

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
BUSINESS ROUNDTABLE,
AMERICAN INVESTMENT COUNCIL,
and LONGVIEW CHAMBER OF
COMMERCE,

Plaintiffs,

v.

FEDERAL TRADE COMMISSION and
ANDREW N. FERGUSON, in his official
capacity,

Defendants.

Case No. 6:25-cv-00009-JDK

**PLAINTIFFS' MOTION TO ESTABLISH
COMBINED BRIEFING SCHEDULE**

Plaintiffs Chamber of Commerce of the United States of America, Business Roundtable, American Investment Council, and Longview Chamber of Commerce respectfully submit this motion to establish a combined briefing schedule for dispositive motions by both parties in this case.

On January 10, 2025, Plaintiffs filed this action under the Administrative Procedure Act (APA) to challenge a new rule promulgated by the Federal Trade Commission that dramatically expands the amount of documentary material and information that parties engaging in certain merger or acquisition transactions must include in the “premerger notification form” required by the Hart-Scott-Rodino Antitrust

Improvements Act of 1976, 15 U.S.C. § 18a. *See Premerger Notification; Reporting and Waiting Period Requirements*, 89 Fed. Reg. 89,216 (Nov. 12, 2024).

The Rule went into effect on February 10, 2025. *See* Dkt. 28 (Am. Compl.) ¶ 124. Despite immediate and ongoing harms to their members, Plaintiffs did not seek interim relief (such as a motion for a stay or preliminary injunction) to avoid burdening the Court and Defendants with accelerated briefing in this case, which concerns a multi-faceted challenge to a detailed regulation that takes up nearly 200 single-spaced pages in the Federal Register. Plaintiffs intended to move for summary judgment shortly after receiving Defendants' responsive pleading in order to expedite a merits decision on their challenge to the Rule.

After obtaining two extensions of their deadline to respond to the complaint (which Plaintiffs agreed not to oppose), on April 10, 2025, Defendants filed a motion to dismiss for lack of subject-matter jurisdiction and improper venue on the ground that Plaintiff Longview Chamber of Commerce lacks Article III standing. Dkt. 23. In an effort to eliminate any doubt about their standing and finally proceed expeditiously to the merits of the Rule, Plaintiffs filed an amended complaint on May 8, 2025, alleging additional facts relevant to standing. Dkt. 27; *see* Dkt. 28 (denying as moot Defendants' motion to dismiss). These additional allegations are plainly sufficient to plead Article III standing for all Plaintiffs, including the Longview Chamber. *See* Dkt. 27 ¶¶ 14-29, 33-35.

Nevertheless, on May 23, 2025, Defendants filed another motion to dismiss, again on the ground that Plaintiff Longview Chamber lacks standing.¹

This case has now been pending for nearly five months, while the Rule continues to harm Plaintiffs and their members. Accordingly, notwithstanding Defendants' pending motion to dismiss, Plaintiffs intend to move for summary judgment, which is the usual "mechanism for deciding, as a matter of law, whether [challenged] agency action is supported by the administrative record and otherwise consistent with the APA." *Texas v. U.S. Dep't of Homeland Sec.*, 2024 WL 5454617, at *5 (E.D. Tex. Aug. 26, 2024).

To facilitate the most orderly and efficient resolution of this case in which two dispositive motions will be briefed simultaneously, Plaintiffs respectfully request that this Court set a consolidated briefing schedule for Defendants' motion to dismiss, Plaintiffs' forthcoming motion for summary judgment, and any cross-motion for summary judgment Defendants may choose to file. This Court has "the inherent authority to manage [its] docket[] . . . with a view toward the efficient and expedient resolution of cases." *Dietz v. Bouldin*, 579 U.S. 40, 47 (2016).

A consolidated briefing schedule here will promote judicial economy and allow the parties to present their arguments in fewer briefs that the Court will need to review. A consolidated briefing schedule will also avoid piecemeal and potentially duplicative litigation of overlapping issues. In support of their forthcoming motion for summary judgment, Plaintiffs will file sworn declarations "set[ting] forth" "specific facts" to support

¹ Defendants also oppose setting a combined briefing schedule for their motion to dismiss and Plaintiffs' forthcoming summary-judgment motion, as requested herein.

their Article III standing, as Plaintiffs may no longer “rest on” the Amended Complaint’s allegations at the summary-judgment stage. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). It would be inefficient and a waste of resources for the Court to separately address the sufficiency of the allegations in the complaint while ignoring specific testimony in sworn declarations. Under a consolidated briefing schedule, the Court will be able to address any and all standing arguments Defendants choose to make.

This Court and others have routinely consolidated summary-judgment briefing with the briefing on pending motions to dismiss and/or transfer in similar APA challenges in which the government moves to dismiss and/or transfer based on lack of standing. *See, e.g., Lifenet, Inc. v. U.S. Dep’t of Health and Hum. Servs.*, No. 6:22-cv-00162, Dkt. 25 (E.D. Tex. May 13, 2022) (Kernodle, J.); *Chamber of Commerce v. CFPB*, No. 6:22-cv-00381, Dkt. 16 (E.D. Tex. Nov. 14, 2022); *R.J. Reynolds Tobacco Co. v. U.S. Food & Drug Admin.*, 2022 WL 17489170, at *1 (E.D. Tex. Dec. 7, 2022) (resolving simultaneously motion to dismiss for lack of standing and improper venue and motions for summary judgment); *Nat’l Horsemen’s Benevolent & Protective Ass’n v. Black*, 596 F. Supp. 3d 691, 698 (N.D. Tex. 2022) (resolving simultaneously motion to dismiss for lack of standing and motions for summary judgment); *see also Consumers’ Rsch. v. CSPC*, 592 F. Supp. 3d 568, 577-578 (E.D. Tex. 2022) (Kernodle, J.) (considering declarations submitted with Plaintiffs’ summary-judgment motion in resolving motion to dismiss for lack of standing).

Plaintiffs therefore respectfully request that the Court enter the below combined briefing schedule, which assumes that Defendants will file a cross-motion for summary judgment as is typical in APA cases. The proposed schedule avoids unnecessary

piecemeal litigation, leads to fewer briefs, will enable the Court to resolve all the issues before it expeditiously, and results in no prejudice to Defendants.

Event	Deadline	Page Limit
Defendants' Motion to Dismiss or Transfer	May 23, 2025 (filed)	Up to 30 pages ²
Plaintiffs' Combined (i) Motion for Summary Judgment and (ii) Opposition to Defendants' Motion to Dismiss or Transfer	June 10, 2025	Up to 60 pages ³
Defendants' Combined (i) Cross-Motion for Summary Judgment and (ii) Reply in Support of Motion to Dismiss or Transfer	July 10, 2025	Up to 40 pages ⁴
Plaintiffs' Reply in Support of Motion for Summary Judgment and Opposition to Defendants' Cross-Motion for Summary Judgment	August 11, 2025	Up to 30 pages
Defendants' Reply in Support of Cross-Motion for Summary Judgment	September 10, 2025	Up to 10 pages
Joint Appendix of Administrative Record (to be compiled and filed by Plaintiffs)	September 17, 2025	n/a

² See Local Civil Rule CR-47(a)(1)(A) (30 pages for dispositive motion).

³ The local rules entitle Plaintiffs to 60 pages for this combined brief because they would have 30 pages for their opposition to the motion to dismiss and 30 pages for their brief in support of their motion for summary judgment. See Local Civil Rule CR-47(a)(1)(A).

⁴ The local rules provide for 30 pages for a brief in support of summary judgment and 10 pages for a reply in support of a motion to dismiss. See Local Civil Rule CR-47(a)(1)(A).

As noted above, counsel for Plaintiffs have conferred with counsel for Defendants about this proposal for an efficient resolution of this matter, and Defendants oppose a consolidated briefing schedule.

May 27, 2025

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** Pro hac vice*

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for Plaintiffs complied with the meet and confer requirement in Local Rule CV-7(h). This motion is opposed.

/s/ Shaun W. Hassett

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**ORDER GRANTING MOTION TO ESTABLISH
COMBINED BRIEFING SCHEDULE**

Before the Court is a Motion by Plaintiffs the Chamber of Commerce of the United States of America, Business Roundtable, American Investment Council, and Longview Chamber of Commerce, for an order to establish a combined briefing schedule for dispositive motions by both parties in this case. Having considered the Motion, the Motion is hereby GRANTED.

It is ORDERED that the parties will abide by the below briefing schedule:

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