No. 25-332

In the Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., PETITIONERS

v.

REBECCA KELLY SLAUGHTER, ET AL., RESPONDENTS

On Writ of Certiorari before Judgment
to the United States Court of Appeals
for the District of Columbia Circuit

BRIEF OF AMICI CURIAE 40 NATIONAL, STATE, AND LOCAL CONSUMER, PRIVACY AND OPEN MARKETS GROUPS IN SUPPORT OF RESPONDENTS

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November 13, 2025

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INTERESTS OF AMICI CURIAE[1]

Amici curiae are a coalition of 40 national and state organizations from 10 states and the District of Columbia that advocate for consumer protections, data privacy, and competitive markets. Amici share an interest in preserving the constitutionality of for-cause removal protections among independent commissions like the Federal Trade Commission and others. These protections are wholly constitutional effectuations of Congress's authority to design administrative agencies that are grounded in technical expertise, consideration and articulation of alternative viewpoints, and a commitment to the long-term public good. Should the Court nullify for-cause removal protections, amici fear that politicization and agency capture by regulated industries will come to pass and undermine Congress's intent when creating those agencies. Accordingly, amici curiae urge the Court to reaffirm its conclusion in *Humphrey's Executor*, 295 U.S. 602 (1935) in order to safeguard the independence of these particular agencies. All amici are listed in the Appendix.

INTRODUCTION AND SUMMARY OF ARGUMENT

Faced with a widespread public concern about the growing power of monopolies and large corporate consolidation, Congress established the Federal Trade

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[1] No counsel for a party authored this brief in whole or in part, and no person other than *amici curiae*, their members, or their counsel made a monetary contribution to the preparation or the submission of this brief.

Commission ("FTC" or "Commission") in 1914 as an independent commission to enforce laws that promote open and competitive markets. Congress made a crucial choice to shield commissioners from at-will removal by the President, *see* 15 U.S.C. § 41, to ensure lasting administrative expertise, stability, and deliberation and minimize influence from short-term political coercion and industry domination. The choice to enact for-cause removal protections was, and continues to be, fully compatible with the separation of powers and Article II.

The evidence proves the wisdom of Congress's decision—both for the FTC as well as for the panoply of independent commissions like it with for-cause removal protections. Throughout U.S. history, independent regulatory commissions with bipartisan membership and for-cause removal protections have safeguarded the public interest by grounding decisions in expertise and national needs rather than politics. *See e.g.*, 15 U.S.C. § 41 (mandating the FTC's composition of five Commissioners, restricting their makeup to at most three members of one political party, and allowing for-cause removal); 15 U.S.C. § 2053 (establishing the Consumer Product Safety Commission and mandating the same); 15 U.S.C. § 78d (establishing the Securities and Exchange Commission and mandating the same); 49 U.S.C. § 1111 (establishing the National Transportation Safety Board and mandating the same). Staggered terms and multipartisan leadership foster continuity, legitimacy, and deliberation. Even dissenting opinions within these commissions have often spurred important policy innovations—both within agencies and in Congress.

The FTC exemplifies the value of and need for independence. Across more than a century—and since Congress established its consumer protection mandate in 1938[2]—the Commission has advanced consumer protection and market fairness—whether by confronting deceptive tobacco advertising, policing abusive financial practices, or protecting children's online privacy. In each case, the FTC's credibility and success depended on its insulation from political interference.

The benefits of independence extend well beyond the FTC. The Securities and Exchange Commission ("SEC") and Consumer Product Safety Commission ("CPSC") have safeguarded investors and consumers through stable, expert enforcement insulated from political tides. The National Transportation Safety Board ("NTSB") has investigated transportation disasters and spurred safety reforms where executive-controlled agencies failed to act.

By contrast, agencies lacking independence—such as the Federal Aviation Administration ("FAA"), a constituent agency of the U.S. Department of Transportation ("DOT"), and the Food Safety and

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[2] Federal Trade Commission Act, Pub. L. No. 75-447, § 3, 52 Stat. 111 (1938).

Inspection Service ("FSIS"), a constituent agency of the U.S. Department of Agriculture ("USDA")—have too often succumbed to industry domination, leading to regulatory failures that cost lives and erode public trust.

The historical record is clear and confirms Congress's deliberate choice: independent agencies outperform their politicized counterparts that are structurally vulnerable to presidential meddling in protecting consumers, ensuring market integrity, and preserving public confidence. For-cause removal protections are thus essential to sustaining expert, evenhanded governance in the public interest. A conclusion by this Court that Congress has no power to insulate certain administrative agencies from at-will removal will undermine these principles and expose the American public and markets to a heavily politicized and industry-influenced administration of laws—and could pose significant risks to Americans' safety and stability.

The judgment of the District Court should be affirmed.

ARGUMENT

I. Agency Independence is an Indispensable Mechanism to Preserve Expertise and Further the Long-Term Public Good.

The independence of certain agencies like the FTC from presidential control helps promote legitimate policy decisions, protect leadership from presidential or industry pressure, and moderate administrative decisions. The enactment of removal protections in order to encourage long-term stability does not offend the separation of powers. To the contrary, it is well within Congress's constitutional prerogative to enact removal protections for independent agencies that limit the President's ability to remove commissioners except for cause—*i.e.*, "inefficiency, neglect of duty, or malfeasance in office." *Humphrey's*, 295 U.S. at 620.

To start, structural protections at independent agencies help ensure that regulatory decisions, even unpopular ones, are made by experts, not pure partisans. *See Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 531 (2010) (Breyer, J., dissenting) (noting that this Court has long "recognize[d] the constitutional legitimacy of a justification that rests agency independence upon the need for technical expertise") (citing *Humphrey's Ex.*, 295 U.S. at 624–626); *Humphrey's*, 295 U.S. at 624 (confirming that the FTC "must . . . act with entire impartiality"). For-cause removal protections can promote technical expertise; insulate against undue external influence from politics, the public, or industry; and air minority views that stress-test policy decisions and enable public transparency and accountability for those actions. *Free Enter. Fund*, 561 U.S. at 522 (Breyer, J., dissenting) (explaining that protecting "a technical decisionmaker from the fear of removal without cause," "help[s] create legitimacy with respect to that official's regulatory actions" and insulates their "technical decisions from nontechnical political pressure"). Indeed, Congress explicitly designed the FTC as "a body specially competent. . . by reason of information, experience, and careful study of the business and economic conditions of the industry affected."[3]

These safeguards also preserve public confidence. Weakening these protections would imperil the stability, impartiality, and credibility of the federal regulatory system to the detriment of Americans and democratic governance.[4] With trust and confidence in government institutions already at an all-time low,[5] preserving the independence of agencies and commissions from political control or industry influence is thus crucial to restoring public

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[3] *FTC v. R.F. Keppel & Bro., Inc.*, 291 U.S. 304, 314 (1934) (quoting S. Rep. No. 63-597, at 9, 11 (1914)) ("it was organized in such a manner, with respect to the length and expiration of the terms of office of its members, as would 'give to them an opportunity to acquire the expertness in dealing with these special questions concerning industry that comes from experience[.]'") (quoting S. Rep. No. 63-597, at 9, 11 (1914)).

[4] Lisa Schultz Bressman & Robert B. Thompson, *The Future of Agency Independence*, 63 Vand. L. Rev. 599, 613 (2010) ("The short-term interests of any presidential administration have the potential to distort regulatory policies at the expense of long-range interests. In addition, the shifting of administrations every four or eight years can threaten the stability of regulatory policy.").

[5] Brian D. Feinstein, *Legitimizing Agencies*, 91 U. Chi. L. Rev. 919, 920, 982 (2024) (observing a "near-perpetual crisis of legitimacy").

confidence.[6]

Removal protections also insulate commissioners from political or public coercion. In creating the FTC, Congress explicitly rejected the notion of giving the President the power to fire the commissioners at will precisely because lawmakers feared that the agency would make decisions "purely political in character"—*e.g.*, avoid politically unpopular but nationally beneficial agency actions that put the broader public's interests ahead of the president's political fortunes.[7] By contrast, as an independent agency, Congress believed the FTC's "decisions, coming from a board of several persons, will be more readily accepted as impartial and well considered."[8]

Finally, independent commissions promote varied viewpoints and deliberative moderation that agency leaders would otherwise silence to avoid retaliatory removals by the president. Because of staggered terms and removal protections, commissioners are typically drawn from both major political parties, ensuring representation from divergent backgrounds and

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[6] *See id.* at 921, 925–933, 982.

[7] S. Rep. No. 63-597, at 6 (1914) (quoting remarks of Sen. Newlands).

[8] *PHH Corp. v. CFPB*, 881 F.3d 75, 151 (D.C. Cir. 2016) (Henderson, J., dissenting) (quoting S. Rep. No. 63-597, at 10–11 (1914)), *abrogated by Seila Law LLC v. CFPB*, 591 U.S. 197 (2020).

multiple administrations.[9] This structure fosters heterogeneity and opportunities for minority commissioners to issue informed dissents that can moderate rulemaking and influence future agency or judicial decision-making.[10] Through this process, commissioners can find a deliberative balance of their diverse beliefs not otherwise possible in a more punitive environment laden with threats of presidential reprisal.[11] Then-Judge Kavanaugh observed that the multi-member structure of independent commissions "reduces the risk of arbitrary decision-making and abuse of power, and thereby helps protect individual liberty." *PHH Corp.*, 839 F.3d 1, 6 (D.C. CIR. 2016).

Bipartisan appointments with for-cause removal protections not only improve decision quality by forcing agency leaders to contend with competing

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[9] Sharon B. Jacobs, *Administrative Dissents*, 59 Wm. & Mary L. Rev. 541, 556–57 (2017).

[10] Russell W. Damtoft & Matthew E. Moloshok, *I'm Not Dead Yet! And Implications for the FTC If* Humphrey's Executor *Were to Be Buried for Good*, Antitrust Source, Aug. 2025, at 1, 8 ("[T]he bipartisan nature of the FTC has proved to have a moderating effect, as the possibility of dissent makes controversial points transparent, and indeed the threat of dissent can moderate any extreme positions the majority may undertake.").

[11] Jacobs, *supra* n. 9, at 589 (Even when the majority opinion does not respond to the views expressed in a dissent, those opinions can still improve the quality of the agency's final rule, "either by qualifying the majority's approach or by enhancing it.").

views and well-reasoned criticisms; they also enhance transparency and accountability. Conversely, political interference in technical decision-making erodes public trust. The more that the public believes a policy is rooted in politics, not expertise or the public interest, the less likely they are to trust investigations, regulations, and recommendations issued by agencies.[12]

II. The FTC's Independence Enables It to Protect Consumers in the Face of Political and Industry Pressure.

The FTC's insulation from political coercion has long preserved its credibility as a source of expertise and its ability to resist industry capture. Without independence, the FTC risks transformation from a respected body of policy experts who are appropriately distanced from political and industry pressure to a political cudgel. Congress created the FTC to replace the Bureau of Corporations—a partisan entity lacking enforcement power that was housed in the

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[12] *See, e.g.*, Cary Funk et al., *Trust and Mistrust in Americans' Views of Scientific Experts*, Pew Rsch. Ctr. (Aug. 2, 2019), https://www.pewresearch.org/science/2019/08/02/trust-and-mistrust-in-americans-views-of-scientific-experts; Jay D. Hmielowski, et al., *An Attack on Science? Media Use, Trust in Scientists, and Perceptions of Global Warming*, 23 Pub. Understanding Science 866 (2014); Danielle M. McLaughlin, Jack Mewhirter & Rebecca Sanders, *The Belief That Politics Drive Scientific Research & Its Impact on COVID-19 Risk Assessment*, PLOS One, Apr. 21, 2021.

Department of Commerce and Labor.[13] Fearing the politicization of a powerful regulator, Congress deliberately designed the FTC to be independent.[14]

Independence enables the FTC to provide Congress and the President with honest, expert advice, even when that advice runs counter to prevailing political agendas. Across decades and industries, the FTC's independence has protected consumers, informed legislation, and sustained public trust.

A. Political Independence Makes the FTC a Credible and Bipartisan Regulator.

Protected from at-will removal, FTC commissioners have exercised independent judgment even when doing so conflicted with presidential directives. For example, Republican Commissioner Patricia Bailey (1979-1988) resisted fellow Republican-appointed Chair James Miller's efforts to shutter the FTC regional offices,[15] which handled "almost all of the cases involving consumer redress

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[13] Chris Hoofnagle, *Federal Trade Commission: Privacy Law and Policy* 6, 9 (2016).

[14] *Id.*

[15] Tom Dahdouh, *The Firing of FTC Commissioners: An Existential Threat to the FTC's Ability to Protect the American Public*, California Lawyers Association: Antitrust and Consumer Protection E-Briefs, News and Notes (April 2025), https://calawyers.org/antitrust-and-consumer-protection/e-briefs-news-and-notes-april-2025/.

and the majority of investigations," as part President Reagan's deregulatory initiative.[16] Commissioner Bailey testified in Congress against these closures.[17] Because President Reagan could not fire her over this disagreement, she was able to defend the regional offices, and by extension, the FTC's consumer protection mission.[18]

Similarly, Commissioner (later Chair) Phil Elman (1961-1970) openly criticized fellow Democratic Chair Paul Rand Dixon for being too friendly with big business instead of pursuing reform-oriented policies expanding the FTC's power and responsiveness.[19] He resisted direct pressure when President Lyndon B. Johnson confronted Elman to tell him his behavior was "bad for me, bad for you, bad for the commission."[20] Elman continued his public dissent and later led some of the FTC's signature initiatives,

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[16] *Id.;* Mark E. Budnitz, *The FTC's Consumer Protection Program During the Miller Years: Lessons for Administrative Agency Structure and Operation*, 46 Cath. U. L. Rev. 371, 389 (1997).

[17] *Id.* at 389.

[18] Dahdouh, *supra* n. 15.

[19] *Id.*; Luke Herrine, *The Folklore of Unfairness*, 96 N.Y.U. L. Rev. 431, 480–81 (2021).

[20] Dahdouh, *supra* n. 15 (quoting James M. Graham, *In Washington: Clout, Not Competence*, N.Y. Times, May 23, 1976, at F16).

including those around cigarettes, *infra*, § II.B., and flammable baby blankets.[21]

It is this tradition of independence that makes the FTC's advice and reporting credible across partisan lines, especially with respect to powerful industries. Last year, members of the Republican-led House Committee on Oversight and Accountability relied heavily on an FTC report during a hearing on the impact of Pharmacy Benefits Managers on prescription drug costs, despite the report having been released during the preceding Democratic president's tenure—precisely due to the FTC leadership's insulation from presidential meddling.[22] A loss of independence would threaten the bipartisan respect for the expertise of the FTC.

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[21] Hoofnagle, *supra* n. 13, at 359 n.48.

[22] Press Release, House Committee on Oversight and Accountability, *Hearing Wrap Up: Oversight Committee Exposes How PBMs Undermine Patient Health and Increase Drug Costs* (July 23, 2024), https://oversight.house.gov/release/hearing-wrap-up-oversight-committee-exposes-how-pbms-undermine-patient-health-and-increase-drug-costs/ (citing Interim Staff Report, FTC, *Pharmacy Benefit Managers: The Powerful Middlemen Inflating Drug Costs and Squeezing Main Street Pharmacies* (2024), https://www.ftc.gov/system/files/ftc_gov/pdf/pharmacy-benefit-managers-staff-report.pdf).

B. Independence Enables the FTC To Confront Powerful Industries.

The FTC's independence has repeatedly allowed it to enact policies to protect consumers despite opposition from special interests like the tobacco lobby, financial institutions, technology companies, and other corporations that expend enormous resources currying the president's favor.

In the 1960s, the FTC acted against the powerful tobacco industry when political leaders hesitated. In January 1964, following the U.S. Surgeon General's groundbreaking report on the hazards of cigarette smoking, the FTC moved swiftly to propose a rule requiring warnings on cigarettes.[23] Despite opposition from both Congress and the President (including a request from the White House to drop the rule, likely informed by President Johnson's close friendship with a powerful tobacco lobbyist),[24] the FTC adopted a rule

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[23] Sidney M. Milkis, *The Federal Trade Commission and Consumer Protection: Regulatory Change and Administrative Pragmatism*, 72 Antitrust L.J. 911, 916–17 (2005); Panel Entitled "Kids, Calls and Cigarettes: Successful – and Not So Successful – Consumer Protection Initiatives" at FTC 90th Anniversary Symposium 91:5–92:3 (Sept. 22, 2004), https://www.ftc.gov/sites/default/files/documents/public_events/ftc-90th-anniversary-symposium/040922transcript002.pdf.

[24] Milkis, *supra* n. 23, at 918 (explaining the FTC received "discouraging signals from Congress and the Johnson White House"); Robert V. Percival, Essay, *Presidential Management of the Administrative State: The Not-So-Unitary Executive*, 51 Duke L.J. 963, 1010 & n.263 (2001).

mandating that cigarette containers and advertising warn that "cigarette smoking is dangerous to health and may cause death from cancer and other diseases."[25] The FTC's actions prompted Congress to pass a weakened version of the FTC rule—as opposed to doing nothing—in the 1965 Federal Cigarette Labeling and Advertising Act ("FCLAA"), which hamstrung the FTC's efforts to enforce the rule on advertisers.[26] Nevertheless, the FTC maintained public pressure on the dangers of smoking by submitting annual reports to Congress on cigarette advertising and its harms,[27] which eventually led Congress to enact a ban on airwave advertisements for cigarettes[28]—again, as opposed to taking no action.

In the 1970s, the FTC introduced the "Holder in Due Course" Rule in the face of financial industry opposition.[29] The Holder Rule requires that any contract for the sale of debt from one lender preserve the debtor's claims and defenses against the original

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[25] Milkis, *supra* n. 23, at 918.

[26] Pub. L. No. 89-92, § 4, 79 Stat. 282, 283 (1965) (requiring a softer warning that "Cigarette Smoking May be Hazardous to Your Health" and not extending the warning requirement to advertisements), *enacted at* 15 U.S.C. § 1331 (1965).

[27] Milkis, *supra* n. 23, at 918.

[28] Public Health Cigarette Smoking Act of 1969, Pub. L. No. 91-222, 84 Stat. 87.

[29] Preservation of Consumers' Claims and Defenses, 40 Fed. Reg. 53,506 (Nov. 18, 1975).

creditor.[30] The FTC sought to end an abusive practice whereby a creditor who had defrauded a consumer could sell the consumer's debt to a third party, against whom the consumer could not raise their fraud claims or defenses, leaving the harmed consumer without recourse.[31] Financial institutions sought to halt or weaken the Holder Rule, but nevertheless the independent FTC adopted it. Today, the Holder Rule continues to be a critical protection against abusive lending practices.[32]

Similarly, in the late 1990s, FTC experts identified growing threats to children's privacy and safety online and prepared a comprehensive report to Congress.[33] That report led to Congress's passage of the Children's Online Privacy Protection Act (COPPA), one of the few federal laws that squarely address online privacy.[34] The FTC has since served as COPPA's principal enforcer, bringing actions against Big Tech over the

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[30] *Id.*

[31] Jodie Z. Bernstein & David A. Zetoony, *A Retrospective of Consumer Protection Initiatives*, 72 Antitrust L.J. 969, 970 (2005).

[32] *Id.* at 970–71.

[33] FTC, *Privacy Online: A Report to Congress* (1998).

[34] Pub. L. 105–277, 112 Stat. 2681–728.

wrongful collection and monetization of children's data.[35]

These actions spanning multiple administrations demonstrate how independence sustains consistent, evidence-based consumer protection across political transitions, precisely because self-interested industries under regulation cannot reach into agency decision-making through agency capture or a politically motivated president.[36]

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[35] *See, e.g.*, Press Release, FTC, *FTC Will Require Microsoft to Pay $20 million over Charges it Illegally Collected Personal Information from Children without Their Parents' Consent* (June 5, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-will-require-microsoft-pay-20-million-over-charges-it-illegally-collected-personal-information; Press Release, FTC, *FTC Proposes Blanket Prohibition Preventing Facebook from Monetizing Youth Data*, (May 3, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data; Press Release, FTC, *Google and YouTube Will Pay Record $170 Million for Alleged Violations of Children's Privacy Law*, (Sept. 4, 2019), https://www.ftc.gov/news-events/news/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations-childrens-privacy-law.

[36] *See, e.g.*, Press Release, FTC, *FTC Proposes Blanket Prohibition Preventing Facebook from Monetizing Youth Data* (May 3, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data (detailing timeline of FTC actions).

III. Other Agencies Safeguarding the Public Depend on Expertise Afforded by Independence from Presidential Interference.

The FTC is not alone in relying on independence to fulfill its statutory mission. Across the federal government, independent agencies safeguard the public using expert judgment free from undue political interference. Their success—and the public's trust in them—depends on insulation from short-term political control.

A. Agencies Responsible for Ensuring Stability in Financial Markets Must Operate Free from Political Coercion.

Independence is essential in the financial sector, where agencies such as the Federal Reserve Board, the Securities and Exchange Commission ("SEC"), and the Federal Deposit Insurance Corporation are charged with maintaining transparency, predictability, and stability in the nation's financial markets.[37] Congress deliberately structured their leadership with staggered terms, removal protections, and decisional autonomy—not as formalities, but as safeguards to

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[37] Kirti Datla & Richard L. Revesz, *Deconstructing Independent Agencies (and Executive Agencies)*, 98 Cornell L. Rev. 769, 820, 823 (2013) ("One of the motivations behind for-cause removal protection is stability.").

ensure decisions are based on expertise and long-term stability, rather than political ideology.[38]

In the wake of the Watergate scandal, the SEC was able to serve as a trusted, non-partisan expert in a politically charged environment. Following public revelations of illegal campaign contributions by major corporations, the SEC investigated and uncovered slush funds that hid domestic political donations to Democrats and Republicans, as well as suspect foreign donations many viewed as bribes.[39] The agency's

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[38] *See, e.g.*, Federal Reserve Act, 12 U.S.C. §§ 241-42; Securities Exchange Act of 1934, 15 U.S.C. § 78d; Federal Deposit Insurance Act, 12 U.S.C. § 1812(a)-(c). The Securities Exchange Act and Federal Deposit Insurance Act lack the explicit removal language found in the FTC and Fed statutes, but courts and the agencies themselves have long recognized that their commissioners enjoy the same protections. *See, e.g.*, *Free Enter. Fund*, 561 U.S. at 487 ("The parties agree that the [SEC] Commissioners cannot themselves be removed by the President except under the *Humphrey's Executor* standard of 'inefficiency, neglect of duty, or malfeasance in office.'") (quoting 295 U.S. at 620); *S.E.C. v. Blinder, Robinson & Co.*, 855 F.2d 677, 682 (10th Cir. 1988) (recognizing President's authority to remove SEC commissioners for good cause despite governing statute's silence); *FEC v. NRA Pol. Victory Fund*, 6 F.3d 821 (D.C. Cir. 1993) (same); *Calcutt v. Fed. Deposit Ins. Corp.*, 37 F.4th 293, 303 (6th Cir. 2022) ("[T]he parties agree that [the FDIC's internal directors] are not removable at will.").

[39] Ciara Torres-Spelliscy, *The SEC and Dark Political Money: An Historical Argument for Requiring Disclosure* 7–8 (June 18, 2013), (Stetson U. Coll. Law Research Paper, Paper No. 2013-16, 2013), https://ssrn.com/abstract=2282576 (explaining "corporate political spending was not just bipartisan; it was also

findings spurred congressional hearings, widespread public scrutiny, and ultimately unanimous passage of the Foreign Corrupt Practices Act of 1977, which criminalized bribery of foreign officials for the first time.[40]

The SEC's independence lent credibility to its findings.[41] As SEC Commissioner Philip Loomis testified, "disclosure really is our business in this area. Our concern by statute is with disclosure . . . whether there should be a Federal statute making such payments illegal or otherwise dealing with them, seems to me a general question within the province of

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international"); SEC, *Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices* (1976), *reprinted in Special Supplement*, Sec. Reg. & L. Rep. (BNA) No. 353, at 2 (May 19, 1976), https://www.sechistorical.org/collection/papers/1970/1976_0512_SECQuestionable.pdf.

[40] Foreign Corrupt Practices Act, Pub. L. No. 95-213, 91 Stat. 1494 (codified as amended at 15 U.S.C. §§ 78dd-1 et seq.); Mike Koehler, *The Story of the Corrupt Practices Act*, 73 Ohio St. L.J. 929, 950–51 (2012); Henry H. Rossbacher & Tracy W. Young, *The Foreign Corrupt Practices Act Within the American Response to Domestic Corruption*, 15 Penn. St. Int'l L. Rev. 509, 510–511 (1997).

[41] Koehler, *supra* n. 40, at 961 ("The SEC played the most prominent and trusted role during Congress's multi-year investigation. . . . the SEC wanted no part in policing the morality of American business or in determining what is an improper foreign corporate payment. Rather, the SEC, true to its mission, was focused on ensuring disclosure of material foreign corporate payments to investors...").

the Congress."[42] That restraint in the wake of scandal—and the agency's fact-driven approach—allowed the SEC to preserve public trust while enabling Congress to craft durable reforms.

B. Agencies Protecting Public Safety Must Operate Free from Undue Political Pressure.

Similarly, Congress created the Consumer Product Safety Commission ("CPSC") to protect "the public from risk or injury from consumer product," 15 U.S.C. § 2053(a), and insulated it from politicization, 15 U.S.C. § 2053(a).[43] The CPSC's independence enabled swift, science-based regulation—most notably, the national ban on lead-based paint,[44] which remains in effect today despite decades of industry opposition.[45]

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[42] *Id*. at 961–62 (citing *The Activities of American Multinational Corporations Abroad: Hearings Before the Subcomm. on Int'l Econ. Policy of the H. Comm. on Int'l Relations*, 94th Cong. 2, 72 (1975)) (statement of Philip Loomis, Comm'r, SEC).

[43] *See also* Angel Manuel Moreno, *Presidential Coordination of the Independent Regulatory Process*, 8 Admin L.J. Am. U. 461, 476 n.71 (1994).

[44] CPSC, Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead Containing Paint, 16 C.F.R. § 1303 (1978).

[45] *See, e.g.*, David Rosner & Gerald Markowitz, *Why It Took Decades of Blaming Parents Before We Banned Lead Paint*, The Atlantic (Apr. 22, 2023), https://www.theatlantic.com/health/archive/2013/04/why-it-took-decades-of-blaming-parents-before-we-banned-lead-paint/275169/; Perry Gottesfeld, *Lead Industry Influence in the*

Much of CPSC's work protects children, including everything from furniture tip-overs to seated infant swings.[46] In 2023, CPSC secured a $19 million penalty against Peloton for concealing injuries and fatalities linked to its Tread+ treadmill,[47] which killed a child and injured thirteen others, causing "broken bones, lacerations, abrasions and friction burns."[48]

Independence is especially vital in modern markets, where new technologies pose evolving threats. Each of the CPSC's major safety achievements required years of consistent oversight and agency resistance to political and industry pressure.[49] If it is robbed of its independence and

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21st Century: An Old Playbook for a "Modern Metal," 112 Am. J. Pub. Health S723 (2022).

[46] CPSC, Safety Standard for Clothing Storage Units, 16 C.F.R. §§ 1112, 1261 (2022); CPSC, Safety Standard for Infant and Cradle Swings, 16 C.F.R. § 1223 (2025).

[47] Press Release, CPSC, Peloton Agrees to Pay $19 Million Civil Penalty for Failure to Immediately Report Tread+ Treadmill Entrapment Hazards and for Distributing Recalled Treadmills (Jan. 5, 2023), https://www.cpsc.gov/Newsroom/News-Releases/2023/Peloton-Agrees-to-Pay-19-Million-Civil-Penalty-for-Failure-to-Immediately-Report-Tread-Treadmill-Entrapment-Hazards-and-for-Distributing-Recalled-Treadmills.

[48] *Id.*; *see also S.S. ex rel. Stern v. Peloton Interactive, Inc.*, 566 F. Supp. 3d 1019, 1029 (S.D. Cal. 2021) (alleging three-year-old pulled underneath Tread+ was seriously injured).

[49] *See, e.g.*, Andrew Martin, *After Long Battle, Safer Cribs*, N.Y. Times, (July 15, 2011),

made vulnerable to presidential whims that prioritize corporate donors or narrow self-interested goals of the president's political party, the agency's mission to protect families and children would be compromised.

The National Transportation Safety Board ("NTSB") offers another example of successful independence. Its five members, who serve staggered, five-year terms, 49 U.S.C. § 1111(b)–(d), are charged with investigating transportation accidents.[50] Its structure and its members' expertise ensure that its findings are grounded in evidence, not politics or industry pressure.[51]

Beginning in 1987, the NTSB recommended periodic inspections of pipelines.[52] Following two back-to-back gas pipeline explosions in Washington and New Mexico 1999 and 2000, resulting in three and twelve deaths, respectively,[53] the NTSB found that the accidents were caused by preventable and

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https://www.nytimes.com/2011/07/16/business/with-new-safety-rules-for-cribs-makers-scramble-and-retailers-fume.html#:~:text=The%20most%20pronounced%20change%20is,their%20products%20to%20tougher%20testing.

[50] Paul MacMahon, *Soft Adjudication,* 69 Admin. L. Rev. 529, 547–48 (2017).

[51] *See id.*

[52] Carol M. Parker, Note, *The Pipeline Industry Meets Grief Unimaginable: Congress Reacts with the Pipeline Safety Improvement Act of 2002*, 44 Nat. Resources J. 243, 248 (2004).

[53] *Id.* at 245–48.

detectable corrosion or damage.[54] The NTSB report prompted bipartisan outcry in Congress about the lack of proper regulation and enforcement, leading to passage of the Pipeline Safety Improvement Act of 2002, signed into law by President George W. Bush.[55] Again, agency independence and expertise built public trust and prompted bipartisan legislative action.

More recently, NTSB played a leading role encouraging proper regulation of autonomous vehicle safety[56] and publicly criticizing the National Highway Traffic Safety Administration for its inaction[57]—an

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[54] *Id*. at 248–49; Daryl C. McClary, *Olympic Pipe Line accident in Bellingham kills three youths on June 10, 1999*, HistoryLink.org (June 11, 2003), https://www.historylink.org/File/5468#:~:text=The%20National%20Transportation%20Safety%20Board%20(NTSB)%20ruled,fines%20and%20most%20civil%20claims%20against%20them.

[55] Parker, *supra* n. 52 at 247, 249.

[56] Daisuke Wakabayashi, *Self-Driving Uber Car Kills Pedestrian in Arizona, Where Robots Roam*, N.Y. Times (Mar. 19, 2018), https://www.nytimes.com/2018/03/19/technology/uber-driverless-fatality.html#:~:text=Promising%20to%20keep%20oversight%20light,a%20street%20in%20Tempe%2C%20Ariz (discussing NTSB investigation of an accident in which an autonomous vehicle killed a pedestrian).

[57] Robert L. Sumwalt III, Chairman, Nat'l Transp. Safety Bd., Comment Letter on Proposed Framework for Automated Driving System Safety 1, 4–5, 7–8 (Feb. 1, 2021), https://www.regulations.gov/comment/NHTSA-2020-0106-0617.

example of how independence fosters accountability even within the executive branch.

The record of the SEC, CPSC, and NTSB underscores a single principle: independent agencies effectively protect the public precisely because they are insulated from political control. Their legitimacy arises from expertise, continuity, and a focus on the long-term public interest rather than shifting partisan agendas, as enforced by a president wielding the power to fire any independent agency leader for any reason. Weakening their independence would not increase accountability—it would invite instability in the very markets and sectors that most require public confidence and steady, expert governance.

IV. The Dangers of Industry Capture Underscore the Need for Independent Commissions.

Congress intentionally designed independent regulatory commissions—including the FTC—to resist direct presidential control and industry pressure. In contrast, executive agencies led by presidential appointees subject to at-will removal routinely succumb to "agency capture."

Agency capture "occurs when a regulated entity—like a large corporation, or [] an association of corporate interests—succeed[s], through lobbying or other influential devices, in replacing what would otherwise be the public-policy agenda of the agency with its own private and self-serving agenda."[58] Well-resourced industries can exert disproportionate influence over agency policymaking by cultivating relationships with agency officials, controlling the information those officials receive, and offering highly profitable future career opportunities. Ultimately, agency capture threatens effective governance, leading to regulatory inaction, underenforcement, and decisions that are not grounded in the public interest.

Agencies led by political appointees subject to at-will removal are particularly vulnerable to agency capture. Their appointed leaders' careers depend on maintaining favor with the industries they oversee—industries that exploit the constant risk of at-will removal, for any reason or no publicly stated reason, by a president at whom they can direct their lobbying and donor operations. Independent commissions with for-cause removal protections, on the other hand, are immune from this dynamic, allowing them to prioritize the public interest and their statutory mission.

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[58] Mark C. Niles, *On the Hijacking of Agencies (and Airplanes): The Federal Aviation Administration, "Agency Capture," and Airline Security*, 10 Am. U. J. Gender Soc'y Pol'y & L. 381, 390 (2002).

A. The FAA's Pattern of Appeasing the Airline Industry Illustrates the Risks of Capture.

The Federal Aviation Administration's ("FAA") all-too-frequent submission to the airline industry that it is mandated to regulate demonstrates how, without structural protection, industries can capture their regulators—with catastrophic consequences for the American public. Housed within the Department of Transportation, 49 U.S.C. § 106(a), the FAA has a "dual mandate" [59] to both regulate and promote the aviation industry. *See* 51 U.S.C. § 50903(b)-(c). Thus, it must balance "the protection of airline safety" and "the promotion of airline profitability." [60] Unfortunately, the FAA routinely favors the latter. Through its powerful lobbying groups [61] and a revolving door between the FAA and major airlines,[62] the airline industry has leveraged the FAA's structure to its advantage. As one FAA veteran put it: "[T]he industry, they really own the FAA."[63]

The FAA's capture is evident in its long history of rejecting or delaying the independent NTSB's safety

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[59] Rachel Lindbergh, Cong. Rsch. Serv., IF12508, Commercial Human Spaceflight Safety Regulations (2025).

[60] Niles, *supra* n. 58 at 407.

[61] Drew H. Nunn, *Grounded: How the 737 Max Crashes Highlight Issues with FAA Delegation and A Potential Remedy in the Federal Tort Claims Act*, 85 J. Air L. & Com. 703, 729–30 (2020) ("The lobbying groups behind the airline industry are

recommendations, which are often expensive and thus prompt pushback from the airlines. For example, the NTSB first recommended that commercial airlines be equipped with smoke detectors in 1975.[64] But it took nearly 10 years, and a fire in an Air Canada bathroom that killed 23 passengers, before the FAA finally adopted this recommendation.[65] When the *independent* NTSB called for the same safety measures to extend to older aircrafts, the *non-independent* FAA again declined to act until *after* an airplane fire killed 110 people.[66] A congressional investigation later revealed that the FAA had rejected the NTSB recommendations due to its belief that "the gain in safety would not justify the cost."[67]

Likewise, after the 1996 TWA Flight 800 crash, the FAA failed to fully implement 31 recommendations

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considered some of the most powerful and effective in the United States.").

[62] Patrick Malone, *How the revolving door at FAA spins Boeing's way*, Seattle Times (Oct. 30, 2024, at 6:00 a.m.), https://www.seattletimes.com/business/boeing-aerospace/how-the-revolving-door-at-faa-spins-boeings-way/ ("At the FAA, it's common for senior political appointees to come from industry, and return to it after their tours in government.").

[63] Niles, *supra* n. 58, at 384.

[64] *Id.* at 417.

[65] *Id.*

[66] *Id.*

[67] *Id.*

made by a White House Commission to tighten airport and airline security, which the airline industry opposed as overly burdensome.[68] Today, many observers agree that had the recommendations been implemented, the September 11, 2001 attacks might have been prevented.[69]

More recently, the Boeing 737 MAX tragedies, where two plane crashes claimed 346 lives soon after the aircraft was certified,[70] can be attributed to the FAA's delegation of certain safety certification responsibilities to Boeing itself.[71] This delegation occurred via a program[72] for which the airline industry (including Boeing) had long, and aggressively, lobbied.[73] After investigating the MAX tragedies,

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[68] *Id.* at 410–12.

[69] Nunn, *supra* n. 61, at 730; Niles, *supra* n. 58, at 411.

[70] Staff of H. Comm. on Transp. and Infrastructure, 116th Cong., Final Committee Rpt. on Boeing 737 Max 5–6 (Comm. Print 2020).

[71] Natalie Kitroeff, et al., *The Roots of Boeing's 737 Max Crisis: A Regulator Relaxes Its Oversight*, N.Y. Times (July 27, 2019), https://www.nytimes.com/2019/07/27/business/boeing-737-max-faa.html.

[72] Dep't of Transp., *Organization Designation Authorization (ODA) Office*, https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/oda.

[73] *See generally* Nick Schwellenbach & Emma Stodder, *How the FAA Ceded Aviation Safety Oversight to Boeing*, Project on Gov't

Congress issued a scathing report finding that the crashes were, in part, the result of "grossly insufficient oversight by the FAA—the pernicious result of regulatory capture."[74]

B. The FSIS's Ongoing Deference to the Agricultural Industry Also Evidences Agency Capture.

The Food Safety and Inspection Service ("FSIS"), a division of the USDA, is similarly structured with leadership subject to presidential appointment and at-will removal.[75] FSIS's mission is "to protect the public's health by ensuring the safety of meat, poultry, and processed egg products,[76] but it too has a history of being captured by the industry it regulates. The result is weakened safety standards, delayed responses to contamination and preventable illness and death—outcomes that likely would be minimized

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Oversight (Mar. 28, 2019), https://www.pogo.org/analysis/how-the-faa-ceded-aviation-safety-oversight-to-boeing.

[74] Staff of H. Comm. on Trans. and Infrastructure, 116th Cong., *supra* n. 70 at 6.

[75] The FSIS is overseen by the Under Secretary of Agriculture for Food Safety, a position which is appointed by the president and subject to at-will removal. *See* 7 U.S.C. § 6981(a).

[76] U.S. Dep't of Ag., *2025 USDA Explanatory Notes – Food Safety and Inspection Service* 24-1 (2025) https://www.usda.gov/sites/default/files/documents/24-FSIS-2025-ExNotes.pdf.

were the FSIS insulated from industry pressure or threats of presidential reprisal.

For example, following the first known E. coli outbreak in 1982, which sickened 24 Oregonians, the FSIS made no meaningful reforms to detect food-borne microbial pathogens and continued to use the outdated "poke and sniff" inspection method from 1906.[77] Even after a 1985 National Academy of Sciences ("NAS") report concluded that the "poke and sniff" method could not detect food-borne microbial pathogens and recommended a science-based inspection system, the FSIS continued to ignore calls for change, instead capitulating to the beef industry's pushback.[78]

Industry opposition later killed one of the few meaningful proposals to protect Americans from food-borne pathogens in meat. In 1993, after contaminated hamburger meat from Jack in the Box killed four people and sickened hundreds,[79] the FSIS finally introduced a rule that would implement the inspection system suggested in the 1985 NAS report.[80] In

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[77] Dion Casey, *Agency Capture: The USDA's Struggle to Pass Food Safety Regulations*, 7 Kan. J.L. & Pub. Pol'y 142, 146–48 (1998).

[78] *Id.*

[79] Brian Daluiso, "Is the Meat Here Safe?" *How Strict Liability for Retailers Can Lead to Safer Meat*, 92 B.U. L. Rev. 1081, 1091 (2012).

[80] Casey, *supra* n. 77, at 142, 148–49.

response, beef industry trade groups successfully mounted a coordinated campaign to weaken and delay reform: the FSIS's final rule dropped key safety provisions and relaxed testing requirements.[81] As one USDA inspector put it, the final rule let meatpackers "police themselves."[82] Predictably, less than two years after the FSIS promulgated its watered-down rule, the USDA issued its largest-ever meat recall—25 million pounds of ground beef—after 16 people were diagnosed with E. coli from meat which came from a plant that had "glaring problems with [its] meat handling, record keeping, and safety testing."[83]

More recently, in 2019, the FSIS's Modernization of Swine Slaughter Inspection Ruling eliminated processing line speed limits at processing plants[84] and transferred key inspection tasks previously handled by FSIS to pork producers' own employees.[85] Food safety and labor advocates expressed deep concerns

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[81] *Id.*, at 142, 150–54.

[82] *Id.* at 142, 155–56.

[83] *Id.*at 142, 154–55.

[84] Kelsey Crawford & Patti Truant Anderson, *Policy and Practice Brief on the 2019 New Swine Inspection System, Line Speeds, and Workers*, J. Ag., Food Systems, & Cmty. Dev. 279, Spring 2025, at 280.

[85] Zoe A. Bernstein, *The Fight over Frankenmeat: The FDA As the Proper Agency to Regulate Cell-Based "Clean Meat"*, 86 Brook. L. Rev. 593, 602–03 (2021).

over these changes,[86] which reduced federal oversight and enabled faster production speeds (at the risk of jeopardizing the health and safety of workers), while the pork industry enthusiastically supported them.[87] That the FSIS adopted these changes further illustrates that the agency prioritizes industry over consumers and workers.

The experiences of the FAA and FSIS highlight the very real dangers of agency capture and the importance of maintaining regulatory commissions' independence. Disturbing Congress's decision to enact removal protections would likely jeopardize the structural independence that enables expert

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[86] *Id.* at 603; *see generally* Deborah Berkowitz, Nat'l Emp. L. Proj., *Trump Agriculture Department's Proposed New Swine Slaughter Inspection System Will Endanger Public Health, Worker Safety, and Animal Welfare* (2018), https://www.nelp.org/insights-research/trump-agriculture-departments-proposed-new-swine-slaughter-inspection-system-will-endanger-public-health-worker-safety-animal-welfare/; Crawford & Truant, *supra* n. 84, at 279 ("[T]here is strong evidence that line speed is associated with higher worker perceptions of injury risk, lower worker well-being, and higher risk of injuries from repetitive tasks. Additionally, line workers unanimously oppose increases to line speed and are advocating for reduced line speeds.").

[87] *See* Modernization of Swine Slaughter Inspection, 84 Fed. Reg. 52300, 52313 (Oct. 1, 2019) ("Members of the pork industry and trade associations representing members of the pork industry supported FSIS's proposal to revoke maximum line speed limits for establishments operating under NSIS."); *see also* Bernstein, *supra* n. 85, at 603.

regulators like the FTC and others to fulfill their statutory missions free from undue political and industry influence via threatened and actual presidential retaliation.

V. Invalidating Removal Protections for the FTC and Other Agencies Will Put Americans at Risk.

Stripping the FTC and other independent agencies of their removal protections would have grave consequences for consumers and markets alike. Overruling the decades-old *Humphrey's Executor* would risk transforming expert, bipartisan agencies into political instruments beholden to partisan and corporate interests that are channeled through the president.

A. A Politicized FTC Will Retreat from Protecting Consumers.

The erosion of independent oversight at the FTC threatens not only consumers' economic and physical safety, but digital privacy and national security as well. Without robust, independent oversight, data brokers and aggregators are free to operate with impunity—harvesting and selling sensitive personal information, including information on Americans' health, finances, and religious practices.[88] However,

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[88] Justin Sherman et al., *Data Brokers and the Sale of Data on U.S. Military Personnel: Risks to Privacy, Safety, and National Security* 3 (2023), https://techpolicy.sanford.duke.edu/wp-

today's FTC appears unwilling to take meaningful action against these firms, failing, for example, to finalize a nearly year-old proposed order against General Motors over the automaker's unlawful disclosure of drivers' precise geolocation information.[89]

Modern commercial surveillance practices pose a particular danger to children. Yet, since the unjustified removals of Commissioners Slaughter and Bedoya, the FTC has failed to take any significant action on its pending administrative case against Meta, which concerns allegations that the social media giant failed to comply with an existing FTC consent order and misled parents about key privacy settings for children.[90]

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content/uploads/2023/11/Sherman-et-al-2023-Data-Brokers-and-the-Sale-of-Data-on-US-Military-Personnel.pdf.

[89] Press Release, FTC, *FTC Takes Action Against General Motors for Sharing Drivers' Precise Location and Driving Behavior Data Without Consent* (Jan. 16, 2015), https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-takes-action-against-general-motors-sharing-drivers-precise-location-driving-behavior-data.

[90] Press Release, FTC, *FTC Proposes Blanket Prohibition Preventing Facebook from Monetizing Youth Data* (May 3, 2023), https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data; FTC, *Facebook, Inc., In the Matter of* (May 2, 2025), https://www.ftc.gov/legal-library/browse/cases-proceedings/092-3184-182-3109-c-4365-facebook-inc-matter.

As current FTC Chair Andrew Ferguson warned—one day before Commissioner Slaughter's firing—politicization risks rendering FTC guidance "basically meaningless if they just are like one-party statement of its view . . . Courts won't follow them any more if they think that they're just openly partisan, regulated entities won't rely on them to plan."[91] Without the bipartisan balance and moderation that comes with independence and removal protections, the FTC risks losing both its focus and the public's trust as an impartial, expert regulator.

B. Politicizing the CPSC Would Jeopardize Public Safety.

The CPSC—another independent agency whose structure is at issue in *Trump v. Boyle*, 606 U.S. ---, 145 S. Ct. 2653 (2025)—plays a critical role in preventing injuries and deaths caused by unsafe consumer products, as discussed above. *Supra*, § III.B. Given that much of the CPSC's regulatory activities concern infants and toddlers,[92] politicizing that

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[91] Odd Lots: *FTC Chief Andrew Ferguson on the Trump Vision for Antitrust*, at 10:17 (YouTube, May. 17, 2025), https://www.youtube.com/watch?v=pLFiWrEmbfs.

[92] *See, e.g.*, CPSC, Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead Containing Paint, 16 C.F.R. § 1303 (1978); Gabriel Allen, Note, *Get the Lead Out: A New Approach for Regulating the U.S. Toy Market in a Globalized World*, 36 Ga. J. Int'l & Compar. L. 615, 617–18 (2008); Joe Hernandez, *Consumer safety regulators adopt new rules to prevent dresser tip-overs*, NPR (Apr. 26, 2023, at 5:00 AM ET),

agency jeopardizes the health and safety of American children.[93]

Industry groups have long sought to relax stringent product safety standards for children's products.[94] Without removal protections, a politically dependent CPSC could succumb to that pressure. The risk is not theoretical: since the current administration fired three commissioners, the CPSC has delayed long-planned, critical safety rules for water bead toys—rules to address poisoning and choking hazards and that previously enjoyed bipartisan support.[95] A partisan or industry-captured

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https://www.npr.org/2023/04/26/1172027172/dresser-tipover-children-consumer-safety; Richard J. Hunter, Jr. & Melissa A. Montuori, *The Hand That Truly Rocks the Cradle: A Reprise of Infant Crib Safety, Lawsuits and Regulation from 2007-2012*, 25 Loy. Consumer L. Rev. 229 (2013).

[93] Request for Information on Reducing Regulatory Burdens, 90 Fed. Reg. 24791 (June 12, 2025).

[94] *See, e.g.*, Eileen Flaherty, Note, *Safety First: The Consumer Product Safety Improvement Act of 2008*, 21 Loy. Consumer L. Rev. 372, 387–90 (2009) (discussing industry opposition to lead paint in toy standards); Rachel Rabkin Peachman, *Furniture Tip-Overs: A Hidden Hazard in Your Home*, Consumer Reports (March 22, 2018), https://www.consumerreports.org/home-garden/furniture/furniture-tip-overs-hidden-hazard-in-your-home-a2683907691/ (describing furniture manufacturer pushback to mandatory furniture tip-over rules).

[95] *See, e.g.*, Ramishah Maruf, *US safety commissioners blast Trump appointee's delay of ruling on water beads*, CNN (July 18, 2025, at 11:23 AM EDT),

CPSC would mean weaker oversight, more defective products, and greater danger to families.

Congress created independent commissions to serve the public interest, not political expediency or corporate profit. Overruling *Humphrey's Executor* would dismantle these protections and cause real-world harm to everyday Americans, particularly the most vulnerable. The Court should reject this dangerous path and reaffirm the constitutional and practical necessity of agency independence.

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https://www.cnn.com/2025/07/17/business/cspc-water-beads-children ("The tiny balls made out of extremely absorbent polymer material can expand to 100 times their initial size and weight when exposed to liquid . . . When children swallow them, they're in danger of suffering a blocked digestive or respiratory tract, or poisoning by toxic chemicals."); *id.* (Consumer Product Safety Commission member Richard Trumka, Jr. said, "Yesterday, July 16, 2025, we were supposed to see a final rule that would have protected children from life-threatening hazards tied to water beads;" instead acting Chair Peter Feldman, nominated by President Trump, "blocked the agency from delivering on that promise, without even bothering to explain why.").

CONCLUSION

The judgment of the United States District Court for the District of Columbia should be affirmed.

Respectfully submitted,

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November 13, 2025

APPENDIX

List of *Amici Curiae*

1. Americans for Financial Reform Education Fund
2. Better Markets
3. Center for Democracy & Technology
4. Center for Digital Democracy
5. Center for Economic Justice
6. Center for Responsible Lending
7. Clean Elections Texas
8. Community Economic Empowerment Network
9. Consumer Action
10. Consumer Federation of America
11. Consumer Federation of California
12. Consumers for Auto Reliability and Safety
13. Demand Progress Education Fund
14. Electronic Privacy Information Center
15. Food & Water Watch
16. Georgia Watch
17. Impact Fund
18. Inclusiv
19. Institute for Local Self-Reliance
20. Interfaith Center on Corporate Responsibility
21. League of United Latin American Citizens
22. National Association of Consumer Advocates
23. National Consumer Law Center
24. National Consumers League
25. New Jersey Appleseed Public Interest Law Center
26. NextGen Competition
27. Oregon Consumer Justice
28. Oregon Consumer League
29. Protect Borrowers (a fiscally sponsored project of the Shared Ascent Fund)

30. Public Counsel
31. Public Good Law Center
32. Public Justice
33. The Leadership Conference on Civil and Human Rights
34. The Project on Predatory Student Lending
35. The Strategic Organizing Center
36. Truth in Advertising, Inc.
37. Tzedek DC
38. Virginia Citizens Consumer Council
39. Virginia Poverty Law Center
40. X-Lab