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Key Highlights from the “Looking Ahead: What Tech Companies Should Learn from the Early Days of the New Administration” Briefing

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Technology

More than 400 technology industry legal and compliance leaders registered to attend Covington’s recent briefing, “**Looking Ahead: What Tech Companies Should Learn from the Early Days of the New Administration.**” We wanted to share the key highlights discussed, and invite you to contact any of the presenters with questions or to continue the conversation.

New Administration and Congress -- [Holly Fechner](#), [Broderick Johnson](#), and [Bill Wichterman](#)

Techlash continues to influence both political parties, resulting in bipartisan criticism of “big tech” and the possibility of bipartisan antitrust legislation. Competition with China is driving the parties to craft landmark legislation to increase funding for research in the United States, especially in key emerging technologies, and to invigorate the domestic chip industry. Facing more headwinds is large-scale infrastructure legislation that would include significant funding to expand access to affordable high-speed internet. The White House and Senate Republicans have come to a consensus on the amount--\$65B--but divide sharply on the approach.

Antitrust -- [Terrell McSweeney](#)

While the full slate of Biden appointees for the FTC and DOJ Antitrust Division has not yet been announced, the appointment of Lina Khan as Chairwoman of the FTC underscores that the Biden administration is determined to regulate technology companies and aggressively enforce competition laws. Expect increased coordination with State Attorneys General, close scrutiny of transactions, especially those involving technology companies or potential competitors, and investigation of a broad set of effects.

Communications and Media -- [Gerry Waldron](#)

The FCC has set up programs to distribute billions of dollars to low-income consumers to assist with monthly broadband bills and to schools and libraries to assist with equipment such as laptops and WiFi hotspots to enable widespread use of a broadband connection. The FCC is still evenly split 2-2, so action on controversial items such as net neutrality and Section 230 await a full 5-person Commission. In the meantime, the FCC is moving forward with plans to

free up spectrum for 5G and adopt policies against Chinese telecom equipment in U.S. networks.

Privacy -- Lindsey Tonsager

There is general support for comprehensive federal privacy legislation, but the legislative agenda is crowded. Passage of inconsistent state laws could hasten consideration of a federal measure, although the legislative sessions of many of the states considering privacy bills have ended. In the meantime, the FTC is actively engaged on privacy matters. The Biden administration is working to address cross-border data transfers with the European Union, but these discussions will take time to conclude.

U.S. - China Economic Relations -- Chris Adams

Competition with China is now driving many areas of U.S. policy making, in both the executive and legislative branches. The Biden Administration is maintaining its predecessor's tough stance toward China but with a different approach centered on strengthening America's ability to compete with China through investments at home and collaboration with allies abroad, and a more targeted approach to restricting technology flows with human rights given more weight as a consideration.

Cross border Investment and National Security -- Jonathan Wakely

Under the Biden Administration, CFIUS appears to be returning to a more traditional "bottom up" process driven by national security professionals. However, there has been no softening of positions toward Chinese investments, which continue to be viewed with significant scrutiny. CFIUS also has far greater capabilities to identify and scrutinize transactions as a result of new personnel and resources.

If you have any questions concerning the information discussed at the briefing or included in this client alert, please contact the following members of Covington's Technology practice:

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