



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

Office of Commissioner  
Alvaro M. Bedoya

Statement of Commissioner Alvaro M. Bedoya  
Joined by Chair Lina M. Khan and Commissioner Rebecca Kelly Slaughter  
On the Adoption of the Statement of Enforcement Policy Regarding  
Unfair Methods of Competition under Section 5 of the FTC Act

November 10, 2022

7 R G D o n t y s t a t e m e n t s a l o n g o v e r d u e s t e p t o w a r d e n f o r c i n g S e c t i o n 5 o f t h e F T C  
Act in line with what Congress intended when it prohibited unfair methods of competition  
1914 , D J U H H Z L W K & K D L U . K D a d d r e s s D o c u m e n t W e b C r i t i c K M t h z T D Q W W R  
today. The policy statement will face: (1) that th(TI 0 G [<0026>-2<005200500050>-3<004C00560056>-3-

The FTC V S R Z H U w e n e a d o p t e d t h e p o l i c y o n u n f a i r m e t h o d s o f c o m p e t i t i o n  
may never have come about without the efforts of one man challenging the wishes of the  
President of the United States. On a warm summer day in 1914, George Rublee, a lawyer  
New York who would later be appointed as one of the original commissioners of the FTC, made  
his way to the White House in the company of Louis Brandeis and Congressman Raymond B.  
Stevens of New Hampshire. His goal To convince President Wilson to support a plan to  
provide the proposed agency with the regulatory power to define 3 X Q I D L U P H W K R G V R I  
F R P S H W L W L R Q

One would think that President Wilson would be a receptive audience. After all, he ran in  
R Q W K H S U R P L V H R I V W U H Q J W K H Q L Q J \$ P H U l i n e F i d e T V D Q W L  
early 20th century by judicial activism taking antitrust policy in a direction unintended by

<sup>1</sup> Reminiscences of H R U J H 5 X E O H H & R P P T U D W ) H G 7 U D` U D d D d > s B T n 4 1 0 > s B T n n (> s B e n T F 0

Congress According to Rublee, Wilson ran on the idea that large combinations of capital were inherently uneconomic and wasteful and were able to obtain and keep their power through the use of oppressive practices for the purpose of excluding competition from the field.<sup>3</sup> President Wilson even advocated for the creation of a new agency in his January 20, 1914 address to Congress: "The business men of the country . . . desire the advice, the definitive guidance and information which can be supplied by an administrative body, an interstate trade commission."<sup>4</sup>

President Wilson, however, supported the idea of a narrower bill that would forbid specific criminal offenses for unfair competition.<sup>5</sup> Louis Brandeis also drafted and supported a bill that listed out specific criminal offenses for unfair competition.<sup>6</sup> George Rublee disagreed with this approach. He believed that it was impossible to define all unfair methods of competition and that laws would be merely to prohibit unfair methods of competition and to leave it to whomever was administering the law to determine whether a method of competition in a particular case was unfair and harmful.<sup>7</sup>

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that article of economic faith. I think we can purchase cheapness at altogether too high a price, if it involves the surrender of the individuality, the subjugation of a great mass of people to a single master mind.<sup>27</sup>

Senator Cummins, however, had clear perspectives on what constitutes unfair competition. Fair competition is the pursuit of that practice which destroys competition and establishes monopoly. Unfair competition is the deadliest enemy of independent business. Unfair competition is never employed save by those who have

Kolasky also notes that several senators relied on the economic work of William S. Stevens of Columbia University

3. 7KH & R P P L V V L R Q will help address inflation and help provide a level  
S O D \ L Q J I L H O G I R U V P D O O E X V L Q H V V W R F R P S H W H L Q S

My colleague, Commissioner Wilson, has written a well-researched and forcefully argued  
dissent. The majority statement and the Policy Statement address many of her concerns, but I  
would like to speak to two issues raised by the dissent. First, Commissioner Wilson argues that  
the Policy Statement will cause prices to rise. Second, she seems to regard small business  
V W U X J J O L Q J W R F R P S H W H L Q \$ P H U L F D \ V F R Q F H Q W U D W H G P  
<sup>3</sup> L Q H I I L F L H Q W 'respectfully disagree' on both counts

Over the past four decades, the efficiency-focused approach to antitrust law has been  
responsible for concentrating American markets and eliminating small businesses from the  
competitive landscape.<sup>35</sup> Some have argued that less aggressive antitrust enforcement has  
resulted in higher prices for consumers.<sup>36</sup> As a result, firms with market power are able to exploit  
the current inflationary environment to further raise prices. As one recent study noted, the  
already excessive power of corporations has been channeled into raising prices rather than the  
P R U H W U D G L W L R Q D O I R U P L W K D V W D N H Q L Q U H F H Q W G H F D

The best way to prevent this consumer harm is to ensure a competitive landscape and that  
requires the Commission to address unfair methods of competition. That is exactly what the  
& R P P L V V L R Q \ V D F W L R Q. Small Business One-to-One Political Power  
nor necessarily inefficient. They are, however, the backbone of the American economy  
providing good jobs for Americans and driving local economies. When small businesses can  
compete on a level playing field, their presence ought to create competitive pressures on large  
competitors and force them to abandon increased profit margins in favor of competitive prices  
for consumers. Congress was distinctly aware of the importance of small business, passing  
Section 5

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