

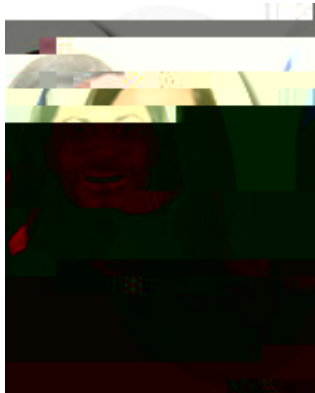
FEDERAL CIVIL ENFORCEMENT COMMITTEE NEWSLETTER

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Interview of FTC Commissioner Julie Brill



Julie Brill was sworn in as a Commissioner at the FTC on April 5, 2010, to a term that expires on September 25, 2015. She holds her law degree from NYU and

parties are usually quite supportive of those issues.

Howard Morse: One last overall question on the Commission before we jump into the substance. In terms of how things are organized and specific responsibilities, given your background with the states, and knowing how much comes before the Commission that ends up on every Commissioner's plate, are there official or unofficial divisions of responsibilities in which you would be taking the lead?

Commissioner Brill: Yes, there are a few areas of official division of responsibilities. I am going to be known as the compulsory process Commissioner. I'll be following in Commissioner Harbour's footsteps in this role. I will act, in the first instance, on petitions to the Commission to limit or quash subpoenas or CIDs. Then the full Commission may act on these petitions if the party decides to appeal. Commissioner Rosch also has a special role: he is the Motions Commissioner for Part 3 motions. I don't know that Commissioner Ramirez or Commissioner Kovacic have a particular role assigned to them at this point in time.

What I think is much more interesting and substantive are our unofficial roles. Of course, we all act on all the issues that come before the Commission. I've only been Commissioner for five months, so I don't know exactly how all of us will work on various issues over time, but I sense that each of us will focus on the issues that are of particular interest to us. I will probably be paying very close attention to issues that relate to financial practices, privacy, healthcare, and innovation, all of the areas that I mentioned a few moments ago. It is likely the case that I will be playing a key role in relations with the states. I should point out that all the Commissioners as well as the FTC as a whole have historically had excellent relations with the states. My presence might add a little extra in that area, but I don't think the FTC needed a lot of assistance in this area,

because its relations with the states have been quite good.

Howard Morse: Can you elaborate on your role with the states?

Commissioner Brill: I have reached out to State AGs with respect to particular cases where we are working with them or contemplating working with them, and some state Attorneys General have reached out to me to discuss areas of mutual concern.

Financial Fraud

Howard Morse: Let me turn it over to Hill as we move on, 18 Tw T361.213 TD [(Commissjump ov3ys G)-5(au)s Gov3 ar9 TD [(Fina)-4years5(some)]youhink6(se)-4(d)d(t)aco n co Tw 271[(we mo)-le1rnout d6ff chne sttly-0(se s

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of the recession. Subprime mortgage loans, how they were marketed and sold to consumers, how they were then sold on the secondary market, lack of sufficient underwriting, lack of disclosures about fees and increases in interest rates, and lack of disclosures about other aspects of loans – these are all issues that contributed to the financial meltdown.

Unfortunately, the FTC was not able to pursue banks with respect to their activity in the subprime market and how those loans were being packaged for the secondary market. The FTC could and did pursue non-bank lenders and mortgage brokers. The states also have jurisdiction over the non-bank lenders and mortgage brokers and pursued them for the same activity. But it's hard to deal with a problem as large and complex as the one that we recently faced when you're really only dealing with a portion of the market.

Similarly, with respect to the secondary market, huge questions arose as to what was happening with the mortgage-backed securities and collateralized debt obligations: how they were being sold, and whether the entities that were buying, selling and trading them even understood the risk that they were taking on. This was a huge part of the problem. Again, unfortunately, the FTC has no jurisdiction whatsoever over those issues.

Could the FTC have done more? Absolutely, no question. Could the states have done more? Absolutely, no question. Could other regulators -- the OCC, the FDIC, and others -- have done more? Absolutely. Every regulator could have done more in this area. Going forward, the Bureau of Consumer Financial Protection will have the authority to

Consumer Debt Collection Report

Hill Wellford: Let me move to a major report just released by the FTC, the

guidance that can be issued in this area that
can help people who have messed up but are
operating in a way that is not in the best



you bring tremendous background to that

information. Are these new policy initiatives likely to lead to new legislation, guidelines and regulations, or are we going to see its impact in case enforcement?

Commissioner Brill: We certainly will continue to do enforcement work. In addition to the Twitter case, we recently brought a [case against Rite Aid](#) involving document disposal. We will continue to be very aggressive in enforcing the law with respect to privacy and data protection.

The staff report is designed to provide guidance to policymakers, including Congress, and industry as they determine the most appropriate framework for addressing privacy concerns in this new era. Chairman Leibowitz has said he is not expecting an immediate proposed rule from our agency to come out of this review of how we approach privacy at the FTC. But we expect the report will be used by policymakers.

Antitrust Enforcement

Hill Wellford: Let's turn now to antitrust issues, and I'd like to start off at the broadest level. Can you discuss the FTC's current competition enforcement priorities, and what competition enforcement issues most interest you or concern you personally?

Commissioner Brill: Some of the most important issues that I would like to focus on going forward are strong enforcement of the antitrust laws with respect to healthcare and pharmaceutical matters. There has been a substantial increase in branded drug prices over the past several years, at rates that exceed inflation. I think it's more important now than ever for the agency to continue its

a computer), and sought to acquire a second monopoly in the graphics processing units [GPU] market, using a variety of practices that violated both the competition and consumer protection prongs of Section 5 of the FTC Act.

The Commission alleged that Intel shut out rivals' competing CPU microchips by cutting off their access to the marketplace, thereby depriving consumers of choice and innovation. The Commission alleged that Intel did this through threats and rewards aimed at the world's largest computer manufacturers, including Dell, Hewlett-Packard, and IBM, to coerce them not to buy rival computer CPU chips. In addition, the Commission alleged that Intel secretly redesigned key software, known as a compiler, in a way that deliberately stunted the performance of competitors' CPU chips. In the GPU market, the Commission's complaint alleged that, as GPUs began to take over some functionality of CPUs, Intel misled and deceived potential competitors in the GPU market in order to protect its CPU chip monopoly.

The Commission accepted for public comment a settlement with Intel that opens the door to renewed competition in the CPU and GPU markets, and prevents Intel from suppressing competition in the future in these very important hi-tech markets, where innovation is so important to consumers. I should also note that our settlement goes further than terms applied to Intel in other actions against

the company, including the EU and AMD's private action.

Hill Wellford: We've covered a lot of ground, but I thought I'd ask one last question. I know you're a sports fan. I believe there's a pro football team in New England where you used to live, and there may be one or two basketball teams in North Carolina where you were most recently. So this is a question to really test how much of a Washington insider you've become in a short time. Who are you rooting for this Winter?

Commissioner Brill: Well, you can take the girl out of New Jersey, but you cannot take New Jersey out of the girl. I grew up in New Jersey and I'm a life-long Yankees fan. When I watch baseball games at home, I have to watch in a different room than the rest of my Red Sox Nation family. So that's baseball. As for football, I usually tune in when the playoffs come along. I'm a big soccer fan, and a big basketball fan. Speaking of which, for the ACC league (which is very important to some), once you cross the border into North Carolina you immediately have to declare your loyalty: Is it UNC or is it Duke? I love college basketball. I love lots of different teams. I like both Duke and UNC, both of whom were recent champions, so the way I answer this question is, I said I love UNC but I love Coach



- FTC [requires](#) Universal Health Services to sell 15 psychiatric facilities as a condition of its \$3.1 billion acquisition of Psychiatric Solutions, Inc.
- DOJ [obtains](#) settlement with Hewlett-Packard for alleged violations of FCC competitive bidding rules
- DOJ [announces](#) settlement with CFP Group and its president based on alleged false statements to obtain a contract from the Department of Veterans Affairs
- FTC [requires](#) Simon Property Group, Inc. to divest property and modify tenant leases as part of a settlement designed to preserve outlet mall competition
- DOJ [announces](#) indictment against three former executives from two color display tube manufacturing companies for their participation in a global conspiracy to fix prices.
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- FTC [testifies](#) before Congress that it supports a “Do Not Track” option for consumers
- FTC [issues](#) preliminary staff report that proposes a framework to balance the privacy interests of consumers, businesses, and policymakers

November:

- FTC [settles](#) with EchoMetric, Inc., on charges that the company failed to tell parents using its web monitoring software that information collected about their children would be disclosed to third-party