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*The Quality of Appointments and the Capability of the Federal Trade Commission*

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Abstract by Alex M. Johnson

This article expresses concern with the appointment process of commissioners to the Federal Trade Commission (FTC) and addresses the potential ramifications of selecting appointees lacking the background to comprehend antitrust policies. The legislative history leading to the creation of the FTC belied a congressional intent to make the agency independent and embodied with experts whose opinions would be deferred to in judicial decision-making. The author suggests that the assumptions predicated the creation of the FTC have often differed from modern practice. The author then examines the appointment criteria through a comparative analysis of legislative records and proposals by various commentators. While the congressional standards are limited to two prerequisites, significant experience and great professional stature, the alternative integrates additional assessment criteria to measure the qualifications of perspective FTC appointees. The standards will be effective in ensuring that commissioners possess expertise of the subject matter, increases the credibility of the agency, and recognizes that an adequate chairperson is fundamental toward achieving FTC's mandate.

The article discusses the array of studies undertaken to evaluate the quality of FTC appointees. Further, the author notes that a pattern of political and patronage appointees have undermined congress's intent to appoint individuals from diverse professional backgrounds with high intellectual aptitude. The homogenous appointment structure at the FTC has resulted in a majority of lawyers as commissioners. The collateral effects of these appointments have left the commission devoid of commissioners capable of making effective judgments that positively resonate with judicial decisions, congressional action, and the business community. Finally, the article addresses the difficulty in attaining superior appointees and proposes reforms that include diminishing the number of commissioners and restructuring the appointee selection process in order to prevent further critiques of the FTC's effectiveness.