

ALERT

New DOJ Task Force Seeks Input on State and Federal Laws that Impede Competition and Innovation

April 7, 2025

On March 27, 2025, the U.S. Department of Justice's (DOJ) Antitrust Division announced the formation of a Task Force on anticompetitive regulations "to advocate for the elimination of anticompetitive state and federal laws and regulations that undermine free market competition and harm consumers, workers, and businesses." In addition to the request for public comments, which are due by May 26, 2025, the announcement identified three other concrete actions the Task Force may take: (1) working with other federal agencies to revise or eliminate regulations that unnecessarily harm competition; (2) advocating for removal of anticompetitive laws by filing *amicus* briefs and statements of interest in private litigation; and (3) commenting on proposed state legislation.

The DOJ Task Force provides a critical opportunity for companies and trade associations to weigh in on burdensome regulation and policy approaches on both the federal and state level. The Task Force comes as regulations affecting the entire economy are being examined for rescission and recalibration, in furtherance of multiple Executive Orders and Presidential policy statements focused on promoting investment and innovation. Stakeholders are already beginning to engage, and the Task Force could help combat federal and state regulatory burdens that impede innovation, limit consumer choice, or raise barriers to entering markets.

The Task Force is broadly looking at state and federal regulations while noting five markets in particular.

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The press release indicated that the Task Force is interested in any “laws and regulations that make it more difficult for businesses to compete,” while noting heightened interest in five markets that impact American households:

1. Transportation, where regulations may grant antitrust immunities, establish monopolies, or provide safe harbors for conduct that undermines competition;
2. Energy, including permitting reform and other issues under the National Environmental Policy Act;
3. Health Care, where laws and regulations can drive up costs by encouraging overbilling and consolidation;
4. Food and Agriculture, where anticompetitive regulations may harm farmers, growers, and ranchers; reduce food production; and increase costs for American consumers; and
5. Housing, with a goal of reducing rental and ownership prices and lifting impediments to building and construction.

The DOJ announcement noted that overregulation can lead to higher consumer prices and disruption of innovation, and repeatedly noted that the Task Force will focus not only on federal laws and regulations but also those at the state level.

Because it will work with so many other federal agencies and explicitly examine state barriers, the Task Force presents a key venue for companies across the economy to urge reforms. Several areas of state and local regulation may be of interest to the Task Force, and private-sector input will be important in helping DOJ to set priorities. Beyond the industries noted in the press release, the Task Force is also likely to have interest in other key sectors of the economy and types of overregulation:

- Technology regulation, including aspects of the current patchwork of state privacy laws – and potential patchwork of state AI laws – that create varied and expensive compliance requirements that make it costly for new technology firms to enter markets and innovate. This kind of regulation can hinder innovation in technology like AI, drones, quantum information science, and nuclear technology, which the President has identified as priorities for the Office of Science and Technology Policy.
- Informal agency guidelines, which can often function as interpretive rules regulating entire industries and business practices, but that may be outdated or issued without full rulemaking process. This may include guidance like the FTC’s “Green Guides,” which provide guidance on environmental claims in marketing, or FTC guidance on what it calls “dark patterns.”
- Rules governing federal acquisition of goods and services that are also worthy of streamlining. Outdated, complex, and expanding procurement regulations can stifle the U.S. government’s ability to procure the best and most innovative technologies.

Although driven by President Trump’s Executive Orders, the Task Force will use traditional – and bipartisan – approaches to competition.

The DOJ press release explained that the formation of this Task Force is driven by two of President Trump's Executive Orders. Executive Order 14192 (Jan. 31, 2025) declares that reducing "unnecessary regulatory burdens" is an official policy goal of the executive branch. And Executive Order 14219 (Feb. 19, 2025) directs federal agencies to begin initiating a process to review all regulations and identify those that stifle small businesses, private enterprise, and entrepreneurship.

These initiatives repeat common themes from, and employ similar tactics used by, prior Administrations. During President Trump's first term in office, the Federal Trade Commission (FTC) and DOJ took similar measures. In 2017, the FTC formed an "Economic Liberty Task Force" to examine and reduce anticompetitive harm from state occupational licensing requirements. In 2018, the DOJ's Antitrust Division published a report on how regulations can harm competition and submitted comments to federal agencies advocating for the elimination of unnecessary regulations.

The Biden Administration antitrust regulators also used outside advocacy to promote their competition goals. For example, in recent years DOJ and FTC filed several *amicus* briefs to address practices that they allege constitute algorithmic price-fixing in the residential housing and hotel industries. The FTC has also long advocated on state competition issues, such as opposing state issuance of certificates of public advantage that would shield mergers from federal antitrust regulation. The DOJ and FTC are likely to work together on priorities that emerge from the newly announced Task Force.

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