

The FTC's Mission Statement for 2022-2026: "Legitimate Business Activity" Still Missing in Action

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Last November, the FTC sought [public comment](#) on a draft strategic plan for 2022-2026. As we blogged [here](#) and discussed in a [comment](#) submitted to the FTC (one of only 21 submitted), a key change from prior strategic plans was deletion of the phrase “without unduly burdening legitimate business activity” from the FTC’s Mission Statement – a change that the Commission majority just adopted in its final [Strategic Plan for 2022-2026](#).

Here’s the Mission Statement from the [FY 2018-2022](#) plan, which generally tracks wording that the FTC has used for decades:

Protecting consumers and competition by preventing anticompetitive, deceptive, and unfair business practices through law enforcement, advocacy, and education *without unduly burdening legitimate business activity* (emphasis added).

And here’s the Mission Statement that the FTC just finalized for 2022-2026:

Protecting the public from deceptive or unfair business practices and from unfair methods of competition through law enforcement, advocacy, research, and education.

As we stated in our prior post and comment, we think omitting the phrase “without unduly burdening legitimate business activity” sends a troubling message to the public about the FTC’s purpose and intent. The omission is doubly concerning now that the FTC has stated (in the final plan) that “[s]enior staff met to discuss the public comments that were received, and changes were made to the draft plan in response” – thus affirming that deletion of the phrase was deliberate and not simply an oversight.

Indeed, some of the Commission’s recent actions convey the same troubling message. For example, as we discuss [here](#), the FTC’s ANPR on “commercial surveillance” addresses the benefit of privacy regulation in great detail but says very little about the potential costs of such regulation on consumers, competition, and *legitimate business activity*.

Here’s a quick reminder of why this phrase and the principle it embodies is so important: For years, it has communicated that, in enforcing the law and developing regulations, the FTC will tailor its allegations, prohibitions, and remedies to *illegal* conduct, and will take care to preserve the legitimate business functions that provide products and services to consumers

and maintain our vibrant, competitive economy. In other words, the FTC has recognized that legitimate business activity *benefits* consumers and competition, and has consistently made a public commitment to preserve it.

In addition, as we detailed in our prior post and comment, the concept of preserving legitimate business activity is integral to many laws and policies that have long governed the agency's authority and processes – including unfairness, deception, substantiation, “fencing in,” and precedent governing unfair methods of competition.

The FTC's mandate – to prevent deceptive, unfair, and anticompetitive practices – is essential to maintaining a thriving economy that serves and protects the American public. So is preserving the *legitimate business activity* that consumers across this country rely upon every day.

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