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Federal Trade Commission Launches Public Inquiry as It Prepares to Lead President Trump's Effort to Modify and Rescind Anticompetitive Federal Regulations; Department of Justice Launches Anticompetitive Regulations Task Force

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Recognizing that "regulations that reduce competition, entrepreneurship, and innovation" are harmful to the U.S. economy, the Federal Trade Commission is seeking comment from the public on federal regulations that "exclude new market entrants, protect dominant incumbents, and predetermine economic winners and losers." The FTC's inquiry is directed by President Trump's [Executive Order 14267, *Reducing Anti-Competitive Regulatory Barriers* \(2025\)](#). Comment is sought from "consumers, workers, businesses, start-ups, potential market entrants, investors and academics." **Comments are due May 27, 2025**, and must be submitted at [Regulations.gov](#).

The Department of Justice recently [announced an anticompetitive regulations task force](#). The task force will "advocate for the elimination of anticompetitive state and federal laws and regulations that undermine free market competition and harm consumers, workers and businesses" and is also seeking comment from the public on such laws and regulations. **Comments are due May 27, 2025**, and must be submitted to [Regulations.gov](#).

President Trump's deregulatory agenda presents a significant opportunity for firms wishing to expand into new lines of business, introduce new products and services, and move more quickly in transitioning from one market to another to identify those regulations that limit, slow or forbid expansion and entry. The agenda may also represent a significant threat to market incumbents who rely on those regulations to limit competition.

FTC Leadership of The Whole-of-Government Federal Regulatory Review

Pursuant to Executive Order 14267, the Administration has tasked each agency within the executive branch of the federal government (including the military, Government corporation, or Government-controlled corporation) and any independent regulatory agency to identify and recommend the modification or rescission of any regulation for which they have rulemaking authority that:

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- a. Creates, or facilitates the creation of, *de facto* or *de jure* monopolies.
- b. Creates unnecessary barriers to entry for new market participants.
- c. Limits competition between competing entities or has the effect of limiting competition between competing entities.
- d. Creates or facilitates licensure or accreditation requirements that unduly limit competition.
- e. Unnecessarily burdens the agency's procurement processes, thereby limiting companies' ability to compete for procurement.
- f. Otherwise imposes anticompetitive restraints or distortions on the operation of the free market.

Agencies are directed to prioritize for review those rules that constitute *significant regulatory action* as set forth in Presidential Executive Order 12866, *Regulatory Planning and Review* (1993) (as amended by Executive Order 14094, *Modernizing Regulatory Review* (2023)). In a [recent letter](#), FTC Chairman Andrew Ferguson and Assistant Attorney General for the Antitrust Division Gail Slater reminded the executive branch and other agency heads of President Trump's interest in modifying or rescinding anticompetitive regulations on a very aggressive timeline.

The FTC's Public Inquiry

The FTC's *Request of Public Comment Regarding Anti-Competitive Regulatory Barriers* is responsive to the President's direction that it obtain public input on the whole-of-government deregulation effort. For federal regulations falling within (a)-(f), the FTC requests, where possible, that a commenting person provide:

1. The name, citation, effective date, status, and any other information that identifies the particular regulation.
2. The specific language, or other provisions, contained in the regulation and any regulatory guidance that is relevant to an anticompetitive effect in categories (a)-(f).
3. Any currently applicable legal authority adjudicating, interpreting, applying, enforcing, or reviewing the regulation that is relevant to an anticompetitive effect in categories (a)-(f).
4. An explanation of how and in what circumstances the regulation operates, or may potentially operate, in regard to an anticompetitive effect in categories (a)-(f), including the

relevant products or services and geographic areas at issue, entities affected, and the nature, size, scope, and duration of any anticompetitive effect.

5. An explanation of why the regulation should be eliminated or modified, including any possible modifications to achieve the intended objectives while mitigating the anticompetitive effect in categories (a)-(f).
6. An explanation of whether the regulation satisfies the definition of “significant regulatory action.”

Department of Justice Announces Anticompetitive Regulations Task Force to Advocate for the Elimination of Anticompetitive State and Federal Laws and Regulations

In response to President Trump’s earlier [Executive Order 14192](#), *Unleashing Prosperity Through Deregulation* (2025) and [Executive Order 14219](#), *Ensuring Lawful Governance and Implementing the President’s Department of Government Efficiency Deregulatory Initiative* (2025), the Department of Justice [announced an anticompetitive regulations task force](#). The task force will “advocate for the elimination of anticompetitive state and federal laws and regulations that undermine free market competition and harm consumers, workers and businesses.”

The Antitrust Division will play a significant role in the task force. The Division has extensive experience advocating to [states](#) and [federal agencies](#) in support of pro-competition regulatory and legislative reforms, and “will support federal agencies’ deregulatory initiatives by sharing its market expertise on regulations that pose the greatest barriers to economic growth.” (The FTC, through the Office of Policy Planning, also has [extensive experience](#) advocating to state and federal agencies, and state legislatures, in support of removing barriers to competition and adopting market-based regulation.)

The DOJ is seeking comment from the public to support the task force’s mission and is “particularly interested” in identifying and combating regulations in **housing, transportation, food and agriculture, healthcare, and energy markets**. Comments are welcome from all market participants, including consumers, consumer advocates, small businesses, employers, trade groups, industry analysts, and other entities impacted by anticompetitive state or federal laws and regulations. **Comments are due May 27, 2025**, and must be submitted to [Regulations.gov](#). Comments submitted to the DOJ will be treated as if submitted to the FTC as part of its public inquiry.

The FTC and DOJ Request For Comments Overlap with and Extend Other Agency Efforts Previously Announced

Regulatory agencies overseeing **banking** and **financial markets and telecommunications markets** have also sought comment consistent with removing regulatory burdens. The FDIC recently sought comment on its [Bank Merger Policy Statement](#). That comment period closed on April 10, 2025, but comments on the FDIC's bank merger policy are likely responsive to the FTC and DOJ comment requests. Although the comment period on the Federal Communication Commission's [Delete, Delete, Delete](#) deregulatory proceeding has closed, comments responsive to the FCC's initiative can be submitted to the FTC through May 27, 2025. **Artificial Intelligence** is another area of significant interest to the Administration, including the FTC, which, during the Biden Administration, is believed to have adopted a posture of excessive regulation of and caution towards the development and use of AI. Comments with respect to past FTC practice and [Executive Order 14179, Removing Barriers to American Leadership in Artificial Intelligence](#) (2025) may be submitted to the FTC through May 27, 2025. [The EPA is conducting a significant regulatory review effort](#). Two decades ago, the [FTC commented on the impact the EPA's Boutique Fuel requirements on competition in gasoline markets](#). It is likely the EPA will consider this issue afresh. [OMB is also soliciting comments](#) on deregulation from the public. Comments are due **May 12, 2025**, and can be submitted through the [Deregulation Suggestions](#) portal at [Regulations.gov](#). Comments not submitted to OMB by May 12, 2025 can be submitted to the FTC through **May 27, 2025**.

Modification and Rescission Timeline

Recommendations for modification or rescission are to be made by agency heads to the FTC Chairman and the Attorney General of the Department of Justice by June 18, 2025. The agency head must provide a justification for maintaining any regulation that has an intended anticompetitive effect. The FTC Chairman, in consultation with the Attorney General, the Assistant to the President for Economic Policy and the relevant agency heads, must provide the Director of the Office and Management and Budget ("OMB") with a list of all regulations recommended to be modified or rescinded by September 16, 2025.

Modification or rescission of regulations acting as anticompetitive barriers to competition may happen very quickly. An April 9, 2025 [Presidential Memorandum Directing the Repeal of Unlawful Regulations](#) instructed agency heads to repeal regulations without notice and comment, where such regulations are "in conflict with [certain] Supreme Court decisions" and good cause exists for proceeding without notice and comment. Relevant cases include *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024); *Ohio v. EPA*, 603 U.S. 279 (2024); *West Virginia v. EPA*, 597 U.S. 697 (2022); *Cedar Point Nursery v. Hassid*, 594 U.S. 139 (2021); and *Michigan v. EPA*, 576 U.S. 743 (2015). A [fact sheet](#) issued by the White House explained the relevance of these and a few other cases to the President's deregulatory initiative.

According to the President, the “good cause” exception in the Administrative Procedure Act “allows agencies to dispense with notice-and-comment rulemaking when that process would be ‘impractical, unnecessary, or contrary to the public interest.’” It seems reasonably likely that the antitrust agencies will find that regulations that act as anticompetitive barriers to entry are contrary to the public interest and modification or rescission of many regulations may proceed without notice and comment rulemaking.

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If you have any questions, please feel free to contact the following Cadwalader attorney.

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