



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 21, 2016
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2745 – Standard Merger and Acquisition Reviews Through Equal Rules Act of 2015

(Rep. Farenthold, R-TX, and five cosponsors)

The Administration strongly opposes House passage of H.R. 2745, the Standard Merger and Acquisition Reviews Through Equal Rules Act of 2015, because it would eliminate the Federal Trade Commission's (FTC) ability to use critical administrative and procedural tools to promote competition and protect consumers.

The FTC plays an important role in advancing consumers' interests and promoting competition. For over a century, the FTC has used its administrative process to challenge anticompetitive mergers and protect consumers. H.R. 2745 would amend the Clayton Act and the Federal Trade Commission Act to prevent the FTC from using its administrative adjudication process to challenge unconsummated mergers. The bill also would require the FTC to seek certain preliminary injunctions under the Clayton Act as opposed to the FTC Act.

The changes proposed in H.R. 2745 are unnecessary and threaten to undermine the FTC's important role in protecting competition and consumers. The FTC's administrative adjudication process has proven to be valuable in advancing and clarifying antitrust law in complex cases. Furthermore, the bill's provisions to eliminate the FTC's ability to use its administrative adjudications for unconsummated mergers are unwarranted. While the process the FTC uses to challenge mergers differs from DOJ's, there is no evidence that it affects outcomes or prejudices parties. The FTC and DOJ share joint guidelines that set forth a common analytical framework for reviewing mergers. To enjoin a proposed merger, both the DOJ and FTC must present a convincing factual and legal basis that the proposed merger would likely be anticompetitive. Moreover, parties have recourse to Federal appellate review.

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