

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of

Meta Platforms, Inc.,
 a corporation,

Mark Zuckerberg,
 a natural person,

and

Within Unlimited, Inc.,
 a corporation.

DOCKET NO. 9411

ORDER DENYING MOTION TO STAY

On August 26, 2022, Respondent Meta Platforms, Inc. (“Meta”) filed a motion to stay this administrative proceeding until after a ruling in the United States District Court for the Northern District of California in *FTC v. Meta Platforms, Inc.*, No. 5:22-cv-04325-EJD, on the Commission’s complaint seeking to preliminarily enjoin Meta from consummating its proposed acquisition of Within Unlimited, Inc. *See* Respondent’s Motion to Stay This Administrative Proceeding (“Motion to Stay”). Complaint Counsel opposed the Motion to Stay.

Meta’s Motion to Stay argued that there was good cause to stay the administrative proceeding because “the district court’s ruling on the preliminary injunction will likely obviate the need for the proceeding here” and further that a stay would “avoid any ongoing due process violations” based on Chair Khan’s alleged bias and prejudgment of the case. Motion to Stay at 3-4. The latter argument overlapped with Meta’s prejudgment allegations in its pending Petition for Recusal (July 25, 2022), and the Commission determined that the Motion to Stay should not be decided until the Commission has decided the Petition for Recusal. Order Extending Deadline to Rule on Respondent’s Motion to Stay (Oct. 21, 2022). Since the Petition for Recusal was and still is pending, the Commission extended the deadline to rule on the Motion to Stay, with the current deadline set for January 17, 2023.¹

¹ The initial deadline for the Commission to issue its decision on the Motion to Stay was October 21, 2022. On October 21, 2022, the Commission extended the deadline to decide the Motion to Stay until November 30, 2022.

In December of 2022, the federal district court held an evidentiary hearing on the Commission's preliminary injunction request and, according to the parties, indicated that a decision would be forthcoming by January 31, 2023. Accordingly, on December 27, 2022, Complaint Counsel and all Respondents jointly moved to continue the commencement of the administrative hearing in this proceeding from January 19, 2023 to February 13, 2023. *See* Joint Expedited Motion to Continue the Evidentiary Hearing Until February 13, 2023 ("Joint Motion"). The parties argued that continuing the hearing date would save party, third-party, and administrative resources if the district court's decision obviated the need for the administrative proceeding, without unduly delaying resolution of the matter if it did not. Joint Motion at 4. Respondents also stated that, to avoid potentially duplicative motions practice, if the Joint Motion were granted, they would withdraw the pending Motion to Stay. Joint Motion at 3 n.1. On the basis of these arguments, the Commission granted the Joint Motion and extended the hearing date to February 13, 2023, approximately two weeks after a decision is expected on the FTC's request for a preliminary injunction. Because Respondents have represented that they would withdraw the Motion to Stay if the Joint Motion were granted and the Commission has now granted the Joint Motion, the Motion to Stay is moot. Accordingly,

IT IS HEREBY ORDERED THAT Respondent's Motion to Stay This Administrative Proceeding is **DENIED**.

By the Commission, Commissioner Wilson dissenting, Chair Khan not participating.

April J. Tabor
Secretary

SEAL:
ISSUED: January 17, 2023

On November 30, 2022, the Commission extended the deadline to December 21, 2022, and on December 21, 2022, the Commission extended the deadline again to January 17, 2023.