Supreme Court Clarifies Presidential Removal Authority: What *Trump v. Slaughter* Means for the FTC

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The Supreme Court's decision last week in *Trump v. Slaughter*[1] will have significant long-term ramifications for the Federal Trade Commission (the "FTC") and companies subject to FTC jurisdiction. By way of background, Rebecca Slaughter, a Democratic FTC commissioner, was first nominated by President Trump in his first term and later confirmed by the Senate. She was then renominated by President Biden to serve a second term. However, in March 2025, President Trump fired Commissioner Slaughter and fellow Democratic Commissioner Alvaro Bedoya without citing any statutory basis for their removal. President Trump simply stated that their "continued service on the FTC is inconsistent with my Administration's priorities."[2]

The firing of both commissioners appeared to violate the Federal Trade Commission Act (the "FTC Act"), which provides that commissioners are only removable for cause—in the event of "inefficiency, neglect of duty, or malfeasance in office."[3] This structure, common among independent agencies established by Congress, has historically helped insulate the FTC from political influence. Accordingly, Slaughter subsequently sued to be restored to office, relying on *Humphrey's Executor*,[4] the controlling Supreme Court precedent that upheld the FTC Act's for-cause removal provision and long served as the principal constitutional basis for the FTC's independence.

On June 29, 2026, the Supreme Court, in a 6–3 decision, overruled *Humphrey's Executor* as applied to the FTC and held that the FTC Act's for-cause removal protection violates the separation of powers. The decision renders FTC commissioners removable at will by the President and is likely to affect other multimember agencies whose leaders exercise executive power. This alert summarizes the decision and examines its practical and legal implications for the FTC, businesses, and other agencies formerly considered to be independent.

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1 *Trump v. Slaughter*, 609 U.S. ___ (2026), Docket No. 25-332.

2 Letter from President Donald J. Trump to Rebecca Kelly Slaughter (Mar. 18, 2025), reprinted in Exhibit A to Complaint, *Slaughter v. Trump*, No. 1:25-cv-00909 (D.D.C. Mar. 27, 2025).

3 15 U.S.C. § 41.

4 295 U.S. 602 (1935).

Congress May Have Limited Ability to Restore the FTC's Independence

As a result of the Supreme Court's decision in *Trump v. Slaughter*, the President will be able to exercise substantially greater control over the FTC's leadership and, by extension, the agency's operations. Although Congress originally structured the FTC as an independent agency insulated from direct presidential control, the Court's constitutional holding appears to leave Congress with limited ability to restore that independence through statutory removal protections.

Congress retains authority to legislate with respect to the FTC in numerous respects. As a practical matter, however, any legislation designed to limit the FTC's authority—or, by extension, the President's control over the agency—would be subject to a presidential veto, requiring a two-thirds majority in both houses of Congress to override. Accordingly, legislative proposals to narrow the FTC's delegated authority, modify its adjudicatory powers, impose appropriations-related constraints, or expand reporting and oversight requirements are likely to face significant political obstacles in the near term.

Several members of the Court acknowledged this practical consequence. As Justice Gorsuch observed in his concurrence, "[a]ny President keen on his own authority . . . will have a strong incentive to veto" efforts to reclaim powers now consolidated in the Executive.[5] The dissent likewise argued that the Court had "create[d] an Executive Branch that Congress never dreamed of establishing and that it now has little hope of ever reining in."[6] Whether viewed as a feature or a flaw of the Court's separation-of-powers analysis, the decision substantially limits Congress's practical ability to restore the FTC's traditional independence absent broad bipartisan consensus.

The FTC Act's Five-Commissioner, Bipartisan Structure Endures on Paper—but May Be Hollowed Out in Practice

The FTC Act establishes a five-member commission and requires political balance by providing that no more than three commissioners may belong to the same political party.[7] The President nominates commissioners, subject to Senate confirmation, and designates one commissioner to serve as chair.[8]

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5 *Trump v. Slaughter*, No. 25-332, slip op. at 13 (U.S. June 29, 2026) (Gorsuch, J., concurring) (quoting *Learning Resources v. Trump*, 607 U.S. 229, 270–271 (2026) (Gorsuch, J., concurring)).

6 Slip op. at 38 (Sotomayor, J., dissenting); *see also id.* at 38–39 (emphasizing the need for a veto-proof supermajority).

7 15 U.S.C. § 41.

8 *Id.*

Although *Slaughter* leaves the FTC Act's bipartisan appointment requirement intact, it substantially diminishes its practical significance. While the statute continues to require that no more than three commissioners belong to the same political party, minority-party commissioners no longer enjoy protection against at-will removal by the President. As a result, the FTC's bipartisan structure remains a statutory requirement but no longer serves as the independent check on presidential control that Congress originally envisioned. As the dissent observed, "[b]ipartisan-appointment requirements can easily be evaded simply by firing all Commissioners of the opposite party."[9]

The *Slaughter* decision also may affect incentives to fill vacancies. Following President Trump's firing of the two Democratic commissioners, there are currently only two Republican commissioners at the FTC, Chairman Andrew Ferguson and Commissioner Mark Meador. A President may prefer to operate with fewer commissioners rather than nominate minority-party commissioners who might dissent from or complicate the agency's agenda. As a result, there may be extended periods in which no minority-party commissioners serve at all. Even when minority-party commissioners are appointed, the absence of removal protection may reduce their ability to function as durable institutional checks in the manner Congress originally contemplated.

Potential Impact on Inferior Officers and Civil-Service Protections

Civil service protections have long insulated the FTC's career, nonpartisan workforce—and the broader federal civil service—from political turnover. Those protections have taken on renewed significance amid the administration's efforts to reshape the federal workforce through the Department of Government Efficiency ("DOGE") and related executive actions.[10] The resulting workforce reductions and personnel actions, including at the FTC, created significant uncertainty for many career federal employees and prompted extensive litigation, several aspects of which have reached the Supreme Court on an emergency basis.[11]

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[9] Slip op. at 37 (Sotomayor, J., dissenting).

[10] *See* Exec. Order No. 14,158, 90 Fed. Reg. 8441 (Jan. 29, 2025) (establishing the U.S. DOGE Service Temporary Organization and providing that it "shall terminate on July 4, 2026"); Exec. Order No. 14,210, 90 Fed. Reg. 9669 (Feb. 14, 2025); Exec. Order No. 14,171, 90 Fed. Reg. 8625 (Jan. 31, 2025); Exec. Order No. 14,410, 91 Fed. Reg. 34893 (June 10, 2026).

[11] *See, e.g.*, *Trump v. Am. Fed'n of Gov't Emps.*, No. 24A1174, slip op. at 1-2 (U.S. July 8, 2025) (granting stay of injunction concerning Executive Order 14210 and OMB/OPM implementing memorandum, while expressing no view on the legality of any particular agency reduction-in-force or reorganization plan); *Off. of Pers. Mgmt. v. Am. Fed'n of Gov't Emps.*, No. 24A904, Order (U.S. Apr. 8, 2025) (staying preliminary injunction on standing grounds).

Trump v. Slaughter does not address those disputes or alter existing civil service protections. Its holding is limited to principal officers and therefore does not affect the statutory protections currently afforded to most career federal employees. Nevertheless, the decision may provide support for future arguments that the President's constitutional removal authority extends beyond principal officers to inferior officers and other officials who exercise executive authority.

At the FTC, career personnel investigate companies, recommend enforcement actions, negotiate settlements, and litigate cases on the FTC's behalf. Proponents of the decision may contend that such officials exercise executive authority sufficient to bring them within the logic of *Slaughter*. During oral argument, the government acknowledged that the logic of presidential removal authority "extends to inferior officers,"[12] and the dissent warned that the Court's reasoning could ultimately reach "perhaps, career civil servants, too."[13] The majority likewise emphasized that the President's removal authority extends throughout the executive "chain of dependence," encompassing "the lowest officers, the middle grade, and the highest."[14]

Justice Gorsuch's concurrence identified another potential avenue for expanding presidential control. He observed that civil service laws do not protect positions "of a confidential policy-determining, policy-making or policy-advocating character."[15] Broader use of that exception through position reclassifications could increase presidential control over subordinate agency personnel without directly invalidating existing civil service statutes. Accordingly, while *Trump v. Slaughter* leaves current civil service protections intact, it may provide a foundation for future constitutional challenges to removal restrictions applicable to inferior officers or certain categories of career federal employees.

Practical Consequences for the FTC and Businesses

Historically, the FTC's institutional design helped insulate the agency from partisan political change across presidential administrations. The FTC Act's political-balance requirement, staggered seven-year terms, and for-cause removal protections were intended to promote continuity, preserve the FTC's independence, and minimize the effects of ordinary four-year election cycles. Together, these structural features reinforced the FTC's status as an independent agency.

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12 Tr. of Oral Arg. 23–24.

13 Slip op. at 45 (Sotomayor, J., dissenting).

14 Slip op. at 10 (quoting 1 Annals of Cong. 499 (J. Madison)).

15 Slip op. at 12–13 (Gorsuch, J., concurring) (citing 5 U.S.C. §§7511–7513; 91 Fed. Reg. 5580, 5628, 5650 (2026)).

That institutional insulation has now been substantially diminished. Because FTC commissioners are now removable at will by the President, the FTC is likely to become more directly responsive to White House priorities and less institutionally consistent across administrations. Although the FTC has always experienced policy shifts following presidential transitions, the elimination of for-cause removal protections removes a significant structural safeguard against abrupt changes in the agency's leadership and direction.

The decision also undercuts the continuity and stability that staggered terms were designed to secure. Because fixed terms can now be cut short at will, a President may effectively nominate and ultimately install an entirely new set of commissioners at the outset of an administration—or at any point during the term—rather than inheriting a body whose membership turns over gradually. The dissent in *Slaughter* warned that, in an extreme case, the FTC could potentially operate with only the chair.[16]

The Court's opinion also recast the relationship between independent agencies and the President. The majority characterized independent agencies as part of an unlicensed, "headless fourth branch."[17] Justice Gorsuch's concurrence similarly observed that powers previously exercised by independent agencies have now been "reassigned to the President."[18]

For businesses, the decision may alter the strategic calculus. Companies subject to FTC investigations or enforcement actions, as well as those seeking rulemaking or other agency action, should expect the FTC's priorities to align more closely with those of the administration. Presidential influence over the FTC had already expanded through measures such as extending Office of Information and Regulatory Affairs review to independent agencies.[19] Together with the President's budgetary authority and the Court's recognition of at-will removal authority, those developments are likely to further strengthen White House influence over the FTC's agenda. Companies should take this realignment into account when developing advocacy strategies, recognizing that meaningful influence over FTC policy may increasingly reside with the White House as well as the agency.

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16 Slip op. at 37 (Sotomayor, J., dissenting).

17 Slip op. at 4 n.3.

18 Slip op. at 11–12 (Gorsuch, J., concurring); Slip op. at 32 (Sotomayor, J., dissenting).

19 Slip op. at 12 (Gorsuch, J., concurring).

Beyond Removal: Constitutional Limits on Agency Power

The decision also sharpens a broader constitutional question: if the President now effectively controls authority that Congress has delegated to independent agencies, are those delegations themselves constitutionally permissible? Justice Gorsuch's concurrence squarely raises that issue, suggesting that the elimination of agency independence may prompt renewed scrutiny of the scope of Congress's delegations to administrative agencies.

The first doctrine to watch is the nondelegation doctrine, which rests on the principle that Congress—not agencies—may make laws regulating private conduct. The doctrine is rooted in Article I's vesting of federal legislative power in Congress, while still permitting agencies to fill in details and implement statutory schemes within boundaries set by Congress. Justice Gorsuch attributed the Court's historical reluctance to apply the doctrine to concerns about the demands of modern administrative governance.[20] In his view, however, those concerns are substantially diminished once independent agencies are brought under direct presidential control. If the President now exercises authority that Congress previously vested in independent agencies, Justice Gorsuch suggested there is less reason for courts to tolerate broad legislative delegations.[21] The concurrence strongly suggests that at least one member of the Court is prepared to revisit broad agency rulemaking authority on nondelegation grounds—a step the Court has not taken since 1935.[22]

The second doctrine is the major questions doctrine, which requires an agency asserting authority over matters of vast economic or political significance to identify clear congressional authorization. Justice Gorsuch argued that the Court should now be more willing to use this tool to decide future challenges to agency action, particularly where an agency asserts expansive authority under broad statutory standards.[23] Applied to the FTC, the doctrine could meaningfully constrain the agency's reach. The FTC frequently regulates under broad, open-ended mandates—most notably its authority to define and police "unfair or deceptive acts or practices."[24] A court applying the major questions doctrine could require the FTC to identify specific, clear statutory authorization before undertaking economically significant rulemaking or policy developments and could invalidate such actions where clear authorization is lacking.

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[20] Slip op. at 15 (Gorsuch, J., concurring).

[21] Slip op. at 15–16 (Gorsuch, J., concurring).

[22] *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935); *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935) (the last cases in which the Court struck down a federal statute on nondelegation grounds).

[23] Slip op. at 14–15 (Gorsuch, J., concurring).

[24] 15 U.S.C. § 45(a)(1).

Together, these doctrines suggest that *Trump v. Slaughter* may mark not only a shift in who controls the administrative state, but also the beginning of renewed judicial scrutiny over the breadth of the powers that Congress has delegated to administrative agencies in the first place.

Potential Implications for Other Agencies

Although *Trump v. Slaughter* directly addresses only the FTC, its reasoning is likely to extend to many other multimember commissions that Congress modeled on the FTC. If so, those agencies will become more directly subject to presidential control because their leaders will likewise be removable at will.[25] Both the concurrence and the dissent identified a non-exhaustive list of agencies that may be affected, including the Securities and Exchange Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission, the Consumer Product Safety Commission, the Chemical Safety Board, the Nuclear Regulatory Commission, and the Merit Systems Protection Board.[26]

For companies that interact with these agencies—whether through licensing, enforcement, rulemaking, or adjudication—the decision may have implications extending well beyond the FTC. To the extent courts apply *Trump v. Slaughter* to other multimember commissions, agency priorities are likely to track White House policy more closely, making presidential priorities an increasingly important consideration in regulatory strategy. Changes in administrations may translate more directly and more quickly into changes in regulatory policy, giving presidential elections greater practical significance for companies subject to independent-agency oversight. Companies should monitor how the decision is applied across the administrative state and take that evolving landscape into account when developing compliance, advocacy, and litigation strategies.

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[25] The Court expressly preserved the Federal Reserve's removal protections. In *Trump v. Cook*, No. 25A312 (U.S. June 29, 2026), decided the same day as *Trump v. Slaughter*, the Court declined to disturb the Federal Reserve's independence, emphasizing the Founders' awareness "of the calamities that could arise from even the 'suspicion' of political manipulation of monetary policy." *Cook* at 22. Justice Sotomayor's dissent in *Slaughter* observed that the carve-out raises its own line-drawing questions, including how closely an agency must resemble the historical model and whether the exception continues to apply when Congress assigns additional functions beyond that historical baseline. *Slaughter* at 46–47 (Sotomayor, J., dissenting).

[26] Slip op. at 7–9 (Gorsuch, J., concurring); Slip op. at 38 (Sotomayor, J., dissenting).

Conclusion

Slaughter is likely to mark a significant turning point for the FTC and the broader administrative state. Although the decision does not alter the FTC's substantive statutory mandate, it changes the institutional framework through which that mandate is implemented. Commissioners are now directly accountable to the President, and the agency's enforcement, rulemaking, settlement, and litigation priorities are likely to become more closely tied to the policy preferences of each administration.

For businesses, the decision counsels a broader approach to FTC strategy. Companies should continue to engage with FTC staff and leadership on the legal and factual merits, but they should also account for the increasingly political and Executive-Branch-centered environment in which the FTC will operate. At the same time, *Slaughter* may spur new challenges to agency authority, including under the nondelegation and major questions doctrines. The decision may also accelerate litigation over the status of other independent agencies and protected agency personnel. The result is a more politically responsive FTC—but also a less predictable and potentially more legally vulnerable one.

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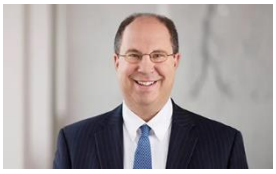

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