

Lina Khan Confirmed as FTC Commissioner and Appointed as Chair

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The Federal Trade Commission has a full complement of commissioners and a new Chair. Hours after Lina Khan was confirmed by the Senate as the newest member of the FTC, President Biden appointed her the permanent Chair taking over for Acting Chair Rebecca Slaughter, who will remain on the Commission.

For now, the Commission has all five commissioners and no longer has a 2-2 partisan divide. Commissioner Rohit Chopra has been nominated to be the new Director of the Consumer Financial Protection Bureau and his departure from the FTC may be imminent. If Chopra is confirmed, the FTC will once again be deadlocked 2-2 between the Democrats and the Republicans until Biden fills the vacancy.

Viewed by many as a progressive, anti-monopoly advocate and a vocal critic of Big Tech, Khan will have a far greater ability to steer the direction of the FTC as Chair than she would have had as a commissioner. Khan's appointment will likely lead to a significant shift in the FTC's enforcement priorities and could be the beginning of major, structural changes to antitrust law in general. Khan is expected to be an advocate of aggressive antitrust enforcement and Biden's decision to put her in charge of the FTC's agenda is a clear sign that he supports an increase in antitrust enforcement.

With the FTC Chair now in place, the attention will now turn to the Antitrust Division of the Department of Justice because there is still no nominee for Assistant Attorney General and the Division continues to be run by Acting AAG Rich Powers. While there has been rampant speculation about who President Biden may appoint, there has been not clear favorite, and the various potential nominees have been criticized for being conflicted either because of their representation of clients from Silicon Valley or because of their active litigation against Big Tech.

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