

MORNING COLOR

April 11, 2023

Today's Driving Events

- **Biden's Running and Regulating Plans:** President Biden "plans" to run for re-election. He's also planning to embolden his regulators with the issuance of a new executive order in modernizing the regulatory review process.
- **To Infinity and Beyond:** The Federal Communications Commission will inaugurate its new Space Bureau at an event today, one of the biggest achievements of the deadlocked agency under President Biden.
- **CVS Gets Pass on OSH But Still Faces FTC Risk Over PBMs:** The merger of **CVS Health (CVS)** and **Oak Street Health (OSH)** was given a green light with antitrust regulators taking a pass on a second review, although the ongoing Federal Trade Commission investigation and likely enforcement action against pharmacy benefit managers (PBMs) still leaves a cloud of uncertainty over the new combined entity, as well as the entire PBM sector.

Biden's Popularist Agenda is Far from Lame: If it looks like a duck, swims like a duck, and quacks like a duck, then it probably isn't a lame duck president. At the annual White House Easter egg roll yesterday, President Biden made an unofficial announcement to Al Roker on NBC's "TODAY." "I plan on running," Biden said. "But we're not prepared to announce it yet." This unofficial "news" is new to approximately no one in DC. Despite his low approval ratings and most Democratic voters wanting him to step aside, Biden is in the driver seat for winning the Democratic nomination. Plenty of campaign decisions need to be made and Biden Daylight Time (BDT) can run slow. But unless there is a significant health event or Marianne Williamson has a new batch of [crystals](#) that can sway Democratic primary voters, Biden has the Democratic nomination in the bag. **However, one area where we believe conventional wisdom is wrong about Biden is how he's positioning himself and his administration for the general election.** There's plenty of talk about Biden's pivot to the middle. The Biden administration approved the Willow oil project in Alaska, toughened US-Mexico border policies, and signed a GOP resolution to overturn a progressive DC crime bill. Yesterday, he [signed](#) a GOP-led resolution ending the national emergency over the Covid-19 pandemic. But that's a

selective look at what Biden is doing. He isn't entertaining a debt ceiling negotiation like President Obama did in 2011. His proposed deficit reduction comes from tax hikes on the rich and corporations. His administration's implementation of legislation includes pro-labor and pro-child care requirements. **What Biden is doing is populism. Or in certain Democratic circles, it's called [populism](#). The issue for Biden isn't that he is perceived as too liberal, thus requiring a triangulation or pivot. It's hard to make Biden out to be part of a "radical/left/woke mob." The issue Republicans make is that Biden is too old/weak/frail to combat this perceived mob. To that end, Biden is looking to beef up the regulatory agenda.** Last Thursday, the president signed an [executive order](#) to modernize the regulatory review process. Office of Information and Regulatory Affairs (OIRA) Administrator Richard Revesz released a memo on implementing the executive order. Notably, the threshold for defining a regulation as "significant" and thus requiring more review is being increased from \$100 million to \$200 million in annual economic effect (i.e. costs, benefits, or transfers). This helps streamline the review process for mid-impact regulations. Additionally, OIRA put forward draft changes to how agencies conduct cost-benefit analyses for regulatory reviews. This includes lowering the discount rate in determining future costs and benefits in the present day to 1.7 percent from three to seven percent. **A lower discount rate boosts the benefits of policies like climate-based regulations that bank on long-term benefits compared to near-term costs.** The changes to discount rates are expected to be finalized within a year, with public comment open for 60 days. **These changes don't bolster the Biden administration's fight against conservative courts on the legality of regulations. The "major questions" doctrine is about clear congressional authorization vs. statutory intent. But this does give Biden the ability to boost his administration's regulatory agenda, provide a contrast with a conservative court Democrats and many independents are riled up against, and foreshadow what his second term could look like — if he wins re-election.**

FCC's Space Bureau Blasts Off: The Federal Communications Commission (FCC) has been evenly split between Democrats and Republicans for President Biden's entire term, preventing Chair Jessica Rosenworcel from advancing a partisan agenda. The recent failure of Gigi Sohn's nomination to fill the outstanding vacancy on the commission ensures that the deadlock will continue for at least the near future. **Instead of pursuing partisan Democratic policy goals like net neutrality, Rosenworcel has had to focus on more bipartisan issues, and space is a major one. Today, the FCC will hold an event to kick off the agency's new Space Bureau.** "Our country's economic success today and in the future relies on space-based connections," Rosenworcel [said](#) in a press release last week. "Whether it's bringing broadband to hard-to-connect rural communities, closing mobile dead zones, or linking freedom-seeking people across the globe, satellite connectivity is fundamental to improving our quality of life and maintaining our economic success." **Today's event may give a preview of policy areas the**

Space Bureau will focus on. The FCC's [January order](#) that established the Space Bureau indicated that it will comprise three subunits: a Satellite Programs and Policy Division; a Satellite Licensing Division; and an Earth Station Licensing Division. The order assigned the new bureau the responsibilities of conducting rulemakings, authorizing satellites, providing a focal point for interagency space policy, and "fostering the efficient use of spectrum and orbital resources." Last month, the FCC voted unanimously to initiate a [rulemaking process](#) on regulations for providers to supplement wireless service with satellite coverage, which is likely to be one of the first major to-dos for the new bureau. **Congress still hasn't voted to restore the FCC's spectrum auction authority after it expired last month, however, which could clip the wings of the nascent Space Bureau for the time being.** We expect lawmakers will ultimately do so but they will first have to resolve a [disagreement](#) involving spectrum sharing between the Pentagon and the private sector.

CVS Dodges Antitrust Review But Still Faces PBM Scrutiny: CVS Health (CVS) and Oak Street Health (OSH) dodged a significant legal hurdle in their planned merger, with both companies making filings with the Securities and Exchange Commission (SEC) stating that the waiting period for the Federal Trade Commission (FTC) or Department of Justice (DOJ) to initiate a second review of their proposed deal on antitrust grounds had passed with no request or public comment. [CVS also reiterated its intent to close the deal by July 2023.](#) While this is welcome news for CVS, members of Congress, and the FTC more importantly, still have the pharmacy benefit manager (PBM) business model in their sites. Both the Senate Finance Committee and Senate Health, Education, Labor, and Pensions (HELP) Committee intend to advance bipartisan legislation that would impact PBMs, with the HELP Committee planning to hold a markup on April 19th for the as yet unreleased bill. That legislation is rumored to cover access to generic drugs and mandates for greater transparency by PBMs and possibly even a ban on spread pricing. The Finance Committee is not as advanced in its legislative planning, but we expect that it will also pass its bill out of committee, possibly this summer. **Despite these initial and rare bipartisan successes, we expect turf battles between the committees over their respective jurisdictions and gridlock at the leadership level will prevent either bill from receiving floor time anytime soon.** Even if one or both bills were to pass out of the Senate, we are skeptical that they would be able to be reconciled with any House-passed legislation. **Meanwhile, as PBM lobbyists are forced to focus on the Hill, we believe the [ongoing FTC 6\(b\) investigation](#) remains the more real threat to the whole sector.** The legal action that the FTC is expected to take would seek to force changes to the PBM business model in such a way as to neuter their pricing power and make them simple fee-for-service entities, thus removing one of the more powerful elements of the vertically-integrated PBM parent companies such as **UnitedHealth Group (UNH), Humana (HUM), Cigna (CI), and CVS.** While all eyes will be on Capitol Hill next week, we believe investors should spend more of their

time focused on whether such far-reaching FTC changes would be enough to have a material adverse impact on the revenues of the PBM parent companies.

Congress

The House and Senate are not in session this week.

White House

President Biden will receive his daily intelligence briefing at 8:30 a.m. At 9:30 a.m., the president will depart the White House en route to Belfast, Northern Ireland, where he will arrive at 4:20 p.m.

Macroeconomic

At 9:00 a.m., the International Monetary Fund and the World Bank Group will continue their 2023 Spring Meetings. [More information here.](#)

At 11:30 a.m., Treasury Secretary Janet Yellen will hold a news conference on the 2023 IMF-World Bank Spring Meetings. [More information here.](#)

At 12:30 p.m., the Peterson Institute for International Economics will begin its virtual 2023 Macro Week titled "the economic challenges of our times, from the outlook for inflation and economic stability to the future of trade, globalization, and digitalization." [More information here.](#) Expected participants include:

- Lesetja Kganyago, governor, South African Reserve Bank
- Masato Kanda, Japanese vice minister of finance for international affairs

At 1:30 p.m., Chicago Federal Reserve Bank President Austan Goolsbee will speak for the Economic Club of Chicago Forum Luncheon.

At 2:00 p.m., the Aspen Institute will hold a virtual discussion titled "ESOPs, Job Quality, and Wealth Inequality: The Potential of Employee Stock Ownership Plans." [More information here.](#)

At 2:00 p.m., the Urban Institute will hold a virtual discussion titled "Strengthening Social Security for Older Adults, People with Disabilities, and Their Families." [More information here.](#) Expected participants include:

- Kilolo Kijakazi, acting commissioner, Social Security Administration

At 6:00 p.m., the University of Pennsylvania Wharton School of Business Initiative on Financial Policy and Regulation will hold a conversation with Federal Reserve Bank of Philadelphia President and CEO Patrick Harker. [More information here.](#)

At 7:30 p.m., Montana State University will hold a town hall forum with Federal Reserve Bank of Minneapolis President and CEO Neel Kashkari. [More information here.](#)

Antitrust and Consumer Protection

At 12:00 p.m., Washington Post Live will hold a virtual discussion titled "Consumer Protection and the Banking Industry." [More information here.](#) Expected participants include:

- Rohit Chopra, director, Consumer Financial Protection Bureau

Cybersecurity

At 7:00 a.m., Crowdstrike will hold its 2023 Government Summit. [More information here.](#) Expected participants include:

- Rob Joyce, director of cybersecurity, National Security Agency
- Jen Easterly, director, Cybersecurity and Infrastructure Security Agency

At 11:30 a.m., the Center for Strategic and International Studies will hold a virtual discussion titled "cyber threats to the Defense Department, national security systems and the Defense Industrial Base, and the future of the cybersecurity ecosystem." [More information here.](#) Expected participants include:

- Rob Joyce, director of cybersecurity, National Security Agency

At 1:00 p.m., the Aspen Institute's Aspen Digital program will hold a virtual discussion titled "Stronger Together: Cyber Civil Defense at One Year." [More information here.](#) Expected participants include:

- Kiersten Todt, chief of staff, Cybersecurity and Infrastructure Security Agency

Defense

At 7:15 a.m., the Association of the United States Army will hold a discussion with Army Secretary Gabe Camarillo. [More information here.](#)

At 10:00 a.m., the Hudson Institute will hold a virtual discussion titled "Assessing the U.S. Military's Force Structure." [More information here.](#)

Energy, Environment, and Natural Resources

At 10:00 a.m., the Inter-American Dialogue will hold a virtual discussion titled “Critical Minerals in Latin America and the Caribbean: The ‘S’ in ESG (environmental, social, and governance).” [More information here.](#)

At 3:30 p.m., Resources for the Future will hold a discussion titled “Modernizing Regulatory Review: Exploring Office of Management and Budget’s Updated Benefit-Cost Guidance.” [More information here.](#) Expected participants include:

- Zachary Liscow, chief economist, Office of Management and Budget (OMB)
- Richard Revesz, administrator, Office of Information and Regulatory Affairs, OMB

At 5:00 p.m., the House Natural Resources Committee Subcommittee on Water, Wildlife and Fisheries will hold a field hearing in Tulare, CA on the Working to Advance Tangible and Effective Reforms (WATER) for California Act and the Federally Integrated Species Health (FISH) Act. [More information here.](#)

Financial Services

At 11:00 a.m., the National Credit Union Administration will hold its Credit Union Capital Markets Symposium. [More information here.](#) Expected participants include:

- Rostin Behnam, chair, Commodity Futures Trading Commission

Geopolitical

At 8:30 a.m., the Henry L. Stimson Center will hold a virtual discussion titled "U.S.-China Relations." [More information here.](#) Expected participants include:

- Nicholas Burns, US ambassador to China

At 12:00 p.m., Georgetown University will hold a discussion titled “Stabilizing China-US Relations: A Chinese Perspective.” [More information here.](#)

Healthcare

At 2:00 p.m., the American Enterprise Institute for Public Policy Research will hold a discussion titled "The Future of Medical Device Regulation: The Final Frontier." [More information here.](#) Expected participants include:

- Jeff Shuren, director of the center for devices and radiological health, Food and Drug Administration
- Jesse Ehrenfeld, president-elect, American Medical Association

At 2:00 p.m., the Brookings Institution will hold its virtual 27th "Wall Street Comes to Washington" health care roundtable discussion titled “market trends shaping the healthcare

system." [More information here.](#)

Immigration

At 10:00 a.m., the Migration Policy Institute will hold a virtual discussion titled "Meeting Global Skills and Talent Needs in Changing Labor Markets." [More information here.](#)

Expected participants include:

- Ur Jaddou, director, US Citizenship and Immigration Services

Tech-Media-Telecom

At 3:30 p.m., the Atlantic Council will hold a virtual discussion titled "A Governance Agenda for a Digital-First Future," focusing on "the emerging World Bank governance agenda against a backdrop of accelerating digitization." [More information here.](#)

Trade

At 9:00 a.m., the Center for Strategic and International Studies will hold a discussion titled "Revitalizing American Commercial Diplomacy." [More information here.](#) Expected participants include:

- Rep. Colin Allred (D-TX)
- Jose Fernandez, undersecretary for economic growth, energy, and the environment, State Department



Website



Twitter



LinkedIn



Email

Copyright © 2023 [Beacon Policy Advisors LLC](#)

1701 Pennsylvania Avenue, NW, Suite 200 Washington, DC 20006 | (202) 729-6335

[Our Compliance Policy](#) [Unsubscribe](#)