



Office of Commissioner  
Rohit Chopra

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

## **PREPARED REMARKS OF COMMISSIONER ROHIT CHOPRA**

*Regarding New Procedures to Ensure the Right to Petition the FTC*

*September 15, 2021*

The Constitution of the United States guarantees the right “to petition the Government.” The Administrative Procedure Act also requires that an “agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.”

Federal agencies across the government have moved toward more transparent procedures to allow the public to file petitions for rulemaking. Unfortunately, Commissioners spanning multiple administrations pursued a more secretive and less accountable policy when individuals exercised their First Amendment rights.

The FTC used to routinely publish the petitions it received to allow for public inspection. Those petitions came on a wide range of concerns. For example, Commissioners received petitions on everything from the labeling of cage-free eggs, health benefit claims, and immigration consulting. In 2011, Commissioners largely abandoned the practice of [publishing these petitions](#). While we have resumed publication of these petitions, we have not done so consistently or in an orderly fashion.

In 2019, the New Civil Liberties Alliance, a conservative legal advocacy group, petitioned the FTC to pursue a rulemaking regarding the procedures for defending agency guidance when challenged in court. My initial review suggested that the actions requested in the petition may not be the best use of resources, but the petition was not frivolous. I unsuccessfully argued to my colleagues that we should post the petition and solicit comment on it, along with others, consistent with the best practices published by the Administrative Conference of the United States, rather than what amounted to pretending we never received it. Even if we disagree, we shouldn’t silence or censor them.

The proposed rule changes will reverse the inappropriate practices implemented by prior Commissioners and allow interested persons to submit petitions for rulemaking. Petitions that are properly submitted will be posted for public inspection and the public will be allowed to comment.

This system is not perfect. Dark money groups funded by regulated entities may submit petitions and may manufacture fake comments, as federal agencies have seen in other regulatory proceedings.

However, initiatives like these help loosen the grip that large, dominant firms have held in order to secretly influence and dictate the agenda of this agency. Small businesses and community groups

can't afford to hire high-priced FTC alumni with special access and connections to push their agenda. Making every properly filed petition for rulemaking public will level the playing field.

This is another important step to be more transparent, to promote democratic debate, and to rebuild trust in the Federal Trade Commission. I strongly support this motion.

Thank you, Madam Chair.