

**Testimony of Patrick “Rick” Smith
Chief Executive Officer and Founder of Axon Enterprise**

*“Reining in the Administrative State: Regulatory and Administrative Law Reform”
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**House Committee on the Judiciary
Subcommittee on the Administrative State, Regulatory Reform, and Antitrust**

Thank you, Chairman Fitzgerald, Ranking Member Nadler, and the entire subcommittee for inviting me to testify today. My name is Rick Smith. I am the Chief Executive Officer and Founder of Axon. We are an American company headquartered in Scottsdale, Arizona with more than 4,500 employees.

I appreciate the opportunity to testify today because the unchecked power of the administrative state led to serious consequences for my company, my employees, and me personally. Our story is so important to share. No company, no entrepreneur, and no individual should ever have to fight the government just to get a fair day in court. No bureaucracy can be allowed to act as prosecutor, judge, and jury without any accountability.

The Federal Trade Commission (FTC) has many fine Americans that support the agency on a day-to-day basis with the best of intentions. Yet our litigation with the FTC exposed how the agency can wield unchecked power in ways that crush innovation, stifle economic growth, and deny basic constitutional rights. And the work of this committee is critical to ensure that American businesses and individuals have the due process protections they deserve.

This kind of overreach was not the intent of our founders.

AXON’S MISSION TO PROTECT LIFE

Before I explain the details of our experience with the FTC and our journey to the Supreme Court, I’d like to briefly explain our work at Axon. I’m proud to say that Axon’s mission is grounded in public safety and the protection of life – for both law enforcement officers and the communities they serve.

Axon was founded over 30 years ago in a garage. It was funded by family and friends. There was no outside investment, no venture capital – just a belief that our innovative technologies could help build a safer world.

We manufacture TASER devices, body cameras, and cameras that are installed on vehicles. We also conduct de-escalation training, and offer a host of software services that, among other things, help manage evidence and streamline reporting processes in public safety.

All these products are built around a simple mission: to protect life.

When I first introduced TASER technology, people laughed at the idea that what is called “neuro muscular incapacitation electricity” could be used as a weapon that would be both effective and less lethal. No one thought they would work – not investors, not police chiefs, not industry experts.

But I was convinced that technology could provide a better way – and I was right. Over time, TASER devices were adopted by law enforcement agencies around the world, with millions of deployments saving lives and preventing countless tragedies. Support for our technology now comes from police unions, civil rights organizations, Republicans, and Democrats. By providing law enforcement officers with the most technologically advanced products, we are protecting the lives of both first responders and the populations they serve.

TASER devices have been deployed millions of times and body-worn cameras are used across the globe by law enforcement organizations. We now support over 17,000 domestic law enforcement agencies across the United States and in over 107 countries.

We want to go farther. Axon has a “moonshot goal”: to help cut gun-related deaths between police and the public by 50 percent in 10 years. For perspective, 1,238 people lost their lives in gun-related law enforcement encounters in 2023 alone. That’s way too high.

We believe Axon’s “moonshot goal” can be achieved, thanks to our less-lethal technologies and ongoing innovation to find solutions that keep law enforcement and our communities safe.

But these aspirations, and the resources required to achieve them, were severely disrupted when we came up against the unfettered power of the FTC.

THE FTC CASE

In May of 2018, Axon acquired a small, failing body-worn camera competitor, Viewu. The purchase price was approximately \$13 million – a small amount that reflected Viewu’s dire financial situation. The company was losing a million dollars *per month* and, when the deal was closed, the company had only *three days* of operating cash.

Viewu’s owner, Safariland, was unable to find a buyer for 18 months. Competitor after competitor passed on the deal. Axon was the last resort.

Axon’s bailout – which was a money-losing contract – saved critical public safety agencies, including the New York Police Department, from serious disruptions to their body camera programs. And the price we paid was well below the legal threshold that automatically triggers FTC review.

Still, the FTC quickly launched an investigation. What followed was months of invasive requests for information, mountains of legal filings, and a growing sense of disbelief that a small, money-losing deal had drawn such a disproportionate government response.

The FTC wouldn’t be moved. We were told to spin off Viewu and hand over our most valuable asset, our intellectual property – even unrelated technology. And stand up a cloned competitor, writing a “blank check” at the government’s discretion.

Nothing about the process seemed right, especially how the FTC took us on in its own in-house court. As a result, our case was going to be adjudicated in a process overseen by employees of the very agency bringing the case. It's a forum where people simply cannot win.

Over the previous 20 years, the FTC had won 100 percent of its cases in its in-house forum. In contrast, the Department of Justice (DOJ), which also enforces antitrust laws but must litigate before an independent Article III judge, has a win rate around 50 percent—exactly what you would expect in fair litigation where both sides have an equal chance to argue their case.

Axon sued the FTC in federal court and challenged the constitutionality of the agency's structure and processes.

Our case centered around three main claims:

1. The FTC's structure combining investigator, prosecutor, and decision-making functions—where the same FTC commissioners who vote out a complaint ultimately decide the merits of the claim – is a process fraught with confirmation bias and futility.
2. The FTC's Administrative Law Judges have removal protections that violate the U.S. Constitution's separation of powers.
3. The unpublished “clearance” process whereby the FTC and DOJ privately decide whether an enforcement action will proceed in federal court or be relegated to the administrative morass—a violation of due process as demonstrated by the denial of Axon's discovery and FOIA requests for clearance information necessary to prove its claim.

Axon's federal district court case was initially dismissed on jurisdictional grounds. And our company was forced to spend \$20 million defending itself in the FTC's administrative process – far more than Viewu's purchase price.

Eventually, on appeal, the 9th Circuit stayed the FTC proceedings pending Axon's petition to the Supreme Court.

In April 2023, after four years of disruptions and distractions to our business, the Supreme Court ruled unanimously 9-0 in Axon's favor. The ruling allowed Axon's constitutional challenges to proceed in federal court – a major jurisdictional win now benefiting businesses nationwide. In response, the FTC chose to dismiss its administrative complaint against Axon. While this was a win for our company, the agency's dismissal rendered moot our federal court challenge and left critical constitutional issues unresolved, at least for now.

THE PATH FORWARD

As our 9-to-0 decision in the Supreme Court demonstrates, this is bigger than one company, one CEO, or one case. This is about a system that has been allowed to deviate from the constitutional principles upon which this nation was founded. Every American – whether an individual, a small business, or a large corporation – should have the right to a fair trial before an independent judge

before the government can strip them of their livelihood, property, or rights. That is a bedrock principle of justice.

We hope that our case with the FTC shines a spotlight on necessary regulatory and administrative reforms. As others have proposed – and we endorse – antitrust enforcement should be consolidated in the DOJ and ALL antitrust enforcement actions should be brought and tried in an impartial Article III court. While constitutional claims may now be raised in federal court, the antitrust merits are still relegated to the FTC’s administrative process with its restrictive appeal provisions that only allow judicial review after completion of the full FTC process and decision. But appellate courts generally only review the record for errors in applying the law. Thus, the current system denies people the right to have the facts of their case heard by a neutral and fair arbiter. It hands the FTC the ability to decide the facts in its favor and to author the final decisions to fit its biased point of view as both party to the dispute as well as its judge and jury.

That’s all Axon ever wanted: a fair shot on a neutral playing field.

I look forward to continuing to work with Congress on behalf of American businesses, innovators, and job creators to help remove unnecessary administrative and regulatory barriers.

Thank you all for your time. I look forward to answering any questions that you may have.