



The Inside Story

FTC Official Nominated As Next OIRA Administrator

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President Obama has nominated Federal Trade Commission (FTC) official Howard Shelanski to be the next administrator of the White House Office of Information & Regulatory Affairs (OIRA), prompting a tepid reaction from open government groups who have criticized OIRA for weakening or blocking key EPA regulations.

“Right now, OIRA is stalling food safety rules, worker safety rules and energy efficiency standards, in some cases flouting legal deadlines set by Congress, and typically with no explanation. Industry interests go to OIRA as a last resort when a federal agency is preparing to issue a rule that might inconvenience them,” said Robert Weissman, president of Public Citizen and co-chair of the Coalition for Sensible Safeguards, in an April 26 statement.

“OIRA’s role has been to weaken regulations, never strengthen them,” he added. Senators reviewing the nomination “should ask Shelanski if he will encourage strong, protective rules and end lengthy delays if confirmed,” he said.

But other observers are offering praise for Shelanski, who has been director of FTC’s Bureau of Economics since 2012. He is currently on leave from the Georgetown University Law Center, where he has been a professor since 2011, according to the White House. From 2011 to 2012 he worked with the law firm Davis, Polk & Wardwell, and was a senior economist for the Clinton-era Council of Economic Advisers.

Between those appointments, Shelanski taught at the University of California, Berkeley, and worked in private practice. He has also clerked for Supreme Court Justice Antonin Scalia and several other judges.

“President Obama has made an inspired choice,” said David Vladeck, professor at Georgetown law school and a senior fellow at the Administrative Council of the United States. “Howard is enormously gifted. He is a first-rate lawyer and top-tier economist, and has considerable experience working on important and complex regulatory issues.”

“I just think he’s a straight shooter, he’s really smart and perfectly qualified,” to lead OIRA, Vladeck said in an April 26 interview with *Inside EPA*. “I don’t think he comes with a particular ideological baggage . . . the thing about Howard is that he’s just a smart guy who wants to get things right.”

Similarly, former OIRA official Jim Tozzi -- now with the Center for Regulatory Effectiveness -- offered support for the nominee in an April 26 interview with *Inside EPA*. Tozzi said that on the issue of cost-benefit analysis, which progressives and advocates of stricter regulation say OIRA uses to soften rules, Shelanski would likely be reasonable.

“I haven’t looked on his views on that, but since he’s a credentialed economist I think most certainly he would appreciate the strength of benefit-cost analysis but would also know very well its boundaries.”

Tozzi said that Shelanski’s experience in both legal issues and economics could bring balanced review to rules. “No one knows that better than an economist with a law degree -- economists want efficiency at any price of equity, lawyers want equity at any price of efficiency. Howard has both and will approach these fairly.”

However, progressive and open government groups are raising questions about the nominee, especially Shelanski’s lack of environment or energy experience, and how he will approach cost-benefit. OIRA’s critics say that cost-benefit analysis can be used to soften EPA and other regulations if the costs are projected to exceed their benefits.

Rena Steinzor of the Center for Progressive Reform, a group that has long been an outspoken critic of OIRA’s cost-benefit analysis for environmental and public health rules and allegedly opaque rule review process, wrote [in an April 26 blog post](#) that there are lingering questions about how Shelanski would deal with those issues.

“Dr. Shelanski has spent his career working in the arenas of antitrust and telecommunications, two specialties far removed from the core of OIRA oversight that is most controversial. Hopefully, this background means he will approach health and safety issues with an open mind,” Steinzor wrote. “On the other hand, Dr. Shelanski is also listed as an 'expert' in the Mercatus Center’s Technology Policy Program,” which is an industry-funded think tank.

As a result, Steinzor continued, senators should be careful to ask the nominee how he would use his position, either “to advance the public interest or to appease regulated industries? Who does Dr. Shelanski think should be in charge of the substance of EPA’s regulatory decision-making: the EPA Administrator or the OIRA Administrator?”

Although OIRA critics are noting Shelanski’s lack of record on environmental and public health issues, Tozzi in the interview countered that “for years and years” Shelanski’s focus has been on other issues such as antitrust.

“There’s nothing in his record that people on either side of the environmental health and safety argument can criticize. Some people say that by not having a record on that, it means that he could have some other record that is not disclosed. But [Shelanski] has published for years and years,” just on non-environmental issues.

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