

Respecting the Scope of DC's Home Rule Act as Applied to Consumer Protection by Professor Donald J. Kochan

Climate change, the role of the courts, free speech, and now the scope of DC's Home Rule Act as applied to consumer protection are all on stage this summer at the District of Columbia Superior Court. In an important turn in a critical case, the court has a chance to ensure that the DC Council's legislation is not improperly interpreted as having extraterritorial effect.

The case is the *District of Columbia v. ExxonMobil et al.*, No. 2020 CA 002892 B, and it alleges that energy producers violated the D.C. Consumer Protection Procedures Act ("CPPA"), D.C. Code §§ 28-3901 *et seq.* As it relates to Chevron, for example, the allegations principally focus on climate-related statements posted on Chevron's website. The lawsuit does not acknowledge that their complaint's limitation must focus only on statements that have a connection to D.C. consumers.

In the latest turn on June 5, 2026, Chervon, one of several defendants in the case, filed a motion for partial summary judgment under § 1-206.02(a)(3) of DC's Home Rule Act. The motion rightly highlights the DC Council's uniquely limited legislative power. Unlike the 50 state legislatures, the DC Council is created by a delegation of authority from Congress in the Home Rule Act and limited by the conditions underlying that delegation.

No matter how broad any one piece of DC Council legislation is written or how sweeping its proponents claim it to be, it cannot extend any further than Congress allows in the Home Rule Act. Consequently, any act of the DC Council must be interpreted by the courts as consistent with the terms of Congress's delegation.

Section 102 of the Home Rule Act expressly provides that any law enacted by the DC Council come with "built-in" limits. Each DC law, no matter what it purports to do or how the DC Council would like to interpret it, must have limited geographical reach. The Home Rule Act's Section 1-206.02(a)(3) expressly states that "The Council shall have no authority . . . to . . . [e]nact any act . . . which is not restricted in its application exclusively in or to the District." This includes consumer protection laws like the CPPA, meaning the interpretation of the CPPA's terms must respect this limit.

State legislatures do have a related restriction – they are prohibited by the general constitutional structure and the Dormant Commerce Clause from regulating activity outside their borders or in ways that create significant extraterritorial effects. Indeed, Section 102 of the Home Rule Act must be interpreted robustly lest we risk DC indeed having more power than states to reach into the activities

of other states. But the limitation on DC in Section 102 is even more restrictive than the general constitutional limits on states because it is expressly stated in the congressional delegation. Unlike states who have broad residual power getting everything not claimed by the federal government, the DC Council has very narrow quasi-legislative power and can only exercise what it is given by the federal government. And, Section 1-206's limit operates to contain DC Council statutes to align with the Home Rule Act Section 1-203.2's general scope provisions granting the DC Council legislative authority only over "subjects of legislation within the District."

This all becomes relevant for the *ExxonMobil* case because there, DC as the plaintiff, has taken the position that the defendants should be liable for allegedly deceptive statements accessible on the internet, broadly defined. Thus, every statement made by the defendants – no matter where originated, written, spoken, or published—is claimed to be covered and hence regulated by the CPPA, which should by law only focus on activity within DC.

Such an interpretation of the CPPA not only transforms it into something outside the Home Rule Act delegation of legislation authority as defined by Section 206, it also would have absurd results because it would make the District's (and every state's) regulatory jurisdictional authority boundless, something clearly not contemplated by our constitutional design. Every state and the District could reach into regulating activity in every state. By granting the pending partial summary judgment motion, the DC Superior Court has a chance to enforce the boundaries set by Congress and the Constitution—otherwise, DC authorities will have very clearly abused its own laws to carry out this meritless climate lawsuit.