

SENATE COMMERCE HOLDS FTC OVERSIGHT HEARING

EXECUTIVE SUMMARY

On April 15, the Senate Commerce Committee held an oversight [hearing](#) of the Federal Trade Commission (FTC) featuring testimony from FTC Chair Andrew Ferguson and Commissioner Mark Meador. While Chair Ferguson emphasized the FTC's role as a law enforcement agency rather than that of a regulator, Republicans on the panel were supportive of the Commission's enforcement activity on a number of fronts, including on data privacy, artificial intelligence (AI), and free speech. Democrats on the panel were critical of several of the FTC's actions and called for greater enforcement activity while promoting a full, bipartisan Commission to support the agency's efforts to regulate anticompetitive practices and provide adequate consumer protections.

OPENING STATEMENTS

Chair Ted Cruz (R-TX) ([statement](#)) praised efforts of the FTC to protect free speech and return money to consumers who had been scammed. He argued that the FTC overstepped its authority during the Biden administration and supported a more limited enforcement approach while maintaining robust consumer protections. Chair Cruz detailed examples where Congress has unnecessarily sought to broaden the FTC's regulatory oversight over areas such as the Internet, data privacy, AI, free speech, and college sports. He noted that the last major revisions to FTC's regulatory framework was in 1996 and pushed for "seriously considering" the FTC's authority over consent decrees, deceptive and hidden fees, ticketing markets, and fraud prevention.

Ranking Member Maria Cantwell (D-WA) argued that the Trump administration has taken efforts to "neuter" the FTC and spoke against the president's actions to remove two Democratic FTC commissioners from office. The Ranking Member emphasized the need for an impartial Commission, lamenting the current lack of Democratic members serving. She noted several enforcement decisions taken by the FTC that she characterized as a "slap on the wrist," calling for a more "vigorous" enforcement approach.

WITNESS TESTIMONY

Mr. Andrew Ferguson ([testimony](#)), FTC Chair, highlighted the Commission's actions to protect consumers from anticompetitive behavior, including recent and upcoming enforcement actions under the Child Online Protection Act (COPA), Take It Down Act, Better Online Ticket Sales (BOTS) Act, and anticompetition law affecting the health care, housing, energy markets, and semiconductor industries.

Mr. Mark Meador, FTC Commissioner, reiterated a number of the FTC's priorities under the Trump administration, highlighting merger enforcement actions and settlement agreements in key industries. He advocated for Congress authorizing the FTC to order certain monetary relief for consumers under section 13(b) the FTC Act.

DISCUSSION AND QUESTIONS

FTC Enforcement Actions and Anticompetitive Practices

- **Sen. Tammy Baldwin (D-WI)** supported the Trump administration's executive order ([EO](#)) on ensuring truthful claims on products manufactured in the United States and touted her Country of Origin Labeling Online Act ([S.294](#)). Chair Ferguson also expressed support for the president's EO and pointed to three [enforcement actions](#) the FTC has taken as part of its "Made in the USA" program. The Chair added that the FTC is exploring the role that large online retailers play in policing truthful country of origin claims made by sellers.
- Referencing a Biden-era [rulemaking](#) on earnings claims for the direct selling industry, **Sen. John Curtis (R-UT)** questioned whether the rule had relevance given the FTC's existing authority to bring enforcement actions against bad actors. Chair Ferguson argued the FTC may need the authority to pursue enforcement actions that provide consumers with financial compensation via a rule. Sen. Curtis encouraged the FTC to withdraw the rulemaking given analysis indicating the rule would unduly burden the direct selling industry.
- In response to **Sen. Ben Ray Lujan (D-NM)**, Chair Ferguson denied he had the statutory authority to prosecute price gouging in energy markets, instead clarifying that the FTC strictly has authority to investigate anticompetitive practices, though not in utility markets.
- Chair Ferguson assured **Sen. Marsha Blackburn (R-TN)** that the FTC is actively engaging in litigation involving Ticketmaster and other companies under the BOTS Act, and is making enforcement related to ticketing platforms a priority.
- Chair Ferguson assured **Sen. Bernie Moreno (R-OH)** that the FTC has the authority to bring enforcement action against car companies collecting personal data without owners' consent. The Chair added that there is an absence of a national framework on data collection and privacy practices, leading to a patchwork of state-level regulations.
- While responding to Sen. Baldwin's promotion of her [For the Fans Act](#), Chair Ferguson committed to enforcing any laws or regulations to bring about greater fee transparency with respect to subscription services, including those for professional sports broadcasts.
- Ranking Member Cantwell asked about the use of covenants as a method of restricting competition in the grocery store industry. Both Chair Ferguson and Commissioner Meador acknowledged the issue and said they could be used to restrict competition in industries that rely heavily on real estate.

Personalized Pricing Practices

- The commissioners could not provide comment on an ongoing [6\(b\) study](#) into consumer prices influenced by customer surveillance when asked by Ranking Member Cantwell, but Chair Ferguson offered that staff has been instructed to explore whether the FTC should require disclosures on individualized pricing behaviors. He added that the FTC is collecting

public comment on online food and grocery delivery orders as part of a [rulemaking](#), which will also cover topics such as consumer surveillance pricing.

- When asked by **Sen. Jacky Rosen (D-NV)** about the FTC’s decision to [withdraw](#) a Biden-era request for information (RFI) on surveillance pricing practices, Chair Ferguson explained that it has initiated targeted investigations into companies such as Instacart that have experimented with such practices.

AI Issues

- Chair Ferguson told Chair Cruz that the preliminary costs of a proposed regulation drafted by the Biden-era FTC on AI would have been “staggering,” and argued that comprehensive AI regulations at this point would “kill” innovation. Chair Ferguson did argue, however, for some form of a national regulatory framework.
- Sen. Blackburn spoke in favor of the president’s [national AI policy framework](#) and articulated that a draft of a future “AI Act” bill would be considered by the committee in the future. Speaking broadly about the FTC’s approach to consumer protection from AI, Chair Ferguson pointed to cases related to the Children’s Online Privacy Protection Rule (COPPA), but warned against the unintended consequences of the FTC becoming the “general, all-purpose” AI regulator. Chair Ferguson indicated he would ensure any new regulations would be carefully informed by studies ahead of implementation.
- During questions from **Sen. John Hickenlooper (D-CO)** about the FTC’s actions to enforce new [rules](#) on impersonations in scam calls, Chair Ferguson mentioned that AI has contributed to the rise of impersonation calls and the sophistication of them. The Chair indicated that the FTC is working hard with partners at the Federal Communications Commission (FCC) to enforce the new prohibition. He suggested that the FCC could adopt rules for common telephone carriers to identify incoming overseas calls and ensure they are not masked to appear as domestic phone numbers. The Chair added that he was determining whether existing or new statutory authorities would be needed to further address these concerns.

FTC Board Composition and Partisanship

- When asked by **Sen. Amy Klobuchar (D-MN)** about the partisan composition of the FTC Commission, Chair Ferguson believed it is helpful to have dissenting voices but deferred to President Trump as to decisions about the Commission’s structure and partisan composition. Both commissioners supported the president’s right to have an FTC commission that was composed of only Republican commissioners during questioning from **Sen. Andy Kim (D-NJ)**.
- During questioning from **Sen. Ben Ray Lujan (D-NM)**, Chair Ferguson and Commissioner Meador committed that they would abide by any orders of a future president to remove them from office. Commissioner Meador believed that the Supreme Court should overturn its 1935 decision in *Humphrey’s Executor vs. U.S.*, which recognizes Congress’s authority to place restrictions on a president’s ability to dismiss appointed officials at independent agencies.

Other Issues

- When asked by Chair Cruz about the state of collegiate sports and the potential for the FTC to take over jurisdictional authority from the National Collegiate Athletic Association (NCAA), Chair Ferguson argued that this change would be unnecessary and strays away from the FTC's statutory role as a consumer protection regulator.
- When prompted by Sen. Klobuchar, who promoted her previous Merger Filing Fee Modernization Act ([S. 228](#); 117th Congress), Commissioner Meador expressed support for more robust antitrust enforcement, including through increased appropriations.
- Chair Ferguson echoed Commissioner Meador's calls for giving the FTC monetary relief authority under section 13(b) of the FTC Act when asked by Ranking Member Cantwell.
- During questioning from Sen. Curtis, Chair Ferguson noted that the amount of money individuals are reportedly losing in deceptive timeshare arrangements has increased in recent years.