary amount of activity in recent months, with the commission and the DOJ even stopping their normal practice of granting early ends to many merger reviews in January, citing in part the "unprecedented volume" of merger filings being received. Levine said this volume of work gave her the opportunity to see firsthand a broad scope of agency action in a wide range of industries.

In addition to its work in health-related sectors and on technology issues, the commission's recent work has also involved more industrial pieces of the economy. A notable case was the **successful challenge** of a planned joint venture between Arch Resources and Peabody Energy Corp. over their coal assets in Wyoming, a deal the companies abandoned after a Missouri federal court sided with FTC.

Levine said that case provided a rare opportunity to see a merger challenge litigated all the way to a win for the agency.

On the whole, she said, her experience at the commission provided insight that she hopes to bring to her clients in private practice.

"I got a really good sense of how the agency thinks, and a really good sense of what arguments resonate with the agency," Levine said.

She also said that she's excited to join Mayer Brown, which she said has a long-standing reputation for having a leading antitrust practice.

"It has an exceptionally talented group of lawyers that I'm really excited about the opportunity to start practicing with," Levine said.

--Additional reporting by Morgan Conley and Bryan Koenig. Editing by Jay Jackson Jr.