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BLOG

Confirmation of Alvaro Bedoya, Privacy Expert, and Big Tech Critic, Creates New Democratic Majority at the FTC

MAY 13, 2022

On May 11, 2022, the Senate confirmed Alvaro Bedoya by a party-line vote as a commissioner on the Federal Trade Commission, giving the FTC a full complement of five commissioners for the first time in seven months. Commissioner Bedoya is expected to help push the Biden administration's continued focus on aggressive antitrust and consumer protection enforcement.

Commissioner Bedoya is regarded as a privacy expert, with his work focusing on the intersection of technology and privacy. Before joining the FTC, he served as a Visiting Professor of Law at Georgetown Law, where he was the Founding Director of the Center on Privacy & Technology. Commissioner Bedoya is a noted critic of Big Tech, and it is expected that he will become a resource in Chair Lina Khan's goal to revamp the FTC's approach to both privacy and antitrust enforcement. (See our prior Competition Corner posts about Chair Khan's priorities and the FTC's recent efforts to ramp up tech investigations.)

With the fifth commissioner confirmed, the FTC is back to full strength after seven months with a vacancy. The commissioners were split along party lines during that period, with two Democrats and two Republicans. The FTC managed to adopt a prior approval policy for certain mergers only through the controversial use of Rohit Chopra's so-called zombie vote after he had left the FTC to head the Consumer Financial Protection Bureau.[1] The political division slowed Chair Khan's agenda to transform the FTC's approach in areas key to antitrust practitioners and antitrust enforcement. Cementing a majority will facilitate the Biden appointees' efforts to revise the merger guidelines the FTC and the DOJ use to analyze whether potential mergers are anticompetitive[2] and take steps against tech giants. The addition of Commissioner Bedoya also will likely help expedite FTC efforts to police privacy more aggressively, including potentially initiating rulemaking to address privacy and data security practices.

The confirmation of Commissioner Bedoya likely will more strongly place Big Tech and privacy in the FTC's spotlight.

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[1] *See* Fed. Trade Comm'n, *Dissenting Statement of Commissioners Christine S. Wilson and Noah Joshua Phillips Regarding the Statement of the Commission on Use of Prior Approval Provision in Merger Orders* (Oct. 29, 2021), https://www.ftc.gov/system/files/documents/public_statements/1598095/wilson_phillips_prior_approval_dissenting_statement_102921.pdf.

[2] *See* Agin, et al., *FTC Unilaterally Withdraws 2020 Vertical Merger Guidelines*, Winston & Strawn: Competition Corner, https://www.winston.com/en/competition-corner/ftc-unilaterally-withdraws-2020-vertical-merger-guidelines.html; Agin, et al., *DOJ and FTC Joint Announcement Signals Sweeping Changes to Merger Guidelines*, Winston & Strawn: Competition Corner,

https://www.winston.com/en/competition-corner/doj-and-ftc-joint-announcement-signals-sweeping-changes-to-merger-guidelines.html.

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