

Scott Delacourt Discusses Possible FTC Enforcement Approach Under New Leadership

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Scott D. Delacourt, chair of Wiley Rein's FTC Practice Group, was quoted in a February 5 *Law360* article regarding President Trump's new slate of FTC nominees. While the FTC still has a mandate to protect consumers, according to *Law360*, the proposed new leadership might signal a change in the way the Commission pursues consumer protection cases.

The nominees' backgrounds may suggest an emphasis on antitrust cases and a more relaxed approach to consumer protection, according to the article. But Mr. Delacourt said that doesn't mean consumer protection matters will be left unattended.

He said the FTC will look at the intersection of consumer protection and the Internet using the standards the agency applies in other areas, namely analyzing whether conduct is unfair or deceptive. Mr. Delacourt noted that some Internet service providers (ISPs) have already made commitments to open Internet principles, and said the FTC could also enforce transparency disclosures required under the Federal Communications Commission's (FCC) new Restoring Internet Freedom Order.

Mr. Delacourt said companies should review Section 5 of the Federal Trade Commission Act, which outlines the FTC's standard for prosecuting "unfair or deceptive acts or practices."

"It gives guidance on the types of deception and unfairness that the FTC proscribes, regardless of the industry in question," he said. "So that would offer some guidance to ISPs."

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Practice Areas

FTC Regulation