

Timeline: Executive Order on Promoting Competition in the American Economy – Updated January 5, 2022

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Antitrust Policy Alert

On Friday, July 9, 2021, President Biden issued Executive Order (EO) 14036, “Promoting Competition in the American Economy” (see previous alert [here](#)). In the ensuing months, federal agencies have begun to implement the EO’s 72 initiatives to address competition issues across the economy, with the White House most recently [detailing](#) actions the administration will take to ensure a more competitive meat and poultry supply chain. Below, please find a general timeline with key dates outlined in the EO, as well as actions undertaken by federal agencies to implement the order thus far.

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30 Days (August 20, 2021)

- White House Competition Council (newly created under the EO)
 - Directs members of the Council to designate a senior official within their agency to be the point of contact with the Council and oversee the agency’s efforts to address competition issues.
 - Status: Met [September 10, 2021](#)
- U.S. Department of Transportation (DOT)
 - Appoint or reappoint members of the Advisory Committee for Aviation Consumer Protection to ensure fair representation of consumers, state and local interests, airlines and airports, and convene a meeting of the Committee as soon as possible.
 - Status: Appointed [July 14, 2021](#); Met [December 2, 2021](#)
 - Convene a working group within the Department to evaluate the effectiveness of existing commercial aviation programs, consumer protections and rules of the Federal Aviation Administration (FAA).
 - Status: Issued [July 14, 2021](#)

45 Days (September 13, 2021)

- U.S. Department of Health and Human Services (HHS)
 - Submit a report to the White House with a plan to address high prescription drug prices and price gouging.

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- Status: Submitted **September 9, 2021**
- U.S. Food and Drug Administration (FDA)
 - Send a letter to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office outlining relevant concerns of the agency.
 - Status: Letter Sent **September 10, 2021**
- DOT
 - Submit a report to the White House Competition Council, on the progress of DOT’s efforts to address the failure of airlines to provide timely refunds for flights canceled as a result of the pandemic.
 - Status: Submitted **September 9, 2021**
 - Publish a proposed rule requiring airlines to refund baggage fees when a passenger’s luggage is substantially delayed and other ancillary fees when passengers pay for a service that is not provided.
 - Status: Published **July 21, 2021**

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60 Days (October 4, 2021)

- DOT
 - Start development of proposed amendments to the Department’s definitions of “unfair” and “deceptive” in 49 U.S.C. 41712.
 - Status: **Rulemaking in Development**

90 Days (November 17, 2021)

- DOT
 - Consider initiating a rulemaking to ensure that consumers have ancillary fee information at the time of ticket purchase.
 - Status: **Rulemaking in Development**

120 Days (January 3, 2022)

- HHS
 - Publish for notice-and-comment a proposed rule to promote the availability of low-cost, over-the-counter hearing aids.
 - Status: Published **October 20, 2021**
- U.S. Department of the Treasury (“Treasury”)
 - Submit a report to the White House Competition Council assessing the current market structure and conditions of competition, including an assessment of any threats to competition and barriers to new entrants.
 - Status: Pending

180 Days (March 30, 2022)

- Treasury

- Submit a report to the White House Competition Council on the impact of the current lack of competition on labor markets.
 - Status: Pending
- U.S. Department of Agriculture (USDA)
 - Issue a plan to increase opportunities for farmers to access markets.
 - Status: Issued Meat/Poultry Supply Chain Fact Sheet **January 3, 2022**; Issued USDA/DOJ Shared Principles **January 3, 2022**
- U.S. Department of Justice (DOJ)
 - Review current practices and adopt a plan for the revitalization of merger oversight under the Bank Merger Act and the Bank Holding Company Act of 1956.
 - Status: Sought Public Comments **December 17, 2021** (Comments Due February 15, 2022)
- U.S. Department of Defense (DoD)
 - Submit a report to the White House Competition Council assessing the state of competition within the defense industrial base, as well as a plan for avoiding contract terms in procurement agreements that limit the ability of DoD or service members to repair their own equipment.
 - Status: Pending

240 Days (June 27, 2022)

- Treasury
 - Initiate a rulemaking to update the Alcohol and Tobacco Tax and Trade Bureau's trade practice regulations.
 - Status: Pending
 - Rescind or revise any regulations of the beer, wine and spirits industries that may unnecessarily inhibit competition.
 - Status: Issued Request for Information (RFI) **July 28, 2021** (Comments Due October 21, 2021)
 - Reduce any barriers that impede market access for smaller and independent brewers, winemakers and distilleries.
 - Status: Issued RFI **July 28, 2021** (Comments Due October 21, 2021)

270 Days (August 9, 2022)

- Treasury
 - Submit a report to the White House Competition Council examining the impact of competition of large technology firms' and other nonbank companies' entry into consumer finance markets.
 - Status: Pending

300 Days (September 21, 2022)

- USDA
 - Issue a report to the White House Competition Council on the effect of retail concentration on competition in the food industries.
 - Status: Pending

365 Days (December 27, 2022)

- U.S. Department of Commerce
 - Directs the Department to conduct a study of the mobile application ecosystem and subsequently submit a report to the White House Competition Council outlining the study's findings, as well as recommendations for increasing competition and reducing barriers to entry, among other things.
 - Status: Pending

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