



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

**Remarks of Chair Lina M. Khan
American College of Emergency Physicians Annual Conference**

October 11, 2023

Good afternoon, everyone. Thank you to Dr. Christopher Kang and the American College of Emergency Physicians for the opportunity to say a few words at your annual conference. Thank you also to Dr. Ryan Stanton for the kind introduction and for moderating this discussion. I was really hoping to be with you all in person today, but some late-breaking developments kept me here in Washington, and I appreciate the ACEP team's flexibility in arranging a virtual conversation.

Some of you might be wondering what the Chair of the Federal Trade Commission is doing at a conference focused on the state of emergency medicine. I'm here in part because I've been hearing from a good number of you about how the evolving business of emergency medicine sometimes makes it harder than it ought to be to do jobs that are already some of the toughest ones around.

Americans of all stripes rightly see doctors who practice emergency medicine as everyday heroes—and it's not just because of how you're portrayed on TV. You take care of people in some of the scariest moments of their lives; you fulfill an obligation to provide care to everyone, no matter their status in life; and, even when basic information and protective supplies were hard to come by, you stood on the front lines as Americans faced a terrifying pandemic.

Over my two years at the Commission, we have regularly sought public comment on various issues. And we have heard repeatedly from emergency physicians that various changes across markets have come at the expense of your autonomy and freedom, as well as patient care.

We've heard from ER doctors about the growth of private equity-backed staffing groups that employ an increasing number of doctors to "maximize profits to shareholders at the expense of [their] patients and coworkers." Doctors tell us these staffing groups can amass significant power by monopolizing contracts in a given region, and in turn, get to decide how many physicians are hired, dictate their compensation and work schedules, and set strict patient quotas. Too often, we hear, the result is that you all have less ability to make decisions based on your own medical judgment, while your patients suffer. More and more doctors are telling us that these changes are leading them to consider leaving the profession entirely.

These market outcomes are not some type of inevitability. Rather, this is the result of policy choices that have enabled consolidation and certain business models to tighten their grip over your field.

The FTC and the antitrust laws we enforce were created to protect Americans from corporate monopoly power and the abuses that can follow. The agency was founded over a century ago, at the turn of the first Gilded Age, as industrial trusts amassed unchecked private power over the American economy.

Just like the Constitution created checks and balances in our political sphere, Congress wrote the antitrust laws to maintain checks and balances in our commercial sphere. At the time, lawmakers were worried that corporate goliaths had free reign to mistreat workers, crush independent businesses, extort consumers, and corrupt our democratic institutions.

This is a concern that many policymakers on both sides of the aisle have again today. An open, fair, competitive economy is critical to ensuring that people can live free and meaningful lives—as consumers, workers, business owners, and ultimately as citizens. But we have work to do to revive it.

That’s because for the last four decades, we’ve been running something of a natural policy experiment. Around forty years ago, policymakers bought into a set of assumptions: that markets tend to be perfectly competitive and self-correcting; that monopoly power is generally fleeting; and that a hands-off approach to antitrust and competition policy would deliver great efficiencies that would outweigh any costs. These assumptions and frameworks have stayed intact and shaped policy ever since.

But when President Biden took office, he put antitrust enforcement and promoting competition back at the center of his economic agenda, publicly declaring our 40-year experiment of enabling consolidation over competition a failure. And when I took office, two of my top priorities were promoting fair competition in labor markets and in healthcare markets.

Last January, we proposed a rule that would ban noncompete agreements. In response, we received thousands of comments from people who worked as doctors, nurses, journalists—and the list goes on. They shared stories of giving up a better job opportunity, moving their family away from their home to keep a job in the field of their training, taking lower paying jobs in other fields while waiting for years-long time limits to expire, and fearing being buried in litigation. I know at least a few of you in this room have stories like these, and I’m grateful to have heard them.

We are also reinvigorating merger enforcement, since mergers can be a key way that firms consolidate markets and undermine free and fair competition. We successfully stopped three hospital mergers that we believe would have increased costs and degraded care for patients, as well as potentially decrease wages and worsen working conditions for healthcare workers.

Overall, we hear that Wall Street dealmakers are now thinking about antitrust risk at the beginning of a proposed transaction, instead of at the end—demonstrating that our enforcement posture is having a deterrent effect that is helping to keep illegal deals from making it out of the boardroom. That’s also why we’ve released new merger guidelines, which we expect to be finalized in the coming months and which will explain to market participants how antitrust enforcers assess whether a merger may be illegal.

We're also scrutinizing private equity roll-up schemes. Last month we sued a New York-based private equity firm that we allege illegally bought up anesthesiology providers across Texas—reducing competition and hiking prices for consumers and businesses. We won't hesitate to challenge serial acquisitions, roll-ups, and other stealth consolidation schemes that break the law and harm the public.

Both of these initiatives have been directly informed by input and feedback from healthcare workers, who have shared how both noncompetes and private equity roll-ups can undermine their autonomy and freedoms while worsening patient care.

Your patients and your communities deserve the type of committed, knowledgeable care you've dedicated your lives to providing. And you deserve the economic freedom and opportunity that the antitrust laws are designed to secure.

After decades of consolidation, the road to recovery, if you'll grant me one medical metaphor, is not a short one.

But there is now a groundswell of people across professions and trade who are speaking up and educating enforcers, including us at the FTC, about the real day-to-day effects of concentrated corporate power and the coercive tactics it can enable. Continuing this work and holding policymakers accountable in Congress and the administration will help ensure we can travel that road more quickly.

With that, thank you so much for your attention and in advance for your good questions.
