Supreme Court ruling kneecaps federal regulators

On Friday, the Supreme Court overturned a long-standing legal doctrine in the US, making a transformative ruling that could hamper federal agencies' ability to regulate all kinds of industry. Six Republican-appointed justices voted to overturn the doctrine, called Chevron deference, a decision that could affect everything from pollution limits to consumer protections in the US.

Chevron deference allows courts to defer to federal agencies when there are disputes over how to interpret ambiguous language in legislation passed by Congress. That's supposed to lead to more informed decisions by leaning on expertise within those agencies. By overturning the Chevron doctrine, the conservative-dominated SCOTUS decided that judges ought to make the call instead of agency experts.

"Perhaps most fundamentally, Chevron's presumption is misguided because agencies have no special competence in resolving statutory ambiguities. Courts do," Chief Justice John Roberts writes in his opinion.

The decision effectively strips federal agencies of a tool they've been able to use to take action on pressing issues while Congress tries to catch up with new laws. Chevron deference has come up, for instance, in efforts to use the 1970 Clean Air Act to prevent the greenhouse gas emissions that cause climate change. Overturning it is a big win for lobbyists and anyone else who might want to make it harder to crack down on industry through federal regulation.

"It would really unleash a kind of chaotic period of time

where federal courts are deciding what they think all these laws mean. And that can lead to a lot of inconsistency and confusion for agencies and for regulated parties," Jody Freeman, director of the Environmental and Energy Law Program at Harvard, previously told *The Verg*e when SCOTUS heard oral arguments over Chevron deference in January.

It's called Chevron deference because of a 1984 ruling, *Chevron USA, Inc. v. Natural Resources Defense Council* (NRDC). In that case, the Supreme Court sided with Chevron rather than the environmental group NRDC — allowing the then industry-friendly Environmental Protection Agency under President Ronald Reagan to stick with a more lax interpretation of the Clean Air Act. It shows how Chevron deference has been sort of politically agnostic in the past, even though the more recent push to overrule it has aligned with a deregulatory agenda.

In her dissent, Justice Elena Kagan wrote that Chevron deference "has formed the backdrop against which Congress, courts, and agencies — as well as regulated parties and the public — all have operated for decades. It has been applied in thousands of judicial decisions. It has become part of the warp and woof of modern government, supporting regulatory efforts of all kinds — to name a few, keeping air and water clean, food and drugs safe, and financial markets honest." Justices Sonia Sotomayor and Ketanji Brown Jackson joined the dissent. (In a complicated little detail that doesn't matter due to the sheer numbers the majority had, Justice Jackson's dissenting vote only applies to *Relentless*, since she recused herself in *Loper Bright*.*)*

"If they toss Chevron out, the Court would be inviting unaccountable judges to freely impose their policy preferences over those of the political branches — exactly what Chevron sought to stop," David Doniger, a senior adviser to the NRDC Action Fund and an attorney who litigated the 1984 case, said in a press briefing earlier this month.

SCOTUS took up Chevron deference this year because of two cases brought by the fishing industry: *Loper Bright Enterprises v. Raimondo* and *Relentless, Inc. v. Department of Commerce*. The plaintiffs challenged a federal rule that makes fishing companies pay for the cost of observers on vessels to monitor their operations, saying the National Marine Fisheries Service doesn't actually have the authority to force them to pay because it's not explicitly written into the fishery conservation statute. Lower courts upheld the mandate, applying Chevron deference.

But there's a lot more at stake with these cases than fishing boats. Trade groups representing a broad swath of interests from Gun Owners of America to e-cigarette companies have all pushed to overturn or limit Chevron deference.

The fate of net neutrality in the US, for instance, has been tied to Chevron deference. Courts have previously deferred to the FCC on how to define broadband. Is it considered a telecommunications or information service? If it's telecommunications, then it's subject to "common carrier" regulations and restrictions placed on public utilities to ensure fair access. The FCC has flip-flopped on the issue between the Obama, Trump, and Biden administrations — with the FCC deciding in April to restore net neutrality rules.

The Supreme Court's decision risks bogging down courts with all these nitty-gritty questions. They used to be able to punt much of that over to federal agencies, a move that's out of the playbook now.

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