



Office of Commissioner  
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UNITED STATES OF AMERICA  
**Federal Trade Commission**  
WASHINGTON, D.C. 20580

Thank you, Chair Khan. I've written at length about the law and history behind the labor exemption in a law review article I published with Bryce Tuttle in the *Antitrust Law Journal*.<sup>1</sup>

I want to reserve my remarks to underscore what is at stake here.

The people who passed our antitrust laws passed them to stop the trusts. They passed them to stop the Beef Trust, the Sugar Trust, and of course, they passed them to stop Standard Oil. They went out of their way to make sure that those laws would *not* be used stop workers who were trying to organize to counter those trusts.

Yet, time and again, antitrust enforcers used the antitrust laws as a cudgel against working people. They used them against hungry Pullman car company workers who were striking for better wages. They used them against West Virginia mine workers who were being paid in worthless scrip. They used them against 20-year-old hat-makers in Danbury, Connecticut who were suffering from mercury poisoning, and who were trying to shorten their workdays.

Congress kept amending the antitrust laws to try to prevent this. This culminated in 1932 with the Norris-LaGuardia Act, which sought to protect the “individual unorganized worker’s” right to organize.

But unfortunately, the antitrust laws are again being used to prevent individual unorganized workers from organizing. They have been used against truckers who often have one boss, one truck, who are told where to go, when to go, and how to go there; they have been used against impoverished jockeys in Puerto Rico—all under the fiction that these individual workers are bona fide business owners.

The right to organize is a fundamental right. It's protected by the First Amendment and federal statute. That right doesn't go away if you get a 1099 instead of a W-2. Today's statement makes clear that antitrust law should not be used to stifle it.

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<sup>1</sup> See generally Alvaro M. Bedoya and Bryce Tuttle, “Aiming at Dollars, Not Men”: *Recovering the Congressional Intent Behind the Labor Exemption to Antitrust Law*, 85 ANT. L. J. 805 (2024).