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Jennifer Driscoll Discusses Emerging Antitrust Risks Tied to Social Media Algorithms

In *Corporate Counsel*

In The News | 1 min read
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Hinshaw partner Jennifer Driscoll was recently quoted in a *Corporate Counsel* article examining a series of lawsuits alleging that social media platform TikTok, the National Football League (NFL), and sports memorabilia company Fanatics conspired to strengthen Fanatics' market position at the expense of its competitors.

About the Allegations

The lawsuits were filed by "breakers," small businesses that sell sports collectibles by opening sealed product boxes during social media livestreams and distributing the contents to purchasers who have bought spots in the break.

The complaints alleged that Fanatics falsely represented that it held an exclusive license covering all categories of NFL merchandise. The breakers further allege that the defendants collectively pressured independent businesses to enter Fanatics-controlled arrangements or risk losing access to critical distribution channels, including facing bans from TikTok or reduced visibility through the platform's recommendation algorithms.

The Future of Antitrust Claims Involving Social Media Algorithms

In her comments to *Corporate Counsel*, Jennifer highlighted how these cases may shape the future of antitrust enforcement and litigation involving social media platforms and algorithmic decision-making.

Jennifer noted that the litigation could serve as a "test case" for future antitrust claims arising from social media algorithms. As she explained, "[artificial intelligence] and algorithms are a focus of cutting-edge antitrust

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enforcement initiatives," with both the US Department of Justice's Antitrust Division and the Federal Trade Commission publicly identifying algorithm-driven conduct as a concern.

These cases emphasize the growing influence social media platforms exert over digital marketplaces and the businesses that rely on them to reach consumers. As algorithms increasingly determine visibility, access, and commercial success, courts and regulators may face new questions about whether these technologies can be used in ways that restrict competition.

Read the full article

- *Corporate Counsel:* "Antitrust Lawsuits Pile Up Against TikTok, Fanatics, NFL Over Sports Collectibles" (September 22, 2026)

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