

Trump To Nominate Competition-Focused Simons for FTC Chair, CP-Focused Chopra for Commissioner; Reports of Phillips for Additional Seat

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After months of speculation among the consumer protection and antitrust bars, [Trump announced today](#) his intention to nominate former Director of the Bureau of Competition and current Paul Weiss partner Joseph Simons as Chairman of the Federal Trade Commission. Trump also announced his plan to nominate Rohit Chopra, currently a senior fellow at the Consumer Federation of America and previously Assistant Director at the Consumer Financial Protection Bureau (CFPB), to one of two vacant commissioner seats. [News outlets](#) also are reporting that Trump will soon nominate Noah Phillips, chief counsel for Senator John Cornyn (R.-Tex.), to an additional commissioner seat.

Assuming Simons is confirmed and appointed as Chair, Acting Chairman Maureen Ohlhausen would return to her position as Commissioner. Her term is set to expire in September 2018. Commissioner Terrell McSweeney also continues to serve on the Commission, although her term expired in September, and as reported by MLex.com, Simons' confirmation would place him in the slot she currently occupies. More information on each of the three nominations follows.

Joseph Simons. Currently a partner and co-chair of the Antitrust Group at Paul, Weiss, Rifkind, Wharton & Garrison LLP, Simons has worked in private practice for the majority of his career and is likely to be welcomed by industry as a reasoned and qualified choice. He also has experience in public service, having served at the FTC as Director of the Bureau of Competition from June 2001 to August 2003. He also served as the Associate Director for Mergers and the Assistant Director for Evaluation at the FTC in the late 1980s. Simons has worked on a number of high profile antitrust cases, including representing MasterCard Inc. in antitrust class actions over merchant fees, and representing a consortium including Microsoft, Ericsson, RIM and Sony in its \$4.5 billion acquisition of the patent portfolio of Nortel Networks.

As a long-time antitrust practitioner with experience in private and public practice, Simons is likely to bring a thorough and deliberative approach to the Commission. While Simons is unlikely to support enforcement that is not justified by a rigorous economic analysis of costs and benefits, he's also unlikely to shy away from challenging deals and conduct that fail the economic test. In short, economic effects and rule of reason will guide policy. Simons notably has significant high tech and intellectual property experience, as well as merger experience, where economics predominates

decision making.

On the consumer protection side, Simons' experience will likely reinforce the policies announced by Acting Chairman Ohlhausen to put economic injury at the center of case selection. The emphasis on fraud will likely continue, while actions and remedies that would regulate ordinary business practices will face the test of economic analysis. If he's confirmed as expected, Simons would serve a seven-year term that began on September 26, 2017.

Rohit Chopra. While Simons' experience comes primarily from the competition side, Chopra has concentrated on consumer protection issues. Chopra is currently a senior fellow at the Consumer Federation of America where he focuses on consumer finance issues, particularly with regard to their impact on younger Americans. Chopra was previously the Assistant Director of the CFPB where he led enforcement actions against student loan borrowers and helped establish a new student loan complaint system at the agency. Chopra's background and experience with consumer finance give him an expertise rare among commissioners and could translate into significant influence on hot topics such as credit reporting, debt collection, and big data. He also may engage in advertising and privacy initiatives affecting children and younger Americans, given his prior interest in this area.

Chopra's approach to competition could be influenced by longtime ally, Senator Elizabeth Warren (D.-Mass.), who has distinguished herself as a proponent of aggressive enforcement and new legislation. Unlike most prior FTC commissioners, Chopra is not an attorney. His background is in business and includes an MBA from the Wharton School at the University of Pennsylvania. Trump indicated that Chopra would be appointed to the remainder of a seven-year term that would expire on September 25, 2019.

Noah Phillips. While yet to be announced by the Trump Administration, [media outlets](#) are reporting that Phillips will be named to fill another vacancy at the Commission. Phillips is presently Chief Counsel to Senator Cornyn. Phillips previously worked as an associate at Cravath, Swaine & Moore LLP and Steptoe & Johnson LLP, before leaving the private sector to serve as counsel to Cornyn.

Phillips would come to the Commission with significant law firm experience, as well as an understanding of the Hill. Among others, Cornyn serves on the Senate Committee on Finance, which includes subcommittees on international trade and energy. We would expect, therefore, to see Phillips take an active interest in international issues, as well as competition in the energy sector.

We will continue to monitor the appointment and confirmation process and post updates here.