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Prepared Remarks of Chairman Andrew N. Ferguson*

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Chairman Han, thank you for your invitation to participate in this conference. And thank you, President Cœuré, for that kind introduction. And congratulations again on assuming the chairmanship of the OECD's Competition Committee. I wish you the very best in that new role.

This morning's panel is discussing changes in the competition landscape and the evolving mandate of competition authorities. To that end, I'd like to discuss how I understand my own mandate as Chairman of the Federal Trade Commission, appointed by, and serving under, President Donald Trump, and how to apply that mandate to the potentially transformative technology of artificial intelligence, and some of the other unique challenges faced by today's competition enforcers.

The Role of Competition Enforcers and the Problem of Regulation

Let me begin by stating what ought to be a shared value of competition enforcers, namely, the promotion of competitive marketplaces that generate high levels of innovation, productivity, and growth. By creating the conditions for a dynamic economy comprised of innovative companies and productive workers, competition enforcers can contribute to the flourishing of all market participants, not only domestically, but in our global economy as well. Vigorous and effective competition-law enforcement is a key component of this dynamic pro-worker economy.

As competition enforcers, we focus every day on the importance of promoting innovation, vibrancy, and competition by protecting companies and workers from the abuse by intense aggregations of private power. But monopolies are not the only enemy of thriving economic conditions. Government regulation, and more precisely, government regulators, can also pose a formidable threat to an innovative, vibrant, and competitive economy.¹ Even when well intentioned, regulations impose serious costs on economic productivity. They can make it difficult

* The views expressed in these remarks are my own and do not necessarily reflect the views of the Federal Trade Commission or any other Commissioner.

¹ The Draghi Report: A Competitiveness Strategy for Europe (Sept. 9, 2024), https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en; see also Prepared Remarks of Chairman Andrew N. Ferguson, Competition in the 21st Century: Heeding the Rallying Cry for Deregulation, at 3–4 (May 7, 2025) ("Ferguson ICN Remarks").

for small businesses to achieve the scale necessary to compete in a global market.² And they can kill new, innovative ideas in the cradle.³

They can discourage capital investment.⁴ And they often impose second-order effects that compound their costs in ways unimaginable to the well-intentioned regulators.⁵ In our globalized economy, companies often face undue regulatory burdens, imposed by foreign bureaucrats, designed to maximize power of regulators while harming business creation, productivity, innovation, and employment.

But that is not the worst of it, at least as far as competition enforcers are concerned. Even in the hands of technocrats, regulations can be a potent weapon wielded by incumbent firms to exclude potential rivals.⁶ That's why powerful firms expend tremendous resources to convince legislators and regulators to impose their own handcrafted set of rules and regulations.⁷ On the surface, these proposed regulations appear to be sensible, reasonable, and even necessary. In reality, however, self-interest rules the day. Oftentimes these proposed regulations are carefully crafted to promote or insulate monopolies. Thus, even when the regulator believes he is doing the right thing, he is often damaging competition in ways he does not understand.⁸

If competition enforcers want to promote the conditions for an innovative, productive, and growing economy, they should not blind themselves to the potentially anticompetitive effects of regulation.⁹ That's why antitrust law has traditionally favored *ex post* enforcement, rather than *ex ante* regulation. If business conduct inflicts concrete harms on consumers or workers, and the enforcers can muster sufficient evidence of those harms, then the government intervenes to protect consumers and workers from that conduct.¹⁰ This approach requires enforcers to identify specific injurious conduct; to gather evidence that the conduct is in fact harming consumers or workers; and to tailor the remedies to be specific to the injurious conduct. Unless those conditions are met, antitrust law leaves markets to sort out our problems. No, the *ex post* approach will not catch every competition problem. But so long as enforcers are committed to vigorous and courageous enforcement, the precise, tailored *ex post* approach is preferable to the costly dragnet effect of *ex ante* regulation.

As I've often said, my role as Chairman of the FTC is to enforce antitrust law, to be a "cop on the beat" as we say in the United States, rather than a central planner trying to shape markets through myriad rules and regulations.¹¹

² Draghi Report at 69.

³ *Id.* at 30.

⁴ *Id.* at 18.

⁵ Patrick McLaughlin & Robert Greene, Working Paper, The Unintended Consequences of Federal Regulatory Accumulation (May 8, 2014), <https://www.mercatus.org/media/60066/download?attachment>.

⁶ George Stigler, The Theory of Economic Regulation, 2 Bell J. Econ. & Mgmt. Sci. 3 (1971); see also Executive Order 14267, Reducing Anti-Competitive Regulatory Barriers (Apr. 9, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/reducing-anti-competitive-regulatorybarriers/>.

⁷ Stigler, *supra* note 6, at 3, 5.

⁸ Ferguson ICN Remarks at 4.

⁹ *Id.* at 3.

¹⁰ *Ibid.*

¹¹ See e.g., INTERVIEW: FTC Top Cop: How FTC Chairman Andrew Ferguson is laying down the law in his new job, Washington Reporter (Feb. 28, 2025), <https://washingtonreporter.news/p/interview-ftc-top-cop-how-ftc-chairman>; Testimony of Chairman Andrew N. Ferguson before the H. Comm. on Appropriations, Subcomm. on

Approaching AI as a Competition Enforcer

I urge all of us to apply the lessons we have learned from overregulation to the one of the most pressing topics we confront as competition enforcers: what to do about artificial intelligence. AI shows remarkable promise.¹² It could be a driving force for innovation, economic growth, and increased productivity for workers for years to come. It could also pose the first real competitive challenge to Big Tech incumbents in decades. With this nascent technology still in the cradle, I fear that a knee-jerk regulatory response will only squelch innovation, further entrench Big Tech incumbents, and perhaps even ensure that AI innovators move to jurisdictions that are friendlier to them—but perhaps hostile to our nations and our shared interests.¹³

I fear that if we weigh down innovators and entrepreneurs in the AI space, we will break AI technology and deny all of our citizens its potential promise.¹⁴ Instead, we must proceed with caution.

Of course, technological innovation should promote the flourishing of citizens and their families, and we certainly should not be willing to permit harms to our citizens in pursuit of greater technological innovation. But we should not assume the worst possible outcomes of this new technology and regulate on that basis. Instead, as competition enforcers, we should use our trusted law-enforcement tools and watch carefully the development of this new technology.¹⁵

We must also be cautious against overeager antitrust intervention in an ever-changing marketplace. Technological innovation often fuels competition. Markets that may at first blush appear to suffer from a competition problem often become competitive thanks to changes in technology, and for fast-developing technologies like AI, those changes may arise unexpectedly. If antitrust enforcers race into the fray too quickly instead of giving the market time to develop, the markets may overtake our intervention and render it meaningless. Worse yet, overeager intervention may unintentionally suppress innovation and freeze markets in place.¹⁶

This word of caution is not, however, a call to idleness. Where we see AI abused to injure consumers and workers, we should intervene. My agency has, for example, repeatedly deployed its consumer-protection authority to protect consumers from false and misleading claims about AI products' capabilities, as recently as last week.¹⁷ We must also ensure that the markets for inputs

Financial Services and General Government, at 2 (May 15, 2025); The Darden Report, Darden School of Business, University of Virginia, FTC Chair Andrew Ferguson Explores M&A, Antitrust, AI With Darden Alumni (Aug. 6, 2025); <https://news.darden.virginia.edu/2025/08/06/ftc-chair-andrew-ferguson-explores-ma-antitrust-ai-with-darden-alumni/>.

¹² Concurring and Dissenting Statement of Comm'r Andrew N. Ferguson, Joined by Comm'r Melissa Holyoak, *In re Social Media and Video Streaming Services Report*, Matter No. P205402, at 11 (Sept. 19, 2024).

¹³ *Ibid.*; Concurring and Dissenting Statement of Comm'r Andrew N. Ferguson, Joined by Comm'r Melissa Holyoak, *In re FTC Staff Report on AI Partnerships & Investments 6(b) Study*, Matter No. P246201, at 1 (Jan. 17, 2025); Ferguson ICN Remarks at 6.

¹⁴ Ferguson ICN Remarks at 6.

¹⁵ Dissenting Statement of Comm'r Andrew N. Ferguson, Joined by Comm'r Melissa Holyoak, *In re Rytr, LLC*, Matter No. 2323052, at 9 (Sept. 25, 2024) (“As our country has always done, we should give [the AI] industry the space to realize its full potential—whatever that turns out to be. America is the greatest commercial power in the history of the world in no small part because of its tolerant attitude toward innovation and new industry.”).

¹⁶ Ferguson ICN Remarks at 6.

¹⁷ Press Release, FTC, FTC Approves Final Order Against Workado, LLC, Which Misrepresented the Accuracy of Its Artificial Intelligence Content Detection Product (Aug. 28, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-approves-final-order-against-workado-llc-which-misrepresented-accuracy-its-artificial>; see also

necessary to develop AI technology—GPUs, data centers, power generation, hyperscaling, etc.—remain competitive. The last thing we want is for a firm to gain dominance in an AI input and use that dominance to suppress or slow AI innovation. And we must be on watch for incumbent conduct that could suppress innovation by AI challengers and newcomers. One of the chief blessings of a free market is pro-consumer innovation. We must not allow incumbent technology firms to use their position to suppress potential innovative challengers, or to exact monopoly rents from those challengers in order for them to compete. In sum, I encourage all of us to adopt a posture of regulatory optimism toward AI. Let us not assume the worst outcomes and rush to regulate on that basis. Policymakers and competition law enforcers across the globe can work together to open avenues for greater investment and innovation in the digital space, especially with respect to AI. If we work together to unlock the enormous potential of AI by promoting a regulatory framework that permits greater technological and business experimentation, we can all benefit.

The way forward, then, is to recognize that the benefits of the digital revolution are not zero-sum. Provided we come to a shared understanding of the regulatory framework that promotes business dynamism, technological innovation, and the welfare of consumers and workers, the digital revolution provides an exceptional opportunity for all of us. Through a shared commitment to a fairer and more open regulatory regime, and a predominantly *ex post* approach by competition enforcers across the globe, we can forge new ways to work together to unlock the full potential of our respective tech sectors, comprised of businesses both big and small, to the common benefit of all, domestically and globally.

Approaching Labor Markets and Mergers

Labor markets are also a hot topic in antitrust enforcement, and I'd like to address them briefly. One of my first acts as Chairman was to create a task force at the U.S. FTC focused on bringing competition and consumer-protection cases to protect workers.¹⁸ The reason I have focused resources on labor markets is because a healthy, competitive labor market is critically important to a country's success and its citizens' flourishing. Anticompetitive practices, and some mergers, can undermine workers' ability to earn a living.¹⁹ Given that workers are the backbone of each of our national economies, I believe antitrust enforcers must take decisive action to protect competition in the labor markets.

But I do not think we should take rigid, categorical approaches to labor-market practices. Yes, some practices—like no-poach agreements—are likely never pro-competitive. But generally we should take a case-by-case approach to labor-market practices. Take noncompete agreements, for example, the subject of much discussion in the United States. I have written and spoken at

Press Release, FTC, FTC Sues to Stop Air AI from Using Deceptive Claims About Business Growth, Earnings Potential, and Refund Guarantees to Bilk Millions from Small Businesses (Aug. 25, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-sues-stop-air-ai-using-deceptive-claims-about-business-growth-earnings-potential-refund>; Press Release, FTC, FTC Finalizes Order with DoNotPay that Prohibits Deceptive 'AI Lawyer' Claims, Imposes Monetary Relief, and Requires Notice to Past Subscribers (Feb. 11, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/02/ftc-finalizes-order-donotpay-prohibits-deceptive-ai-lawyer-claims-imposes-monetary-relief-requires>.

¹⁸ Press Release, FTC, FTC Launches Joint Labor Task Force to Protect American Workers (Feb. 26, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/02/ftc-launches-joint-labor-task-force-protect-american-workers>.

¹⁹ *Id.*

length about the dangers of the abuse of noncompete agreements.²⁰ They can suppress wages and diminish labor mobility, which injures workers and consumers alike.²¹ And the FTC under my leadership will be bringing cases against unlawful noncompete agreements.²² But we must also acknowledge that, in some cases, these agreements vindicate important, pro-competitive interests—like protecting capital investments or trade secrets.²³ The previous administration in the United States purported to ban every noncompete agreement no matter its effects.²⁴ I opposed this rule on constitutional and statutory grounds, but also warned that bureaucrats ought not to paint with too broad a brush when addressing labor-market practices.²⁵ Again, we do our best work when we take a careful, case-specific *ex post* approaches to competition enforcement rather than a categorical, or *ex ante* approach.²⁶

Concerns About Discrimination

Finally, as we are gathered together here in Seoul in the spirit of cooperation, let me close with a few remarks on that very topic. Cooperation among foreign governments on competition enforcement and other matters is a good thing. It promotes certainty and predictability—two key ingredients to dynamism and to growth. But cooperation cannot take place without certain antecedents. Chief among them is fairness. The U.S. government, myself included, is deeply concerned with how some foreign regulators are treating U.S. firms abroad.²⁷ We are concerned about laws that appear to target U.S. firms for far more onerous treatment than domestic firms. We are concerned about the deprivation of due process in law enforcement—for example, refusing to recognize the attorney-client privilege in competition investigations, refusing to recognize that in the U.S. the attorney-client privilege extends to in-house counsel, or denying the right to counsel in meetings between law enforcers and officers of investigated firms.²⁸ And we are concerned about laws which, although ostensibly limited to regulation within one sovereign’s borders, may force U.S. firms to treat U.S. consumers in ways that would violate U.S. law. I am concerned and have discussed at great length laws that require U.S. firms to censor speech abroad, or to reduce

²⁰ See, e.g., Dissenting Statement of Comm’r Andrew N. Ferguson, Joined by Comm’r Melissa Holyoak, *In re Non-Compete Clause Rule*, Matter No. P201200 (June 28, 2024) (“Ferguson Noncompete Rule Dissent”).

²¹ See Memorandum from Chairman Andrew N. Ferguson, Directive Regarding Labor Markets Task Force, at 2 (Feb. 26, 2026).

²² *Id.* at 3.

²³ Ferguson Noncompete Rule Dissent at 41–42.

²⁴ Final Rule, Non-Compete Clause Rule, 89 Fed. Reg. 38342 (May 7, 2024).

²⁵ Ferguson Noncompete Rule Dissent at 9–20 (explaining that the FTC Act did not provide authority for the Rule); *id.* at 21–34 (explaining that, even if the statute provided authority for the Rule, Congress could not have delegated its authority to legislate through the statute); *id.* at 34–45 (explaining that, in any event, the Rule violated the Administrative Procedure Act).

²⁶ Ferguson ICN Remarks at 3–4.

²⁷ E.g., Pres. Mem. No. 2025-03188, Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties, 90 Fed. Reg. 10685 (Feb. 21, 2025).

²⁸ E.g., Russell Damtoft & Paul O’Brien, Attorney-Client Privilege in Competition Law Proceedings, Competition Policy International (Dec. 2019), <https://www.ftc.gov/system/files/attachments/key-speeches-presentations/damtoft-obrien-cpilatinamericacolumn-december2019.pdf>; cf. OECD, Treatment of legally privileged information in competition proceedings – Note by BIAC, DAF/COMP/WP3(2018)50, at 3 (Nov. 26, 2018), [https://one.oecd.org/document/DAF/COMP/WP3/WD\(2018\)50/en/pdf](https://one.oecd.org/document/DAF/COMP/WP3/WD(2018)50/en/pdf) (“[m]any of the concerns relating to LLP [sic] could be avoided by having greater harmonisation of LPP rules across the world but . . . what competition authorities should in any case do is seek to ensure a high level of protection of LPP and mutual respect of each other’s rules.”).

the security of consumer data abroad—and which may bleed into censorship and reduced data security within the United States.²⁹

The United States expects fair treatment for its firms. When our firms do business overseas, we expect that your respective regulators will follow due process norms and offer equal treatment. That is, we expect that foreign governments not only treat our firms the same as other firms, but also that they treat our firms the way we treat theirs. After all, respect begets respect. International cooperation cannot thrive in an atmosphere of discrimination. The Trump Administration has made clear that it will no longer tolerate discriminatory treatment of U.S. firms, or laws which have harmful extraterritorial effects on U.S. consumers' data privacy or right to free speech.³⁰ The FTC under my leadership similarly will not tolerate such laws, and our ability to cooperate on antitrust matters will be affected by the mistreatment of U.S. firms abroad.

Conclusion

That said, I am very optimistic about international cooperation on competition. We all share a common goal: To promote and protect competitive marketplaces that generate high levels of innovation, productivity, and growth. We do so not only by protecting companies and workers from abuse by private monopolies, but also by exercising regulatory self-restraint, ensuring that our interventions are aimed at preventing the expansion of incumbents' market power, reducing competition, and stifling business creation and innovation. Through a shared commitment to a fairer and more open regulatory regime, we can together forge new ways to unlock the full potential of each of our respective economies, comprised of businesses both large and small, to the common benefit of each of our respective peoples.

Thank you.

²⁹ See Press Release, FTC, FTC Chairman Ferguson Warns Companies Against Censoring or Weakening the Data Security of Americans at the Behest of Foreign Powers (Aug. 21, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/08/ftc-chairman-ferguson-warns-companies-against-censoring-or-weakening-data-security-americans-behest>.

³⁰ E.g., Trump Administration Targets Europe's Digital Laws as a Threat to Basic Rights and U.S. Business, *The Wall Street Journal* (May 15, 2025), <https://www.wsj.com/politics/policy/trump-administration-targets-europes-digital-laws-as-a-threat-to-basic-rights-and-u-s-business-20db1016>.