

**Statement of Commissioner Christine S. Wilson
Regarding the Continued Extension of the Deadline to Rule on Respondent’s
Motion to Stay in the Matter of Meta/Zuckerberg/Within**

Commission File No. 221-0040

December 21, 2022

On August 26, 2022, Meta Platforms, Inc. (“Meta”) moved to stay all administrative proceedings concerning Meta’s potential acquisition of Within Unlimited, Inc. (“Within”) pending a ruling on the Federal Trade Commission’s (“FTC’s”) preliminary injunction.¹ On September 6, 2022, Complaint Counsel submitted its opposition to Meta’s Motion to Stay.² On October 6, 2022, FTC Secretary April J. Tabor informed Counsel for the FTC, Meta, Mark Zuckerberg, and Within that the Motion to Stay “will be resolved after the Commission determines the motion for disqualification that is currently pending before it.”³ The deadline for the Commission to issue its decision on the Motion to Stay was October 21, 2022.⁴ On October 21, 2022, the Commission extended its own deadline to decide the Motion to Stay until November 30, 2022.⁵ On November 30, 2022, the Commission extended the deadline – for a second time – to December 21, 2022.⁶

Today, the Commission extended the deadline for a third time. The administrative trial is scheduled to begin on January 19, 2023.⁷ The Motion to Stay was filed almost four months ago, and the Commission is now less than a month away from the beginning of the administrative

¹ Respondent’s Motion to Stay this Administrative Proceeding, FTC File No. 221-0040 (Aug. 26, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/D09411-RESPONDENT_S-MOTION%20-TO-STAY-THIS%20ADMINISTRATIVE-PROCEEDING-PUBLIC.pdf.

² Complaint Counsel’s Opposition to Respondent Meta Platforms, Inc.’s Motion to Stay this Administrative Proceeding, FTC File No. 221-0040 (Sept. 6, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/D09411%20-%20COMPLAINT%20COUNSEL_S%20OPPOSITION%20TO%20RESPONDENT%20META%20PLATFORMS%20C%20INC._S%20MOTION%20TO%20STAY%20THIS%20ADMINISTRATIVE%20PROCEEDING%20-%20PUBLIC.pdf.

³ Letter from April J. Tabor, FTC No. 221-0040 (Oct. 6, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/D9411LetterCounselFB.pdf. Meta’s July 25, 2022 petition requests the recusal of Chair Khan from participating in any decisions concerning the FTC’s review of the Meta/Within Transaction.

⁴ *See* 16 C.F.R. § 3.22(a) (“Except as otherwise provided by an applicable rule, motions not referred to the Administrative Law Judge shall be ruled on by the Commission within 45 days of the filing of the last-filed answer or reply to the motion, if any, unless the Commission determines there is good cause to extend the deadline.”).

⁵ Order Extending Deadline to Rule on Respondent’s Motion to Stay, FTC File No. 221-0040 (Oct. 21, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/d09411commissionorderextendingstayruling.pdf.

⁶ Order Further Extending Deadline to Rule on Respondent’s Motion to Stay, FTC File No. 221-0040 (Nov. 30, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/d09411order2dextendingstayruling.pdf.

⁷ Scheduling Order, FTC File No. 221-0040 (Sept. 2, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/D09411%20-%20ALJ%20SCHEDULING%20ORDER%20-%20PUBLIC.pdf.

trial. The inability to manage our Part 3 process judiciously will provide further fodder for those who question its integrity.

Of note: The Commission cannot decide whether to stay administrative proceedings until it rules on Meta's Motion for Disqualification dated July 25, 2022.⁸ The Motion for Disqualification requests the recusal of Chair Khan from participating in any decisions concerning the FTC's review of the Meta/Within transaction on due process and federal ethics grounds.⁹ Unfortunately, details about the Commission's efforts to address the Motion for Disqualification remain non-public, and I cannot disclose them here. Suffice it to say that, in many circumstances, not deciding *is* deciding. I believe that in refusing to reach a timely decision, the Commission is relying on delay tactics rather than legal reasoning and good government.

I implore my colleagues to decide the Motion for Disqualification without further delay. I have formulated my opinion, and I am ready to move forward with this matter.

⁸ Petition for Recusal of Chair Lina M. Khan from Involvement in the Proposed Merger between Meta Platforms, Inc. and Within Unlimited, Inc., FTC No. 221-0040 (July 25, 2022). *See also* Letter from April J. Tabor, FTC No. 221-0040 (Aug. 24, 2022) (converting the Petition for Recusal to a Motion for Disqualification).

⁹ Letter from April J. Tabor, FTC No. 221-0040 (Oct. 6, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/D94111LetterCounselFB.pdf.