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Antitrust and Foreign Investment Legal Outlook 2026

"The pressure is on in 2026 for authorities to demonstrate a commitment to growth and efficiency, across antitrust enforcement and M&A review, against an increasingly politicised backdrop.

This creates opportunities where deals involve pro-competitive benefits but also risks for those operating in sensitive sectors. Anticipating these, through careful planning, will be key to successfully navigating the regulatory environment."

Bernd Meyring, Global Head of Antitrust and Foreign Investment

Global trends in antitrust enforcement and merger control

As we enter 2026, regulators are juggling competing demands: boosting economic growth while protecting national security and innovation. The result? A tale of two speeds for dealmakers – fast-track approvals for straightforward transactions, but intensified scrutiny for anything touching AI, defence, or critical technologies. Meanwhile, antitrust enforcement is ramping up globally, with record fines and AI-powered investigations changing how authorities catch violations.

Read on to find out what businesses need to know to navigate this evolving landscape, and how best to prepare.

M&A approvals in 2026

Growth and innovation remain a focus point

As we enter 2026, merger control is undergoing fundamental transformation, driven by political change across major jurisdictions.

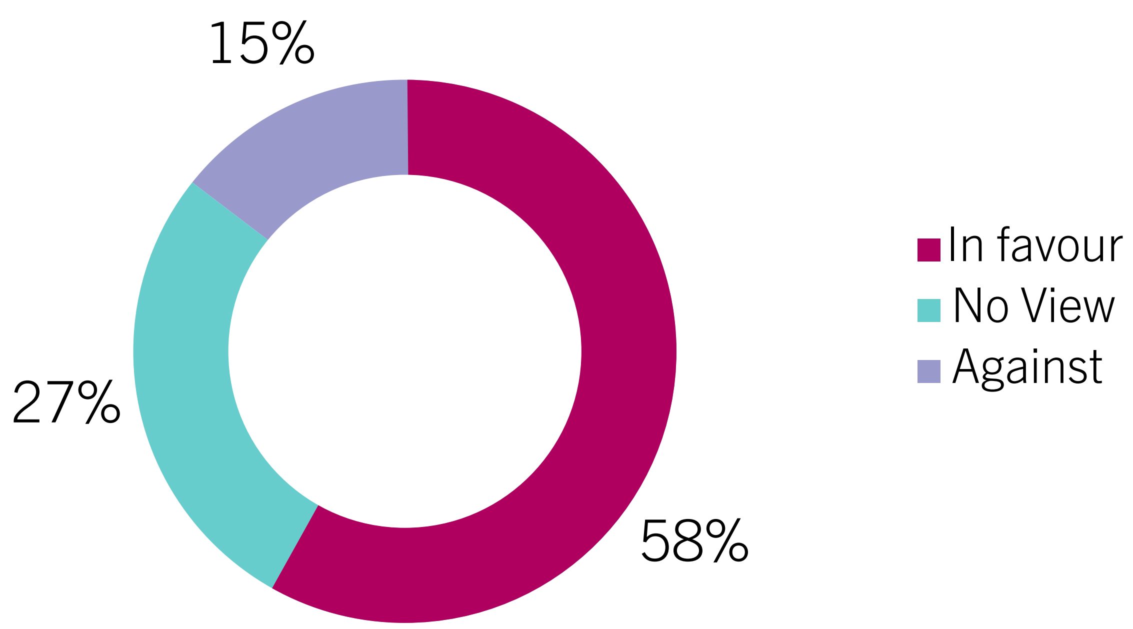
In the EU, innovation and growth are central to proposed reforms. Expect to see this reflected in revised merger guidelines later this year (and applied dynamically to deals reviewed in the interim).

The UK government has also made economic growth its mission – and the UK's CMA appears on board. It has committed to "drive growth by promoting competition" through the 4Ps (pace, proportionality, predictability and improved process). The proof? Its latest merger guidance (October 2025) focuses on driving investment and business confidence in the UK. And the real game-changer is on the horizon: remedy reforms creating room for more behavioural commitments, instead of forcing structural break-ups (see page 5 for more).

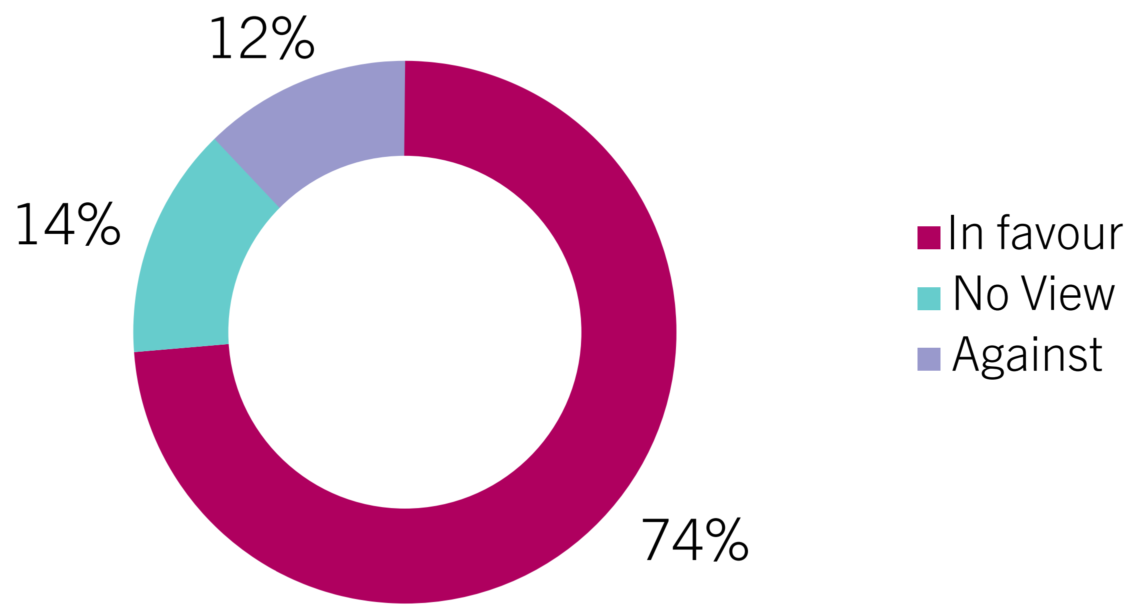
Regulators are taking innovation seriously in merger reviews – both as a pro-competitive feature and a potential harm. Australia's ACCC blocked *ANZ/Suncorp* on grounds it would stifle innovation by reducing competition (although later overturned) and the CMA appeared willing to credit innovation as a pro-competitive efficiency in *Vodafone/Three*.

This shift allows for bolder deal proposals, whether based on innovation benefits, supply chain security or building scale in strategic technologies. But the key will be proving a deal actually delivers these benefits.

EC Submissions – Innovation defence



EC Submissions – Innovation enhancing efficiencies



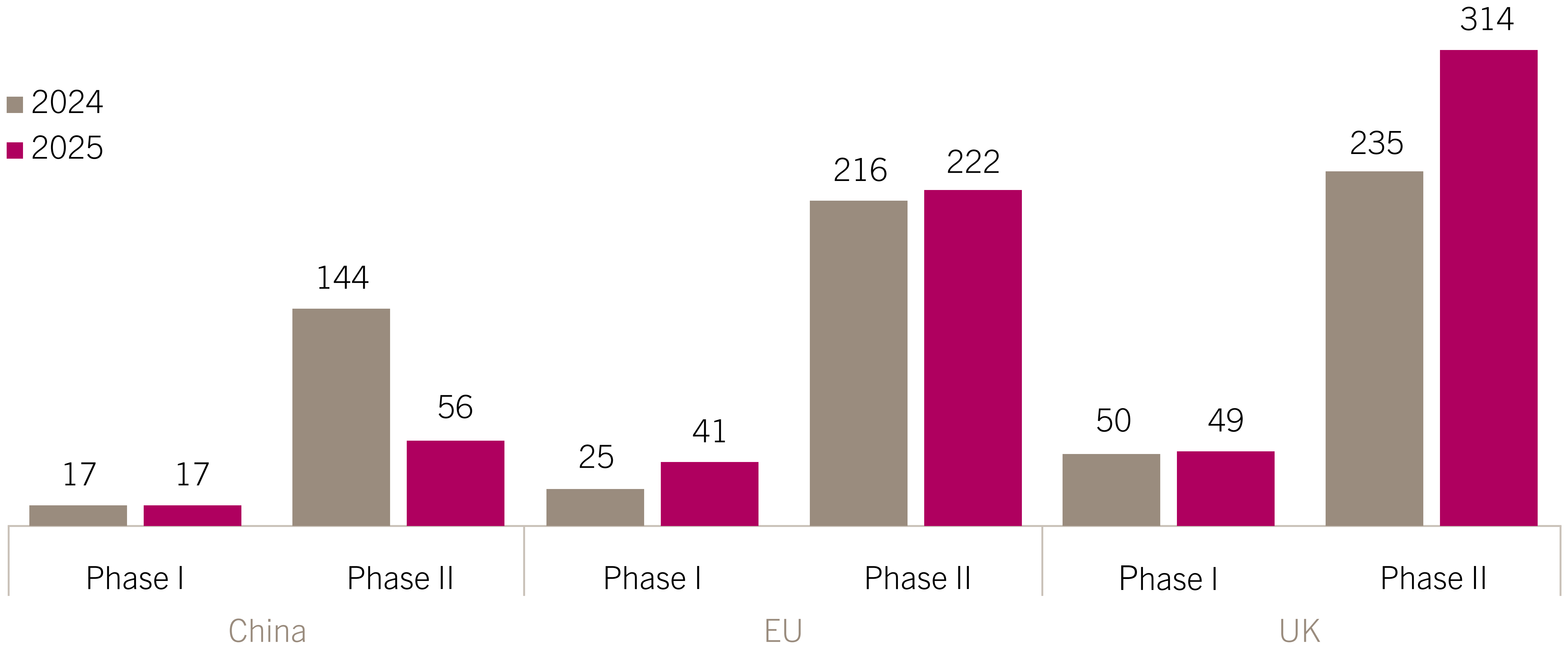
"Innovation is becoming central to deal review. This creates real opportunities for businesses to propose bolder transactions, with compelling innovation justifications."

Lodewick Prompers, Partner, Brussels, Antitrust and Foreign Investment

Longer timelines for complex mergers but streamlining expected

Despite EU and UK ambitions to simplify merger control, 2025 saw longer deal timeframes in Phase II for both.

EU, UK and China merger timelines



Merger decisions Oct '24 – Sept '25 vs. April '24-Sept '24. EU statistics exclude simplified and super simplified merger procedure.

The slowdown isn't universal; China bucked the trend with shorter reviews, reflecting SAMR's streamlined procedures, while Italy and Poland sped up reviews. But elsewhere, Brazil saw non-fast-track cases stretch from 85 to 97 days and Phase II timelines in Germany, Portugal, and Spain all increased.

Some jurisdictions (including Saudi Arabia and the UAE) have turned to reforms to speed up merger control and provide clarity for businesses. The UK's updated merger guidance aims to improve "pace and process", reducing pre-notification to 40 working days (from 65), and straightforward clearances to around 25 working days (from 40). As for the EC's ambitions of simplification, there has already been push-back from the European Ombudsman and, with around 80% of cases already using simplified review, scope for further streamlining in 2026 appears limited.

> "Reforms at the UK level have already led to shorter review timelines and we expect the trend of fewer cases being referred to Phase II to continue. Expect the CMA to be open to finding solutions and more flexible. But all eyes will be on whether the CMA is willing to take on risk for behavioural remedies outside regulated sectors."

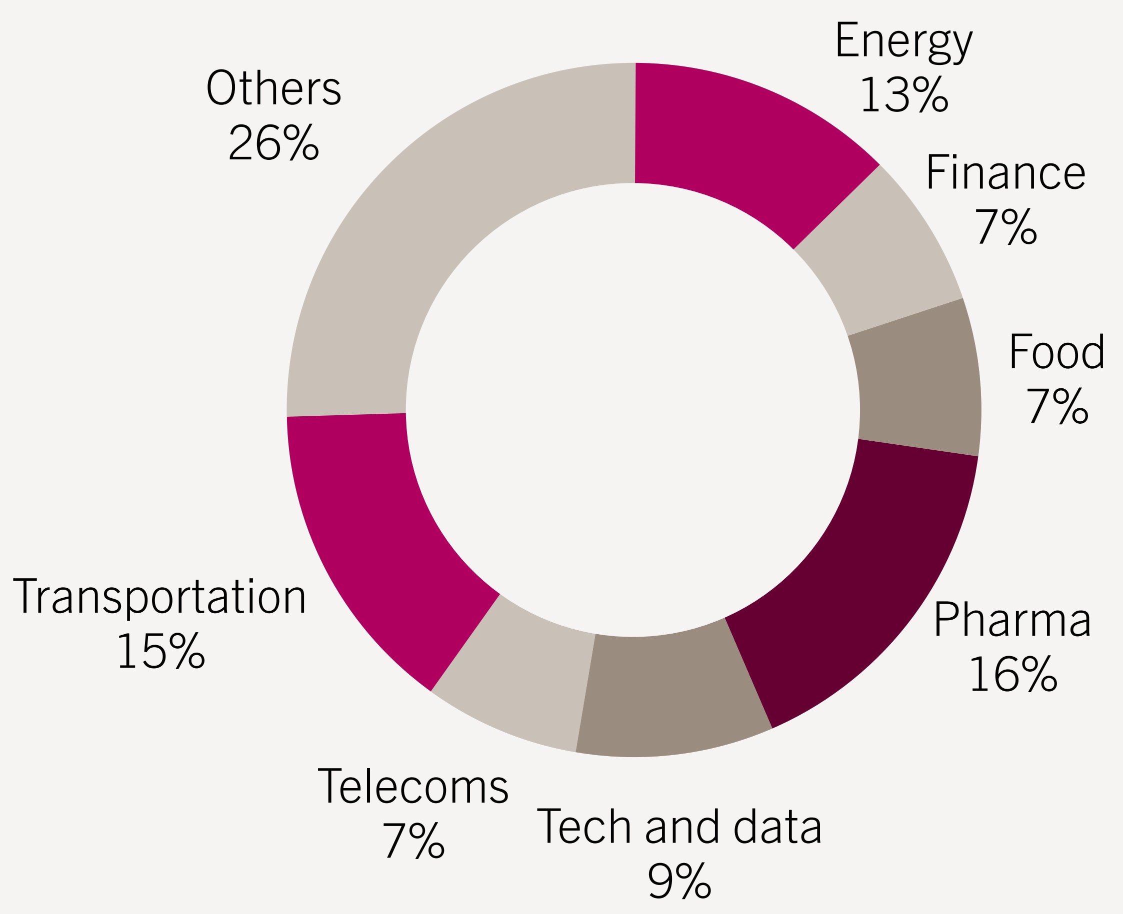
Jonathan Ford, Partner, London,
Antitrust and Foreign Investment

Increased scrutiny in key sectors

2025 saw fewer Phase II cases in certain key jurisdictions. This will continue into 2026. New US FTC chair Andrew Ferguson has rejected his predecessor's 'ideological predisposition against M&A', signalling a friendlier US approach. The CMA has favoured Phase I solutions and is taking a more targeted approach to cross-border deals, intervening primarily where other regulators are actively reviewing, following the government's strategic steer towards lighter-touch enforcement.

However, Phase II patterns show authorities zeroing in on sensitive sectors: energy, pharmaceuticals, tech and transport. Expect this to intensify in 2026 as regulators face pressure to focus on security, defence and resilience.

Phase II mergers by sector



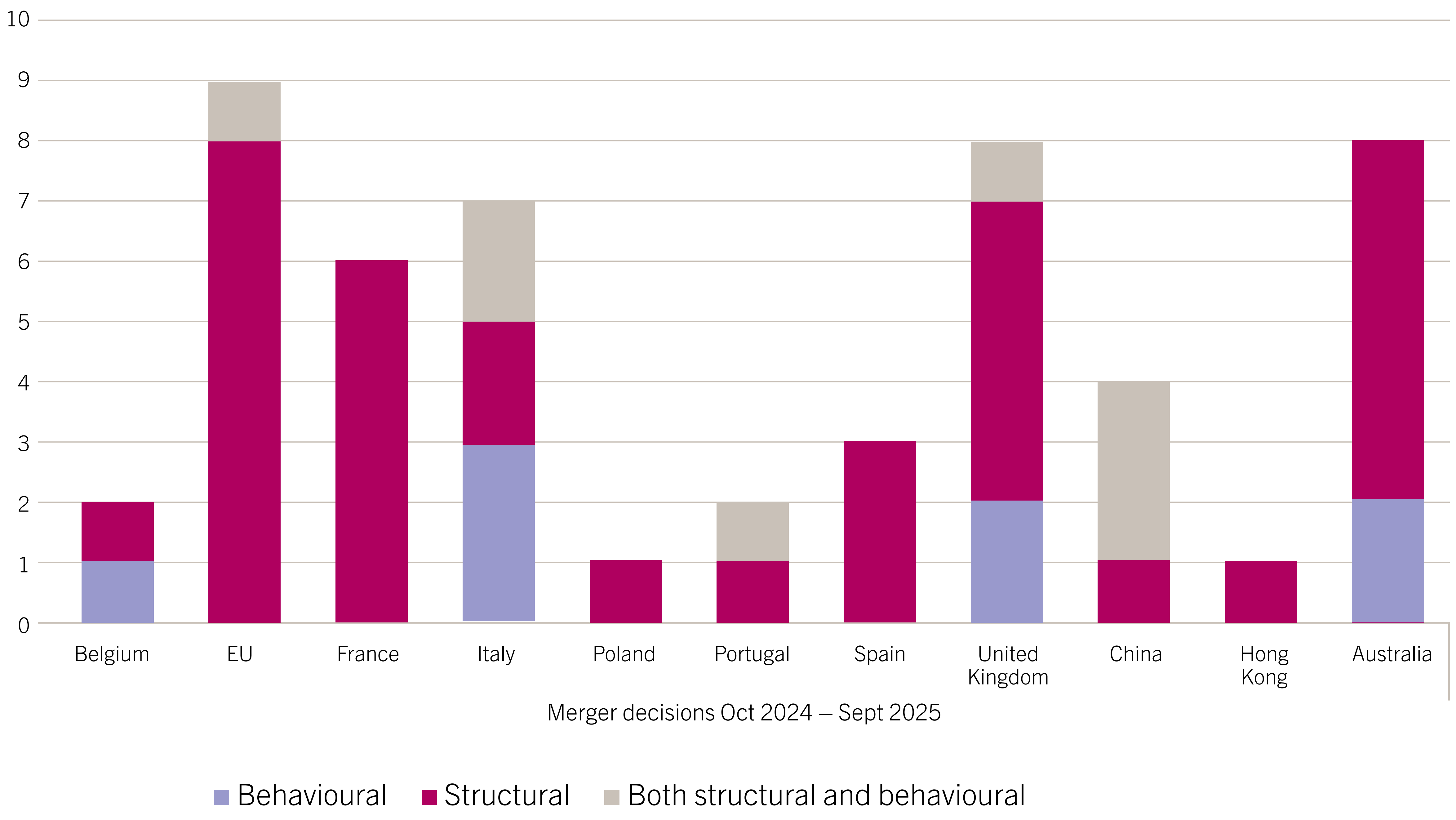
Behavioural remedies revolution

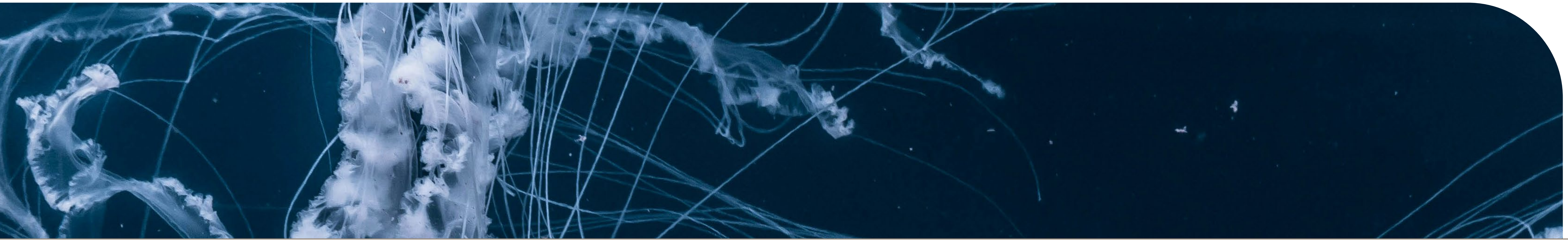
The UK is leading a behavioural remedies revolution, following its decision in *Vodafone/Three* and proposed Merger Remedies guidance revisions, where the CMA has indicated that behavioural remedies could be accepted in wider circumstances – potentially even in Phase I.

And others are following. Australia's ACCC – long preferring structural fixes – accepted behavioural remedies in two 2024/2025 cases. The US FTC has also shown flexibility, accepting behavioural remedies in *Omnicom/Interpublic*, while South Korea's KFTC imposed data remedies for the first time in *Alibaba/Gmarket*. New Zealand, which only allows divestment remedies, is now introducing provisions for behavioural undertakings.

The EC will face pressure to embrace behavioural remedies, in the face of digital market issues relating to interoperability and data use. Telecom deals could be the flashpoint after the CMA's *Vodafone/Three* decision and European telcos' demanding 'scale' for digital security. But the EC has no plans to revise its remedy policy, so 2026 is unlikely to bring a turnaround.

Types of remedies approved





Killer acquisitions still in focus

In the EU, many more national competition authorities are considering powers to call in below-threshold deals. NCAs also continue to fill the enforcement gap by applying abuse of dominance powers to investigate non-notifiable deals – including in France (recently fining Doctolib €4.7m for abuse of dominance following its acquisition of a main competitor), Belgium, the Netherlands, and Sweden. Elsewhere, Brazil's CADE has been investigating major tech below-threshold acquisitions of AI start-ups including Amazon/Anthropic, Microsoft/Mistral AI, Google/Character AI. And the US continues to scrutinise strategic sector deals below thresholds (e.g. *Google/CharacterAI*) – albeit, balanced against the risk of stifling innovation through overenforcement.

Looking ahead, Australia's rules capturing serial and creeping acquisitions will kick in January 2026 under its new regime, while across the Tasman, New Zealand expects creeping and killer acquisitions proposals in force by mid-2026. China's call-ins have so far focused on data-rich or strategically sensitive sectors, like semiconductors (*Qualcomm/Autotalks*) – and this will continue into 2026.

Protecting security and resilience

The EC will publish revised guidance in 2026 clarifying how resilience, defence and security factor into merger reviews; whether through existing frameworks, separate public interest tests, FDI integration, or sector-specific rules. Resilience is likely to become central to merger assessments, making the EC tougher on deals that eliminate essential suppliers but friendlier to those that enhance critical input access or encourage secure infrastructure investment. Watch for possible defence sector or telecoms consolidation.

> "Scrutiny of deals in sensitive sectors like defence, critical technology and energy will remain intense in 2026. Regulators' pro-growth agenda has clear boundaries when national security and resilience are at stake."
>
> **David-Julien dos Santos Goncalves**, Partner, Dusseldorf, Antitrust and Foreign Investment

Foreign investment screening casts a wider net

Geopolitical tensions – especially the challenging relationship between the US and China – is reshaping investment screening, which has become increasingly global. The recent actions by the Netherlands government concerning Nexperia demonstrate the spillover effects from the US-China relationship on US allies. Screening processes continue to evolve at pace, in an effort to capture wider sectors and transaction types to protect security. Expect more interventions and precautionary notifications, as businesses play it safe.

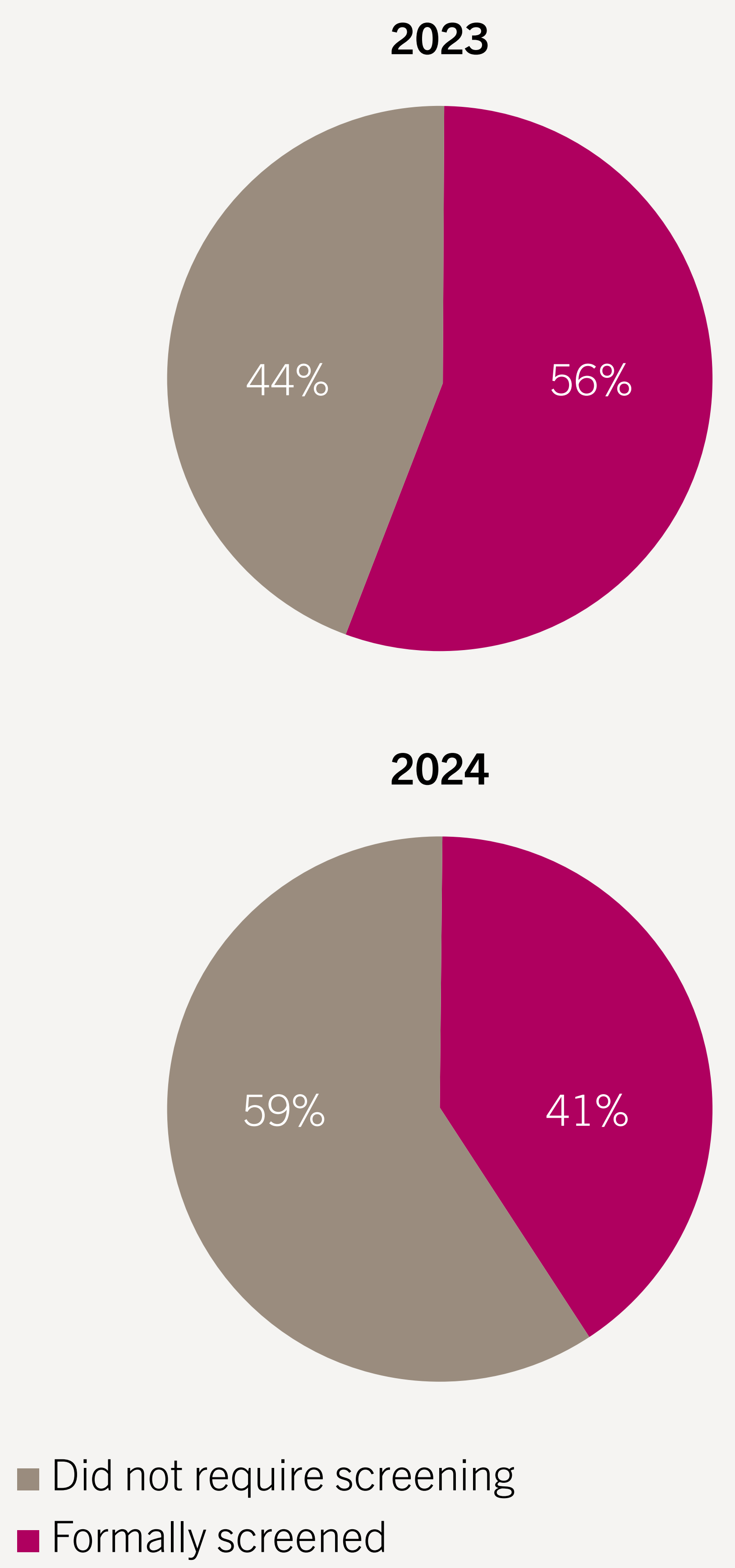
Intervention rates vary wildly. In France, 54% of authorisation decisions were subject to conditions (99 in total) – a sharp contrast to the EU's average rate of 9%, demonstrating that divergence in national screening remains a real issue. UK final orders jumped to 17; a 240% increase from 2024, but still only 1.5% of the 1,143 notifications received. In the US over 90% of cases were cleared without remedies, suggesting a recent drop-off in mitigated cases, and bringing numbers in line with the EU's average rate.

While blocked deals remain rare, the EC's recent annual report highlights a growing concern: many notifications appear unnecessary. While EU foreign investment dropped by 8.4% in 2024, authorisation requests to Member States surged by 73% and are understood to have reached a new all-time high in 2025.

This surge in unnecessary reviews contradicts the EC's pro-growth agenda – but will likely increase with the implementation of the EU FDI reform. The reforms (which impose mandatory screening across Member States for certain sectors) will capture EU entities owned by non-EU investors and broaden sensitive sectors - including semiconductors and generative AI. Although these changes are unlikely to take effect before 2027, attention this year (once the rules are finalised) will be on how Member States begin to incorporate the revised regulation into their national laws.

The proposed UK NSIA reforms promise a business-friendly regime through narrower sector definitions (carving out critical minerals and semiconductors) and clearer AI definitions. But the government expects a limited impact on notification numbers, raising questions over how much the reforms will really 'cut red tape for business'.

Percentage of deals notified in the EU that did not require formal screening



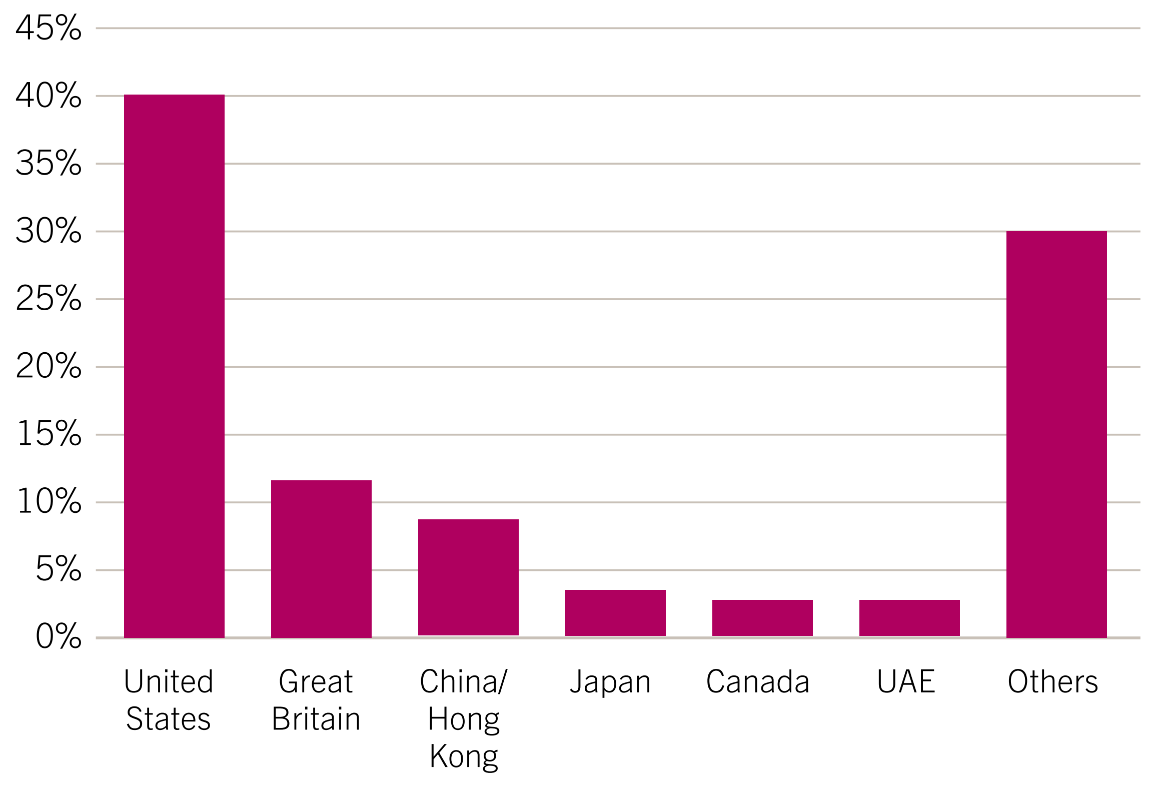
Tech and energy bear the brunt

Critical technologies relating to manufacturing dominated EU Phase II FDI cases, with increasing notifications related to defence and semiconductors, with energy infrastructure maintaining a steady share of cases. This reflects Member States' and the EC's sharpened focus on defence and innovation amid escalating geopolitical tensions. The UK displayed similar patterns – of the 17 final orders, nine were associated with defence, six with military and dual-use, and five with energy.

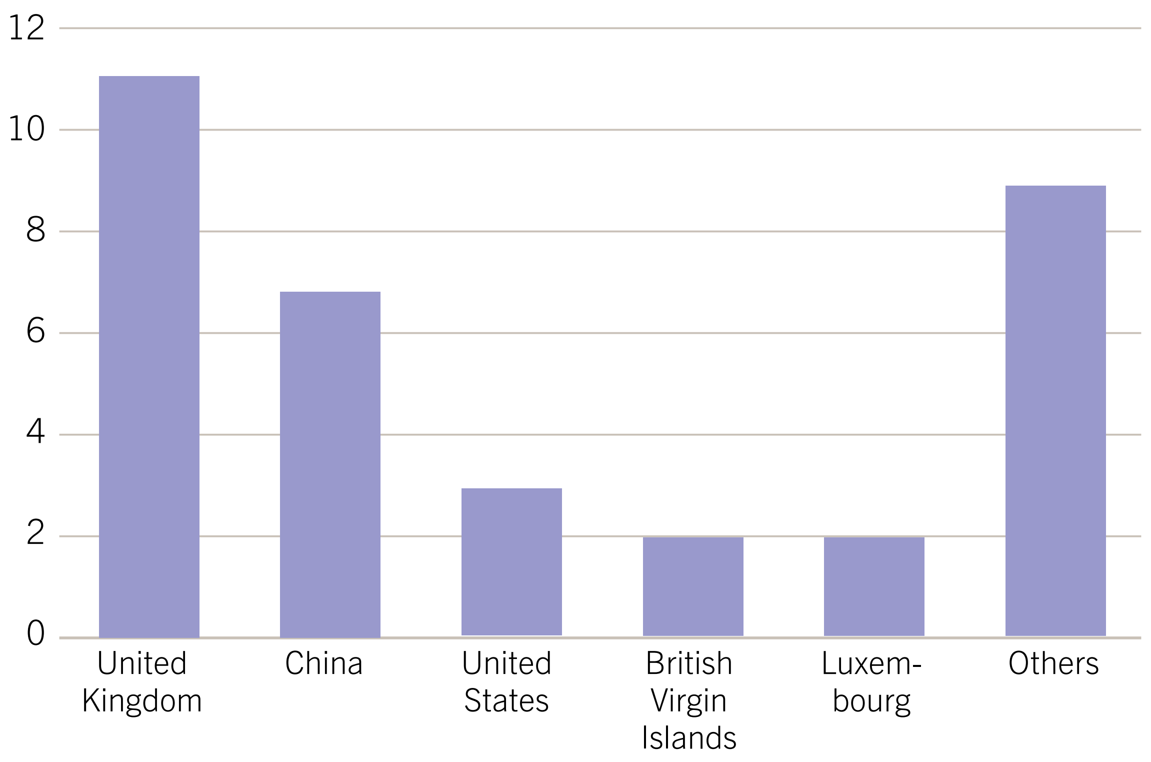
Expect this focus to continue as policy decisions centre on defence, resilience and energy – though 2026 may see more openness to green energy investment in the EU and UK. Critical technologies also remain high on the agenda in the US, alongside an increased focus on land and real estate.

A full range of investors (by origin) have been scrutinised under EU FDI regimes and the UK NSIA, meaning investors of any jurisdiction – including from perceived allies – can face screening or have conditions applied, as shown in the tables below.

Origin of investor – EU FDI Screening 2024



Final orders by origin of investment – NSIA 2024/2025



Note: The same investment may have more than one investor origin.

The US also had a wide range of investors by origin; filings originating from Canada, China, Singapore, South Korea and the UK continued to fall in 2024, while filings from France and Japan continued to rise quickly.

Under the EU's Foreign Subsidies Regulation, tech and telecoms notifications have increased, while energy submissions fell in 2025 to half their 2024 levels (despite remaining a priority in FDI screening and as part of the EU's broader push on green energy). Most notifications in 2025 were made by EU and US acquirers, with a handful of notifications from China, Singapore and the UAE.

New FSR guidelines released in January 2026 offer some clarity for businesses seeking to self-assess, with safe harbours from call in powers, sharper tests, a more structured assessment and practical examples. However, the EC retains very wide discretion, with low intervention thresholds.

In addition, the guidelines do not address the burden of notifications where thresholds are met but no subsidy concerns arise. It remains to be seen whether these (potentially) unnecessary notifications will be addressed by the EC's ongoing review of the FSR this year.

Calls to action

1. **Consider a broader strategic deal agenda** – With regulatory attention focused on growth and innovation, projects which support these priorities may benefit.
2. **Factor in extended timelines for complex deals** – Engage in discussions early and consider where remedies may be possible (but consider differing regulator preferences in multi-jurisdictional deals)
3. **Be prepared to make precautionary FI filings** – Transactions and investments in low-risk areas may still require notification given the broad sectoral definitions currently being employed. Be particularly mindful in critical tech and defence, or other areas likely to attract attention.

Antitrust enforcement heats up in 2026

Expect a push for faster antitrust enforcement in 2026 in the EU, UK and US, as policymakers advance pro-growth mandates.

In the EU, reforms of the Antitrust Procedural Framework target digital evidence, with proposals to focus inquiries and reduce delays (although a revised Framework won't arrive until Q3 2026). The UK's CMA is also deploying new AI and data tools to sanction anti-competitive conduct "as swiftly as possible", with a particular focus on public procurement and bid rigging.

Over in the US, new leadership is employing strategic case choices to speed up enforcement. Existing tools continue to be deployed against emerging conduct (such as HR infringements and algorithmic collusion theories). DOJ criminal efforts have been reinforced, while FTC initiatives signal continued focus on cartels, labour conduct (albeit a narrower approach), and algorithmic collusion theories.

This follows a bumper year of antitrust investigations globally. At least 100 were launched in key jurisdictions in 2024-2025; a massive jump from 20 (for the same jurisdictions) in the previous period. China led with 20 investigations, followed by Italy (17) and Poland (14).

Fines skyrocketed to €7 billion across 57 cases for the period, with higher fines in most jurisdictions compared to 2021-2023. In the EU, fines nearly doubled. The bulk came from cartel and dominance cases, though European authorities also hit vertical restraints hard.

Antitrust fines in selected jurisdictions

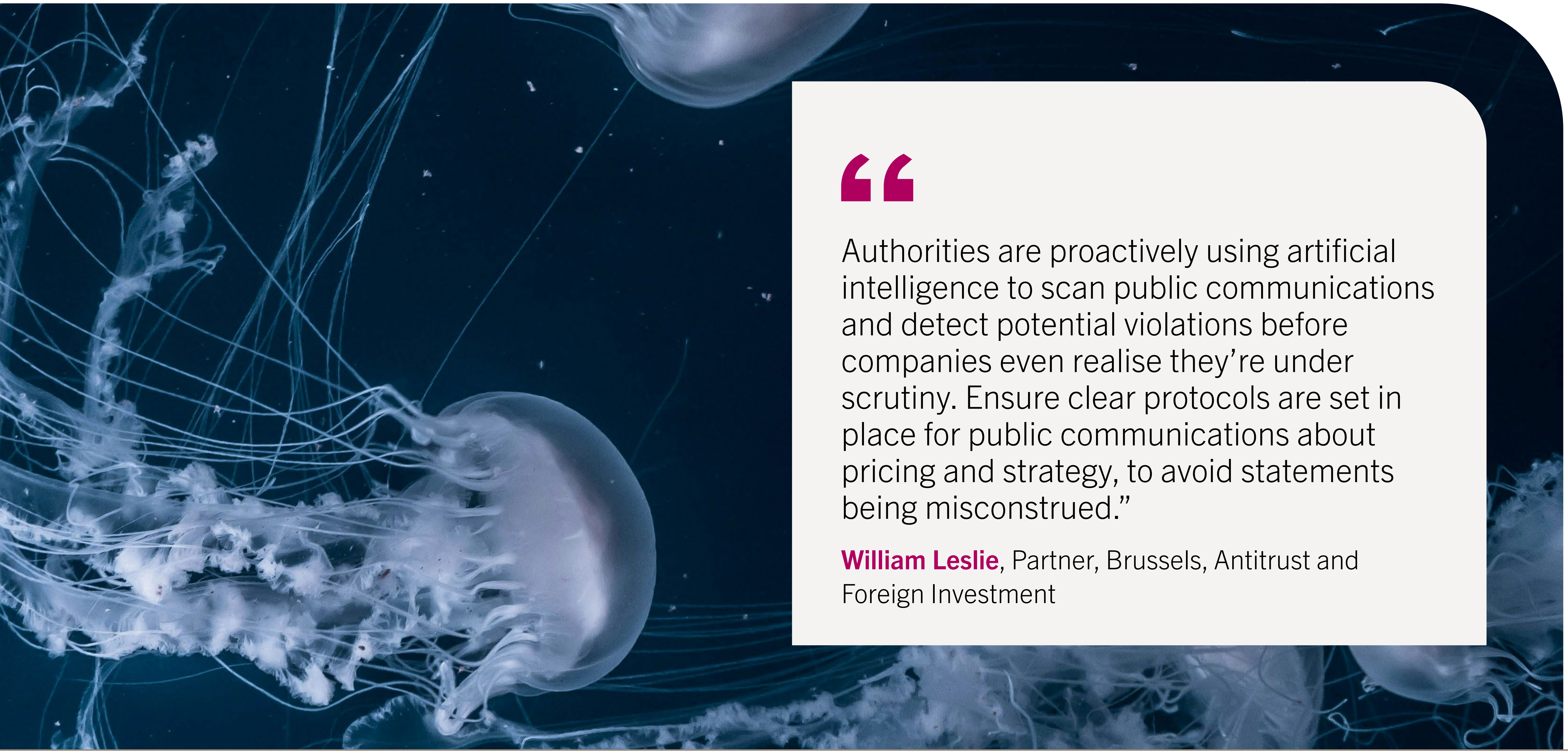
Oct 2024 - Sept 2025

Competition authorities are watching – and they're using AI to do it

Whistleblowers move over – AI is the new tool of choice for hunting antitrust violations. The EC's use of AI to analyse public information for evidence of potential collusion (leading to dawn raids on Michelin and other tyre companies) has been validated by the European Court, making AI screening a legitimate basis for launching investigations.

The Spanish CNMC and the UK's CMA have also been developing and trialling AI tools and models to detect bid-rigging in public procurement, looking for suspicious patterns in large-scale data.

With 22 publicly confirmed dawn raids across certain EU jurisdictions (2024-25) and many more in other countries, the use of AI is reportedly supporting the current jump in enforcement – and is set to continue through 2026.



> "Authorities are proactively using artificial intelligence to scan public communications and detect potential violations before companies even realise they're under scrutiny. Ensure clear protocols are set in place for public communications about pricing and strategy, to avoid statements being misconstrued."

William Leslie, Partner, Brussels, Antitrust and Foreign Investment

Are dawn raids changing?

Digital transformation is reshaping dawn raids. Gone are the days of inspectors photocopying paper files – here's what's changed:

> **Inspectors are increasingly imposing legal holds**, requiring companies to rush to ensure all data (including information stored in the cloud) is preserved. Note that inspectors are increasingly unlikely to wait for external counsel to arrive. Ensure dawn raid response protocols and IT capabilities are in place, as there won't be time to scramble once inspectors are at the door.

> **Raids are getting (much) longer**. Inspectors are taking longer to review documents (sometimes two weeks). This shift is driven by the sheer volume of data, and how that data is stored: emails, digital documents and data stored in the cloud and mobile devices all take time to download – and the days of inspectors taking photocopies is history.

> **Your office becomes a data room**. Inspectors download everything potentially relevant, then use software like Nuix to filter documents on-site. Legal counsel can review their work on external screens simultaneously. This requires space, multiple devices for parallel downloads, and extra screens with connection cables.

Compliance hurdles: creating a robust compliance culture

Having a compliance programme on paper won't save you from fines – it could actually hurt if you haven't implemented it properly. Recent enforcement shows that compliance programmes without real implementation can be viewed negatively. Here's how to build effective compliance in 2026:

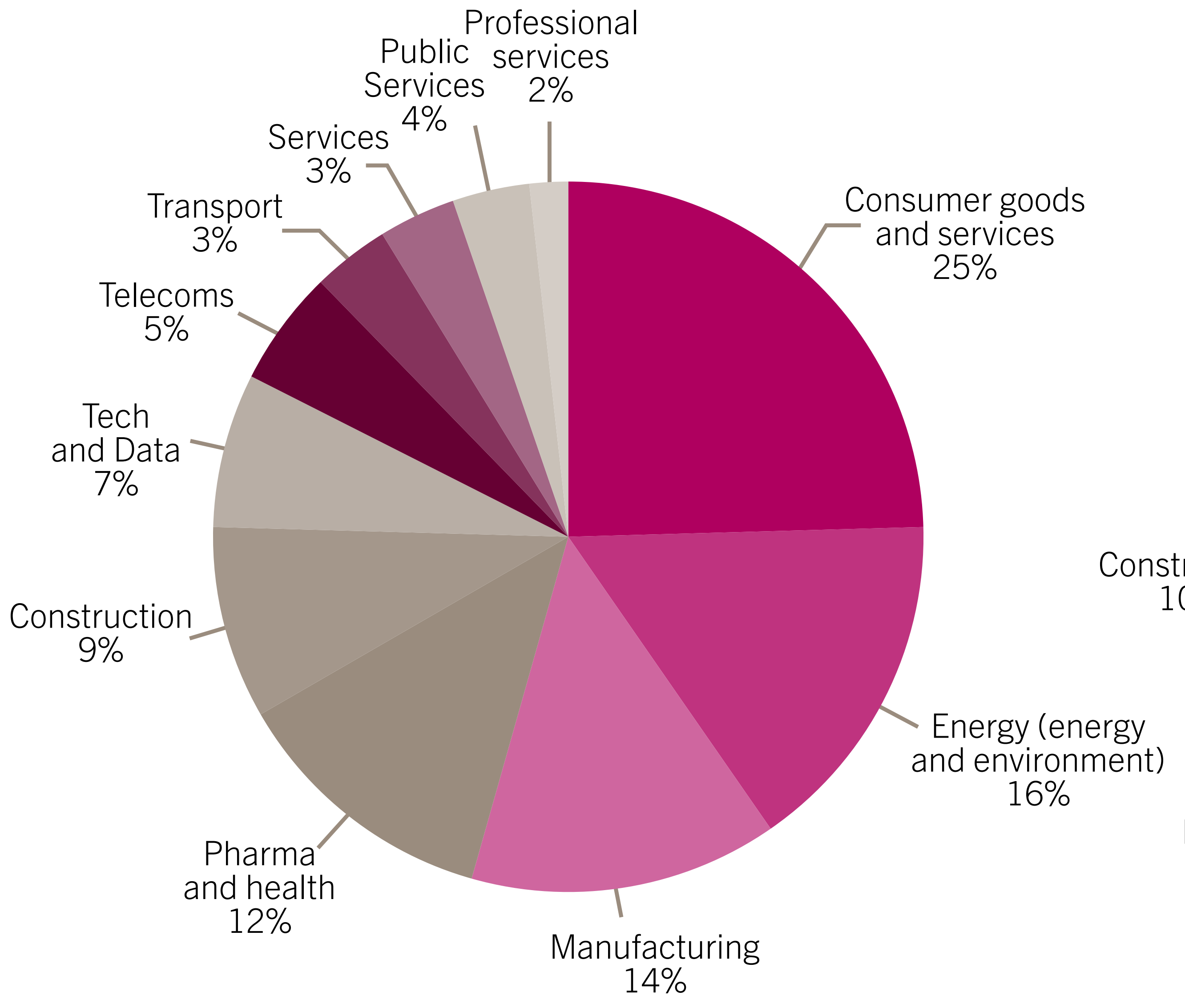
> **Start with risk assessment.** Different teams face different risks. Sales teams will need to understand more than just horizontal concerns; they need vertical compliance training too. Spend time with business units to understand pressure points. Use internal audits for insights. Make training practical with real examples, not generic guidance.

> **Compliance culture.** Training and guidance need to be reflected in a company's culture. Senior leadership must visibly champion compliance – no exceptions for violations, active support for risk assessments, and a genuine "speak-up" culture. When risks emerge, address them pragmatically to build trust. Work closely with business teams to find workable day-to-day solutions.

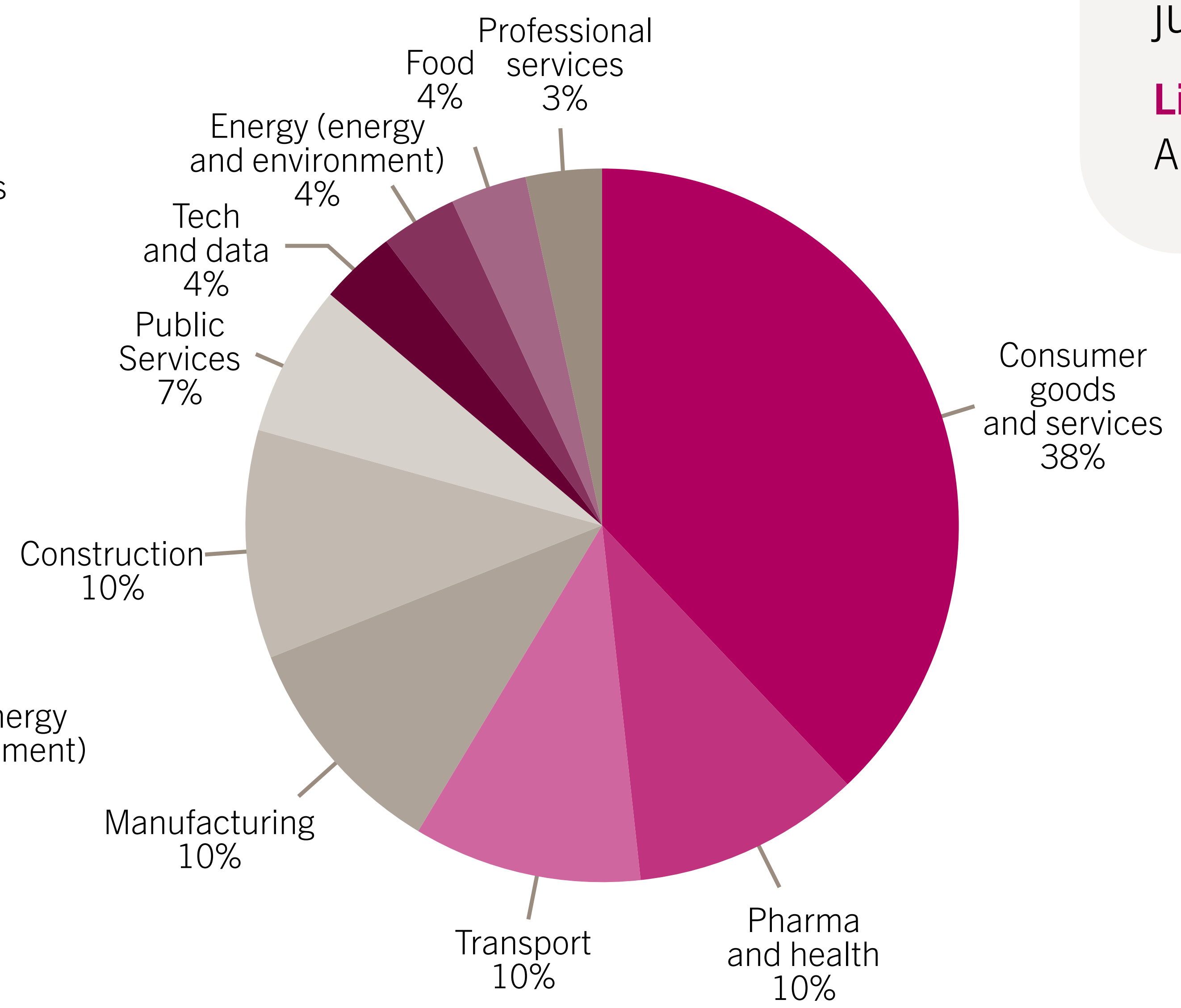
Focus on sectors

Consumer investigations will continue to generate high enforcement in 2026, particularly as new consumer powers mature. The CMA has recently (November 2025) launched its first investigation into online pricing practices under its new consumer enforcement powers. Other jurisdictions (such as Poland, France and Italy) are just getting started using their new consumer tools and have already started issuing fines. As confidence grows, enforcement will accelerate, including through the use of traditional antitrust tools. The EC, ACCC and CMA have all promised sustained focus on consumer sectors through 2026.

Total antitrust fines by sector



Dawn raids by sector



"Antitrust enforcement isn't random – it's strategic. Authorities are zeroing in on sectors where enforcement sends the strongest political message. They are focusing on consumer goods, to address cost-of-living pressures, and energy to protect critical infrastructure and sovereignty. If your business operates in these sectors, you're not just at risk – you're a priority target."

Liliane Gam, Partner, Brussels,
Antitrust and Foreign Investment

Political pressure slows digital enforcement

As for tech, despite new digital regimes like the EU's DMA and UK's DMCCA, political pressure may be slowing enforcement, with no DMA fines issued since April 2025, following a €500 million fine against Apple and a €200 million fine against Meta (despite the EC's defence of its enforcement in the sector).

Outside DMA enforcement, the EC has only issued one fine. Again, the EC has been careful to justify its enforcement, noting the FTC's actions in the same space in its adoption of the Google Adtech decision. The EC also fined X under the Digital Services Act - resulting in considerable backlash. The UK has faced similar pressures, but ultimately decided to designate both Apple and Google as having strategic market status in October 2025.

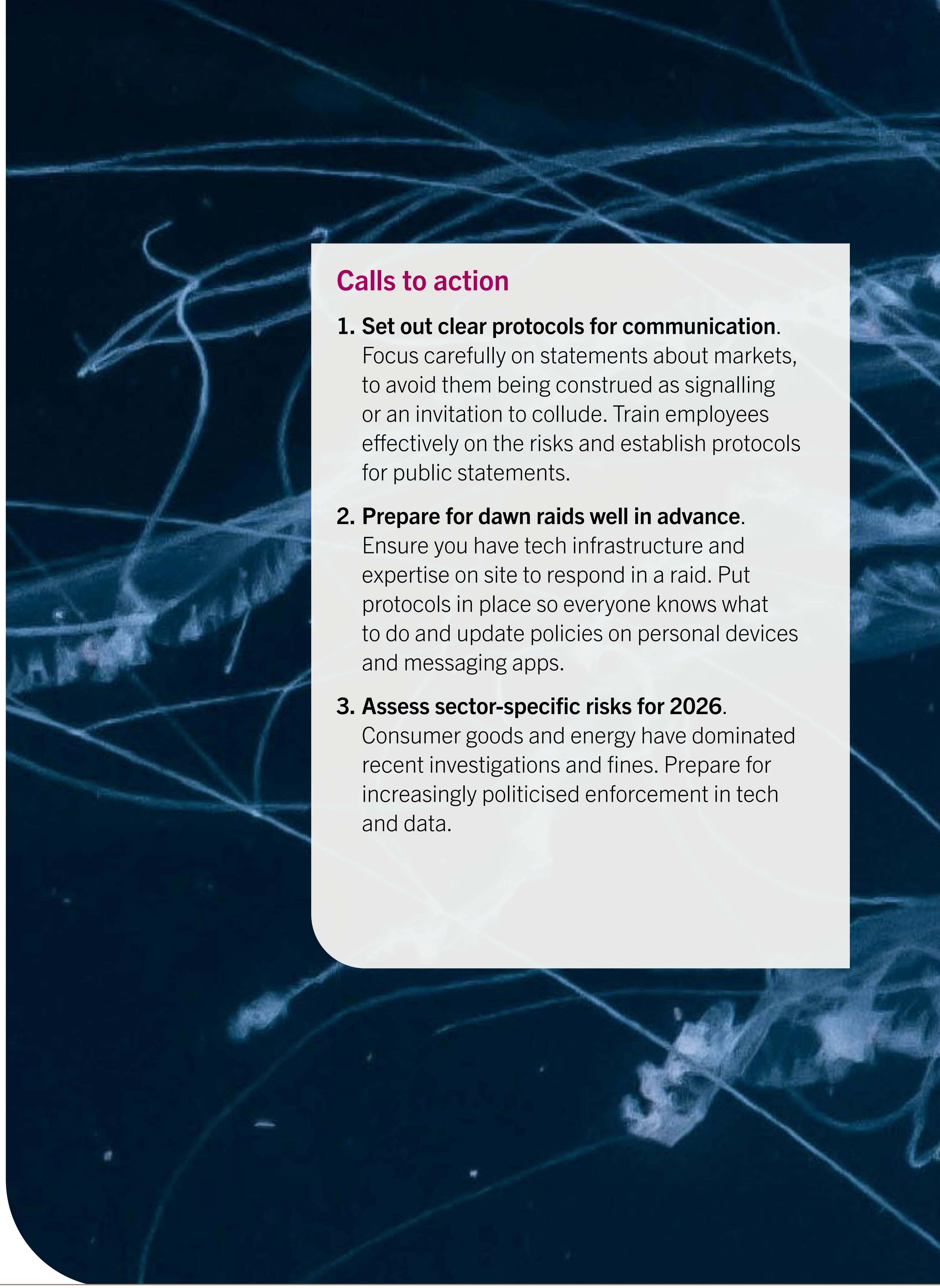
But the continued proliferation of digital regulation - and expectation that regulators rigorously enforce existing digital markets rules - means that enforcement will likely continue in 2026. The rise of AI will be a key focus – the EC is considering the DMA's application to the sector and has recently launched two investigations into AI services (Meta AI's rollout of AI services, following complaints from makers of AI bots and Google's AI services, over concerns that publishers' works were unfairly being used to generate summaries). The EC is also designating WhatsApp, ChatGPT and Telegram under the DSA. Meanwhile, some jurisdictions have recently enacted similar digital markets legislation (e.g. Germany), while others are looking at doing so (Brazil, Australia).

Private enforcement

Competition between claimant lawyers and funders continues to result in claims being brought alongside regulatory investigations - or even where there is no regulatory scrutiny at all. These standalone claims tend to allege breaches of competition law by abuses of dominant positions, whereas follow-on claims generally arise from cartel findings.

In the EU, the implementation of the Representative Action Directive has made group actions more widely available. Although not mandated at an EU level, many Member States allow representative actions or existing collective redress procedures to be used to bring claims for competition law breaches.

The UK's Competition Appeal Tribunal will continue to deal with the surge of opt-out class actions. It has handed down substantive judgment in three such cases since December 2024, and has approved the settlement of a third full case. However, the circumstances of some of these cases have called into question whether opt-out collective proceedings are primarily benefitting lawyers and third-party funders rather than class members. The Department for Business & Trade's review of the regime is ongoing.



Calls to action

1. **Set out clear protocols for communication**. Focus carefully on statements about markets, to avoid them being construed as signalling or an invitation to collude. Train employees effectively on the risks and establish protocols for public statements.
2. **Prepare for dawn raids well in advance**. Ensure you have tech infrastructure and expertise on site to respond in a raid. Put protocols in place so everyone knows what to do and update policies on personal devices and messaging apps.
3. **Assess sector-specific risks for 2026**. Consumer goods and energy have dominated recent investigations and fines. Prepare for increasingly politicised enforcement in tech and data.

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With many thanks to jurisdiction specialists, Addleshaw Goddard (Poland), Allens (Australia), Lefosse (Brazil), and Webber Wentzel (South Africa).

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