



changes to the FTC's rulemaking authority to curtail the FTC's over-zealous rulemaking agenda.<sup>6</sup>

In the early 1990s, the FTC began systematically reviewing its Rules and Guides every ten years; this process resulted in the repeal of more than 40 of the Commission's Rules and Guides.<sup>7</sup> I applaud the FTC's efforts to rescind unnecessarily prescriptive regulations that do not benefit consumers but can cause harm to competition by increasing costs and potentially limiting innovation. I urge the Commission to continue these efforts and approach our Rule and Guide reviews with the goal of purging the last vestiges of the FTC's 1970s practices that earned it the sobriquet of the "second most powerful legislature in Washington."<sup>8</sup>

With respect to the Amplifier Rule, there have been many technological advances in the amplifier industry since this Rule was promulgated. Although the FTC has updated and no doubt can continue to update the rule, I question whether the FTC's continued engagement in this space is constructive. Does it remain helpful for the FTC to specify the precise testing conditions manufacturers must use, and how they must communicate power output?<sup>9</sup> Are there standard setting organizations<sup>10</sup> better suited to this task? In other industries, the FTC has repealed Rules when it determined the agency's guidance was no longer necessary. For example, the FTC repealed the Picture Tube Rule because the Commission determined it was no longer necessary to prevent deceptive claims regarding the size of television screens or to encourage uniformity and accuracy in their marketing.<sup>11</sup> Could the same be true here?

Freeing businesses from unnecessarily prescriptive requirements benefits consumers.<sup>12</sup> I encourage the Commission to continue to review its roster of Rules and Guides with a

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<sup>6</sup> See Alex Propes, Privacy & FTC Rulemaking Authority: A Historical Context, IAB (Nov. 6, 2018), <https://www.iab.com/news/privacy-ftc-rulemaking-authority-a-historical-context/>

<sup>7</sup> [https://www.ftc.gov/system/files/documents/one-stops/retrospective-review-ftc-rules-guides/rescinded-rules\\_and\\_guides.pdf](https://www.ftc.gov/system/files/documents/one-stops/retrospective-review-ftc-rules-guides/rescinded-rules_and_guides.pdf)

<sup>8</sup> See, e.g., J. Howard Beales III & Timothy J. Muris, FTC Consumer Protection at 100: 1970s Redux or Protecting Markets to Protect Consumers?, 83 GEO. WASH. L. REV

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deregulatory mindset. When the Commission conducts a review of a Rule or Guide, we regularly ask if the regulation is still necessary. We ask about the costs and benefits to businesses and consumers; conflicts with state, local, federal or international laws; whether consumer perceptions have changed; and the effect, if any, that changes in relevant technological, economic or environmental conditions have had on Rules and Guides. This process facilitates the Commission's analysis of whether prior instances of regulatory overreach can be repealed for the benefit of both consumers and competition. I encourage the Commission to continue its practice of being receptive and responsive to input from stakeholders, and I look forward to reviewing the comments we receive regarding this Rule.