

Summary of Executive Order on Promoting Competition (July 9, 2021) By Type of Action Required

1. Should aggressively pursue legislation on --

- Prescription drug pricing
- Public health insurance option

2. Should consider rulemaking on –

- FTC: curtailing use of non-compete clauses
- FTC: unfair data collection and surveillance practices
- FTC: restrictions on third party repair or self-repair (especially farmers)
- FTC: delays in market entry of generic drugs or biosimilars
- FTC: internet marketplaces
- FTC: occupational licensing restrictions
- FTC: tying or exclusionary practices in brokerage or listing of real estate
- USDA: improving Packers and Stockyards Act relating to unfair competition affecting livestock, meat, poultry industries; clarifying that industry-wide harm need not be demonstrated; prohibiting grower ranking systems
- USDA: labeling of meat products
- Treasury: updating Alcohol and Tobacco Tax and Trade Bureau trade practice regulations
- FCC: adopting Net Neutrality rules
- FCC: prohibiting early termination fees for end-user communications contracts
- FCC: requiring a broadband consumer label
- FCC: requiring reporting of broadband price and subscription rates
- FCC: preventing landlords, cable and internet service providers from limiting tenant choice
- Transportation: enhancing consumer access to airline flight information
- Transportation: refunding airline baggage or other fees when service is delayed or cancelled
- Transportation: disclosing airline ancillary fees (baggage, change, cancellation)
- STB: reciprocal switching agreements, bottleneck rates, interchange commitments
- FMC: improving detention and demurrage practices of shippers
- HHS: over-the-counter hearing aids
- HHS: biologics regulation modernization
- CFPB: portability of consumer financial transaction data

3. Should halt –

- DOC: march-in rights and product pricing on NIST rule on federally funded inventions

4. Should adopt a plan for, or consider revising –

- DOJ/FTC: [horizontal and vertical merger guidelines](#)
- DOJ/DOC: remedies for standards-essential [patents subject to F/RAND commitments](#)
- DOJ/FED/FDIC/OCC: revitalizing [merger oversight under Bank Merger Act, Bank Holding Company Act](#)
- DOJ/FTC: antitrust guidance for [human resource professionals](#)
- FCC: avoiding spectrum license holdings concentration in future [spectrum auctions](#)
- Transportation: [definitions](#) of “unfair” and “deceptive”
- Transportation: creating a working group on commercial aviation; consulting with DOJ on ability of new entrants to gain [access to commercial aviation](#); reviewing [airport competition plans](#) and slot administration
- STB: enforcing on-time performance requirements for [passenger rail](#)
- STB: when evaluating [mergers](#), considering [Amtrak’s statutory rights](#)
- HHS: standardized options in national [Health Insurance Marketplace](#)
- HHS/FTC: identifying efforts to impede [generic drug and biosimilar competition](#)
- HHS: preparing [Medicare](#) and [Medicaid](#) for [coverage of generics and biosimilars](#)
- HHS: through FDA, developing [section 804 drug importation programs](#) with states
- DOC: reporting by agencies to NIST on [contractors’ utilization activities](#)

5. Should appoint –

- Transportation: members of Advisory Committee for [Aviation Consumer Protection](#)

6. Should continue what you are doing to –

- FCC: adopt [5G O-RAN protocols and software](#) and promote a fair standard setting process
- FMC: enforce Shipping Act relating to [detention and demurrage practices](#)
- HHS: promote [hospital price transparency](#) initiatives
- HHS: promote [generic drug and biosimilar competition](#)
- HHS: implement CREATES Act of 2019 relating to generics and biosimilars by promptly issuing [Covered Product Authorizations](#) and issuing guidance about CPAs

7. Should issue a report or letter, or conduct a study, on –

- USDA: plan to support value-added agriculture and [alternative food distribution](#)
- USDA/FTC: impact of retail concentration on farmer/processor [access to retail food markets](#)
- USDA: intellectual property/antitrust concerns affecting [seed and other input markets](#)
- Treasury: concentration in [beer, wine, and spirits](#) markets
- Transportation: progress in issuing [refunds for flights](#) cancelled due to COVID-19
- HHS: excessive [prescription drug prices](#), enhancing domestic supply chains
- HHS: FDA letter to Commerce/PTO on [impact of patent system on generics and biosimilars](#)
- DOC/DOJ/FTC: improving competition of [mobile application ecosystem](#)
- DOD: review of state of competition within [defense industrial base](#)
- DOD: avoiding contract terms that limit [self-repair by DOD personnel](#)
- Treasury/DOJ/DOL/FTC: impact of lack of competition on [labor markets](#)
- Treasury: impact of [non-bank companies’](#) entry into consumer finance markets

AGENCY ABBREVIATIONS

CFPB: Consumer Financial Protection Bureau

DOC: Department of Commerce

DOD: Department of Defense

DOJ: Department of Justice

DOL: Department of Labor

FCC: Federal Communications Commission

FDA: Food and Drug Administration

FDIC: Federal Deposit Insurance Corporation

FED: Federal Reserve

FMC: Federal Maritime Commission

FTC: Federal Trade Commission

HHS: Department of Health and Human Services

NIST: National Institute of Standards and Technology

OCC: Office of the Comptroller of the Currency

PTO: United States Patent and Trademark Office

STB: Surface Transportation Board

Transportation: Department of Transportation

Treasury: Department of Treasury

USDA: Department of Agriculture