



## Trump brings back 'jawboning,' worrying free marketers

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By negotiating directly with companies to keep jobs in the U.S., President-elect Trump is engaging in a long-standing tradition of presidents intervening in the economy, but one that free-market conservatives never wanted to return.

Before even officially taking on the powers of the presidency, Trump has intervened personally to prevent the automaker Ford and the manufacturer Carrier from moving production and jobs out of the country.

The details of what Trump said, what he promised or threatened, to sway the companies from moving jobs to Mexico are still emerging. But there is a word, one that hasn't been used much in recent years, to describe when the executive tries to steer events without using his administrative powers or passing legislation: jawboning.

Conservative commentator Patrick Buchanan, who promotes views on trade and manufacturing that align with Trump's, was the first to identify Trump's actions as jawboning in a [column](#) published Saturday. "Good for him," Buchanan wrote.

Buchanan would know. He was an aide to President Richard Nixon, who, faced with high inflation, wrote to companies asking them to exercise a "sense of responsibility" about setting wages and prices, and gathered executives in Washington to deliver an anti-inflation speech.

Nixon was far from the only president in modern times to try to coax, bait or sweet-talk private entities into doing something that wasn't in their specific interests. In fact, his efforts were relatively tame.

"Cajoling private companies to do things, cajoling labor to stop doing things — I think this has gone on a long time," said Saikrishna Prakash, a law professor at the University of Virginia and expert on the powers of the executive branch.

One early example that Prakash pointed to was that of Teddy Roosevelt sitting down with coal mine owners and labor leaders in fall 1902 to try to prevent a strike and keep coal production up before the winter set in.

Jawboning was common during the years of the Great Inflation. In 1962, President John F. Kennedy criticized steel companies for a \$6-a-ton price increase, using a speech to tear into "a few gigantic corporations" for raising prices "in ruthless disregard of their public responsibilities." President Lyndon Johnson tried the same approach in his administration, at one point singling out Bethlehem Steel as unpatriotic for a proposed price increase, forcing the company to reverse it.

Although less familiar today, jawboning isn't necessarily constitutionally problematic, Prakash and other constitutional scholars said.

"From a sort of speech perspective, the government has almost completely unfettered power to say whatever it wants," said Derek Bambauer, a law professor at the University of Arizona.

Yet Trump's negotiations with individual companies run afoul of the free market thought that recent Republican presidents have touted.

"It's like a phone call in the night from the government saying: 'You will not do this,'" said Claude Barfield, a trade expert at the American Enterprise Institute, a free-market think tank. "That's not the way things are supposed to work here in the United States."

Inevitably, Trump's interventions will raise questions about executive power. "It's hard to use the bully pulpit without reinforcing the view that you're a bully, and Trump already has a problem with this based on what happened in the campaign," said Darrell West, the director of Governance Studies at the Brookings Institution.

While Trump may be within his rights to cajole business executives, Bambauer said, he does risk upending unwritten norms limiting the powers of the presidency that have benefited the U.S. And it could become worrying if Trump goes beyond mere "moral exhortation" and his interactions with companies become "more like duress," Bambauer said.

Some free-market advocates noted that it is not known what the Trump administration is saying behind the scenes, inviting questions about what promises or threats could have been made.

"The really concerning thing from him is to take the powers of the presidency in all its different ways and all the things that he can do to make a business' life difficult," said Trevor Burrus, a research fellow in the Cato Institute's Center for Constitutional Studies.

There have been suggestions that those considerations influenced the decision of Carrier to keep some of its jobs in Indiana, rather than move them to Mexico. Trump and Vice President Mike Pence, who is the state's governor, were scheduled to tout a deal with Carrier at its Indianapolis factory on Thursday.

The company received tax breaks from the state of Indiana to remain, as part of the deal. Even more important in the decision to remain, a state official speculated to Politico, was the fear that its parent company, United Technologies, could lose some of its roughly \$6.7 billion in federal contracts, possibly as retribution.

There is an economic case against such dealmaking. One is that if it is more efficient to manufacture parts abroad, doing so would lower prices for consumers and create jobs elsewhere in the economy. Intervening in the business decisions that send unfinished parts back and forth across borders several times will hurt growth, Barfield explained, and the Trump team is "ignorantly blundering" in that process. Another is simply that other companies might try their hands at wringing benefits out of the administration. The Carrier deal "signaled to every corporation in America that they can threaten to offshore jobs in exchange for business-friendly tax benefits and incentives," Sen. Bernie Sanders, I-Vt., wrote in the Washington Post Thursday.

More than the damage to the economy, however, free-market advocates fear the harm that such dealmaking could do to the rule of law.

"There's a variety of ways that this subtle sort of corruption can creep in that's hard to notice," Burrus said, "but it's probably going to be the biggest story of what the Trump presidency is like."