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President Trump Removes Democratic FTC Commissioners, Adding to Uncertainty in Antitrust Enforcement Landscape

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March 24, 2025 – On March 18, President Donald Trump removed both of the Democratic commissioners of the Federal Trade Commission. The commissioners, Alvaro Bedoya and Rebecca Kelly Slaughter, have both called their removals “illegal.” The FTC Act empowers the president to remove a commissioner for “inefficiency, neglect of duty or malfeasance in office.” However, it appears that Trump’s decision to remove Bedoya and Slaughter was based not on one of the statutory grounds but rather on a broader claim that the president has the authority to terminate agency personnel and that the Supreme Court should overturn its 1935 decision in *Humphrey’s Executor v. United States*, which held that the president lacks the authority to remove FTC commissioners absent good cause. Both Bedoya and Slaughter have indicated that they intend to challenge their terminations in court. The removals and expected legal challenges are likely to create greater uncertainty and unpredictability with respect to the FTC’s approach to antitrust enforcement.

The terminations leave the two current Republican commissioners — Chair Andrew Ferguson and Commissioner Melissa Holyoak — as the only members of what is statutorily prescribed to be a five-member panel. Senate confirmation of Mark Meador, an additional Republican commissioner nominated by Trump in December, is pending before the full Senate, having recently cleared the Senate Judiciary Committee. It is unclear whether Trump intends to nominate new commissioners to replace Bedoya and Slaughter. The FTC Act provides that the FTC “shall be composed of five commissioners” and that “no more than three of the commissioners shall be members of the same political party.” But because there is no statutory deadline for filling vacancies at the commission, Trump may be able to delay nominations indefinitely. In fact, the FTC has operated for significant periods with a limited or one-party set of commissioners under prior administrations.

The practical implications of the terminations remain to be seen but are likely to fall into two categories. First, it is likely that the FTC’s enforcement actions will align more closely with Trump’s priorities and preferences. For example, Bedoya and Slaughter have expressed concern that their removals might have been motivated in part by the administration’s desire to encourage the FTC to drop enforcement actions against Big Tech companies such as Meta, Google and X. If

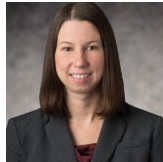
Humphrey's Executor is overturned and the president can remove FTC commissioners without cause, the White House would have the ability to exert significant pressure on the FTC regarding the outcome of certain enforcement actions, including the antitrust clearance process for mergers and acquisitions. In the absence of minority party commissioners and the dissenting opinions they would typically produce, there is likely to be less transparency around whether that type of pressure or other external factors are impacting the FTC's decisions. Trump has already issued an executive order requiring agencies such as the FTC to obtain White House approval of agency policies and to "submit for review all proposed and final significant regulatory actions."

Second, and relatedly, the terminations are likely to add to the uncertainty companies will face in navigating the current antitrust enforcement landscape. As noted above, it is unclear whether Trump will attempt to replace Bedoya and Slaughter, whether he will comply with the statutory requirement that no more than three of the commissioners be Republicans, and whether Bedoya and Slaughter's legal challenges will succeed. Until Meador is confirmed, any 2-0 decisions issued by the FTC could be subject to legal challenges asserting that two commissioners do not constitute a quorum and/or that Bedoya and Slaughter should have been permitted to vote because their terminations were unlawful. Moreover, while a Republican-only commission would generally be expected to take a more business-friendly and less aggressive approach to antitrust enforcement, the potential for political pressure from the White House might complicate that expectation in certain cases. Overall, these factors create a less predictable environment for companies that are contemplating a potential transaction or facing an antitrust enforcement action.

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