

In the Supreme Court of the United States

No. 25-332

DONALD J. TRUMP, PRESIDENT OF THE UNITED
STATES, et al.,

Petitioners,

v.

REBECCA KELLY SLAUGHTER, ET AL.,

Respondents.

**On Writ of Certiorari
Before Judgement to the United States Court
of Appeals for the District of Columbia Circuit**

**BRIEF OF PUBLIC KNOWLEDGE AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS**

JOHN BERGMAYER
Counsel of Record
ELISE PHILLIPS
PUBLIC KNOWLEDGE
1818 N St. NW, Suite 410
Washington, DC 20036
(202) 861-0020
john@publicknowledge.org

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
INTEREST OF AMICUS CURIAE	1
SUMMARY OF ARGUMENT.....	2
I. Congress Has the Constitutional Authority to Structure and Regulate the Executive Branch	3
II. The “Executive Power” Is the Power to Carry out the Law, Not Disregard It.....	5
A. The President Has No Inherent Removal Authority Under the Constitution	6
B. The Historical Case for Presidential Removal Authority is Non-Existent.....	9
III.The FTC’s Broad, Non-Industry-Specific Mandate Necessitates Independence.....	12
IV.Recent Actions Underscore the Need for an Independent, Non-Political FTC	15
CONCLUSION	19

TABLE OF AUTHORITIES

CASES

<i>Ex parte Hennen</i> , 38 U.S. 230 (1839)	6
<i>Humphrey’s Executor v. United States</i> , 295 U.S. 602 (1935).....	passim
<i>Media Matters for Am. v. FTC</i> , No. 25-1959, slip op. at 5 (D.D.C. Aug. 15, 2025).	17
<i>Media Matters for Am. v. FTC</i> , No. 25-5302 (D.C. Cir. Oct. 23, 2025).....	17
<i>Morrison v. Olson</i> , 487 U.S. 654, (1988)	9
<i>Myers v. United States</i> , 272 U.S. 52 (1926)6, 9, 10, 11	
<i>Seila Law v. Consumer Fin. Protection Bureau</i> , 591 U.S. 197 (2020)	7, 11
<i>Whitman v. Am. Trucking Ass’ns</i> , 531 U.S. 457 (2001).....	8

STATUTES

15 U.S.C. § 18.....	16
15 U.S.C. § 41.....	2, 12, 13
15 U.S.C. § 45.....	13

OTHER AUTHORITIES

Alexander Hamilton, The Federalist No. 77: The Appointing Power Continued and Other Powers of the Executive Considered (1788)	10
Alfred Ng, <i>Fired FTC Commissioner Formally Resigns</i> , POLITICO (June 9, 2025), https://www.politico.com/news/2025/06/09/fired-ftc- commissioner-formally-resigns-00394242	15
Caleb Nelson, <i>Must Administrative Officers Serve at the President’s Pleasure?</i> , The Democracy Project (Sept. 29, 2025), https://democracyproject.org/posts/must- administrative-officers-serve-at-the-presidents- pleasure	7, 8, 10
Christine Kexel Chabot, <i>Interring the Unitary Executive</i> , 98 Notre Dame L. Rev. 129 (2022)	6

Daniel A. Marshak, <i>The FTC on the Frontier: Section 5 and the Future of U.S. Competition Policy</i> , 86 N.Y.U. L. Rev. 1121 (2011)	12, 13
Daniel D. Birk, <i>Interrogating the Historical Basis for a Unitary Executive</i> , 73 Stan. L. Rev. 175 (2021) ..	6
David M. Driesen, <i>Does a Removal Power Exist?: Joseph Story and Selective Living Originalism</i> , 39 CONST. COMMENT. 1 (2025)	10
FTC, FTC Alters Final Consent Order in Response to Public Comments, Preventing Coordination in Global Advertising Merger (Sep. 26, 2025), https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-alters-final-consent-order-response-public-comments-preventing-coordination-global-advertising	15
FTC, The Dangers of “Gender-Affirming Care” for Minors (July 9, 2025), https://www.ftc.gov/news-events/events/2025/07/dangers-gender-affirming-care-minors	16
Hans Nichols, <i>FTC Chair Endorses Trump’s Ability to Fire Commissioners</i> , AXIOS (Feb. 14, 2025), https://www.axios.com/2025/02/14/ftc-chair-ferguson-trump-fire-commissioners	15
Joseph Story, Commentaries on the Constitution of the United States (1833)	11
Lauren McFerran and Celine McNicholas, <i>Trump’s Assault on Independent Agencies Endangers Us All</i> , ECON. POLICY INST. (Oct. 22, 2020), https://www.epi.org/publication/trumps-assault-on-independent-agencies-endangers-us-all	12
Michael Sozan and Hayley Durudogan, <i>How Independent Federal Agencies Help Americans</i> , CTR. FOR AM. PROGRESS (2021), https://www.americanprogress.org/article/how-independent-federal-agencies-help-americans	13
Peter M. Shane, <i>The Originalist Myth of the Unitary Executive</i> , 19 U. Pa. J. Const. L. 323 (2016)	6

Robert Pitofsky, <i>Past, Present, and Future of Antitrust Enforcement at the Federal Trade Commission</i> , 72 U. Chi. L. Rev. 209 (2005).....	14
William E. Kovacic & Marc Winerman, <i>The Federal Trade Commission as an Independent Agency: Autonomy, Legitimacy, and Effectiveness</i> , 100 Iowa L. Rev. 2085 (2015).....	12, 14, 16, 18

CONSTITUTIONAL PROVISIONS

U.S. Const. art. I, § 8	4
U.S. Const. art. II, § 1	7
U.S. Const. art. II, § 3.....	7

INTEREST OF AMICUS CURIAE¹

Public Knowledge is a nonprofit organization dedicated to preserving democratic accountability, promoting transparency in government, and protecting the rights of individuals and organizations to participate in public discourse free from governmental retaliation. Public Knowledge has extensive experience in administrative law and regularly engages with the Federal Trade Commission on matters affecting competition, consumer rights, and marketplace fairness. The constitutional question presented in this case—whether Congress may protect FTC commissioners from at-will presidential removal—directly affects the ability of the Commission to enforce antitrust and consumer protection laws without fear of political interference. The independence of the FTC serves as a critical safeguard for organizations like Public Knowledge and the public it serves, ensuring that decisions affecting competition, consumer protection, and fundamental rights, are made based on law and expertise rather than political expediency.

¹ Pursuant to S. Ct. Rule 37.6, Public Knowledge states no counsel for a party authored this brief in whole or in part and no person or entity made a monetary contribution to its preparation or submission.

SUMMARY OF ARGUMENT

This case presents a straightforward question: Can the President fire a Federal Trade Commissioner simply because her “continued service on the FTC is inconsistent with my Administration’s priorities”? J.A. 26-28. The answer, under nearly a century of precedent and over two centuries of practice, is no.

Commissioner Rebecca Kelly Slaughter was twice confirmed unanimously by the Senate—first in 2018 and again in 2023—to serve a term expiring in September 2029. J.A. 29-30. The statute under which she serves permits removal only for “inefficiency, neglect of duty, or malfeasance in office.” 15 U.S.C. § 41. President Trump invoked none of these grounds when he purported to remove Commissioner Slaughter on March 18, 2025. Instead, he cited only disagreement with her policy views. That is not a lawful basis for removal, and the district court correctly declared the attempted removal “unlawful” and “without legal effect.” J.A. 90.

Since the Founding, Congress and Presidents have created agencies whose members enjoy protection from at-will removal. This Court unanimously blessed that arrangement in *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), which considered the very removal protection at issue in this case. The Court has reaffirmed that holding repeatedly.

The reasons for that settled rule are sound. Congress created the FTC in 1914 to regulate competition in interstate commerce—a core Article I, legislative power. It deliberately structured the agency as a bipartisan, multimember body to ensure expert, deliberative decision-making free from “the suspicion of partisan direction.” *Id.* at 625. That structure promotes, rather than undermines, the separation of

powers by preventing arbitrary action and protecting individual liberty through checks on concentrated power. And the President retains substantial influence: he appoints all Commissioners with Senate consent, designates the Chair at will, and may remove any Commissioner for cause.

Petitioners offer no persuasive basis to overturn 90 years of precedent on which Congress has repeatedly relied in structuring dozens of agencies. The Constitution’s text does not require at-will removal for all executive officers. Congress has broad authority under the Commerce Clause and the Necessary and Proper Clause to structure agencies exercising its enumerated powers. And any legitimate concerns about the FTC’s authorities or structure are best addressed by Congress and the President, who retain ample tools to do so.

Stare decisis independently compels adherence to *Humphrey’s Executor*. Petitioners identify no special justification for overruling such a longstanding precedent, which is neither egregiously wrong nor unworkable. Overturning it would destabilize institutions on which both the government and regulated industries have relied for generations.

The judgment below should be affirmed.

I. Congress Has the Constitutional Authority to Structure and Regulate the Executive Branch

The Constitution vests Congress with express authority to structure the administrative state. Article I, section 8, clause 18—the Necessary and Proper Clause—authorizes Congress “to make all Laws which shall be necessary and proper for carrying into Execution” not only its own powers but also “all other

Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” U.S. Const. art. I, § 8 (Necessary and Proper Clause). This text gives Congress constitutional authority to create offices, define their duties, and determine the conditions of their tenure and removal.

For ninety years this Court has recognized Congress’s authority to protect commissioners of independent agencies from at-will removal. *Humphrey’s Executor*, 295 U.S. 602 (1935), upheld for-cause removal protection for members of the Federal Trade Commission and confirmed that “[t]he authority of Congress, in creating quasi-legislative or quasi-judicial agencies, to require them to act in discharge of their duties independently of executive control cannot well be doubted; and that authority includes, as an appropriate incident, power to fix the period during which they shall continue in office, and to forbid their removal except for cause in the meantime.” *Id.* at 629.

Congress has relied extensively on the *Humphrey’s Executor* framework. Following that decision, Congress created the Securities and Exchange Commission (1934), the National Labor Relations Board (1935), the Federal Communications Commission (1934), the Federal Energy Regulatory Commission (1977), the Consumer Product Safety Commission (1972), and dozens of other agencies on the same structural model—multi-member commissions with staggered terms, bipartisan composition requirements, and for-cause removal protection. This architecture has endured through fifteen presidential administrations of both parties. Agencies structured on the *Humphrey’s Executor* model regulate trillions of dollars in economic activity, adjudicate thousands

of disputes annually, and implement statutes affecting every sector of the American economy. The reliance interests are immense.

By assigning Congress the authority to structure the executive branch, the Constitution contemplates that Congress—not the President—determines how federal offices are organized and on what terms officers serve. The Constitution places with Congress the determination of how best to execute the laws Congress itself has enacted. And where nearly a century of practice has validated Congress’s interpretation, *stare decisis* and institutional stability should reinforce what the constitution permits.

II. The “Executive Power” Is the Power to Carry out the Law, Not Disregard It

The Constitution contains no express grant of removal authority, and Article II does not provide the President with any inherent power to disregard express removal limitations. The Constitution’s recitation of specific Presidential powers and duties are not sufficient to override Congress’s authority under the Necessary and Proper Clause to structure the executive branch as it sees fit. Moreover, the historical record demonstrates that the Founding generation did not understand removal as an independent executive prerogative but rather as part of the joint appointment process shared with the Senate. The Court should decline to expand the President’s power at the expense of Congress’s, which is contrary to the intent of the framers.

**A. *The President Has No Inherent
Removal Authority Under the
Constitution***

There is no express grant of removal authority in the Constitution. See *Myers v. United States*, 272 U.S. 52, 109 (1926) (citing *Ex parte Hennen*, 38 U.S. 230, 258 (1839) (“The Constitution is silent with respect to the power of removal from office.”); see also *Humphrey’s Executor*, 295 U.S. at 629 (1935) (“[T]he Constitution ... contains no provision with respect to removals.”). The so-called “unitary executive theory” is often invoked to claim that nevertheless, the President enjoys complete control over all officials who execute the laws, including the power to remove them at will.² This theory asserts that two clauses in Article II, the Vesting Clause, U.S. Const. art. II, § 1 (“[t]he

² See Daniel D. Birk, *Interrogating the Historical Basis for a Unitary Executive*, 73 STAN. L. REV. 175 (2021) (providing an overview of the concept, and explaining how there is “no evidence to support the assertion that the removal of executive officers...was an inherent attribute of the ‘executive power’ as it was understood in England.”) See also Christine Kexel Chabot, *Interring the Unitary Executive*, 98 NOTRE DAME L. REV. 129, 133 (2022) (identifying “seventy-one sets of early statutory provisions that contradict the conventional originalist view of the unitary executive and understanding that the President must have plenary removal power to maintain ‘complete control’ over subordinates’ exercise of ‘executive power.’”); Peter M. Shane, *The Originalist Myth of the Unitary Executive*, 19 U. PA. J. CONST. L. 323, 334–344 (2016) (explaining how contemporary state constitutions often vested the “executive power” in governors while explicitly restricting their authority to remove officers).

executive Power shall be vested in a President of the United States of America”), and the Take Care Clause, U.S. Const. art. II, § 3 (the President “shall take Care that the Laws be faithfully executed”), leave Congress little discretion to structure the administration or to insulate officials from direct presidential control. Under this theory, if the President truly possesses all “executive power,” then he must have authority to dismiss anyone exercising it in his name.

But neither the Vesting Clause nor the Take Care Clause are substantive grants of authority. *Contra Seila Law v. Consumer Fin. Protection Bureau*, 591 U.S. 197, 227 (2020) (“As we have explained many times before, the President’s removal power stems from Article II’s vesting of the ‘executive Power’ in the President.”). Despite the results the Court has reached, as Professor Caleb Nelson observes, “one must still figure out what ‘the executive power’ is.” He continues,

[E]xecutive power entails executing laws and judgments made by others, such as statutes enacted by Congress and judicial judgments rendered by courts. The President is not in charge of the content of those laws and judgments. Nor does the Constitution guarantee the President any particular means of enforcing them. To the contrary, the power to execute the law is itself subject to the law; executive officials are allowed to use only the resources that the law makes available for this purpose, in the way that the law allows them to be used.³

³ Caleb Nelson, *Must Administrative Officers Serve at the President’s Pleasure?*, The Democracy Project

The Vesting Clause simply identifies the head of the executive branch. It is for Congress to determine its functions and organization structure, and to provide the President with the tools and authorities needed to carry out the laws that it enacts.

Unlike the expansive powers granted to Congress, the Constitution does not grant anything as broad and “gap-filling” to the executive, and if the Framers had intended to do so, they could have done so explicitly. Just as Congress does not “hide elephants in mouseholes,” *Whitman v. Am. Trucking Ass’n*, 531 U.S. 457, 468 (2001), neither did the Framers. The Vesting and Take Care clauses cannot support the weight this Court has put on them. When the Constitution does grant the President authorities, they are specific⁴ and finite. These specific powers,

(Sept. 29, 2025), <https://democracyproject.org/posts/must-administrative-officers-serve-at-the-presidents-pleasure>.

⁴ In contrast to an undefined “executive power,” Article II carefully enumerates the President’s express constitutional authorities. Under Section 2, for example, the President is designated Commander-in-Chief, may require written opinions of principal officers of executive departments, grant reprieves and pardons, make treaties (with Senate consent), nominate ambassadors, judges, and other officers, and fill vacancies during Senate recesses. Section 3 assigns duties such as giving Congress information on the State of the Union, convening the Houses under extraordinary occasions, receiving ambassadors, commissioning officers, and taking care that the laws be faithfully executed. And of course Article I outlines the President’s role in enacting legislation. Of course Congress could not vest core executive powers such as granting pardons or approving legislation to a

such as making appointments, receiving ambassadors, and issuing pardons, constitute the sum of his “Constitutional” or “Article II” authority. Congress may by statute grant the President additional authorities, including removal power. But in the absence of such legislation, no removal power exists by implication alone.

***B. The Historical Case for
Presidential Removal Authority is
Non-Existent***

Myers, 272 U.S. 52 (1926), represented the high-water mark for unlimited Presidential removal power.⁵ Former President and then-Chief Justice Taft’s decision in that case converted the 1789 debates over the Department of Foreign Affairs and whether the President should have the power to remove its Secretary into an alleged consensus among the Founding generation that the President alone

Commission. But any powers or duties beyond what the Constitution expressly specifies must flow from statute.

⁵ Even *Myers* recognized how the Appointments Clause authorizes Congress to vest appointment power in officials other than the President, viewing this as a limitation on executive authority. *Myers*, at 164. See also *Morrison v. Olson*, 487 U.S. 654, 689 n.27 (1988). It would be illogical to permit Congress to assign the power to appoint officers, but to allow the President to dismiss those same officers at will. As Justice Brandeis observed, “To imply a grant to the President of the uncontrollable power of removal from statutory inferior executive offices involves an unnecessary and indefensible limitation upon the constitutional power of Congress to fix the tenure of inferior statutory offices.” *Myers*, 272 U.S. 52, 247 (1926) (Brandeis, J., dissenting).

possessed removal authority. The historical record does not support this interpretation. As Professor Nelson summarizes, “many people who have looked closely at the debates and votes in the First Congress have convincingly argued that they do not show a consensus for any particular interpretation of the Constitution.”⁶ The statute ultimately adopted was deliberately ambiguous. It neither declared that the President possessed inherent removal power nor foreclosed congressional authority to regulate removal. The so-called “Decision of 1789” was no decision at all.

In *Myers*, the Court practiced what Professor David M. Driesen calls “selective originalism”: highlighting a narrow slice of post-ratification evidence convenient to its result while ignoring founding-era sources, like Justice Joseph Story and Alexander Hamilton, that show the opposite.⁷ Hamilton wrote that requiring the Senate’s consent to removals would “contribute to the stability of the administration,” since “the consent of that body would be necessary to displace as well as to appoint.”⁸ Hamilton thus envisioned that an officer could be “displaced” only through the same process by which he was appointed, by nomination of a successor and the Senate’s concurrence, and not by unilateral presidential action. Justice Story, writing a generation later in his *Commentaries on the Constitution*, adopted this un-

⁶ Nelson, *supra* note 3.

⁷ See David M. Driesen, *Does a Removal Power Exist?: Joseph Story and Selective Living Originalism*, 39 CONST. COMMENT. 1, 5, 12 (2025).

⁸ Alexander Hamilton, The Federalist No. 77: The Appointing Power Continued and Other Powers of the Executive Considered (1788), *available at* https://avalon.law.yale.edu/18th_century/fed77.asp.

derstanding. He explained that, absent contrary legislation, “removal takes place, in virtue of the new appointment, by mere operation of law,” and that it “results from the appointment itself.”⁹ Both Hamilton and Story therefore conceived of removal not as an inherent executive power, but as part of the joint appointment process itself, shared with Congress.

The *Myers* majority claimed that the “executive Power” included an implied authority to remove subordinates because the President must “take Care that the Laws be faithfully executed.” 272 U.S. at 117. But that argument mistakes a constitutional duty for a grant of additional authority. The Take Care Clause imposes an obligation on the President; it does not grant additional authority. As Justice Kagan has observed, the Clause “speaks of duty, not power.” *Seila Law*, 591 U.S. at 268 (Kagan, J., dissenting). It is a strange turn to convert a command to follow the law into a power to disregard it.

The Court’s subsequent decision in *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), represented a workable compromise between two schools of thought. On one hand, it restricted Congress’s flexibility to structure the executive branch; on the other, the concept of designated “independent” agencies with Presidentially-nominated commissioners who serve fixed terms, has served the country well under Democratic and Republican Presidents alike. The Court has already narrowed the application of *Humphrey’s Executor* significantly. See *Seila Law*,

⁹ Joseph Story, Commentaries on the Constitution of the United States §§ 1531–1538, bk. 3, ch. 37 (1833), available at <https://lonang.com/library/reference/story-commentaries-us-constitution/sto-337>.

591 U.S. 197 (2020). It would be folly for the Court to deal it its final blow.

III. The FTC’s Broad, Non-Industry-Specific Mandate Necessitates Independence

Congress structured the FTC as an independent, bipartisan commission to ensure that its enforcement decisions rest on evidence and expertise rather than political expediency.¹⁰ The agency’s unusual breadth of authority, spanning nearly every sector of the American economy, necessitates this independence.¹¹ Unlike cabinet departments with narrow portfolios, the FTC regulates industries that represent trillions of dollars in economic activity and touch the interests of millions of consumers.¹² Congress determined that such sweeping power should be insulated from the short-term political pressures.¹³

¹⁰ 15 U.S.C. § 41 (fixed, staggered terms; political balance and for-cause removal); *see also* William E. Kovacic & Marc Winerman, *The Federal Trade Commission as an Independent Agency: Autonomy, Legitimacy, and Effectiveness*, 100 Iowa L. Rev. 2095, 2098–99 (2015) (“Congress intended the FTC to be largely independent from the Executive Branch ... [and] to restore the legislature’s primacy in controlling antitrust policy”).

¹¹ Daniel A. Marshak, *The FTC on the Frontier: Section 5 and the Future of U.S. Competition Policy*, 86 N.Y.U. L. REV. 1121, 1123 (2011).

¹² *See* Lauren McFerran and Celine McNicholas, *Trump’s Assault on Independent Agencies Endangers Us All*, ECON. POLICY INST. (Oct. 22, 2020), <https://www.epi.org/publication/trumps-assault-on-independent-agencies-endangers-us-all>.

¹³ Michael Sozan and Hayley Durudogan, *How Independent Federal Agencies Help Americans*, CTR. FOR

Three structural features ensure this independence: staggered seven-year terms that prevent any single President from appointing a majority of commissioners during a four-year term; a bipartisan composition requirement that no more than three of five commissioners belong to the same political party; and for-cause removal protection that permits dismissal only for “inefficiency, neglect of duty, or malfeasance in office.” 15 U.S.C. § 41.

The FTC’s statutory authority encompasses both antitrust enforcement under the Clayton Act and consumer protection under Section 5 of the FTC Act, which prohibits “unfair or deceptive acts or practices.” 15 U.S.C. § 45(a)(1). This mandate extends across industries—from technology platforms to pharmaceutical markets, from advertising practices to data security. Unlike sector-specific regulators such as the Federal Communications Commission, or specialized ones like the Securities and Exchange Commission, the FTC confronts market dynamics that vary dramatically across industries and evolve rapidly with technological change. As Professor Daniel Marshak has observed, the FTC’s “broad scope of mandate and independent structure” enable it to “adapt its enforcement to an ever-changing economy.”¹⁴

This Court recognized in *Humphrey’s Executor* that the FTC’s functions “are neither political nor executive, but predominantly quasi-judicial and quasi-legislative.” 295 U.S. at 624. The Commission acts as an adjudicator in administrative proceedings, determining whether challenged conduct violates statutory prohibitions. It promulgates rules through notice-

AM. PROGRESS (2021), <https://www.americanprogress.org/article/how-independent-federal-agencies-help-americans>.

¹⁴ Marshak, *supra* note 11.

and-comment procedures. It investigates potential violations through civil investigative demands. Each function requires deliberation unconstrained by electoral considerations. As Professors Kovacic and Winerman explain, “The utmost degree of independence is warranted when a competition agency functions as an adjudicative decisionmaker,” because “the legitimacy of its decisions requires the highest degree of assurance that sound technical analysis, not political intervention, determined the outcome.”¹⁵

Because of the FTC’s authority, it must operate within “political terrain,” regulating practices that often cut to the core of business and political power.¹⁶ Professor Robert Pitofsky, himself a former FTC Chairman, observed that the Commission “possesses broader powers of investigation than almost any other department or agency in the federal government.”¹⁷ The agency may compel production of documents, require sworn testimony, and investigate business practices across the economy. Without agency independence, such authority could constitute an extraordinary tool for political retaliation or favoritism.

These structural features do not eliminate accountability. The FTC remains subject to robust congressional oversight through appropriations, confirmation hearings, and mandatory reporting requirements. The Administrative Procedure Act governs its rulemaking. Judicial review constrains its enforcement decisions. The Freedom of Information Act ensures transparency. These accountability

¹⁵ Kovacic and Winerman, *supra* note 10.

¹⁶ Kovacic and Winerman, *supra* note 10.

¹⁷ Robert Pitofsky, *Past, Present, and Future of Antitrust Enforcement at the Federal Trade Commission*, 72 U. CHI. L. REV. 209, 214 (2005).

mechanisms, like the FTC itself, operate within the framework Congress established. This Court should not disrupt it.

IV. Recent Actions Underscore the Need for an Independent, Non-Political FTC

The FTC has *de facto* ceased to be an independent agency for the past several months, as Slaughter remains out of office, and another fired Commissioner, Alvaro Bedoya, resigned his position.¹⁸ Current FTC Chairman Andrew Ferguson has stated that he does not believe in FTC independence.¹⁹ In this context, some recent Commission actions stand out. They do not merely differ from the actions of the previous administration in terms of economic or enforcement philosophy, but appear to serve an ideological purpose.

First, the Commission imposed conditions on the Omnicom-Publicis merger unrelated to antitrust or consumer protection.²⁰ The agency conditioned approval on commitments regarding the companies’

¹⁸ Alfred Ng, *Fired FTC Commissioner Formally Resigns*, POLITICO (June 9, 2025), <https://www.politico.com/news/2025/06/09/fired-ftc-commissioner-formally-resigns-00394242>.

¹⁹ Hans Nichols, *FTC Chair Endorses Trump’s Ability to Fire Commissioners*, AXIOS (Feb. 14, 2025), <https://www.axios.com/2025/02/14/ftc-chair-ferguson-trump-fire-commissioners>.

²⁰ FTC, *FTC Alters Final Consent Order in Response to Public Comments, Preventing Coordination in Global Advertising Merger* (Sep. 26, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-alters-final-consent-order-response-public-comments-preventing-coordination-global-advertising> (“The order eliminates Omnicom’s

participation in advertising boycotts—a matter of editorial discretion bearing no relationship to market concentration, competitive effects, or consumer harm under the Clayton Act. 15 U.S.C. § 18. Such conditions represent precisely the “bend[ing] of competition law to serve special interests” that Kovacic and Winerman warned “undermines sound policy making”²¹ and “make an antitrust system a menace.”²² Merger review properly focuses on whether a transaction substantially lessens competition. Extraneous conditions, particularly those touching First Amendment activity, exceed statutory authority and invite the inference that merger approval depends on political pliancy, rather than compliance with the law.

Second, the Commission recently convened a workshop examining medical practices related to gender transition.²³ This event lacked an apparent nexus to the FTC’s statutory mandate. The Commission possesses no general authority to investigate medical treatment or to convene public discussions on issues of medical ethics. Its jurisdiction extends to commercial practices that involve deception or unfairness affecting consumers. 15 U.S.C. § 45(a). By hosting an event on a politically salient topic outside its statutory domain, the Commission blurred the distinction between legal enforcement and policy advocacy.

Third, the Commission’s recent investigation into Media Matters for America—a nonprofit media

ability to deny advertising dollars to media publishers based on their political or ideological viewpoint[.]”)

²¹ Kovacic and Winerman, *supra* note 10, at 2088.

²² Kovacic and Winerman, *supra* note 10, at 2112.

²³ FTC, The Dangers of “Gender-Affirming Care” for Minors (July 9, 2025), <https://www.ftc.gov/news-events/events/2025/07/dangers-gender-affirming-care-minors>.

watchdog—underscores the risks that arise when an enforcement agency becomes a political actor. In November 2023, Media Matters published an article reporting that advertisements on X (formerly Twitter) were appearing next to antisemitic and pro-Nazi content. *Media Matters for Am. v. FTC*, No. 25-1959, slip op. at 5 (D.D.C. Aug. 15, 2025).

After Andrew Ferguson became FTC Chairman in January 2025, the Commission swiftly launched an investigation into alleged advertiser boycotts of social media platforms based on Media Matters’ reporting. The FTC issued a civil investigative demand (CID) to Media Matters seeking all documents related to its evaluation of media platforms, communications with advertisers and technology companies, comprehensive financial records, and any complaints about its reporting activities. *Id.* at 10-11.

Citing repeated examples, the court found that “retaliatory animus was the but-for cause of the FTC’s CID,” *id.* at 40, and enjoined it. The D.C. Circuit panel affirmed. *Media Matters for Am. v. FTC*, No. 25-5302 (D.C. Cir. Oct. 23, 2025). The majority found the FTC was likely to lose on the merits and that Media Matters continued to suffer irreparable First Amendment injury.

The FTC’s actions against Media Matters, a media organization known for its criticism of high-profile political and corporate figures, raise profound concerns that the agency’s investigative authority was being deployed to chill protected speech. Even the appearance of such retaliatory enforcement erodes public confidence in the impartiality of administrative power and strikes at First Amendment values that transcend any administration or political alignment.

A commission that can be directed to investigate critics, or shield allies, no longer functions as a neutral enforcer of law.

Kovacac and Winerman articulated the danger precisely: “A system of competition law quickly loses its legitimacy when an elected official can force the agency to file cases to harass political adversaries or to shield incumbent economic interests from challenge by new firms or business models.”²⁴ That legitimacy depends on the public’s belief that enforcement decisions reflect legal judgments rather than political calculations. When commissioners serve at the President’s pleasure, they inevitably consider whether their actions align with White House priorities. That consideration distorts enforcement. Industries learn that regulatory treatment depends less on statutory compliance than on political favor. Consumers lose confidence that the agency protects their interests rather than powerful incumbents.

The consequences extend beyond the FTC. If this Court invalidates for-cause removal protection, the decision would cast doubt on the structure of numerous independent agencies—the Securities and Exchange Commission, the Federal Communications Commission, the National Labor Relations Board, the Federal Energy Regulatory Commission, and others. Congress has relied on the *Humphrey’s Executor* framework for ninety years, creating agencies whose independence serves statutory purposes ranging from market regulation to adjudication of private rights. Disturbing that framework would create uncertainty about pending enforcement actions, destabilize ongoing rulemakings, and invite litigation challenging

²⁴ Kovacic and Winerman, *supra* note 10, at 2089.

every decision made by commissioners whose removal protection is now constitutionally suspect.

CONCLUSION

For nearly a century, for-cause removal protection has ensured that FTC enforcement decisions rest on law and evidence rather than political pressure. Eliminating it would shift power from Congress to the President in ways the Constitution does not require. Because this Court should not limit Congress's ability to structure the executive branch, it should affirm the judgment below.

Respectfully submitted,

JOHN BERGMAYER
Counsel of Record
PUBLIC KNOWLEDGE
1818 N St. NW, Suite 410
Washington, DC 20036
(202) 861-0020
john@publicknowledge.org

Counsel for Amicus Curiae

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