

## **FTC Report Recommends Increased Cross-Border Cooperation and Policy Leadership on Antitrust and Consumer Protection Issues**

Last week, the Federal Trade Commission (FTC) approved its [Commission Report on Hearings on Competition and Consumer Protection in the 21st Century](#). The report is based on testimony from the March 2019 "[The FTC's Role in a Changing World](#)" hearings, which focused on the relative effectiveness of the agency's cross-border enforcement strategies in a global economy characterized by rapidly developing new business practices and technologies. The report recommends increased FTC statutory authority for enhanced cross-border enforcement and FTC leadership on international antitrust and consumer protection issues. Under activist Biden administration leadership, the agency is likely to increase its cross-border enforcement effort.

### **Increased Cross-Border Cooperation**

Central to the FTC's cross-border consumer protection cases is the Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act (SAFE WEB Act), which provides the agency authority to challenge misleading practices that have a nexus to the United States or American consumers. The SAFE WEB Act provides the FTC with cross-border data transfer mechanisms and enhances the FTC's ability to engage in bilateral information sharing, staff exchanges, and other types of reciprocal assistance with foreign enforcement authorities. Since 2006, the FTC has responded to 130 information-sharing requests from over 30 foreign enforcement agencies. The FTC's powers under the SAFE WEB Act are set to expire pursuant to a sunset provision in September 2027. To enhance the FTC's cross-border consumer protection efforts, the FTC's Office of International Affairs recommends that the FTC solicit Congress to eliminate the SAFE WEB Act sunset provision. The Office also recommends enhanced FTC statutory authority to facilitate increased cross-border information and the sharing of investigative resources in the agency's antitrust cases.

### **Expanded Antitrust and Consumer Protection Policy Leadership**

The report also recommends that the FTC's expertise should inform all U.S. government policies involving international antitrust and consumer protection issues. The FTC has provided leadership in the International Competition Network, a network of nearly all the world's competition agencies, to increase understanding of competition policy and promote convergence toward sound antitrust enforcement, and other international policy organization and enforcement networks. The FTC's involvement has resulted in, for example, the Guiding Principles on Procedural Fairness and Recommended Practices for Investigative Process and the [Antitrust Guidelines for International Enforcement and Cooperation](#).

The report advocates that the relationships the FTC has built with foreign agencies position it to help address emerging issues in a global economy such as privacy issues arising from new consumer-facing technologies. The Office of International Affairs recommends that the FTC expand its international leadership and use its experience to inform U.S. government policies involving international competition and consumer protection issues.

## Takeaways

Whether the recommended statutory changes will come to fruition is uncertain. Nonetheless, the report should be regarded as a reminder that, especially under activist Biden administration leadership, the agency will continue to aggressively pursue cross-border enforcement matters.

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## Authors



### [Cara Wallace](#)

Counsel

[CWallace@perkinscoie.com](mailto:CWallace@perkinscoie.com) [206.359.3097](tel:206.359.3097)

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