

### 1.5.3: Regulatory Agencies

The power of administrative agencies comes from the executive branch of the government. Congress passes laws to carry out specific **directives**. The passing of these laws often creates a need for a government agency that will implement and carry out these laws. The government is not able to perform the work itself or manage the employees who will do the work. Instead, it creates agencies to do this. Assigning this authority to agencies is called **delegation**. The agencies have focus and expertise in their specific area of authority. However, it is important to note that Congress gives these agencies just enough power to fulfill their responsibilities.

Although administrative agencies are created by Congress, most administrative agencies are part of the executive branch of the government. The executive branch of government of the United States is headed by the president of the United States. Administrative agencies are created to enforce and administer laws, and the executive branch was created to oversee administrative agencies. Administrative agencies conduct exams and investigations of the entities they regulate. As a result of being part of the executive branch of government, the leaders of administrative agencies are generally appointed by the executive branch.



Figure 1.5.3.1: Most administrative agencies are housed in the executive branch. The president of the United States appoints leaders to administrative agencies. (Credit: Aaron Kittredge/ pexels/ License: CC0)

Administrative agencies also have responsibilities that mirror the responsibilities of the judicial branch of government. Administrative law judges (ALJ) have two primary duties. First, they oversee procedural aspects, like depositions of witnesses related to a case. They have the ability to review rules and statutes and review decisions related to their agencies. They also determine the facts and then make a judgment related to whether or not the agency's rules were broken. They act like a trial judge in a court, but their jurisdiction is limited to evaluating if rules established by certain government agencies were violated. They can award money, other benefits, and punish those found guilty of violating the rules.

#### Federal Agencies

Well-known federal agencies include the Federal Bureau of Investigations (FBI), Environmental Protection Agency (EPA), Food and Drug Administration (FDA), Federal Trade Commission (FTC), Federal Election Commission (FEC), and the National Labor Relations Board (NLRB). These agencies were created to serve specific purposes. For instance, the FBI was created to investigate federal crimes. A federal crime is one that violates federal criminal law, rather than a state's criminal law. The EPA was created to combine federal functions that were instituted protect the environment. The NLRB was created to carry out the National Labor Relations Act of 1935.

The goal of federal agencies is to protect the public. The EPA was created in response to concerns about the dumping of toxic chemicals in waterways and about air pollution. It began when the Cuyahoga River in Ohio burst into flames without warning. President Richard Nixon presented a plan to reduce pollution from cars, end the dumping of pollutants into waterways, tax businesses for some environmentally unfriendly practices, and reduce pollution in other ways. The EPA was created by Congress in

response to these environmental concerns and President Richard Nixon's plan. It is given the authority and responsibility to protect the environment from businesses, so that the people can enjoy a clean and safe environment.

As mentioned in the previous section, the Federal Trade Commission (FTC) was created to protect the consumer. It investigates and addresses activities that limit competition between businesses. The organization enforces **antitrust laws** that prevent one organization from restraining competition or seeking to maintain full control over a market. In December of 2006, the FTC ruled on the merger of America Online, Inc. (AOL) and Time Warner, Inc. The FTC decided that the joining of these two companies would limit the ability of other organizations to compete in the cable internet marketplace. The FTC ordered the merged company, AOL Time Warner, to do certain things that permitted competitors to engage, including opening its system to competitors' internet services and not interfering with the transmission signal being passed through the system. Doing so prevented the large company from shutting out its competitors. These are just a few examples of administrative agencies that were created to protect the community from business activities that could negatively impact the environment or the consumer.



Figure 1.5.3.2: Although administrative agencies have a great deal of power, they are bound by the concept of due process as is described in the U.S. Constitution. (Credit: wynpnt/ pixabay/ License: CC0)

## Agency Structure

Administrative agencies are made up of experts, and they are trusted by Congress to identify the agency structure that best serves their specific goals. Thus, each agency is structured differently.

The FTC is a well-known agency and is organized into bureaus. Each bureau is focused on an agency goal. The three bureaus are consumer protection, competition, and economics. The Bureau of Consumer Protection focuses on unfair and deceptive business practices by encouraging consumers to voice complaints, investigate, and file lawsuits against companies. It also develops rules to maintain fair practices and educates consumers and businesses about rights and responsibilities. The Bureau of Competition focuses on antitrust laws and, by doing so, supports lower prices and choices for the consumer. And, lastly, the Bureau of Economics concentrates on consumer protection investigation, rulemaking, and the economic impact of government regulations on businesses and consumers.

## Administrative Procedure Act (APA)

These agencies are not unrestrained in their operations. First, there are due process requirements created in the Constitution. Rules must be reasonable and based on facts. Second, rules cannot violate anyone's constitutional rights or civil liberties. Third, there must be an opportunity for the public to voice its support, or lack of support, for a rule. In 1946, the **Administrative Procedure Act (APA)** was enacted. Under the APA, agencies must follow certain procedures to make their rules enforceable statutes. The Act set up a full system for the execution of administrative law by administrative agencies for the federal government. Although agencies have power, government agencies must still act within the structures in place, including the Constitution, span of authority, statutory limitations, and other restrictions. The APA outlines roles, powers, and procedures of agencies. It organizes administrative functions into rulemaking and adjudication.

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