



Office of Commissioner
Noah Joshua Phillips

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Dissenting Statement of Commissioner Noah Joshua Phillips

Regarding the Annual Regulatory Plan and Semi-Annual Regulatory Agenda

December 10, 2021

The Annual Regulatory Plan and Semi-Annual Regulatory Agenda (together, “the Regulatory Plan”) published today by the Commission relies on unsupported assumptions and baleful rhetoric to support imposing substantial and counterproductive regulatory burdens across the economy. Its anti-growth scheme involves regulation after regulation that exceed our legal authority and would recast the FTC as a mini-Congress, without any of the accountability that comes with it.¹ At the Commission’s July 1st open meeting, I expressed concerns about this;² and here we are. This will not end well: not for the competition and consumers we are charged to protect, not for the businesses within our jurisdiction, and not for the FTC. I dissent.

¹ See, e.g., Remarks of Commissioner Noah Joshua Phillips Regarding the Commission’s Withdrawal of the Section 5 Policy Statement (July 1, 2021), https://www.ftc.gov/system/files/documents/public_statements/1591578/phillips_remarks_regarding_withdrawal_of_section_5_policy_statement.pdf; Prepared Remarks of Commissioner Noah Joshua Phillips Non-Compete Clauses in the Workplace: Examining Antitrust and Consumer Protection Issues (Jan. 9, 2020), https://www.ftc.gov/system/files/documents/public_statements/1561697/phillips_-_remarks_at_ftc_nca_workshop_1-9-20.pdf; Statement of Commissioner Noah Joshua Phillips Regarding the Report to Congress on Privacy and Security (Oct. 1, 2021), https://www.ftc.gov/system/files/documents/public_statements/1597020/commissioner_phillips_dissent_to_privacy_report_to_congress_updates_final_93021_for_posting.pdf; Sen Roger Wicker, Rep. Cathy McMorris Rodgers, & Noah Phillips, *FTC must leave privacy legislating to Congress*, Washington Examiner (Sep. 29, 2021), <https://www.washingtonexaminer.com/opinion/op-eds/ftc-must-leave-privacy-legislating-to-congress>; Prepared Oral Statement of Commissioners Noah Joshua Phillips Before the House Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce, Hearing on “Transforming the FTC: Legislation to Modernize Consumer Protection,” (July 28, 2021), https://www.ftc.gov/system/files/documents/public_statements/1592981/prepared_statement_0728_house_ec_hearing_72821_posting.pdf.

² Transcript of July 1, 2021 FTC Open Meeting, at 10-11, https://www.ftc.gov/system/files/documents/public_events/7591478/transcript_open_commission_meeting_7-1-21.pdf. In her statement, Commissioner Wilson ably points out many of the flaws with the Regulatory Plan and the assumptions upon which it is based. Dissenting Statement of Commissioner Christine S. Wilson Annual Regulatory Plan and Semi-Annual Regulatory Agenda (Dec. 10, 2021).