

Client Alert

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Terrell McSweeney Confirmed as a Commissioner of the FTC

Yesterday, the Senate confirmed Democrat Terrell McSweeney to fill the fifth slot on the Federal Trade Commission, ending the Commission's 2-2 split between Republicans and Democrats.

Since 2012, McSweeney has served in the political leadership of the Antitrust Division of the Department of Justice, including most recently as Chief Counsel for Competition Policy and Intergovernmental Relations. Prior to joining the Antitrust Division, McSweeney was a domestic policy advisor to Vice President Joe Biden. She also has held a number of positions in the US Senate staff.

While it remains to be seen where Commissioner McSweeney will focus her attention, her public statements and prior experience offer some clues. At the Antitrust Division, McSweeney was involved in matters in the health care, intellectual property, telecommunications, and high-tech sectors and can be expected to continue focus on those industries at the FTC. In particular, she likely will look closely at consolidation in the health care industry, bringing her own perspective based on her time at DOJ and at the White House. During her confirmation hearing, McSweeney also noted her interest in privacy issues and indicated that she would be particularly focused on protecting seniors, veterans, children, and the financially distressed from scams and deception.

McSweeney also brings to the Commission significant political experience and deep ties throughout federal government. This background will make her well-suited to navigate issues involving multiple government agencies and constituencies, such as financial issues in which the FTC intersects with the Consumer Financial Protection Bureau and telecommunications issues involving the Federal Communications Commission.

Finally, while sitting commissioners have spoken publicly of their collegial approach, McSweeney's arrival reduces the chance of FTC deadlocks such as recently occurred in parts of the FTC's decision in its administrative case against McWane, Inc.

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