



Sen. Paul looks to limit FTC's authority to enforce antitrust laws

By Pete Kasperowicz - 04/02/12

Sen. Rand Paul (R-Ky.) has introduced legislation that would limit the authority of the federal government to identify and block business activity it deems to be anti-competitive.

The Anti-Trust Freedom Act, [S. 2269](#), is a response to what Paul says is the overreach of the Federal Trade Commission (FTC) as it seeks to enforce key antitrust laws — the Federal Trade Commission Act, the Sherman Act and the Clayton Act.

Paul argues that under these laws, the FTC has too much leeway to define what business activities are legal, as it can define "unfair methods of competition," "markets" and "price discrimination." This leeway has led the FTC to ban some activities that Paul believes should be permitted.

Specifically, the short bill says simply that the three laws "shall not be construed to prohibit, ban or otherwise extend to any voluntary economic coordination, cooperation, agreement or other association, compact, contract or covenant entered into by or between any individual or group of individuals."

Based on that language, the bill is aimed at allowing, for example, independent pharmacies to join forces to negotiate lower prices from pharmaceutical producers or letting doctors form independent practice associations to negotiate with insurance companies. Absent Paul's bill, these sorts of efforts to coordinate can run into trouble at the FTC.

But the bill would not otherwise change the operation of the FTC — for instance, it would not affect FTC efforts to punish false advertising or other fraudulent activities.

A description of the bill from Paul's office notes that the Cato Institute has argued that the enforcement of antitrust laws has a "dark side." Cato has said antitrust laws debase the idea of private property, and are often used by one business against another to exact a government-approved preference in the marketplace that it otherwise would have been unable to win on its own.