Should your career include service as a government antitrust lawyer?

A government antitrust lawyer’s job is to protect free enterprise and the American consumer. Our system of free enterprise has allowed us to commercially expand, and enabled our industries to be at the forefront of commercial innovation and influence worldwide. With that, however, comes the need to protect individual consumers from dominant industrial forces that can restrain competition. Competition benefits consumers by providing an incentive for business to improve the quality of their goods and services, innovate, and keep prices low. A government antitrust lawyer is always on the lookout for business activities that reduce competition and can hurt consumers. Such actions can include mergers that significantly limit the players competing in an industry, non-merger agreements among competitors that limit competition, and actions to create or maintain a monopoly by unreasonably excluding potential competitors or impairing their ability
to compete. The success of antitrust law enforcement can be measured by the extent to which consumers have access to as diverse a selection as possible of goods and services at competitive prices.

Government antitrust lawyers work at both the state and federal level. On the state level, state attorneys general enforce the federal and state antitrust laws in their respective states. On the federal level, the FTC and the DOJ share jurisdiction for federal antitrust enforcement. Jurisdiction over specific antitrust matters is primarily apportioned among these two agencies based on industry, but only the DOJ has jurisdiction over criminal antitrust violations. The FCC and the Federal Energy Regulatory Commission (FERC) also employ antitrust attorneys who work to preserve competition in the communications and energy industries respectively.

Government antitrust lawyers investigate complaints of anticompetitive conduct and, if necessary, litigate an administrative or federal complaint against the target(s) of that investigation. They also review mergers and, if necessary, file litigation to block or unwind certain mergers. Antitrust investigations and merger reviews are highly fact-intensive. This means most investigations feature numerous documents and numerous fact and expert witnesses. In antitrust, there is the added component of economic analyses. Besides developing a concise legal theory, in order to successfully develop an antitrust investigation or case, the enforcer must be able to show the anticompetitive effects of the merger or activity upon the market and consumer. Examples of anticompetitive effects include raised prices or the elimination of competitors. In order to assess likely anticompetitive effects, antitrust lawyers work closely with economists. Both federal antitrust agencies have staff economists that assist the attorneys in developing cases.

Antitrust lawyers in the public sector also play an important role in developing antitrust policy. Both federal agencies have policy divisions where lawyers and economists study and research competition in key industries. The end product of such study and research includes reports to Congress, business and consumer education, and public advocacy. Government antitrust attorneys in the federal agencies also provide technical assistance to foreign competition agencies, usually in countries with emerging markets that have recently developed competition agencies. Many antitrust attorneys in government move between investigative/litigation positions and policy roles in their careers.
To prepare for a career in antitrust law, it is important to have a basic understanding of economics and business. Many young antitrust lawyers at the FTC who do not have an undergraduate background in economics take a graduate econometric course at one of the Washington area universities, or at the USDA Graduate School, an academic program for federal employees. Basic knowledge of business strategy is helpful as well. I find frequent reading of business publications like *The Wall Street Journal* to be helpful in learning about industries and specific companies.

How should you prepare? In law school, taking an antitrust law course is helpful in showing your interest in the field when interviewing with agencies. The course also provides a starting point for understanding antitrust jurisprudence. Although not necessary, it would also help to take a regulatory course dealing with a specific industry, in the event that there is a specific industry on which you might like to focus your antitrust career. For example, preserving and increasing competition in the health care industries is a big issue today. Developing a basic understanding of the health care industry or of food and drug regulations can help you to understand the role that competition can play in those industries. Such an understanding will help you to apply your antitrust knowledge to those industries.

I have found this career option to be particularly enjoyable. It has allowed me to combine my strong desire to serve the public with my interest in business. As a consumer, I also especially appreciate the importance of maintaining a competitive and vibrant marketplace. The diverse topics and complex projects are an interesting professional challenge. If this sounds attractive to you, study the field, identify federal or state opportunities, and present your application with a cover letter indicating why antitrust work would be a good fit with your background and your career goals.