



Chair Lina M. Khan

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Remarks of Chair Lina M. Khan on the Investigatory Resolutions

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With this motion, the Commission is considering a series of enforcement resolutions that would authorize staff to use what is known as “compulsory process,” such as civil investigative demands and subpoenas.

For many years, the Commission has routinely adopted compulsory process resolutions on a wide range of topics. For example, in 1980, the Commission voted on a resolution to authorize staff to investigate violations of the FTC’s Franchise Rule. This resolution is still in effect today, over 40 years later. Many of these resolutions cover specific industries, like the automobile industry or the postsecondary education industry, while others involve business practices that cut across sectors, like privacy or the targeting of older Americans.

The Commission sometimes authorizes these resolutions without expiration until later rescinded, and sometimes authorizes them for a specific period of time.

The reforms we are considering in this motion are designed to ensure that our staff can *comprehensively* investigate unlawful business practices across the economy.

The proposed resolutions authorize compulsory process for investigations in key industries, including technology platforms, health care, and pharmaceuticals. Several of these industries are highly concentrated and there is widespread concern about unfair methods of competition or unfair or deceptive practices. One resolution authorizes investigations relating to business practices that target workers and operators of small businesses, while another proposal allows staff to use compulsory process to investigate potential infractions of FTC-administered statutes as they relate to COVID-19.

These targeted resolutions would streamline investigations that fall within these subject areas, enabling more expeditious investigatory process. This is particularly important given that we are in the midst of a massive merger boom. The proposed resolution package also includes a general resolution authorizing the use of compulsory process when investigating mergers. In the past several years, the Commission has regularly – and unanimously – voted on such merger resolutions, but extra bureaucratic hurdles slow down and hobble investigations unnecessarily. Our reform package would streamline this so that we can be more nimble and comprehensive.

Finally, the package also authorizes greater use of compulsory process when investigating repeat offenders. While lawbreaking firms under a Commission order often have certain reporting requirements, the reforms would give staff additional tools to investigate adjacent law violations.

The resolutions provide for compulsory process authorization in these areas for 10 years, unless rescinded by the Commission at an earlier point. Individual Commissioners will continue to be required to sign compulsory process documents prior to issuance.

These resolutions will help relieve unnecessary burdens on staff and cut back delays and “red tape” bureaucracy when it comes to advancing our Commission’s law enforcement priorities, while still ensuring Commissioner involvement. Accordingly, I urge my colleagues to adopt this package.
