Alert
July 16, 2024

Cozen Currents: In Trump's Image

The Cozen Lens

- Even if this year’s Republican Party platform is shorter than usual, former President Trump’s influence is evident in not only the policies it proposes, but perhaps more so in the ones it avoids.
- In a series of cases this term, the Supreme Court has eroded the authority of the administrative state, with major implications for President Biden’s regulatory agenda, future presidents, and lobbying.
- Although House and Senate lawmakers are quickly advancing their own versions of FY25 spending bills this summer, they are unlikely to forge a compromise until the winners of this November’s elections are seated in the new year.

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Interpreting the GOP's Platform

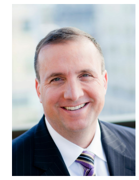
Trump’s Omnipresence. The 2024 Republican Party platform, published last week, is shorter than many previous party platforms but shows signs of former President Trump’s influence throughout.

- Although Trump is not yet the official candidate of the Republican Party, something that will happen later this week as part of the Republican National Convention, he has shaped the GOP’s 2024 party platform, especially with the party’s lack of an endorsement of a national abortion ban. Politico even reported that Trump wrote some sections of the draft himself.
- The document's brevity means it is sometimes more vague than its predecessors and contains fewer specific policy proposals. However, according to senior Trump campaign advisors, this was intentional to make the document “digestible for every voter.” Politically, it also benefits the Trump campaign by not tying Trump to some of the GOP’s red meat policies that are controversial with the broader electorate, such as further restricting abortion rights.

It’s The Economy, Stupid. Unsurprisingly, the platform devotes significant attention to economic issues, such as inflation, taxes, and trade, all of which Trump is polling well on.

- On inflation, the platform offers a handful of potential policies Trump could use to slow the rate of price increases, like increasing domestic energy production, cutting federal spending, and pursuing deregulation. While these plans may not often be associated directly with inflation, their place in this category reflects the priority a Trump administration would place on them.
- The party platform is similarly vague on Trump’s specific tax plans other than making the cuts from the 2017 Tax Cuts and Jobs Act permanent and eliminating taxes on tips. The platform also mentions “additional tax cuts” but does not specify what those may be. A unified Republican government would likely eye a further cut to the corporate tax rate, but how far they can go will depend on finding sufficient offsets.
- While the document makes few mentions of China directly (only four in the 16 pages), it endorses tariffs, including the universal baseline tariffs that Trump has floated on the campaign trail. It also mentions reworking trade deals. This is less an indication of an interest in a new agreement with China, which is likely to just face higher tariffs as part of a rejuvenated decoupling effort, and more about the possibility of wanting to renegotiate the US-Mexico-Canada agreement that Trump already renegotiated (and renamed) during his first term.

A Focus on Immigration. In addition to economic policies, the platform makes clear that



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immigration will remain a top priority for a Trump administration, another issue on which the former president is polling well.

- The platform's agenda includes immigration among the top items. It talks about efforts to “seal the border and stop the migrant invasion” and to “carry out the largest deportation operation in American history.” Trump has supported these aggressive immigration policies, and several of his allies have offered plans to achieve these goals. Many of them, like Stephen Miller, are expected to return in a second Trump administration.
- Some of the immigration policies offered in the document are among the most detailed in the entire platform. Many included are revivals of efforts from Trump’s first term, like the Travel Ban, the border wall, and the use of Title 42, but these are expected to be jumping-off points for a second term. A theme for a second Trump administration would be not just reimplementing what has been undone under the Biden administration but going well beyond his first term's policies.

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The Supreme Court’s Diminution of the Administrative State

Consequential Cases. In three rulings this term, the Supreme Court (SCOTUS) weakened the authority of federal agencies.

- In Loper Bright Enterprises v. Raimondo, the Court overturned the Chevron doctrine, which had directed judges to defer to agencies’ reasonable interpretations of ambiguous laws. The decision spells trouble for future regulatory efforts and could open the door for already existing rules to be more at risk.
- In Corner Post Inc. v. Board of Governors of the Federal Reserve, the Court ruled in favor of broadening the time period during which federal regulations can be subject to legal challenges, which will make it easier for businesses to file suit seeking to overturn them. The Court ruled that the six-year window for litigation does not begin when a rule is finalized but when injury under the rule begins, which could be years later.
- In Securities and Exchange Commission (SEC) v. Jarkesy, the Court held that the SEC’s use of in-house administrative law judges (ALJs) for securities fraud enforcement is unconstitutional. This decision could put at risk other agencies’ use of ALJs for enforcement.

Implications of the SCOTUS Decisions. The Court’s diminishment of the administrative state creates headwinds for President Biden and future Democratic presidents.

- In the short term, the Court’s decisions expose ongoing rulemakings to legal challenges. Federal Trade Commission Chair Lina Khan and Consumer Financial Protection Bureau Director Rohit Chopra have taken particularly expansive views of their authority, and their aggressive regulatory agendas could be vulnerable.
- SCOTUS’ weakening of the administrative state will inhibit Democratic presidents, who generally focus on regulation, more than Republican ones, who generally focus on deregulation.
- The reversal of Chevron means that federal regulations will have to be based on detailed legislative instructions from Congress. This could create challenges for regulating issues that face gridlock on Capitol Hill or for emerging technologies not envisioned in preexisting laws, like AI.
- SCOTUS’ approach to the administrative state could also result in increased uncertainty for corporations with the fate of more regulations left to the courts, especially in instances where regulators are still willing to test the waters. Legal challenges of agency rules are likely to become more common, particularly due to Corner Post’s elimination of a statute of limitations for bringing cases against them.

What this Means for Lobbying. The reversal of Chevron reinforces the importance of engagement with Capitol Hill.

- The Loper Bright decision creates a world in which federal agencies are more reliant on direct delegation from Congress via more meticulous, thorough legislation. This shifts power to Capitol Hill, as regulators will have less leeway to interpret laws. As a result, it’s more crucial than ever to have a voice in the legislative process.

- The need for more detailed legislation could make a top-down, leadership-driven approach to legislating less feasible, increasing the power and autonomy of committees. Effective lobbying strategies will have to adapt.
- Instead of a two-part strategy whereby any issues not resolved in the legislative text can be addressed in the rulemaking process when the law is implemented, lobbyists will want to double down in engaging with lawmakers. It will be key to formalize a record clarifying the intent of Congress, which could include crafting precise report language, holding colloquies on the House or Senate floor, or providing expertise to inform lawmakers on complex issues. This not only builds a case to guide regulators' implementation of laws, but also to defend against legal challenges.

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First Look at FY25 Spending

Appropriations in July. Less than four months after Congress passed its FY24 funding bills into law, House lawmakers are back to work on the FY25 appropriations bills.

- House Appropriations Committee Chair Tom Cole (R-OK) jumped out the gate this year, releasing topline FY25 government funding levels just over a month after assuming his new committee chairmanship in April. Developed by the House GOP majority, the Appropriations Committee released a total FY25 topline of around $1.61 trillion, split into roughly $895 billion in defense spending and $710.7 billion in nondefense spending. The numbers fall well within the caps set under last year's Fiscal Responsibility Act (FRA) and would effectively cut about $67 billion in domestic spending from FY24 levels while increasing defense spending by $9 billion over FY24 levels.
- Having had to acquiesce to the Senate's preferred spending levels last year, House Speaker Mike Johnson (R-LA), Tom Cole (R-OK), and GOP leadership are eager to gain the upper hand in negotiations this year. Johnson and House Majority Leader Steve Scalise (R-LA) laid out an aggressive schedule to pass all twelve FY25 spending bills out of the House before the August recess in hopes that the House GOP can unify around the Appropriations' Committee's bills, giving the party greater leverage in future spending negotiations with the Senate.
- While Johnson's plan saw some early success, passing four appropriations bills out of the House in June and early July, the schedule has already been derailed. On Thursday of last week, 10 Republican lawmakers joined House Democrats to reject passage of the Legislative Branch appropriations bill. The failure of the bill on the floor, which took GOP leadership by surprise, does not bode well for the seven remaining appropriations bills, all of which contain controversial provisions that a number of moderate GOP lawmakers appear hesitant to back.

Negotiations Among Friends. Unlike their House counterparts, Senate Appropriations Committee leadership is taking a bipartisan approach to this year's government spending bills.

- In recent years, senators have worked more collaboratively than their House counterparts on spending bills, giving the upper chamber a stronger hand in final negotiations between the chambers. Unlike in the House, both GOP and Democratic senators have an interest in increasing spending levels to some degree. A number of GOP Senators, including members of the party's leadership team, want to significantly boost FY25 defense spending over the FRA caps while Democrats want parity between any increase to defense and nondefense spending.
- The Senate Appropriations Committee advanced an agreement on topline FY25 government funding levels last week that, similar to the House, comes in at $1.61 trillion with $895 billion for defense and $711 billion for nondefense. But unlike the House, Senators plan to include a $69.6 billion side deal struck during 2023 FRA negotiations in their topline FY25 numbers, boosting nondefense spending to about $780 billion. Appropriators also plan to include a $34.5 billion emergency spending package that would boost defense spending by $21 billion and non-defense by $13.5 billion.
- Senators are only now moving bills through the Appropriations Committee, leaving the process of advancing them on the Senate floor until after the August recess.

Hurry Up and Wait. While both chambers of Congress are moving quickly to advance their FY25 spending bills, an agreement on final spending levels will likely remain elusive until next year.

- For lawmakers eager to pass an FY25 spending agreement by the September 30th government funding deadline, the uncertainty surrounding the outcome of the November elections may well lead to disappointment. Congress often fails to agree on spending legislation in election years given both parties' hope that November will change the makeup of Congress, increasing their leverage in negotiations.
- Given this dynamic, the only certainty in an election year is often a continuing resolution extending the government funding deadline beyond Election Day. Whether lawmakers are then able to reach a deal before a new Congress takes over in 2025 will depend on the outcome of the elections.
- A sweep by either party will give them reason to wait until the new year for full control over negotiations. On the other hand, a divided government could inspire greater bipartisanship, but external factors such as leadership elections among House and Senate GOP lawmakers often further complicate bipartisan dealmaking.