

# President Trump Fires Two Democratic FTC Commissioners

March 20, 2025

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## Key Takeaways

- **Potential Legal Battle Over Presidential Authority.** President Trump's firing of the two Democratic FTC commissioners challenges old and new U.S. Supreme Court precedent interpreting the FTC Act's terms, which allows the president to remove FTC commissioners only for "insufficiency, neglect of duty or malfeasance in office." Advocates of the so-called "unitary executive" theory have reportedly been seeking grounds to challenge the limit on presidential power presented by *Humphrey's Executor* and *Seila Law*, hoping the currently constituted Supreme Court might overrule this longstanding precedent.
- **Impact on FTC's Composition and Competition Enforcement Direction.** With the removal of the two Democratic commissioners and the anticipated confirmation of Republican nominee Mark Meador, the FTC will have a 3-0 Republican majority. This will give these Republican appointees complete control over approving future enforcement actions and also empower them to abandon existing FTC actions that they may not support, such as defending the FTC's noncompete rule.
- **Consumer Protection Focus.** Despite the Commission's composition changes, the FTC's consumer protection mission is expected to remain largely unchanged under Chairman Ferguson. The agency will likely focus on enforcing existing laws rather than pursuing new rulemaking efforts, particularly in privacy, data security and technology. Children's privacy will continue to be a priority.

On March 18, President Donald Trump fired the Democratic commissioners, Rebecca Slaughter and Alvaro Bedoya, from the Federal Trade Commission (FTC). This leaves two Republicans, Chairman Andrew Ferguson and Melissa Holyoak, and a Republican nominee, Mark Meador. However, the dismissal of two Democratic commissioners runs contrary to decades of precedent at the FTC and apparently tees up a battle over presidential control over so-called "independent" federal agencies that seems headed to the U.S. Supreme Court.

The FTC is an executive agency, but it is called "independent" because it is not under the oversight of a cabinet secretary. Since its inception in 1915, it has operated independently with five commissioners — by statute, no more than three from one party (i.e., the president's party) and two from the other party. According to the FTC Act, the president may nominate the commissioners, who are then subject to Senate approval. The commissioners serve staggered terms, so they are not hired or fired simultaneously and often work across administrations. Traditionally, however, upon a change of administration, the current chair resigns to enable the president to appoint a new commissioner, giving the president's party a majority on the Commission.

The independent agency rubric, under which the FTC has operated for many decades, has more recently come under fire for its purported insulation from presidential oversight. In other words, if the rubric is constitutional, the president may not fire commissioners absent "cause." The president can choose to appoint other agency heads purely from their own party, but for FTC commissioners, he must maintain a split-party Commission, which functions independently.

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## White House to Approve Regulations from Independent Agencies

In February, President Trump issued an [Executive Order](#) to “rein in” independent agencies. The Order states that Article II of the US Constitution vests all executive power in the president, meaning that all executive branch officials and employees are subject to his supervision. Accordingly, all agencies must: (1) submit draft regulations for White House review – with no carve-out for so-called “independent agencies,” except for the monetary policy functions of the Federal Reserve; and (2) consult with the White House on their priorities and strategic plans, and the White House will set their performance standards. The Office of Management and Budget (OMB) is tasked with budget oversight, and the president and attorney general (subject to the president’s supervision and control) will provide authoritative interpretations of law for the executive branch.

## Humphrey’s Executor Precedent and Presidential Oversight

The president’s attempt to fire the two Democratic commissioners appears to contravene the language of the FTC Act itself as well as old and new Supreme Court precedent interpreting its terms. The FTC Act limits the president’s ability to fire an FTC commissioner to “insufficiency, neglect of duty or malfeasance in office.” In [Humphrey’s Executor v. United States, 292 U.S. 602 \(1935\)](#), the Supreme Court addressed a challenge to President Franklin D. Roosevelt’s firing of FTC Commissioner William Humphrey for political reasons. The Court distinguished between the president’s authority over ordinary executive officers and what it called “quasi-legislative” or “quasi-judicial” officers. The Court held that FTC commissioners fell into that class of officers and could be removed only with procedures consistent with statutory conditions enacted by Congress.

In 2020, in [Seila Law, LLC v. Consumer Financial Protection Bureau](#), the Supreme Court affirmed that this is one of the only remaining narrow restrictions on a president’s authority to remove officers. *Humphrey’s Executor*, it explained, allowed “Congress to give for-cause removal protections to a multimember body of experts, balanced along partisan lines, that performed legislative and judicial functions and was said not to exercise any executive power,” essentially limiting it to the facts of that case. 591 U.S. 197, 216 (2020).

Advocates of the so-called “unitary executive” theory have reportedly been seeking a basis to challenge the limit on presidential power embodied in [Humphrey’s Executor](#) and, more recently, *Seila Law*, hoping that the currently constituted Supreme Court might overrule this longstanding precedent. Indeed, *Humphrey’s Executor* only narrowly survived the Court’s 5–4 decision in *Seila Law* in 2020. Another case already in progress involves the president’s firing of [National Labor Relations Board \(NLRB\) members](#), which is currently before the DC Circuit and seems to have a head start on the objective of putting *Humphrey’s Executor* before the Supreme Court again. A new Supreme Court ruling on this issue could have profound implications for all independent agencies – not just the FTC.

## What Does this Mean for the FTC?

In the near term, the firings seem to portend the following at the FTC:

Commissioners Slaughter and Bedoya have publicly stated that they will challenge their firings in court and that, for now, they [consider themselves](#) still part of the FTC. While their immediate status is unclear, it does not seem likely that they would be able to continue in their positions without court intervention. Chairman Ferguson [supported](#) President Trump’s authority to remove them and had already referred to Slaughter and Bedoya as “former commissioners.”

Practically speaking, the firings could impact the FTC’s decisions in certain competition enforcement actions. Assuming nominee Mark Meador is confirmed and joins the Commission in the near future, the FTC will have a 3–0 Republican majority. This will give these Republican appointees complete control over approving future enforcement actions. The change may also empower the new Republican majority to abandon existing FTC actions they may not support, such as defending the FTC’s noncompete rule, currently on appeal before the Fifth Circuit and the Eleventh Circuit.

We see little change to the agency’s consumer protection mission and priorities, as articulated by Chairman Ferguson. We anticipate the agency will shift its focus to enforcing existing laws rather than pursuing rulemaking efforts related to privacy, data security and technology. However, the advocacy of the former Democratic commissioners to regulate data brokers, biometric technology and artificial intelligence (AI) may take a different shape now. Ferguson will likely focus on enforcing existing laws against AI without hindering innovation in this area. Interestingly, Ferguson has also been more aggressive, proposing to inquire into tech platforms’ alleged “[censorship](#).” Children’s privacy continues to be a priority, and Commissioner Ferguson [has already indicated](#) that the FTC may make more changes to the recently amended [Children’s Online Privacy Protection Rule](#).

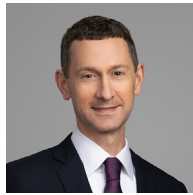
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