

ALERT

Trump Directs FTC to Lead Government-Wide Rescission and Modification of Anticompetitive Federal Regulations

April 17, 2025

On April 9, 2025, President Trump issued an Executive Order directing the Federal Trade Commission (FTC) to lead a process for identifying and rescinding or modifying anticompetitive federal regulations that “reduce competition, entrepreneurship, and innovation.” The scope of this order is not limited to regulations enforced or promulgated by the FTC. Rather, it covers all federal regulations, with the FTC reviewing the competitive impact of those regulations in its role as an antitrust regulator charged with protecting markets and competition. This order is part of a broad deregulatory effort by the Administration to reduce state and federal laws and regulations that can stifle economic growth. The April 9 order presents an immediate opportunity for businesses and trade associations to provide the FTC with public comments, identify anticompetitive regulations that impact their industry, and advocate for rescission or specific modifications of those regulations.

Deregulatory Backdrop

The April 9 FTC Executive Order follows several other Executive Orders and Executive agency actions that are part of a broad deregulatory agenda, including:

- Executive Order declaring that reducing “unnecessary regulatory burdens” is an official policy goal of the Executive branch.
- Executive Order directing federal agencies to begin initiating a process to review all regulations and identify those that stifle small businesses, private enterprise, and entrepreneurship.

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Practice Areas

Administrative Procedure
Antitrust
FTC and Consumer Protection

- The U.S. Department of Justice announcement of a task force to address similar anticompetitive laws.
- The Federal Communications Commission's Public Notice titled "In Re: Delete, Delete, Delete," seeking public comment on "identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens."
- Presidential memoranda directing agencies to prioritize the repeal of regulations that are unlawful under 10 recent U.S. Supreme Court cases and instructing agencies that such repeals should proceed without notice and comment pursuant to a statutory "good cause" exception in the Administrative Procedure Act (APA).
- The Office of Management and Budget's request for information (RFI), announced on April 15, "solicit [ing] ideas for deregulation from across the country" to help "identify rules to be rescinded" along with "detailed reasons for their rescission." The inquiry pertains to all federal regulations.

The April 9 Executive Order Directs the FTC to Act Swiftly, Starting with an RFI

The April 9 Executive Order directed the FTC to issue a public RFI to help identify regulations that:

1. Create or facilitate monopolies,
2. Create barriers to entry for new market participants,
3. Limit competition,
4. Create licensing and accreditation requirements that unduly limit competition,
5. Burden agency procurement and reduce companies' ability to compete for procurements, or
6. Otherwise distort the free market or impose anti-competitive restraints.

The FTC announced the RFI on April 14, 2025, and the comment period will remain open until May 27, 2025. The FTC noted that this RFI overlaps with an RFI issued by DOJ's anticompetitive laws task force and that the agencies are coordinating on this effort.

While the RFI is open, heads of federal agencies must prepare a list of regulations that fall into any of those six categories. The list must be provided to the FTC within 70 days and must include recommendations about whether to rescind or modify each such regulation. For any regulations that the agency leaders recommend modifying, the agency leaders must include specific recommended modifications.

After receiving that list, the FTC must consult with the Department of Justice and the Assistant to the President for Economic Policy and, within 90 days, send it to the Office of Management and Budget. The FTC is also authorized to add regulations to that list beyond those identified by agency heads, if the regulations fall into one of the six categories.

Regulated Parties Should Consider Opportunities and How to Minimize Risk

The opportunity to identify anticompetitive regulations for the FTC and the short time frames dictated by the April 9 Executive Order could result in swift removal of regulations, especially when combined with the Presidential Memorandum directing agencies to remove regulations for good cause without notice and comment. In many instances, this could alleviate burdensome requirements and promote competition. And companies should also evaluate the risks of rapid deregulation without notice and comment, such as increased court challenges that could potentially create short-term regulatory uncertainty. In addition, regulated entities should strongly consider whether to support regulations that provide helpful stability and clarity to the industry, to help ensure such regulations are not rescinded.

Wiley's Antitrust and FTC Regulation Practice Groups counsel clients on FTC compliance, investigations, enforcement, and rulemaking, and regularly advocate before the FTC and DOJ. And Wiley's attorneys are actively monitoring the Administration's deregulatory efforts and routinely provide input to agencies on rulemakings and regulatory reform. Our team can offer deep regulatory expertise to assist in these and other proceedings.

To stay informed on all of the Executive Orders and announcements from the Trump Administration, please visit our dedicated resource center below.

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