

# Antitrust Policy Alert

**Akin Gump**  
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## Timeline: Executive Order on Promoting Competition in the American Economy

July 16, 2021

On Friday, July 9, 2021, President Biden issued Executive Order (EO) 14036, “Promoting Competition in the American Economy” (see recent alert [here](#)). The EO includes 72 initiatives by more than a dozen federal agencies in an aim to address competition issues across the economy. In the view of the administration, the current trend of corporate consolidation requires a whole-of-government approach to drive down prices for consumers, increase wages for workers and facilitate innovation. Below, please find a general timeline with key dates outlined in the EO.

### 30 Days (August 8, 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.
- 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.
  - 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).

### 45 Days (August 23, 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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- 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.
- 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.
  - 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.

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### 60 Days (September 7, 2021)

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

### 90 Days (October 7, 2021)

- DOT
  - Consider initiating a rulemaking to ensure that consumers have ancillary fee information at the time of ticket purchase.

### 120 Days (November 6, 2021)

- HHS
  - Publish for notice-and-comment a proposed rule to promote the availability of low-cost, over-the-counter hearing aids.
- 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.

### 180 Days (January 5, 2022)

- Treasury
  - Submit a report to the White House Competition Council on the impact of the current lack of competition on labor markets.
- U.S. Department of Agriculture (USDA)
  - Issue a plan to increase opportunities for farmers to access markets.
- 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.

- 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.

### 240 Days (March 6, 2022)

- Treasury
  - Initiate a rulemaking to update the Alcohol and Tobacco Tax and Trade Bureau's trade practice regulations.
  - Rescind or revise any regulations of the beer, wine and spirits industries that may unnecessarily inhibit competition.
  - Reduce any barriers that impede market access for smaller and independent brewers, winemakers and distilleries.

### 270 Days (April 5, 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.

### 300 Days (May 5, 2022)

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

### 365 Days (July 9, 2022)

- U.S. Department of Commerce
  - The Secretary of Commerce, in consultation with the Attorney General and the Chair of the FTC, conducts a study, which includes conducting an open and transparent stakeholder consultation process, of the mobile application ecosystem, and submits a report to the Chair of the White House Competition Council, regarding findings and recommendations for improving competition, reducing barriers to entry and maximizing user benefit with respect to the ecosystem.

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