

JUDGE BRETT KAVANAUGH ON OVERREGULATION

Top Line

- Judge Kavanaugh protects American businesses from illegal job-killing regulation.
- Judge Kavanaugh helped kill President Obama's most destructive new environmental rules.
- Judge Kavanaugh has led the effort to rein in unaccountable independent agencies.

Rejects Agency Overreach

- Judge Kavanaugh has overruled federal agency action 75 times.
- In *White Stallion Energy Center LLC v. EPA*, Judge Kavanaugh rejected EPA's efforts to impose massive emissions regulations without considering costs.
 - In a 5-4 decision authored by Justice Scalia, the Supreme Court agreed.
- In *Coalition for Responsible Regulation v. EPA*, Judge Kavanaugh argued in dissent from denial of rehearing en banc that the Obama EPA's burdensome greenhouse gas regulations for power plants exceeded its authority and that courts should "not lightly conclude that Congress intended" to "impose enormous costs on tens of thousands of American businesses, with corresponding effects on American jobs and workers."
 - In a decision authored by Justice Scalia, the Supreme Court agreed.
- In *EME Homer City Generation v. EPA*, Judge Kavanaugh held that the Obama EPA's cross-state air pollution rule was unlawful and imposed excessive regulatory burdens on the states.

Respects Corporate Entities' First Amendment Rights

- In *U.S. Telecom Ass'n v. FCC*, Judge Kavanaugh dissented from denial of rehearing en banc in a case upholding net neutrality. Judge Kavanaugh argued that the net neutrality rule exceeded the FCC's authority and violated the First Amendment, arguing that "the Government must keep its hands off the editorial decisions of Internet service providers."
- In *Emily's List v. FEC*, Judge Kavanaugh struck down FEC regulations that limited independent political spending by non-profit organizations, ruling that the regulations violated the First Amendment "right of citizens to band together and pool their resources . . . in order to express their views about policy issues and candidates."

Mandates Accountability for Independent Agencies

- In *PHH Corp. v. CFPB*, Judge Kavanaugh concluded that the structure of the CFPB—whose single director wields massive power but cannot be removed by the President except for cause—impermissibly invades the President's power to supervise the Executive Branch. He noted that independent agencies "pose a significant threat to individual liberty and to the constitutional system of separation of powers."
- In *Free Enterprise Fund v. PCAOB*, Judge Kavanaugh concluded that provisions of the Sarbanes-Oxley Act insulating the PCAOB from presidential control by making its members removable for cause only by the SEC violated the Constitution.
 - In a 5-4 opinion written by Chief Justice Roberts, the Supreme Court agreed.