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FTC Focus: Calibrating Biden-Era Issues In 2026's 1st Half

Law360 on **June 22, 2026**

This article is part of a monthly column that considers the significance of recent Federal Trade Commission announcements about antitrust issues. This installment examines developments from approximately the last six months that demonstrate how the current FTC has been preserving certain initiatives from the previous enforcement era, while distancing itself from others.

The Federal Trade Commission is neither preserving the Biden-era docket wholesale nor dismantling it outright. A year and a half into President Donald Trump's second term, the commission has recalibrated its enforcement agenda — abandoning certain initiatives of the previous administration and narrowing others, all while continuing to pursue and resolve select cases that fit within the new leadership's priorities.

In the last six months or so, a series of recent developments has brought the FTC's shift into sharp relief:

- On Dec. 22, the FTC reversed course on In re: Rytr LLC, its first artificial intelligence case.
- It pivoted from rulemaking to case-specific noncompete enforcement this
- It continued defending expanded Hart-Scott-Rodino Act disclosure requirements, despite setbacks as per the 12 U.S. Chamber of Commerce v. FTC decision in the U.S. District Court Eastern District of Texas.
- It also pursued FTC U.S. Anesthesia Partners Inc., in the U.S. District Court for the Southern District of Texas, through final resolution on April 23.

For companies, the lesson is not that antitrust or consumer protection enforcement has receded. Rather, the commission is redefining which theories it views as legally sustainable, institutionally worthwhile and consistent with a more restrained conception of FTC authority.

A Change in Administration

In the Biden era, the FTC tested the outer edge of its authority across Section 5, competition rulemaking, AI, labor, healthcare consolidation and Robinson-Patman Act enforcement. It also rolled out the most significant changes to HSR reporting in nearly 30 years.

The 2024 noncompete rule was a signature example. In announcing the rule, then-FTC Chair Lina Khan said noncompete clauses "keep wages low, suppress new ideas, and rob the American economy of dynamism," and argued the rule would ensure workers had the "freedom to pursue a new job, start a new business, or bring a new idea to market."[1]

The agency also brought AI and healthcare cases that were framed as forward-looking structural or ecosystem interventions.

Current FTC Chairman Andrew Ferguson has signaled that a more tailored approach is warranted. In December of 2025, the FTC under Ferguson in Rytr reversed one of the commission's first AI cases, finding that "the complaint failed to satisfy the legal requirements of the FTC Act,"[2]

In public statements surrounding the withdrawal of the appeal for the noncompete rule, Ferguson characterized the rule as legally unworkable while still indicating that the FTC would pursue problematic restraints through targeted enforcement rather than sweeping regulation.

In other cases, such as the FTC's challenge of rollup acquisitions in the U.S. Anesthesia Partners enforcement action, the commission stayed the course. The matter was initially resolved in part through a consent order that limits private equity firm Welsh Carson Anderson & Stowe's involvement with Anesthesia Partners and requires the parties to notify the FTC prior to certain future acquisitions or investments in anesthesia and other hospital-based practices.[3]

In practice, the shift is less retreat than triage — toward case-specific enforcement and limited remedies.

Rytr in Reverse

Rytr is the cleanest example of reversal. The FTC's 2024 complaint challenged Rytr's testimonial and review use case, alleging that users could use generative artificial intelligence to produce customer review text and post it elsewhere online.[4]

The complaint alleged the service produced "genuine-sounding, detailed reviews quickly and with little user effort," including specific details with "no relation to the user's input" and reviews that "would almost certainly be false" for users who published them.[5] It further alleged the use case had "no or de minimis reasonable, legitimate use" and was likely to "pollute the marketplace with a glut of fake reviews."[6]

The resulting consent order barred Rytr from providing services dedicated to, or promoted as, generating consumer reviews or testimonials. But on Dec. 22, the FTC reopened and set aside the order. The new order stated that "the specific facts set forth in the Complaint do not support a finding that Rytr violated Section 5" and that an order "untethered from an actual legal violation" undermines enforcement and "unduly burdens AI innovation."[7]

Christopher Mufarrige, director of the FTC's Bureau of Consumer Protection, put the point more broadly, saying: "Condemning a technology or service simply because it potentially could be used in a problematic manner is inconsistent with the law and ordered liberty."[8]

Still, the decision does not signal a wholesale retreat from AI enforcement.[9] The commission emphasized that it will continue pursuing companies that use AI to facilitate deception or violate existing laws.

In the current FTC's view, Rytr presented a different problem: The complaint alleged the potential for misuse, but the FTC failed to sufficiently connect the product to concrete dissemination, consumer injury or knowing participation in deception. The reversal therefore reflects a narrower view of the FTC's Section 5 authority — not a broader endorsement of unrestrained AI deployment.

A Mixed Bag: Noncompete Enforcement

The current FTC's approach to noncompetes is a more complicated story. On Sept. 5, 2025, the FTC dropped its appeals to defend its highly critiqued rule banning most noncompetes.[10]

Ferguson and then-Commissioner Melissa Holyoak wrote that the rule "purported to ban almost all contracts in which employees agreed not to work for a competitor after employment," and that its illegality was "patently obvious."[11] But they did not renounce noncompete enforcement. Instead, they described their approach as promoting labor competition through a case-by-case approach.[12]

One day before the rule appeals were dropped, the FTC brought an enforcement

action against pet-cremation company Gateway Services Inc. relating to the company's requirement that all new hires sign noncompete agreements.

The case resulted in a consent order with Gateway agreeing not to enforce the clauses for nearly 1,800 workers.[13]

The FTC also issued an April 15 **order** against pest control company Rollins Inc. to stop enforcing noncompete agreements against more than 18,000 employees, while issuing warning letters to other companies in the industry.[14]

A month later the FTC announced a similar warning letter was sent to Mortgage Connect, a national mortgage provider.[15] While the Biden-era noncompete rule now sits in the graveyard of failed rulemakings, challenges to noncompete agreements are becoming a staple of the current FTC.

USAP, HSR Reporting and What Survived

The FTC's continued pursuit of the U.S. Anesthesia Partners litigation and its defense of HSR reporting reform show what survived the change in leadership. The FTC's 2023 complaint in USAP alleged a "multi-year anticompetitive scheme" by U.S. Anesthesia Partners and its private equity backer, Welsh Carson, to consolidate Texas anesthesia practices, raise prices and increase profits.[16]

The case represented the FTC's first attempt to challenge a rollup strategy — not a single allegedly anticompetitive acquisition, but a broader consolidation strategy designed to achieve monopolization.[17] The complaint alleged a decade-long strategy to buy nearly every large anesthesia practice in Texas, involving over 1,000 doctors and 750 nurses.[18]

While the claims against the private equity firm, Welsh Carson, were dismissed by the district court, one of the first acts taken by the current FTC was to enter into a consent order with Welsh Carson, freezing its ownership stake in USAP, reducing its board representation and requiring FTC approval for further acquisitions.[19]

On April 23, the FTC announced an agreement in principle with USAP to resolve the litigation.[20] The terms remain confidential pending final approval.

The FTC has also continued to defend Biden-era reforms to HSR reporting. Despite the FTC's defense of the reforms, the 2024 changes were struck down by a federal court earlier this year and the Fifth Circuit declined to stay that ruling pending appeal. Rather than walk away

from the reforms, the FTC continues to defend them in court, while seeking public comment ostensibly to launch new rules if their appeal is unsuccessful.[21]

The FTC's continued pursuit and resolution of the U.S. Anesthesia Partners-Welsh Carson case along with its defense of HSR reforms, which were premised on Biden-era legal theories and policies, distinguishes these issues from others where the current FTC walked away or even reversed previous enforcement actions.

Conclusion

The emerging takeaway for companies is not that FTC enforcement has become materially lighter, but that it has become more targeted and litigation-conscious. The FTC appears increasingly unwilling to pursue cases grounded primarily in speculative downstream harms, expansive interpretations of Section 5, or broad assertions of regulatory authority untethered to concrete evidence of competitive or consumer injury.

At the same time, the comission continues to devote significant resources to cases involving market concentration, labor restraints, healthcare consolidation, and practices with measurable price or competitive effects. Companies therefore should not assume reduced scrutiny. Instead, they should expect an enforcement environment that places greater emphasis on evidentiary support, narrower theories of liability and remedies more closely tied to identifiable harm.

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[1] Press Release, FTC Announces Rule Banning Noncompetes (April 23, 2024) (available at https://www.ftc.gov/news-events/news/press-releases/2024/04/ftc-announces-rule-banning-noncompetes).

[2] Press Release, FTC Reopens and Sets Aside Rytr Final Order in Response to the Trump Administration's AI Action Plan (December 22, 2025) (available at [https://www.ftc.gov/news-events/news/press-releases/2025/12/ftc-reopens-sets-asiderytr-final-order-response-trump-administrations-ai-action-plan)](https://www.ftc.gov/news-events/news/press-releases/2025/12/ftc-reopens-sets-asiderytr-final-order-response-trump-administrations-ai-action-plan).

[3] Press Release, FFTC Approves Final Order with Welsh Carson (May 20, 2025) (available at hhttps://www.ftc.gov/news-events/news/press-releases/2025/05/ftc-approves-final-order-welsh-carson).

[4] See Complaint, In re: Rytr LLC, Dkt. No. C-4806 (F.T.C. Dec. 16, 2024).

[5] Id. ¶¶ 7-8.

[6] Id. ¶ 14.

[7] Order Reopening and Setting Aside Order, In re: Rytr LLC, Dkt. No. C-4806 (F.T.C. Dec. 22, 2025).

[8] Press Release, FTC Reopens and Sets Aside Rytr Final Order in Response to the Trump Administration's AI Action Plan (December 22, 2025) (available at https://www.ftc.gov/news-events/news/press-releases/2025/12/ftc-reopens-sets-aside-rytr-final-order-response-trump-administrations-ai-action-plan).

[9] See, e.g., Press Release, FTC Finalizes Order with DoNotPay That Prohibits Deceptive 'AI Lawyer' Claims, Imposes Monetary Relief, and Requires Notice to Past Subscribers (February 11, 2025) (available at https://www.ftc.gov/news-events/news/press-releases/2025/02/ftc-finalizes-order-donotpay-prohibits-deceptive-ai-lawyer-claims-imposes-monetary-relief-requires).

[10] Press Release, Federal Trade Commission Files to Accede to Vacatur of Non-Compete Clause Rule (September 5, 2025) (available at https://www.ftc.gov/newsevents/news/press-releases/2025/09/federal-trade-commission-files-accede-vacatur-noncompete-clause-rule).

[11] Statement of Chairman Andrew N. Ferguson Joined by Commissioner Melissa Holyoak Regarding Ryan, LLC v. FTC (September 5, 2025) (available at https://www.ftc.gov/legal-library/browse/cases-proceedings/public-statements/statement-chairman-andrew-n-ferguson-joined-commissioner-melissa-holyoak-regarding-ryan-llc-v-ftc).

[12] Id.

[13] Press Release, FTC Approves Final Order Prohibiting Noncompete Enforcement by Gateway Services (November 26, 2025) (available at https://www.ftc.gov/newsevents/news/press-releases/2025/11/ftc-approvesfinal-order-prohibiting-noncompeteenforcement-gateway-services)

[14] Press Release, FTC Takes Action Against Noncompete Agreements, Securing Protections for Workers (April 15, 2026) (available at https://www.ftc.gov/newsevents/news/press-releases/2026/04/ftc-takes-action-against-noncompete-agreementssecuring-protections-workers).

[15] Press Release, FTC Chairman Ferguson issues Noncompete Warning Letter to Mortgage Connect (May 8, 2026) (available at https://www.ftc.gov/news-events/news/press-releases/2026/05/ftc-chairman-ferguson-issues-noncompete-warning-letter-mortgage-connect).

[16] Complaint, FTC v. U.S. Anesthesia Partners Inc., 23-cv-03560 (S.D. Tex. Sept. 21, 2023).

[17] Id. ¶¶ 3-5.

[18] Id.

[19] Press Release, FTC Approves Final Order with Welsh Carson (May 20, 2025) (availableat [https://www.ftc.gov/news-events/news/press-releases/2025/05/ftc-approves-final-orderwelsh-carson)](https://www.ftc.gov/news-events/news/press-releases/2025/05/ftc-approves-final-orderwelsh-carson).

[20] Press Release, FTC Charts Path to Restore Competition in Texas Anesthesia (April 23, 2026) (available at https://www.ftc.gov/news-events/news/press-releases/2026/04/ftc-charts-path-restore-competition-texas-anesthesia-markets-usap-litigation).

[21] Federal Trade Commission and Department of Justice Seek Public Comment on the Premerger Notification and Report Form (March 25, 2026) (available at https://www.ftc.gov/news-events/news/press-releases/2026/03/federal-trade-commission-department-justice-seek-public-comment-premerger-notification-report-form)

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