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## **NCLA Amicus Brief Asks Supreme Court to Keep Unlawful Corporate Transparency Act Enjoined**

*Merrick Garland, Attorney General of the United States, et al. v. Texas Top Cop Shop, Inc., et al.*

**Washington, DC (January 13, 2025)** – Today, the New Civil Liberties Alliance filed an *amicus curiae* [brief](#) in *Garland v. Texas Top Cop Shop*, urging the U.S. Supreme Court to reject the government’s request to stay a preliminary injunction against enforcement of the unconstitutional Corporate Transparency Act (CTA). The government cannot be allowed to maintain the CTA, which stretches beyond Congress’s and the Administrative State’s authority to regulate Americans.

The CTA mandates that organizations that have filed for incorporation under state law submit detailed reports which include sensitive information to the Department of the Treasury. Americans would be civilly or criminally punished if they fail to comply, whether by omitting information or even accidentally submitting false information. These invasive requirements would apply to over 30 million nonprofit and for-profit organizations nationwide, and they apply prior to any commercial transactions or other type of economic activity.

The government claims the Constitution’s Commerce Clause authorizes the CTA. But Commerce Clause regulations must target economic activity, which the CTA does not regulate. The only thing that triggers disclosure under the CTA is coming into existence by filing incorporation paperwork with a state government, which is not economic activity because it does not involve producing, consuming, or exchanging any good or service. The government argues that most organizations that incorporate will engage in future economic activity. But the Supreme Court held in the Obamacare case (*NFIB v. Sebelius*) that the government cannot justify regulation under the Commerce Clause based on anticipated future economic activity.

The government’s alternative request to narrow the scope of the nationwide preliminary injunction to just the corporate entities that sued in the *Texas Top Cop Shop* case is likewise flawed. The Administrative Procedure Act expressly authorizes the court to “postpone” the Treasury Department’s rule enforcing the CTA, which necessarily extends to the whole country, not just the litigants.

### **NCLA released the following statement:**

“It is true that most corporations will engage in commerce after coming into existence. But so will most everyone alive. If the mere propensity for commerce can be the basis for regulation under the Commerce Clause, then that power would be boundless, and any notion of limited government would cease.”

— **Sheng Li, Litigation Counsel, NCLA**

**For more information visit the *amicus* page [here](#).**

### **ABOUT NCLA**

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and

other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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