



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 3, 2023

The Honorable Ted Cruz
Committee on Commerce, Science, and Transportation
United States Senate
Washington, D.C. 20510

Dear Senator Cruz:

Thank you for your letter to the Federal Trade Commission (FTC) dated June 19, 2023, requesting information on staffing numbers and the Federal Employee Viewpoint Survey (FEVS) results. I am incredibly proud of the work of the FTC staff, who are on the front lines of defending Americans from unlawful business practices and promoting fair competition. The staff's excellent work is evident from how active we are in enforcement, rulemaking, and research.

Set forth below are responses to your specific questions.¹

- 1. Please provide the number of individuals employed/full-time equivalents ("FTE") by the FTC from January 1, 2021 to present, broken down by month. Out of the total number of employees/FTE in a given month, please indicate how many are leadership attorneys and how many are senior attorneys.**

Please see the attached spreadsheet for monthly counts of FTE on board (Attachment 1).

Because we do not use "leadership attorney" or "senior attorney" as defined categories at the FTC, they do not exist as indicators in our databases. However, in an effort to respond to your request, we have pulled data using the same methodology that we used in our response to the requestor you referenced in Footnote 11 of your letter.

The "leadership attorney" category includes all 0905-series (i.e., attorney) employees who have a supervisory status and/or have the term "Supervisory," "Advisor," or "Director" in their position title. This includes employees ranging from GS-12 to SES.

The "senior attorney" category is not specifically listed on the spreadsheet because, as noted above, we do not use the term "senior attorney." However, please note that the author of the piece referenced in Footnote 11 chose to define "senior attorney" as GS-15 attorneys in the line staff category (i.e., those who do not have a supervisory status nor the term "Supervisory,"

¹ As our staff relayed to yours, the FTC does not provide nonpublic information to congressional requestors absent a formal, official committee request from the committee Chair. *See, e.g.*, 16 C.F.R. § 4.11(b); *Ashland Oil v. FTC*, 548 F.2d 977 (D.C. Cir. 1976); *Exxon Corp. v. FTC*, 589 F.2d 582 (D.C. Cir. 1978).

“Advisor,” or “Director” in their position title). This column is included in the attached for your reference.

2. How many employees/FTEs have left the FTC from January 1, 2021 to present? Please break that figure down by month and indicate how many of those departures were leadership attorneys and how many were senior attorneys.

Please see the attached spreadsheet for monthly counts of separations (Attachment 2).

Because we do not use “leadership attorney” or “senior attorney” as defined categories at the FTC, they do not exist as indicators in our databases. However, in an effort to respond to your request, we have pulled data using the same methodology that we used for our response to the requestor you referenced in Footnote 11 of your letter.

The “leadership attorney” category includes all 0905-series (i.e., attorney) employees who have a supervisory status and/or have the term “Supervisory,” “Advisor,” or “Director” in their position title. This includes employees ranging from GS-12 to SES.

The “senior attorney” category is not specifically listed on the spreadsheet because, as noted above, we do not use the term “senior attorney.” However, please note that the author of the piece referenced in Footnote 11 chose to define “senior attorney” as GS-15 attorneys in the line staff category (i.e., those who do not have a supervisory status nor the term “Supervisory,” “Advisor,” or “Director” in their position title). This column is included in the attached for your reference.

3. Please identify any actions that the Chairwoman’s Office has taken to improve staff morale.

The Federal Employee Viewpoint Survey (FEVS) results raised issues that I take seriously. In response to the results, my team and I immediately took steps to solicit input from senior leaders, managers, and staff to better understand the specific issues and challenges. In doing so, we identified three key root causes: communication, processes, and policies. We subsequently took steps to clarify our vision and priorities and create regular ways to communicate them to all levels of management and staff; streamline processes for decision-making and delegation; and revisit, clarify, or change some internal policies that unintentionally created confusion or concerns. We have also completed our office reentry and implemented our policy for the next phase of workplace flexibilities, giving staff clarity and certainty on key workplace issues that were still under development at the time when the 2021 and 2022 FEVS were administered. Much of the implementation began just months before the 2022 survey, and the work has been ongoing.

Since the 2022 survey was administered, my office has continued to solicit feedback, implementing a series of meetings with manager groups, employee resource groups, and work teams, and creating opportunities for continued dialogue about priorities, action steps, and progress. I am extraordinarily proud of the work that FTC staff do every day to further our mission to promote fair competition and protect Americans from unfair or deceptive practices.

4. Please provide any and all complaints, both formal and informal, that the Chairwoman's Office has received from FTC employees from January 1, 2021 to present.

Any suggestions and feedback that FTC employees send to my office are nonpublic. However, when my office receives feedback, my staff and I take seriously its contents and consider all possible steps to address the relevant concerns.

Finally, as you requested, we circulated a copy of your letter to all FTC employees and contractors on June 30, 2023.

If you have any additional questions or concerns, please contact Ms. Jeanne Bumpus, Director, Office of Congressional Relations at (202) 326-2946.

Sincerely,



Lina M. Khan
Chair, Federal Trade Commission

Enclosures (2):

- Attachment 1. Monthly Counts of FTE on Board (Jan. 2021–May 2023)
- Attachment 2. Monthly Counts of Separations (Jan. 2021–May 2023)

FTC Headcounts (Students Removed)

Year - Month	All FTC (non-students)	Leadership Attorneys										Leadership Attorneys Total	Line Staff Attorneys					Line Staff Attorneys Total	Attorney Grand Totals	
		SL	ES	EX		EX Total	GS/GM Total				GS/GM					GS/GM Total				
				03	04		12	13	14	15	11		12	13	14		15			
2021 - 01 - Jan	1,156	1	26	1	4	5		1	3	89	93	125	3	14	28	90	399	534	534	659
2021 - 02 - Feb	1,140	1	25	1	3	4		1	3	83	87	117	5	16	27	84	403	535	535	652
2021 - 03 - Mar	1,129	1	24	1	3	4		1	3	83	87	116	8	16	25	81	400	530	530	646
2021 - 04 - Apr	1,125	1	25	1	3	4		1	3	83	87	117	7	14	28	74	403	526	526	643
2021 - 05 - May	1,118	1	25	1	3	4		1	3	83	87	117	4	13	29	74	402	522	522	639
2021 - 06 - Jun	1,115	1	25	1	3	4		1	3	83	87	117	2	16	29	72	402	521	521	638
2021 - 07 - Jul	1,112	1	24	1	4	5			2	85	87	117	2	15	29	68	405	519	519	636
2021 - 08 - Aug	1,107	1	24	1	4	5		1	2	83	86	116	2	15	29	66	406	518	518	634
2021 - 09 - Sep	1,107	1	24	1	4	5		1	2	83	86	116	2	15	28	67	405	517	517	633
2021 - 10 - Oct	1,108	1	24	1	4	5		1	2	83	86	116	2	15	27	65	408	517	517	633
2021 - 11 - Nov	1,110	1	24	1	3	4		1	1	81	83	112	2	15	27	67	408	519	519	631
2021 - 12 - Dec	1,106	1	24	1	3	4		1	1	80	82	111	1	14	26	70	408	519	519	630
2022 - 01 - Jan	1,096	1	23	1	3	4		1	1	79	81	109	2	13	22	74	405	516	516	625
2022 - 02 - Feb	1,111	1	22	1	3	4		1	1	79	81	108	4	13	24	75	411	527	527	635
2022 - 03 - Mar	1,117	1	23	1	3	4		1	1	80	82	110	4	12	23	78	414	531	531	641
2022 - 04 - Apr	1,123	1	23	1	3	4		1	1	80	82	110	3	12	26	81	413	535	535	645
2022 - 05 - May	1,122	1	24	1	3	4		1	1	78	80	109	2	9	30	83	414	538	538	647
2022 - 06 - Jun	1,132	1	25	1	4	5		1		81	82	113	2	9	33	81	418	543	543	656
2022 - 07 - Jul	1,141	1	24	1	4	5		1		83	84	114	2	8	37	83	420	550	550	664
2022 - 08 - Aug	1,152	1	24	1	4	5		1		85	86	116	3	8	41	83	423	558	558	674
2022 - 09 - Sep	1,152	1	24	1	4	5		1		85	86	116	2	8	44	82	418	554	554	670
2022 - 10 - Oct	1,166	1	27	1	4	5		1		84	85	118	8	45	89	419	561	561	679	
2022 - 11 - Nov	1,185	1	27	1	3	4		1		82	83	115	8	47	97	422	574	574	689	
2022 - 12 - Dec	1,189	1	27	1	3	4		1		86	87	119	1	8	47	97	418	571	571	690
2023 - 01 - Jan	1,193	1	27	1	3	4		1	2	84	87	119	6	7	48	94	423	578	578	697
2023 - 02 - Feb	1,207	1	27	1	3	4		2	2	89	93	125	7	5	52	95	424	583	583	708
2023 - 03 - Mar	1,213	1	26	1	3	4	1	2	2	90	95	126	10	4	53	95	425	587	587	713
2023 - 04 - Apr	1,213	1	26	1	2	3	1	1	3	88	93	123	10	3	53	99	425	590	590	713
2023 - 05 - May	1,223	1	27	1	2	3	1	1	3	85	90	121	4	11	54	98	432	599	599	720

FTC Separation Counts (Students Removed)

Year - Month	All FTC (non-students)	Leadership Attorneys							Leadership Attorneys Total	Line Staff Attorneys					Line Staff Attorneys Total	Attorney Grand Totals			
		ES	EX		EX Total	GS/GM				GS/GM									
			03	04		12	13	14		15	11	12	13	14			15		
2021 - 01 - Jan	14	2	1		1				2	2				1	5	6	6	11	
2021 - 02 - Feb	11	1												1	2	3	3	4	
2021 - 03 - Mar	10													1	7	8	8	8	
2021 - 04 - Apr	7	1											1	1	3	5	5	6	
2021 - 05 - May	4								1	1			1		1	2	2	3	
2021 - 06 - Jun	8							1		1			1	1	2	4	4	5	
2021 - 07 - Jul	21								2	2					1	1	1	3	
2021 - 08 - Aug	10														3	3	3	3	
2021 - 09 - Sep	13													1	5	6	6	6	
2021 - 10 - Oct	16	2		1	1									1	2	5	8	11	
2021 - 11 - Nov	7													1	2	3	3	3	
2021 - 12 - Dec	15	1							2	2					7	7	7	10	
2022 - 01 - Jan	8	1							1	1					3	3	3	5	
2022 - 02 - Feb	12								1	1				1	1	6	8	9	
2022 - 03 - Mar	5														4	4	4	4	
2022 - 04 - Apr	21								3	3			1	2	1	5	9	12	
2022 - 05 - May	4													1	2	3	3	3	
2022 - 06 - Jun	11	1							2	2				1	4	5	5	8	
2022 - 07 - Jul	10								1	1			1	1		2	2	3	
2022 - 08 - Aug	11								1	1				1	4	5	5	6	
2022 - 09 - Sep	6								2	2								2	
2022 - 10 - Oct	10			1	1				1	1				1	1	1	3	5	
2022 - 11 - Nov																			
2022 - 12 - Dec	8								1	1					2	2	2	3	
2023 - 01 - Jan	6													1	3	4	4	4	
2023 - 02 - Feb	3	1												1		1	2	3	
2023 - 03 - Mar	5			1	1										2	2	2	3	
2023 - 04 - Apr	8								2	2				1	1	2	2	4	
2023 - 05 - May	4								1	1					1	1	1	2	
Separation Total	268	10	1	3	4	0	1	0	23	24	38	2	7	7	13	82	111	111	149



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 7, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Jordan:

I am writing in response to your June 28, 2023, letter requesting testimony from 23 individuals who work at the Commission, and your July 6, 2023, email detailing your planned schedule for those interviews. As I have stated, I value the role of congressional oversight, and the Commission is committed to constructive discussion and cooperation with the House Judiciary Committee. Already, the Commission is devoting significant time and resources to respond to your six other requests.

As the Commission works to accommodate the needs of the Committee, a more specific description of the information the Committee seeks through its June 28, 2023, request will aid the Commission in meeting the Committee's needs. Therefore, the Commission requests clarification regarding the topics of oversight and the contours of the potential legislative initiatives the Committee referenced in the June 28, 2023, letter. As explained in then-Assistant Attorney General William Barr's 1989 OLC opinion, "[t]he process of accommodation requires that each branch explain to the other why it believes its needs to be legitimate. Without such an explanation, it may be difficult or impossible to assess the needs of one branch and relate them to those of the other."¹ In short, we request clarification about the topics on which you seek information so that we may determine how best to accommodate your request.

Once we understand your request, the Commission will work collaboratively with the Committee to identify the proper official(s) to respond to your informational needs.

Please let us know your specific informational needs so that we can be responsive to the Committee's request. The Commission is committed to efficiently and effectively meeting those needs in accordance with Commission policy and practice.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission

cc: The Honorable Jerrold Nadler, Ranking Member
House Committee on the Judiciary

¹ *Congressional Requests for Confidential Executive Branch Information*, 13 O.L.C. 153, 159 (1989)

The Honorable Alvaro Bedoya

July 11, 2023

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decree, the proposed modified order, and the relation to the present day alleged violations.⁵ The threats made in the communications include, turning Commissioner Bedoya's statement into a scandal, suggesting he be uninvited to a progressive antitrust summit, and accusing him of standing in the way of the FTC's agenda shared by progressive outside groups and the White House.⁶

Excerpts from the text messages between Mr. Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Commissioner Bedoya, to which Commissioner Bedoya did not respond, include the following:

Alvaro – Your statement today is insanely at odds with the representations you made to me about backing Lina [Khan] on Facebook matters prior to your confirmation. Very very [sic] disappointing. I suspect it was obvious to you how the other side would weaponize it – like they did here... if not, it should have been.⁷

Mr. Geldon followed up after the initial message stating: “Very telling that you don't even respond to text messages now that you don't need help getting confirmed. That pretty much says it all.”

Prompted by Commissioner Bedoya not responding, Mr. Geldon texted a staffer of the Commissioner, sharing a screen shot of the text messages. Commissioner Bedoya's staff explained that there is now a prohibition on communicating regarding an active administrative proceeding to which Mr. Geldon responded:

Ok. Please feel free to convey to whoever you'd like that this was inexcusable and unforgivable. If I were aelp [sic] I [sic] would be disinviting you from the summit. You should also feel free to convey that I hope this same standard has applied to Robert raben [sic] And I hope Alvaro knows that if he has been talking to him in any way about Facebook it will come out and will be a scandal.⁸

Mr. Geldon, followed up once again by forwarding a newsletter to Commissioner Bedoya's staff and stated: “[f]or how what you did is affecting the FTC's momentum. I hope you appreciate how consequential this will be for how a large number of people perceive your work and kinship moving forward.”

A few days after Mr. Geldon's threatening and harassing messages, Adam Green, co-founder of the Progressive Change Institute also sent Commissioner Bedoya's staff an email noting his disappointment and voicing concern that the Commissioner could undermine a

⁵ Press Release, Hon. Alvaro Bedoya, Statement of Commissioner Alvaro M. Bedoya in The Matter of Facebook, Inc. Commission Docket No. C-4365 (May 3, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2023-05-02-Bedoya-Facebook-Order-Statement-FINAL.pdf.

⁶ *Supra* note 1, at 3, 6, 7, and 8.

⁷ *Supra* note 1 at 3, 6, and 7.

⁸ *Supra* note 1 at 8.

strategy outside groups were working on with the White House for a summer of amplifying some of the FTC's bold moves.

These harassing messages raise larger questions at the Commission related to what may be in violation of ex parte communication rules, as well as how the FTC, an independent agency is interacting with the White House. Please provide answers to the following questions:

1. Has behavior by progressive activists, like what was detailed in Commissioner Bedoya's ex parte notice, contributed to low staff morale and the departures of long-time staff of the Commission?
2. Has Adam Green of the Progressive Change Campaign approached you about hiring anyone from his organization's list of "400 recommended names for positions," in the Biden Administration?⁹
 - a. If so, did you hire any of these individuals?
 - b. Did you recommend that any of these individuals be appointed to career positions at the FTC because of all the vacancies created by low morale under your leadership of the Commission?
3. Provide all communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that you or your staff have had with Dan Geldon, Adam Green, and those who work at their organizations.
4. Dates and attendees at any meetings attended by you or your staff, FTC career staff, and Dan Geldon, Adam Green, and those who work at their organizations, and a summary of what was discussed.
5. Any information, or communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) your offices have had related to coordination with the White House and outside groups on matters related to the "summer strategy of amplifying some of the FTC's bold moves."
 - a. What are the "bold moves" referred to in this exchange?
6. Information related to all interactions and communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that career, non-political, staff have had with the individuals and organizations associated with Dan Geldon, Adam Green, and those who work at their organizations.

⁹ Sydney Ember, *Another Progressive Group Suggests Biden hires: 'We are making it easy for them to appoint good people,'* NEW YORK TIMES (Nov. 13, 2020), <https://www.nytimes.com/live/2020/11/13/us/joe-biden-trump#another-progressive-group-suggests-biden-hires-we-are-making-it-easy-for-them-to-appoint-good-people>. The list included Lina Khan and Alvaro Bedoya.

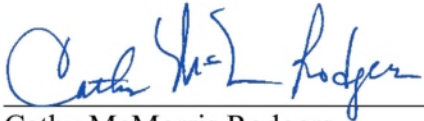
The Honorable Alvaro Bedoya

July 11, 2023

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Please produce this information as soon as possible but no later than 5:00 p.m. on July 25, 2023. Please contact the Committee staff at (202) 225-3641 with any questions.

Regards,



Cathy McMorris Rodgers
Chair
House Committee on Energy and
Commerce



Gus M. Bilirakis
Chairman
Subcommittee on Innovation, Data, and
Commerce

ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-3641
Minority (202) 225-2927

July 11, 2023

The Honorable Lina M. Khan
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20508

Dear Chair Khan:

Pursuant to Rules X and XI of the U.S. House of Representatives, we request information and documents from the Federal Trade Commission (FTC) regarding the activities detailed in Commissioner Alvaro Bedoya's ex parte notice.¹

On Friday, June 16, 2023, after consulting with the Commission's Office of the General Counsel and pursuant to 16 C.F.R. 4.7(c), Commissioner Bedoya, submitted to the Secretary of the FTC the written, unsolicited ex parte communications directed to him from May 2023.² These communications included digital messages and in person communications between Commissioner Bedoya and his personal staff with progressive activists.³ One thing was clear from the communications, activists were not pleased with a statement Commissioner Bedoya shared so they implemented a plan to ensure that he was ostracized by their "movement" because of it. It is troubling that left-wing activists, who were not nominated by the President or confirmed by the Senate to be FTC Commissioners are apparently dictating policy at the Commission.

Commissioner Bedoya ultimately voted with his fellow Democratic commissioners in a 3-0 vote, on a matter related to a company violating the terms of a 2020 settlement.⁴ However, the progressive activists were angered by a statement accompanying Commissioner Bedoya's vote noting reservations about the relationship between present day violations to a 2020 consent

¹ Letter from Hon. Alvaro M. Bedoya, Comm'r of the Fed. Trade Comm'n, to April Tabor, Sec'y of the Fed. Trade Comm'n, (June 16, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/bedoya_comm_combinedpdf.pdf,

² *Id.*

³ *Id.* These activists include: Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Adam Green, Co-Founder of the Progressive Change Campaign Committee,

⁴ John Sisco, *Progressives blast FTC's Bedoya for 'unforgivable' stance in Meta privacy case*, POLITICO.COM (June 20, 2023), <https://www.politico.com/news/2023/06/20/progressives-blast-ftcs-bedoya-for-unforgivable-stance-in-meta-privacy-case-00102646>.

decree, the proposed modified order, and the relation to the present day alleged violations.⁵ The threats made in the communications include, turning Commissioner Bedoya's statement into a scandal, suggesting he be uninvited to a progressive antitrust summit, and accusing him of standing in the way of the FTC's agenda shared by progressive outside groups and the White House.⁶

Excerpts from the text messages between Mr. Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Commissioner Bedoya, to which Commissioner Bedoya did not respond, include the following:

Alvaro – Your statement today is insanely at odds with the representations you made to me about backing Lina [Khan] on Facebook matters prior to your confirmation. Very very [sic] disappointing. I suspect it was obvious to you how the other side would weaponize it – like they did here... if not, it should have been.⁷

Mr. Geldon followed up after the initial message stating: “Very telling that you don't even respond to text messages now that you don't need help getting confirmed. That pretty much says it all.”

Prompted by Commissioner Bedoya not responding, Mr. Geldon texted a staffer of the Commissioner, sharing a screen shot of the text messages. Commissioner Bedoya's staff explained that there is now a prohibition on communicating regarding an active administrative proceeding to which Mr. Geldon responded:

Ok. Please feel free to convey to whoever you'd like that this was inexcusable and unforgivable. If I were aelp [sic] I [sic] would be disinviting you from the summit. You should also feel free to convey that I hope this same standard has applied to Robert raben [sic] And I hope Alvaro knows that if he has been talking to him in any way about Facebook it will come out and will be a scandal.⁸

Mr. Geldon, followed up once again by forwarding a newsletter to Commissioner Bedoya's staff and stated: “[f]or how what you did is affecting the FTC's momentum. I hope you appreciate how consequential this will be for how a large number of people perceive your work and kinship moving forward.”

A few days after Mr. Geldon's threatening and harassing messages, Adam Green, co-founder of the Progressive Change Institute also sent Commissioner Bedoya's staff an email noting his disappointment and voicing concern that the Commissioner could undermine a

⁵ Press Release, Hon. Alvaro Bedoya, Statement of Commissioner Alvaro M. Bedoya in The Matter of Facebook, Inc. Commission Docket No. C-4365 (May 3, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2023-05-02-Bedoya-Facebook-Order-Statement-FINAL.pdf.

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strategy outside groups were working on with the White House for a summer of amplifying some of the FTC's bold moves.

These harassing messages raise larger questions at the Commission related to what may be in violation of ex parte communication rules, as well as how the FTC, an independent agency, is interacting with the White House. Please provide answers to the following questions:

1. Did you direct the individuals, or groups associated with the individuals, mentioned in Commissioner Bedoya's production, to treat Commissioner Bedoya in this manner?
2. Were you made aware that Commissioner Bedoya would be threatened and did you tell AELP not to invite Commissioner Bedoya to their summit?
3. Has behavior by progressive activists, like what was detailed in Commissioner Bedoya's ex parte notice, contributed to low staff morale and the departures of long-time staff of the Commission?
4. Has Adam Green of the Progressive Change Campaign approached you about hiring anyone from his organization's list of "400 recommended names for positions," in the Biden Administration?⁹
 - a. If so, did you hire any of these individuals?
 - b. Did you recommend that any of these individuals be appointed to career positions at the FTC because of all the vacancies created by low morale under your leadership of the Commission?
5. Provide all communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that you or your staff have had with Dan Geldon, Adam Green, and those who work at their organizations.
6. Dates and attendees at any meetings attended by you or your staff, FTC career staff, and Dan Geldon, Adam Green, and those who work at their organizations, and a summary of what was discussed.
7. Any information, or communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) your offices have had related to coordination with the White House and outside groups on matters related to the "summer strategy of amplifying some of the FTC's bold moves."
 - a. What are the "bold moves" referred to in this exchange?

⁹ Sydney Ember, *Another Progressive Group Suggests Biden hires: 'We are making it easy for them to appoint good people,'* NEW YORK TIMES (Nov. 13, 2020), <https://www.nytimes.com/live/2020/11/13/us/joe-biden-trump#another-progressive-group-suggests-biden-hires-we-are-making-it-easy-for-them-to-appoint-good-people>. The list included Lina Khan and Alvaro Bedoya.

The Honorable Lina M. Khan

July 11, 2023

Page 4.

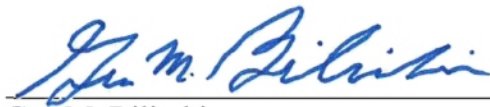
8. Information related to all interactions and communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that career, non-political, staff have had with the individuals and organizations associated with Dan Geldon, Adam Green, and those who work at their organizations.

Please produce this information as soon as possible but no later than 5:00 p.m. on July 25, 2023. Please contact the Committee staff at (202) 225-3641 with any questions.

Regards,



Cathy McMorris Rodgers
Chair
House Committee on Energy and
Commerce



Gus M. Bilirakis
Chairman
Subcommittee on Innovation, Data, and
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ONE HUNDRED EIGHTEENTH CONGRESS
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COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-3641
Minority (202) 225-2927

July 11, 2023

The Honorable Rebecca Kelly Slaughter
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20508

Dear Commissioner Slaughter:

Pursuant to Rules X and XI of the U.S. House of Representatives, we request information and documents from the Federal Trade Commission (FTC) regarding the activities detailed in Commissioner Alvaro Bedoya's ex parte notice.¹

On Friday, June 16, 2023, after consulting with the Commission's Office of the General Counsel and pursuant to 16 C.F.R. 4.7(c), Commissioner Bedoya, submitted to the Secretary of the FTC the written, unsolicited ex parte communications directed to him from May 2023.² These communications included digital messages and in person communications between Commissioner Bedoya and his personal staff with progressive activists.³ One thing was clear from the communications, activists were not pleased with a statement Commissioner Bedoya shared so they implemented a plan to ensure that he was ostracized by their "movement" because of it. It is troubling that left-wing activists, who were not nominated by the President or confirmed by the Senate to be FTC Commissioners are apparently dictating policy at the Commission.

Commissioner Bedoya ultimately voted with his fellow Democratic commissioners in a 3-0 vote, on a matter related to a company violating the terms of a 2020 settlement.⁴ However, the progressive activists were angered by a statement accompanying Commissioner Bedoya's vote noting reservations about the relationship between present day violations to a 2020 consent

¹ Letter from Hon. Alvaro M. Bedoya, Comm'r of the Fed. Trade Comm'n, to April Tabor, Sec'y of the Fed. Trade Comm'n, (June 16, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/bedoya_comm_combinedpdf.pdf.

² *Id.*

³ *Id.* These activists include: Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Adam Green, Co-Founder of the Progressive Change Campaign Committee.

⁴ John Sisco, *Progressives blast FTC's Bedoya for 'unforgivable' stance in Meta privacy case*, POLITICO.COM (June 20, 2023), <https://www.politico.com/news/2023/06/20/progressives-blast-ftcs-bedoya-for-unforgivable-stance-in-meta-privacy-case-00102646>.

decree, the proposed modified order, and the relation to the present day alleged violations.⁵ The threats made in the communications include, turning Commissioner Bedoya's statement into a scandal, suggesting he be uninvited to a progressive antitrust summit, and accusing him of standing in the way of the FTC's agenda shared by progressive outside groups and the White House.⁶

Excerpts from the text messages between Mr. Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Commissioner Bedoya, to which Commissioner Bedoya did not respond, include the following:

Alvaro – Your statement today is insanely at odds with the representations you made to me about backing Lina [Khan] on Facebook matters prior to your confirmation. Very very [sic] disappointing. I suspect it was obvious to you how the other side would weaponize it – like they did here... if not, it should have been.⁷

Mr. Geldon followed up after the initial message stating: “Very telling that you don't even respond to text messages now that you don't need help getting confirmed. That pretty much says it all.”

Prompted by Commissioner Bedoya not responding, Mr. Geldon texted a staffer of the Commissioner, sharing a screen shot of the text messages. Commissioner Bedoya's staff explained that there is now a prohibition on communicating regarding an active administrative proceeding to which Mr. Geldon responded:

Ok. Please feel free to convey to whoever you'd like that this was inexcusable and unforgivable. If I were aelp [sic] I [sic] would be disinviting you from the summit. You should also feel free to convey that I hope this same standard has applied to Robert raben [sic] And I hope Alvaro knows that if he has been talking to him in any way about Facebook it will come out and will be a scandal.⁸

Mr. Geldon, followed up once again by forwarding a newsletter to Commissioner Bedoya's staff and stated: “[f]or how what you did is affecting the FTC's momentum. I hope you appreciate how consequential this will be for how a large number of people perceive your work and kinship moving forward.”

A few days after Mr. Geldon's threatening and harassing messages, Adam Green, co-founder of the Progressive Change Institute also sent Commissioner Bedoya's staff an email noting his disappointment and voicing concern that the Commissioner could undermine a

⁵ Press Release, Hon. Alvaro Bedoya, Statement of Commissioner Alvaro M. Bedoya in The Matter of Facebook, Inc., Commission Docket No. C-4365 (May 3, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2023-05-02-Bedoya-Facebook-Order-Statement-FINAL.pdf.

⁶ *Supra* note 1, at 3, 6, 7, and 8.

⁷ *Supra* note 1 at 3, 6, and 7.

⁸ *Supra* note 1 at 8.

strategy outside groups were working on with the White House for a summer of amplifying some of the FTC's bold moves.

These harassing messages raise larger questions at the Commission related to what may be in violation of ex parte communication rules, as well as how the FTC, an independent agency is interacting with the White House. Please provide answers to the following questions:

1. Has behavior by progressive activists, like what was detailed in Commissioner Bedoya's ex parte notice, contributed to low staff morale and the departures of long-time staff of the Commission?
2. Has Adam Green of the Progressive Change Campaign approached you about hiring anyone from his organization's list of "400 recommended names for positions," in the Biden Administration?⁹
 - a. If so, did you hire any of these individuals?
 - b. Did you recommend that any of these individuals be appointed to career positions at the FTC because of all the vacancies created by low morale under your leadership of the Commission?
3. Provide all communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that you or your staff have had with Dan Geldon, Adam Green, and those who work at their organizations.
4. Dates and attendees at any meetings attended by you or your staff, FTC career staff, and Dan Geldon, Adam Green, and those who work at their organizations, and a summary of what was discussed.
5. Any information, or communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) your offices have had related to coordination with the White House and outside groups on matters related to the "summer strategy of amplifying some of the FTC's bold moves."
 - a. What are the "bold moves" referred to in this exchange?
6. Information related to all interactions and communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that career, non-political, staff have had with the individuals and organizations associated with Dan Geldon, Adam Green, and those who work at their organizations.

⁹ Sydney Ember, *Another Progressive Group Suggests Biden hires: 'We are making it easy for them to appoint good people,'* NEW YORK TIMES (Nov. 13, 2020), <https://www.nytimes.com/live/2020/11/13/us/joe-biden-trump#another-progressive-group-suggests-biden-hires-we-are-making-it-easy-for-them-to-appoint-good-people>. The list included Lina Khan and Alvaro Bedoya.

The Honorable Rebecca Kelly Slaughter

July 11, 2023

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Please produce this information as soon as possible but no later than 5:00 p.m. on July 25, 2023. Please contact the Committee staff at (202) 225-3641 with any questions.

Regards,



Cathy McMorris Rodgers

Chair

House Committee on Energy and
Commerce



Gus M. Bilirakis

Chairman

Subcommittee on Innovation, Data, and
Commerce

Congress of the United States

Washington, DC 20515

July 11, 2023

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

J. Russell George
Treasury Inspector General for Tax Administration
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Commissioner Werfel, Inspector General George, Chair Khan, and Attorney General Garland:

We write to inform you of the results of our investigation revealing an outrageous and potentially illegal sharing of taxpayers' sensitive personal and financial information with Meta by online tax preparation companies.

In November 2022, investigative journalists revealed that major tax preparation companies TaxSlayer, H&R Block, and TaxAct were sharing sensitive taxpayer data with Meta.¹ In response, we opened an investigation into the extent of this disclosure and its impact on taxpayer privacy.

Our specific findings include:

- **Tax preparation companies shared millions of taxpayers' data with Meta, Google, and other Big Tech firms.** The tax prep companies used computer code – known as pixels – to send data to Meta and Google. While most websites use pixels, it is particularly reckless for online tax preparation websites to use them on webpages where tax return information is entered unless further steps are taken to ensure that the pixels do not access sensitive information. Yet, the tax prep companies described this as a “ubiquitous” and “common industry practice.” TaxAct, TaxSlayer, and H&R Block confirmed that they had used the Meta Pixel, and had been using it “for at least a couple of years” and all three companies had been using Google Analytics (GA) for even longer.

¹ The Markup, “Tax Filing Websites Have Been Sending Users' Financial Information to Facebook,” Simon Fondrie-Teitler, Angie Waller, and Colin Lecher, November 22, 2022, <https://themarkup.org/pixel-hunt/2022/11/22/tax-filing-websites-have-been-sending-users-financial-information-to-facebook>.

One tax prep company revealed it had employed an additional 11 pixels on its website and that, because of the way these pixels operated and were set up, they potentially shared data for every single user of the company's websites – millions of taxpayers.

- **Tax prep companies shared extraordinarily sensitive personal and financial information with Meta, which used the data for diverse advertising purposes.**

TaxAct, H&R Block, and TaxSlayer each revealed, in response to this Congressional inquiry, that they shared taxpayer data via their use of the Meta Pixel and Google's tools. The Meta Pixel and other Meta tools used by TaxAct collected far more information than was previously reported: in addition to taxpayers' filing status, approximate AGI, approximate refund amount, and names of dependents, the Pixel collected approximate federal tax owed and buttons that were clicked and names of text-entry forms that the taxpayer navigated to (both of which could indicate, for example, whether taxpayers were eligible for certain deductions or exemptions). The Pixel also shared full names, email, country, state, city, and zip codes, phone numbers, and gender as hashed values. TaxAct also revealed that all this information was shared for taxpayers who used TaxAct's IRS Free File service.

H&R Block and TaxSlayer also revealed an extensive list of data shared via the Meta Pixel, including transmitting information on whether taxpayers had visited pages for many revealing tax situations, such as having dependents, certain types of income (such as rental income or capital gains), and certain tax credits or deductions. Although the tax prep companies and Big Tech firms claimed that all shared data was anonymous, the FTC and experts have indicated that the data could easily be used to identify individuals, or to create a dossier on them that could be used for targeted advertising or other purposes.

Meta also confirmed that it used the data to target ads to taxpayers, including for companies other than the tax prep companies themselves, and to train Meta's own AI algorithms.

- **Tax prep companies and Big Tech firms were reckless about their data sharing practices and their treatment of sensitive taxpayer data.** The tax prep firms were shockingly careless with their treatment of taxpayer data. They indicated that they installed the Meta and Google tools on their websites without fully understanding the extent to which they would send taxpayer data to these tech firms, without consulting with independent compliance or privacy experts, and without full knowledge of Meta's use of and disposition of the data. In fact, the tax prep companies indicated that they were still not fully aware of the current status of millions of taxpayers' data that had been shared with the Big Tech firms.

The Big Tech firms also appeared to act with stunning disregard for taxpayer privacy – failing to provide full and complete information about how they would collect taxpayer data, and what they did – or are doing – with it once it was collected. And although both

Meta and Google claimed to have filtering systems to prevent the inadvertent collection of sensitive taxpayer information, these filtering systems appeared to be ineffective.

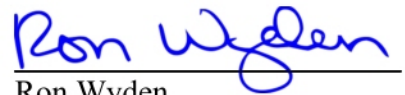
- **Tax prep companies may have violated taxpayer privacy laws by sharing taxpayer data with Big Tech firms.** Taxpayer privacy laws give broad protection to prevent abuses, and contain penalties that include large fines and potential jail time. Under the law, “a tax return preparer may not disclose or use a taxpayer’s tax return information prior to obtaining a written consent from the taxpayer,” – and they failed to do so when it came to the information that was turned over to Meta and Google. Violating the law can result in criminal penalties of up to \$1,000 per instance and up to a year in prison. Tax prep companies can also turn over data to “auxiliary service providers in connection with the preparation of a tax return.” But Meta and Google likely do not meet the definition of “auxiliary service providers” and the data sharing with Meta was for advertising purposes – not “in connection with the preparation of a tax return.”

The findings of this report reveal a shocking breach of taxpayer privacy by tax prep companies and by Big Tech firms that appeared to violate taxpayers’ rights and may have violated taxpayer privacy law. The Internal Revenue Service, the Treasury Inspector General for Tax Administration, the Federal Trade Commission, and the Department of Justice should fully investigate this matter and prosecute any company or individuals who violated the law. We also welcome the recent IRS announcement of a free, direct file pilot next year, which will give taxpayers the option to file taxes without sharing their data with untrustworthy and incompetent tax preparation firms.

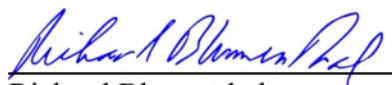
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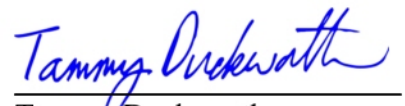
Elizabeth Warren
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator



Tammy Duckworth
United States Senator



Bernard Sanders
United States Senator



Sheldon Whitehouse
United States Senator



Katie Porter
Member of Congress

ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-3641
Minority (202) 225-2927

July 11, 2023

The Honorable Alvaro Bedoya
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20508

Dear Commissioner Bedoya:

Pursuant to Rules X and XI of the U.S. House of Representatives, we request information and documents from the Federal Trade Commission (FTC) regarding the activities detailed in Commissioner Alvaro Bedoya's ex parte notice.¹

On Friday, June 16, 2023, after consulting with the Commission's Office of the General Counsel and pursuant to 16 C.F.R. 4.7(c), Commissioner Bedoya, submitted to the Secretary of the FTC the written, unsolicited ex parte communications directed to him from May 2023.² These communications included digital messages and in person communications between Commissioner Bedoya and his personal staff with progressive activists.³ One thing was clear from the communications, activists were not pleased with a statement Commissioner Bedoya shared so they implemented a plan to ensure that he was ostracized by their "movement" because of it. It is troubling that left-wing activists, who were not nominated by the President or confirmed by the Senate to be FTC Commissioners are apparently dictating policy at the Commission.

Commissioner Bedoya ultimately voted with his fellow Democratic commissioners in a 3-0 vote, on a matter related to a company violating the terms of a 2020 settlement.⁴ However, the progressive activists were angered by a statement accompanying Commissioner Bedoya's vote noting reservations about the relationship between present day violations to a 2020 consent

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² *Id.*

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⁴ John Sisco, *Progressives blast FTC's Bedoya for 'unforgivable' stance in Meta privacy case*, POLITICO.COM (June 20, 2023), <https://www.politico.com/news/2023/06/20/progressives-blast-ftcs-bedoya-for-unforgivable-stance-in-meta-privacy-case-00102646>.

Congress of the United States

Washington, DC 20515

July 12, 2023

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chair Khan:

We write to express our concern regarding claims that Meta Platforms, Inc. (“Meta” or “the company”) systematically rejects health advertisements aimed at women and people of underrepresented genders while accepting equivalent advertisements targeted toward men. A report by Center for Intimacy Justice (“CIJ”) concludes that although Meta generally permits advertisements for products aimed at male sexual health conditions on its services Facebook and Instagram, it routinely rejects products aimed at pelvic pain, menopause, menstruation, fertility, and other areas for containing “adult content” or promoting “adult products and services.”¹ In the wake of CIJ’s report, we understand that Meta made additions to its advertising policies last fall to cite more examples of health ads that are allowed. Meta purportedly allows all advertisements for sexual and reproductive health and wellness products and services as long as the advertisements are in compliance with the company’s stated advertising policies. But a recent complaint filed by CIJ with the Commission alleges that Meta’s rejection of advertising for these products continues and constitutes an unfair and deceptive trade practice.²

Meta’s alleged discrimination in sexual and reproductive health advertising would perpetuate inequality of access to health services for women and people of underrepresented genders, especially those from marginalized communities. Access to these services is a matter of gender, race, sexual orientation, and economic equity. In particular, women of color face significant access barriers to sexual and reproductive healthcare services, and when they do access these services, they often encounter racism in the treatment that they receive.³ Black women, Indigenous women, and women of color experience a number of sexual and reproductive health issues at higher rates than white women. For example, vulvodynia—a disorder characterized by excruciating vulvar pain—is twice as prevalent among Hispanic women as white women.⁴ Likewise, polycystic ovary syndrome affects Black and Hispanic women more severely than their white counterparts.⁵ CIJ’s research indicates that advertisements and information concerning these conditions repeatedly have been blocked by Meta.

Meta’s alleged advertising practices would also harm small businesses hoping to advertise health products to women and people of underrepresented genders. According to CIJ’s research, small- and medium-

¹ See Valeriya Safronova, “Why Did Facebook Reject These Ads?,” *N.Y. Times*, Jan. 11, 2022, <https://www.nytimes.com/2022/01/11/style/facebook-womens-sexual-health-advertising.html>.

² See Harvard Cyberlaw Clinic, “Sexual Health and Wellness Ads Face Discrimination: Clinic Client CIJ Urges the FTC to Take Action,” *Cyberlaw Clinic Blog*, 13 April 2023, <https://clinic.cyber.harvard.edu/2023/04/13/sexual-health-and-wellness-ads-face-discrimination-clinic-client-cij-urges-the-ftc-to-take-action/>.

³ See, e.g., “Black Women’s Maternal Health: A Multifaceted Approach to Addressing Persistent and Dire Health Disparities,” *Nat’l Partnership for Women & Families*, Apr. 2018, <https://www.nationalpartnership.org/our-work/resources/health-care/maternity/black-womens-maternal-health-issue-brief.pdf>; “Reproductive Injustice: Racial & Gender Discrimination in U.S. Health Care,” *Center for Reproductive Rights*, Jun. 30, 2014, https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/CERD_Shadow_US_6.30.14_Web.pdf.

⁴ Barbara D. Reed, et al., “Factors Associated with Vulvodynia Incidence,” *Obstetrics & Gynecology* Vol. 123, Feb. 1, 2014, <https://europepmc.org/article/pmc/3913176>.

⁵ Lawrence Engmann, et al., “Racial and Ethnic Differences in the Polycystic Ovary Syndrome Metabolic Phenotype,” *Am. J. Obstetrics & Gynecology*, Vol. 216, Jan. 16, 2017, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5420474/>.

sized businesses and nonprofits—many of them founded and led by women and people of underrepresented genders—have spent thousands of dollars conforming their advertisements to Meta’s policies only to have their ads rejected and their advertising accounts suspended.


Advertising, when done in a manner that respects users’ privacy and is not targeted using their personal health data, plays a critical role in creating economic conditions that support sexual and reproductive health access and technological innovation. If it were not subject to Meta’s allegedly-discriminatory moderation, advertising could enable businesses and nonprofits to serve people in these vital areas of their lives.


We ask the Commission to review CIJ’s complaint thoroughly, take appropriate action, and inform us of the ultimate disposition of the complaint.

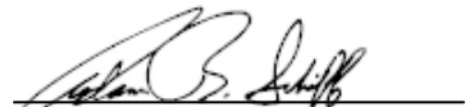
Thank you for your prompt attention to this matter.

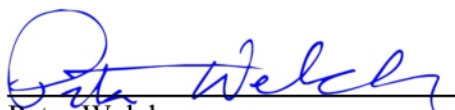
Sincerely,


Mazie K. Hirono
United States Senator


Amy Klobuchar
United States Senator


Elizabeth Warren
United States Senator


Adam B. Schiff
Member of Congress


Peter Welch
United States Senator

Congress of the United States

Washington, DC 20515

July 12, 2023

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

The House Committee on the Judiciary and the Committee on Energy and Commerce are conducting oversight of the Federal Trade Commission (FTC). After two years under your leadership, public information raises serious concerns about mismanagement, a “toxic” environment, and a failure to enforce antitrust and consumer protection laws. As we continue to examine these matters to inform legislative reforms, we expect your full cooperation with our oversight.

The most glaring example of your inability to enforce the FTC’s mission is the decline in enforcement of the antitrust and consumer protection laws. In 2020, the FTC brought 31 challenges to mergers—a two-decade high.¹ In 2021, the year you became Chair, the FTC took only 15 actions against mergers.² In 2022, you brought actions against only 17 mergers.³ Of the cases that the FTC did litigate, it lost in federal court and in the FTC’s own administrative court⁴—succeeding only when the FTC Commissioners act as prosecutors and judges.⁵ On the consumer protection side, the FTC’s enforcement actions declined by more than half from the last year of the Trump administration and were similarly low in the second year under your leadership.⁶ Specifically, in 2021 FTC’s consumer protection actions fell from 79 to 31.⁷

The decline in the FTC’s enforcement of antitrust and consumer protection laws coincides with low morale and employee dissatisfaction at the agency. Each year, the U.S. Office

¹ Letter from Christine S. Wilson, Commissioner, Fed. Trade Comm’n. to President Joseph R. Biden, Jr. 2-3 (March 2, 2023) [hereinafter Resignation Letter].

² *Id.*

³ *Id.*

⁴ See Press Release, Fed. Trade Comm’n, Administrative Law Judge Dismisses FTC Antitrust Complaint against Altria Group and JUUL Labs, Inc. (Feb. 24, 2022); Press Release, Fed. Trade Comm’n, Administrative Law Judge Dismisses FTC’s Challenge of Illumina’s Proposed Acquisition of Cancer Detection Test Maker Grail (Sept. 12, 2022); *FTC v. Meta Platforms Inc.*, 2022 WL 16637996 (N.D. Cal. Nov. 2, 2022).

⁵ Press Release, Fed. Trade Comm’n, FTC Orders Illumina to Divest Cancer Detection Test Maker GRAIL to Protect Competition in Life-Saving Technology Market (April 3, 2023).

⁶ Resignation Letter, *supra* note 1, at 3.

⁷ See Hon. Christine S. Wilson, Comm’r, Fed. Trade Comm’n, Remarks at the Mercatus Antitrust Forum: One Year of Biden Antitrust (Jan. 26, 2022).

of Personnel Management (OPM) administers the government-wide Federal Employee Viewpoint Survey (FEVS) to assess “how employees jointly experience the policies, practices, and procedures characteristic of their agency and its leadership.”⁸ The purpose of FEVS is to offer “insights into whether, and to what extent, workplace conditions characterizing successful organizations are present in Federal agencies, information important to successful organizational change and development initiatives.”⁹

Under your leadership, the results have been dismal. The FEVS data shows that the FTC’s own workforce believes that agency honesty, integrity, and respect has degraded significantly. For example:

- In 2020, 87% of FTC employees agreed that senior leaders maintain high standards of honesty and integrity.¹⁰ Under your leadership, that figure fell to 53% in 2021 and declined further to 49% in 2022.¹¹
- In 2020, 83% of surveyed FTC employees agreed that they have a high level of respect for the FTC’s senior leaders.¹² Again, under your leadership, that figure plummeted to 49% in 2021 and 44% in 2022.¹³
- In 2020, 80% of FTC respondents agreed that senior leaders generate high levels of motivation and commitment in the workforce.¹⁴ Under your leadership, that figure dropped to 42% in 2021 and then down to only 36% in 2022.¹⁵

This drop in leadership quality is not only concerning by itself, but also in comparison to other agencies. In each category listed above, the FTC dropped from highest-rated to lowest or second-lowest of the ranked agencies in the entire federal bureaucracy.¹⁶

Confidential interviews with FTC staff conducted by reporters provide context to these dismal results. Several FTC employees described the FTC as having a “toxic environment.”¹⁷ One employee described your leadership as creating a “wall of silence” around the chair’s

⁸ *About, Federal Employee Viewpoint Survey*, U.S. OFFICE OF PERSONNEL MANAGEMENT (last visited June 22, 2023).

⁹ *Id.*

¹⁰ U.S. OFFICE OF PERSONNEL MANAGEMENT, 2020 OFFICE OF PERSONNEL MANAGEMENT FEDERAL EMPLOYEE VIEWPOINT SURVEY: REPORT BY AGENCY Q27 (Apr. 26, 2021) [hereinafter 2020 FEVS].

¹¹ U.S. OFFICE OF PERSONNEL MANAGEMENT, 2021 OFFICE OF PERSONNEL MANAGEMENT FEDERAL EMPLOYEE VIEWPOINT SURVEY: REPORT BY AGENCY Q33 (Apr. 28, 2022) [hereinafter 2021 FEVS]; U.S. OFFICE OF PERSONNEL MANAGEMENT, 2020 OFFICE OF PERSONNEL MANAGEMENT FEDERAL EMPLOYEE VIEWPOINT SURVEY: REPORT BY AGENCY Q56 (Oct. 20, 2022) [hereinafter 2022 FEVS].

¹² 2020 FEVS, *supra* note 10, at Q31.

¹³ 2021 FEVS, *supra* note 11, at Q37; 2022 FEVS, *supra* note 11, at Q60.

¹⁴ 2020 FEVS, *supra* note 10, at Q26.

¹⁵ 2021 FEVS, *supra* note 11, at Q32; 2022 FEVS, *supra* note 11, at Q55.

¹⁶ *Compare* 2020 FEVS, *supra* note 10, *to* 2021 FEVS, *supra* note 11 *and* 2022 FEVS, *supra* note 11, at Q55. *See also* Resignation Letter, *supra* note 1, at 2.

¹⁷ Mike Swift et al., *Under Khan’s leadership, staffers air frustrations in wake of survey*, MLEX (June 6, 2022).

office.¹⁸ FTC employees stated that you turned the agency into “a hierarchical, top-down organization, where even expert staffers say they feel marginalized and afraid to speak truth to power, for fear of being frozen out for not being ‘on board’ with [your] mission.”¹⁹ Even staff members agreeing with your goals have admonished your leadership, stating:

I think we’ve let too much stuff go in the past. But the way to fix that is not to ruin an agency; it’s to build an agency up. It’s not driving out the most experienced members of our team and browbeating everyone into submission where everybody just hides and waits.²⁰

In 2022, the FTC’s Office of Inspector General (OIG) investigated mismanagement in merger review at the FTC, which also revealed low employee morale and satisfaction. The OIG’s report found that many staff had “issues with the Front Office and other upper management, caused by problematic communication . . . resulting in inefficiency and ineffectiveness.”²¹ The OIG report also stated that “attorneys noted that higher agency leadership do not allow lower management and staff attorneys to exercise a sufficient level of discretion in their handling of merger reviews—with an end result of lower efficiency and staff morale.”²² The consequence of your treatment of staff has been a brain drain at the FTC. A report by *Bloomberg* found that 71 senior attorneys left the FTC in the two-year period between 2021 and 2022, which is the highest number of departures in the category for a comparable two-year period since 2000.²³

As we consider legislative reforms to correct a mismanaged FTC and your apparent failure to safeguard taxpayer resources, please provide the following documents and information to the Committees:

1. All documents and communications in the custody or control of the Performance Review Board or the Human Capital Management Office referring or relating to the performance or conduct of the Chair, the Chair’s staff, employees that report directly to the Chair, or Senior Executive Service employees.
2. All documents and communications in the custody or control of the Human Capital Management Office or the Office of the Executive Director referring or relating to allegations of misconduct towards or mistreatment of FTC employees by the Chair, the Chair’s staff, employees that report directly to the Chair, or Senior Executive Service employees.
3. All documents and communications referring or relating to complaints about senior leadership by FTC staff including, but not limited to, complaints about a lack of honesty,

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *See, e.g., id.*

²¹ Memorandum from Andrew Katsaros, Inspector General, Fed. Trade Comm’n to Holly Vedova, Director, Bureau of Competition, Fed. Trade Comm’n 9 (May 2, 2022).

²² *Id.* at 10.

²³ Dan Papscun, *FTC Lawyers Leave at Fastest Rate in Years as Khan Sets New Tone*, BLOOMBERG (Mar. 16, 2023).

integrity, respect, communication, commitment, motivation, workload, managerial experience, or prioritization, from the following custodians:

- a. Stephen Mohr, Assistant Director, Mergers I;
- b. Jordan Andrew, Deputy Assistant Director, Mergers I;
- c. James Weiss, Deputy Assistant Director, Mergers I;
- d. Sarah Wohl, Deputy Assistant Director, Mergers I;
- e. Peggy Bayer Femenella, Assistant Director, Mergers II;
- f. James Abell, Deputy Assistant Director, Mergers II;
- g. Joshua Goodman, Deputy Assistant Director, Mergers II;
- h. Peter Richman, Assistant Director, Mergers III;
- i. Jessica Drake, Deputy Assistant Director, Mergers III;
- j. Brian Telpner, Deputy Assistant Director, Mergers III;
- k. Mark Seidman, Assistant Director, Mergers IV;
- l. Rohan Pai, Deputy Assistant Director, Mergers IV;
- m. Stephen Rodger, Deputy Assistant Director, Mergers IV;
- n. Tara Isa Koslov, Deputy Director, Bureau of Competition;
- o. Patricia Galvan, Assistant Director, Technology Enforcement Division;
- p. Krisha Cerilli, Deputy Assistant Director, Technology Enforcement Division;
- q. Samuel Levine, Director, Bureau of Consumer Protection;
- r. Monica Vaca, Deputy Director, Bureau of Consumer Protection;
- s. Rebecca Unruh, Acting Deputy Director, Bureau of Consumer Protection;
- t. Audrey Austin, Acting Deputy Director, Bureau of Consumer Protection;
- u. Serena Viswanathan, Associate Director, Division of Advertising Practices;
- v. Jennifer Leach, Associate Director, Division of Consumer & Business Education;
- w. Maria Mayo, Associate Director, Division of Consumer Response & Operations;
- x. James Kohm, Associate Director, Division of Enforcement;
- y. Malini Mithal, Associate Director, Division of Financial Practices;
- z. Laura DeMartino, Associate Director, Division of Litigation Technology & Analysis;
- aa. Lois Greisman, Associate Director, Division of Marketing Practices; and
- bb. Ben Wiseman, Acting Associate Director, Division of Privacy & Identity Protection

Please produce this information as soon as possible, but no later than 5:00 p.m. on July 26, 2023.

The House Committee on the Judiciary is authorized by Rule X of the Rules of the House of Representatives to conduct oversight of and legislate on matters relating to the “[p]rotection of trade and commerce against unlawful restraints and monopolies.”²⁴ The Committee on Energy and Commerce is authorized by Rule X of the Rules of the House of Representatives to conduct

²⁴ Rules of the U.S. House of Representatives, R. X (2023).

The Honorable Lina M. Khan

July 12, 2023

Page 5

oversight of and legislate on matters relating to “[c]onsumer affairs and consumer protection” and “[i]nterstate and foreign commerce generally”²⁵

If you have any questions about this matter, please ask your staff to contact Judiciary Committee staff at (202) 225-6906 or Energy and Commerce Committee staff at (202) 225-3641. Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Chairman
Committee on the Judiciary



Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce

cc: The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

The Honorable Frank Pallone, Ranking Member
Committee on Energy and Commerce

²⁵ *Id.*

SHERROD BROWN
OHIO

COMMITTEES:
AGRICULTURE, NUTRITION,
AND FORESTRY
BANKING, HOUSING,
AND URBAN AFFAIRS
FINANCE
VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510 - 3505

July 13, 2023

Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

Dear Chair Khan:

We applaud your efforts to address the pernicious problem of increasing corporate concentration. Corporate concentration can lead to stifled innovation, limited consumer options, and undermine workers' ability to have a voice in the workplace. At their core, efforts to address corporate concentration share the same goal with those who support workers: to enable the American people to control their own economic destiny.

Given limited time and resources, the Federal Trade Commission (FTC) should therefore consider the ramifications for the American labor market as it evaluates next steps on the Microsoft-Activision Blizzard proposed merger. The agency's broader efforts should be aligned with those who seek to empower workers, like the nearly 10,000 workers in the technology and video game industry who would be able to join a union free from employer interference.

In collaboration with the Communications Workers of America (CWA), Microsoft agreed to a historic, legally-binding labor neutrality agreement.¹ This is an important step forward for the technology industry, and it should set the standard for this sector of the economy. As more companies adopt advanced technologies for their own production into the future, this agreement sends a signal to workers across the labor market. Workers should be empowered to form a union without facing the threat of illegal interference by large corporations.

It is important for the federal government to underscore that, in a 21st century economy, the United States will thrive when companies work collaboratively with their biggest asset: their workers. As a nation, we should hope to see a future of work where American companies and workers succeed together. Evidence from around the world is clear: companies will be most successful when they can grow while collaborating with a union-represented workforce. A union increases worker retention and productivity, while increasing standards of living for workers.

Unions also help address wealth inequality and close racial wealth gaps in the United States.² The median union household has more than twice the wealth of the median non-union household. Black households with a union

¹ Microsoft adopts principles for employee organizing and engagement with labor organizations. June 2, 2022.
<https://blogs.microsoft.com/on-the-issues/2022/06/02/employee-organizing-engagement-labor-economy/>

² <https://www.americanprogress.org/article/unions-help-increase-wealth-close-racial-wealth-gaps/>

member have more than three times the median wealth of non-union Black households. Hispanic households with a union member have more than five times the median wealth of non-union Hispanic households.

What's more, if a company works collaboratively with their union-represented workforce, they will be more likely to invest in innovation, not less. To this point, the Microsoft-CWA neutrality agreement is already proposing innovative strategies for collaboration between union members and management that should result in new technology and skill building programs for future competitiveness throughout the country.³

Microsoft's labor neutrality agreement should become the norm, not an outlier. In assessing next steps, the FTC should note that when ZeniMax studio workers announced in December that they were organizing with CWA, Microsoft did not interfere. The company has already demonstrated a commitment to this labor neutrality agreement and acted in accordance with its principles. In January, a neutral arbiter certified that ZeniMax workers are now represented by CWA. As a result, a merger between Microsoft and Activision Blizzard will help transform the technology industry into a sector that invests in its workers and honors their legal rights to collectively bargain for better working conditions.

I am thankful that the President recognized the harmful role of monopsony in our labor markets in Executive Order 14036, where he affirmed that it is the policy of the Biden administration to combat the harmful effects of monopoly and monopsony on labor markets. In cases where employers merge and subsequently lower worker wages to exploit uncompetitive local labor markets, monopsony conditions have exacerbated wage inequality and competitive options for consumers around the country.

As a reminder, however, workers are also consumers. Too often, the focus on achieving the lowest possible consumer prices comes at the cost of failing to improve working conditions in the United States when prices are considered without the corresponding assessment of worker wage gains. Preserving a viable, American gaming sector in the face of foreign competition is not anticompetitive, it is pro-worker and pro-domestic innovation. In this case, the FTC should consider the positive effect on the labor market when a large corporation adopts novel, standard-setting labor neutrality principles and honors its provisions.

I hope the FTC recognizes the historic nature of this agreement as it moves forward.

Sincerely,



Sherrod Brown
United States Senator

³ Ground-breaking agreement will enable a new approach to corporate-union engagement after Microsoft's acquisition of Activision Blizzard closes. June 13, 2022. <https://cwa-union.org/news/releases/cwa-microsoft-announce-labor-neutrality-agreement>

Congress of the United States

House of Representatives

Washington, DC 20515

July 17, 2023

The Honorable Lina Khan, Chair
The Honorable Rebecca Slaughter, Commissioner
The Honorable Alvaro Bedoya, Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter and Bedoya:

The United States benefited from a bipartisan consensus on antitrust policy for decades. During those years, the nation's economic performance has substantially outpaced the rest of the developed world. Today, with less than five percent of the world's population, the United States remains the world's largest economy. There are many reasons for this success, but not the least of which is the United States' sensible, consumer-oriented approach to antitrust enforcement. However, since 2021, the Federal Trade Commission (FTC) has sharply veered from established antitrust policy, toward an anti-consumer, anti-innovation, and anti-American policy that jeopardizes the health of our economy and threatens to increase costs to consumers.

The latest, and most egregious, example of the FTC's rejection of sound antitrust policy was the decision to seek a preliminary injunction against a procompetitive transaction, Microsoft's proposed acquisition of Activision. As Judge Jacqueline Corley of the Northern District of California found, the FTC failed to demonstrate a likelihood that the transaction "...will substantially lessen competition in the video game library subscription and cloud gaming markets"¹ and indeed, the "... evidence points to more consumer access to ... Activision content."² We write to express our concerns, and to urge you to drop this matter and refocus the FTC's resources on work that supports the interests of American consumers.

The FTC's case against Microsoft's acquisition of Activision is the latest in a series of actions that are clearly designed to impede legitimate mergers and acquisitions, while ignoring decades of settled FTC practice across Republican and Democratic administrations. Instead of protecting competition as Congress intended, the FTC has spent taxpayer resources seeking to block a deal that promises to expand consumer choice and insulate a dominant foreign company from competition. It is foundational that federal antitrust laws are intended to protect competition, not competitors, and certainly not dominant foreign competitors. It is therefore unsurprising that the FTC failed to meet an incredibly low threshold to obtain a preliminary injunction based on these facts. The FTC should follow the lead of the many other jurisdictions that have already cleared the merger.

¹ *Fed. Trade Comm'n v. Microsoft Corp.*, No. 23-cv-02880-JSC, at 1 (N.D. Cal. July 11, 2023) (denying prelim. inj.).

² *Id.* at 53.

For two decades, Microsoft's Xbox business has been the much smaller challenger in the video game publishing and video game console markets. The addition of Activision's portfolio is intended to help Xbox make these games available to a wider set of consumers, especially those who prefer to play on mobile devices. The value proposition of Activision is the popularity of its titles played on multiple platforms, which Microsoft has every incentive to continue. Increasing the availability of games and strengthening a challenger in these markets clearly benefit video game developers and millions of American consumers. These objectives are precisely what the antitrust laws are intended to protect and promote.

The FTC alleged that Microsoft would be incentivized to withhold access to Activision's popular games. However, Microsoft has made clear that it is "committed to helping bring more games to more people – however they choose to play."³ Further, as regulators in multiple other jurisdictions like the European Union and Japan have already recognized in their approval of the transaction, it would be economically irrational for Microsoft to withhold games such as Call of Duty from rivals and subsequently shrink the size of its consumer base.⁴ Indeed, Microsoft has committed to keep the Call of Duty franchise on rival consoles and game streaming services.

As Judge Corley found, there simply is no legitimate antitrust theory upon which Microsoft's acquisition of Activision should be blocked.⁵ Unprincipled efforts to block such procompetitive transactions appear to reflect the FTC's current disdain for the important role that mergers and acquisitions play in a vibrant, dynamic economy. Rather, the FTC's mounting court losses in merger complaints reflects the misguided view that companies should simply pursue "expansion through internal corporate growth" rather than "through acquisition."⁶

As the FTC continues to suffer defeats in such cases, it demanded a massive budget request totaling \$590 million, which is a \$160 million increase from Fiscal Year 2023.⁷ We cannot help but wonder if the FTC would need increased resources were it not wasting time and money on challenges such as the one it has brought against Microsoft's acquisition of Activision—an acquisition which, according to a federal judge, multiple other antitrust regulators from around the world, and simple common sense—is not anticompetitive.

³ Phil Spencer (@XboxP3), Twitter, (Dec. 6, 2022, 11:12 PM)

<https://twitter.com/XboxP3/status/1600342335845724160?lang=en>

⁴ Matthew Humphries, "[Microsoft Legally Commits to 10 Years of Call of Duty Games on Nintendo Consoles](#)," PC Mag (Feb. 21, 2023); Rory Cocker, "[Feature: Call Of Duty On Nintendo Systems - A Brief History](#)," Nintendo Life (April 8, 2023).

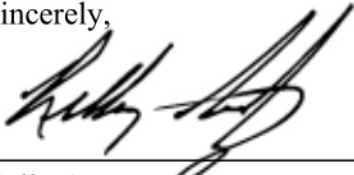
⁵ As two of the country's leading scholars of antitrust enforcement have argued, "vertical integration can spur innovation and greatly benefit consumers;" if the FTC fails to understand that fact, it may "cause real harm." See Carl Shapiro & Herbert Hovenkamp, "[How Will the FTC Evaluate Vertical Mergers?](#)," ProMarket (Sept. 23, 2021).

⁶ See Prepared Remarks of Lina M. Khan, "Remarks of Chair Lina M. Khan As Prepared for Delivery Fordham Annual Conference on Int'l Antitrust Law & Policy," (Sept. 16, 2022), at 6. According to Chair Khan, the lawmakers who promoted early enforcement of the FTC Act shared "a core policy view: that often times business expansion through internal corporate growth is superior to growth through acquisition."

⁷ Federal Trade Comm'n, *Congressional Budget Justification Fiscal Year 2024*.

https://www.ftc.gov/system/files/ftc_gov/pdf/p859900fy24cbj.pdf

Sincerely,



Kelly Armstrong
Member of Congress



James Comer
Chair, Committee on Oversight and Accountability



Larry Buschon, M.D.
Member of Congress



Ben Cline
Member of Congress



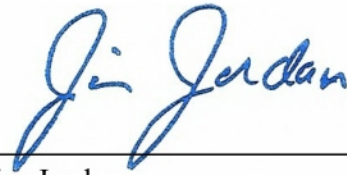
Jeff Duncan
Member of Congress



Carol D. Miller
Member of Congress



Wesley Hunt
Member of Congress



Jim Jordan
Chair, Committee on the Judiciary



Brian Fitzpatrick
Member of Congress



Earl L. "Buddy" Carter
Member of Congress



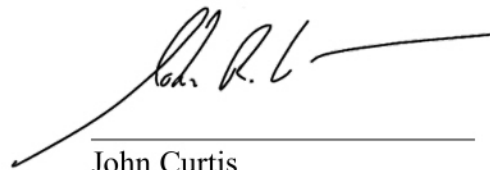
Lisa McClain
Member of Congress



Kevin Hern
Member of Congress



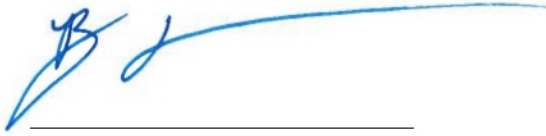
Richard Hudson
Member of Congress



John Curtis
Member of Congress

Nathaniel Moran

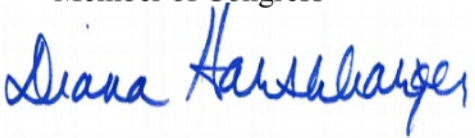
Nathaniel Moran
Member of Congress



Byron Donalds
Member of Congress



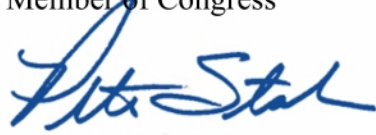
John Joyce, M.D.
Member of Congress



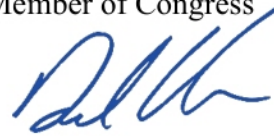
Diana Harshbarger
Member of Congress

August Pfluger

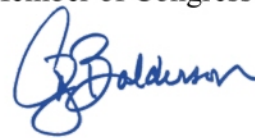
August Pfluger
Member of Congress



Pete Stauber
Member of Congress



David G. Valadao
Member of Congress



Troy Balderson
Member of Congress

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

July 17, 2023

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Dear Chair Khan:

The Committee on the Judiciary received your letter dated July 7, 2023. The Rules of the House of Representatives authorize the Committee to conduct oversight of and legislate on matters relating to the “[p]rotection of trade and commerce against unlawful restraints and monopolies.”¹ Pursuant to this authority, the Committee is conducting oversight of the programs and operations of the Federal Trade Commission (FTC), including allegations of mismanagement and ethical lapses at the Commission, the FTC’s merger review processes, its records retention practices, the FTC’s harassment of Twitter, and the Commission’s responsiveness to congressional oversight. This oversight will inform various legislative proposals, including, but not limited to, proposals to consolidate antitrust enforcement authority in one agency and legislation to provide guardrails on FTC enforcement and rulemaking authorities.

As we explained in our letter dated June 28, 2023, the Committee requires testimony of FTC employees to advance its oversight and inform potential legislative reforms.² In response to your request for more information, and as an accommodation to you, enclosed is the information you have requested.³ We trust this accommodation satisfies your request. On July 6, 2023, Committee staff provided the FTC with proposed dates for the requested transcribed interviews.⁴

¹ Rules of the U.S. House of Representatives, R. X (2023).

² Letter from Jim Jordan, Chair, H. Comm. on the Judiciary, to Lina Khan, Chair, Fed. Trade Comm’n (June 28, 2023).

³ The enclosed list of potential topics of oversight in no way limits the scope of the Committee’s transcribed interviews.

⁴ Email from H. Comm. on the Judiciary staff to Fed. Trade Comm’n staff (July 6, 2023).

The Honorable Lina M. Khan

July 17, 2023

Page 2

We ask that you confirm these dates by 12:00 p.m. on Wednesday, July 19, 2023, so the Committee's oversight may continue without undue delay.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

Topics of Oversight

1. Thursday, July 20, 2023 - Mr. Brian Telpner - mismanagement, staff morale, and merger review
2. Tuesday, July 25, 2023 - Mr. Stephen Mohr - mismanagement, staff morale, and merger review
3. Friday, July 28, 2023 - Mr. Jordan Andrew - mismanagement, staff morale, and merger review
4. Tuesday, August 1, 2023 - Mr. James Weiss - mismanagement, staff morale, and merger review
5. Thursday, August 3, 2023 - Ms. Sarah Wohl - mismanagement, staff morale, and merger review
6. Tuesday, August 8, 2023 - Ms. Peggy Bayer Femenella - mismanagement, staff morale, and merger review
7. Thursday, August 10, 2023 - Mr. James Abell - mismanagement, staff morale, and merger review
8. Tuesday, August 15, 2023 - Mr. Joshua Goodman - mismanagement, staff morale, and merger review
9. Thursday, August 17, 2023 - Mr. Peter Richman - mismanagement, staff morale, and merger review
10. Wednesday, September 6, 2023 - Ms. Jessica Drake - mismanagement, staff morale, and merger review
11. Friday, September 8, 2023 - Mr. Rohan Pai - mismanagement, staff morale, and merger review
12. Tuesday, September 12, 2023 - Mr. Stephen Rodger - mismanagement, staff morale, and merger review
13. Wednesday, September 13, 2023 - Mr. Mark Seidman - mismanagement, staff morale, and merger review
14. Friday, September 15, 2023 - Ms. Tara Isa Koslov - mismanagement, staff morale, and merger review
15. Tuesday, September 19, 2023 - Ms. Patricia Galvan - mismanagement, staff morale, and merger review
16. Thursday, September 21, 2023 - Ms. Krisha Cerilli - mismanagement, staff morale, and merger review
17. Tuesday, September 26, 2023 - Ms. Jeanne Bumpus - responsiveness to congressional oversight
18. Thursday, September 28, 2023 - Ms. Elizabeth Tucci - mismanagement, staff morale, ethical lapses, and responsiveness to congressional oversight
19. Tuesday, October 10, 2023 - Ms. April Tabor - records retention and responsiveness to congressional oversight
20. Friday, October 13, 2023 - Ms. Kim Vandecar - responsiveness to congressional oversight
21. Tuesday, October 17, 2023 - Ms. Robin Moore - responsiveness to congressional oversight
22. Thursday, October 19, 2023 - Ms. Lorielle Pankey - mismanagement, staff morale, and ethical lapses
23. Wednesday, October 25, 2023 - Mr. James Kohm - mismanagement, staff morale, and harassment of Twitter



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 19, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Jordan:

I am writing in response to your July 17, 2023, letter concerning testimony from 23 career civil servants who work at the Commission. Under Commission rules, the Commission must vote to authorize the sharing of nonpublic information, and those who are part of any certain matter/investigation must be given proper notification that their nonpublic information could be shared beyond the Commission.¹ Although I appreciate your response to the Commission providing additional information regarding the testimony, to comply with the Commission's longstanding rules to safeguard investigations and other law enforcement matters, the Commission requires further information beyond "merger reviews" in order to appropriately comply with the Committee's request.

Because the timeline and topic granularity are not sufficient, the Commission cannot adhere to your proposed schedule. However, the Commission stands willing to work with your Committee. In an effort to accommodate your request, we propose, as a starting point, that we work with you to find appropriate times for the senior executives on your list. The Commission refrains from making line attorneys available for congressional testimony or interviews, but all of the senior executives on your list are policy-level supervisory officials.

I am confident we can find mutually acceptable times for these interviews and commit to working with you on this and your other information requests.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission

¹ 16 C.F.R. § 4.11(b). *See, e.g., Lawrence v. Suffolk Cnty.*, No. 19-cv-02887-FB-SJB, 2022 WL 855380, at *10 (E.D.N.Y. Mar. 23, 2022); *Wynes v. City of Royal Oak*, No. 2:16-cv-12656, 2017 WL 2222551, at *3 (E.D. Mich. May 22, 2017).

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS
COMMERCE
HEALTH, EDUCATION,
LABOR, AND PENSIONS

July 25, 2023

Attorney General Merrick Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Chair Lina Khan
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Attorney General Garland and Chair Khan:

I write to call your attention to the closure of the Milwaukee Master Lock manufacturing facility announced on May 31, 2023. Should this closure proceed, more than 400 Wisconsinites will lose their livelihoods, including 330 workers who will lose a good-paying, union job. Manufacturing is the backbone of our Wisconsin economy and the offshoring of these jobs to Master Lock plants in Mexico and China will be devastating to these workers and their families.

The proximity of this announced closure to the Department of Justice's May 15, 2023 proposed final judgment in *United States v. ASSA ABLOY AB et al.* is concerning.¹ This proposed settlement, which would allow ASSA ABLOY to acquire Spectrum Brands Holdings Hardware and Home Improvement Division, directs ASSA ABLOY to divest certain assets to Fortune Brands Innovations, of which Master Lock is a subsidiary. While this settlement is intended to preserve some competition in the lock market, it provides little comfort to the hundreds of Wisconsin workers who are losing their jobs—or the broader Milwaukee community, whose commitment and loyalty over the course of a century of partnership built Master Lock into the brand it is today. Since becoming a publicly traded company in 2011, Fortune Brands has acquired ten firms, including Master Lock² – amassing market power that has helped its investors but hurt Milwaukee workers.

I raise this for DOJ and FTC to demonstrate the need to focus on workers when evaluating mergers. I understand the significant judicial and statutory limitations your agencies face when seeking to protect workers from anticompetitive behavior. That is why I applaud the Department of Justice and the Federal Trade Commission's new draft merger guidelines which, for the first time, rightly recognize that anticompetitive behavior harms working people and threatens Wisconsin jobs. As Commissioners Bedoya and Slaughter and Chair Khan rightly noted,

¹ Department of Justice, Antitrust Division, *United States v. ASSA ABLOY AB, et al.*: Proposed Final Judgment and Competitive Impact Statement, 88 Fed. Reg. 31007-31, at <https://www.govinfo.gov/content/pkg/FR-2023-05-15/pdf/2023-10343.pdf>.

² Fortune Brands Innovations, History, at: <https://www.fbin.com/our-story/history/>.

antitrust law is supposed to protect American workers.³ This commitment to American workers must, however, encompass all of antitrust law, including litigation and enforcement. Lost livelihoods are not “efficiencies” that should be used to help large corporations gain more market power. I ask the Commission and the Department to commit to protecting workers in all of its work and to refuse to consider layoffs as an efficiency defense under the Clayton Act.

For too long, lax antitrust enforcement has harmed Wisconsin families. With these new guidelines and a commitment to American workers, the Department of Justice and Federal Trade Commission can use antitrust law to enhance competition and ensure a healthy market for Wisconsin labor and manufacturing.

Sincerely,

A handwritten signature in blue ink that reads "Tammy Baldwin". The signature is written in a cursive style with a large initial "T".

Tammy Baldwin
United States Senator

CC:
Commissioner Alvaro Bedoya
Commissioner Rebecca Kelly Slaughter
Assistant Attorney General Jonathan Kanter

³ See Statement of Commissioner Alvaro M. Bedoya, Joined by Chair Lina M. Khan and Commissioner Rebecca Kelly Slaughter, Regarding the Proposed Merger Guidelines Issued by the Federal Trade Commission & U.S. Department of Justice, July 19, 2023, at: https://www.ftc.gov/system/files/ftc_gov/pdf/p234000_merger_guidelines_statement_bedoya_final.pdf.



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of Commissioner
Alvaro M. Bedoya

July 25, 2023

The Honorable Cathy McMorris Rodgers, Chair
The Honorable Gus M. Bilirakis, Chairman
Subcommittee on Innovation, Data, and Commerce
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Re: FTC Commissioner Bedoya's Responses to July 11, 2023 Letter Regarding Ex Parte Activities

Dear Chair McMorris Rodgers & Chairman Bilirakis,

Thanks to you and the Committee staff for your July 11, 2023 letter. I am attaching here my responses to the questions in your letter.

Sincerely,

A handwritten signature in black ink, appearing to be "AM Bedoya", with a long horizontal line extending to the right.

Alvaro M. Bedoya
Commissioner
Federal Trade Commission

cc: The Honorable Frank Pallone, Jr., House Energy and Commerce Committee, Ranking Member
The Honorable Jan Schakowsky, Innovation, Data, and Commerce Subcommittee, Ranking Member

The Honorable Alvaro M. Bedoya

Response to Question 1: I am not aware of any instance where the actions of progressive activists affected staff morale or departures.

Response to Question 2: Mr. Green has never approached me to discuss hiring.

Response to Question 5a: I do not know which FTC actions Mr. Green intended to refer to in his email message.

Response to Questions 3, 4, 5, and 6: I have submitted several communications between my Attorney Advisor Max Miller and Mr. Geldon. Other relevant communications are included in my June 16, 2023 ex parte disclosures.



Office of Commissioner
Rebecca Kelly Slaughter

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 25, 2023

The Honorable Cathy McMorris Rogers
Chair
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

The Honorable Gus Bilirakis
Chairman
Subcommittee on Innovation, Data, and Commerce
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairs McMorris Rogers and Bilirakis:

I write to respond to your letter dated July 11, 2023. I am pleased to provide answers to your questions below.

1. Has behavior by progressive activists, like what was detailed in Commissioner Bedoya's ex parte notice, contributed to low staff morale and the departures of long-time staff of the Commission?

The Federal Trade Commission (FTC) is routinely subject to scrutiny and critique from a wide variety of outside advocates across the political spectrum. I am unaware of low morale or departures from the agency resulting from such critiques.

2. Has Adam Green of the Progressive Change Campaign approached you about hiring anyone from his organization's list of "400 recommended names for positions," in the Biden Administration?
 - a. If so, did you hire any of these individuals?
 - b. Did you recommend that any of these individuals be appointed to career positions at the FTC because of all the vacancies created by low morale under your leadership of the Commission?

I do not recall ever seeing the list that your letter references or ever being in contact with Adam Green. I do not know whether anyone I have hired or recommended for positions at the FTC might be on this list, but any hiring decisions or recommendations I may have made were not informed by inclusion on the referenced list.

3. Provide all communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that you or your staff have had with Dan Geldon, Adam Green, and those who work at their organizations.

I have no responsive documents.

4. Dates and attendees at any meetings attended by you or your staff, FTC career staff, and Dan Geldon, Adam Green, and those who work at their organizations, and a summary of what was discussed.

Neither I nor my staff have attended any meetings with Dan Geldon, Adam Green, or others who work at their organizations. I do not possess any information about whether FTC career staff have had meetings with these individuals or their organizations.

5. Any information, or communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) your offices have had related to coordination with the White House and outside groups on matters related to the “summer strategy of amplifying some of the FTC’s bold moves.”

- a. What are the “bold moves” referred to in this exchange?

I do not have information or communications responsive to this request and I am unaware of what “bold moves” refers to in this exchange.

6. Information related to all interactions and communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that career, non-political, staff have had with the individuals and organizations associated with Dan Geldon, Adam Green, and those who work at their organizations.

I do not possess information about interactions and communications between the referenced individuals and their organizations and career, non-political staff.

Thank you for your interest in the FTC and its mission. I look forward to continuing to work with you and your staffs.

Sincerely,



Rebecca Kelly Slaughter
Commissioner
Federal Trade Commission

cc: The Honorable Frank Pallone Jr.
The Honorable Janice Schakowsky



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 26, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan:

During my tenure as FTC Chair, I and my leadership team have actively and extensively cooperated with you and your Committee staff in dozens of requests for documents, briefings, and testimony. We have done so because we take seriously the responsibility of Congress to provide effective oversight over federal agencies on behalf of the American people. We also take seriously our mandate from Congress to police illegal mergers, prevent unlawful monopolization, and protect the American public from a broad range of unfair or deceptive acts and practices—efforts that I was grateful for the opportunity to discuss with your Committee in a lengthy hearing on July 13, 2023.

It has come to my attention that over the last month, your staff has begun a campaign to intimidate and harass nearly two dozen career civil servants who work across a broad range of enforcement and other operational areas of this agency, many of whom have decades of experience and diligently served both Republican and Democratic administrations. This effort seems designed to obstruct and chill the agency's critical work and raises grave concerns.

As you know, on June 28, 2023, the Committee demanded transcribed interviews with 23 agency career employees with roles in antitrust enforcement, consumer protection enforcement, congressional relations, and administrative functions. As a general matter, it is extraordinarily rare for career civil servants to be asked to provide transcribed interviews as part of congressional oversight. Nonetheless, we have engaged in good faith with your Committee to identify members of the career senior executive service who could be available to meet with the Committee.

Despite our cooperation, the Committee has, without explanation, rejected our offer to begin transcribed interviews with the most senior career supervisors on the Committee's list, who we explained would likely be in the best position to answer the broad, vague, and imprecise requests from the Committee. The Committee responded to this offer by demanding, again without explanation, that mid-level career civil servants come first and threatened compulsory process if the FTC did not immediately comply with these demands.

Not only has your Committee demanded FTC career staff participate in these interviews on a date unilaterally dictated by the Committee, but in an extremely unusual step, the Committee sought them without providing the agency any details about the specific purpose of these interrogations. As the Committee knows, a necessary foundation for any transcribed interview is establishing the need for information from any particular individual. The Committee has refused to identify this need and lay the proper foundation for these unprecedented requests.

In response to your extraordinary demands, FTC Office of General Counsel sought details in a good faith effort to continue to provide information as part of our commitment to congressional oversight. Our agency follows rules intended to protect ongoing and future law enforcement matters that could be jeopardized if non-public information is released in the public domain. This is a concern we have expressed repeatedly to you given your Committee's prior release of confidential information concerning law enforcement matters.

Nonetheless, beginning on Monday, July 24, your Committee staff decided to initiate a targeted campaign of intimidation by directly contacting career employees who they knew to be represented by counsel, demanding they "contact the committee promptly to schedule your appearance" without the benefit of existing legal counsel. This conduct violated D.C. Rules of Professional Conduct Rule 4.2, which makes clear that represented parties must be contacted through their counsel.

To be clear, these employees are aware of the Committee's requests and know that they could voluntarily choose to share information or concerns with the Committee at any time without the agency's involvement. We have also conveyed to your Committee staff multiple times that senior executive service and political appointees stand ready to meet with Committee staff.

The intimidation and harassment of career civil servants in violation of Rule 4.2 of the Professional Rules of Responsibility is the latest in a series of concerns we have raised with your staff regarding breaches of conduct and violations of ethical rules.

For example, the FTC has repeatedly expressed concerns about a former FTC official now employed by the Committee participating in Commission oversight matters. As you know, no person, including former employees, can use Commission nonpublic information in the performance of official duties without Commission authorization.¹ Despite knowing that these rules prohibit work that presents these conflict-of-interest concerns, this Committee staff member has repeatedly engaged with the Commission on matters in which he actively participated and received nonpublic information while at the Commission.

Instead of addressing this serious ethics issue, a member of your senior staff called the Commission, requesting that we stop raising our legitimate concerns—and intimating that our failure to do so could be met with retaliation by the Committee. Let me be clear: to the extent a former Commission employee on your staff has revealed confidential or privileged information of the Commission, a former client, that conduct is a serious breach of the Rules of Professional Responsibility.

¹ 5 C.F.R. § 2635.703(a).

The Committee's conduct makes it difficult to conclude that these efforts are intended to ensure that the agency fulfills its Congressional mandate to check unfair methods of competition and protect the American people from unfair or deceptive practices.

Our work has benefited from effective partnerships across the political spectrum, from continuing to litigate the antitrust case against Facebook brought under the Trump Administration, to working with a bipartisan group of state Attorneys General to prevent Corteva and Chinese-owned Syngenta from harming American farmers, to scrutinizing how pharmacy benefit managers may be raising drug prices and muscling independent pharmacies out of businesses, to suing unscrupulous data brokers that track and sell Americans' intimate location data. I believe we have much we could cooperate on, from concerns about technology companies' control over communications platforms to protecting honest American manufacturers from losing business to firms who falsely claim their products are made in the U.S.A.

I, my leadership team, and the agency as a whole stand ready to respond to legitimate questions or concerns the Committee may have about this work or other aspect of the agency's activities. But efforts to intimidate or harass career civil servants as a response to policy disagreements with senior leadership raises grave concerns. We remain committed to faithfully discharging our statutory obligations and enforcing the law without fear or favor.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 26, 2023

The Honorable Jim Jordan
Chair
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairs Rodgers and Jordan:

I am writing in response to your July 12, 2023, letter to the Federal Trade Commission. Your letter seeks information regarding Commission management and mentions the Federal Employee Viewpoint Survey (FEVS) results, issues that I take seriously.

In response to the FEVS results, my team and I immediately took steps to solicit input from senior leaders, managers, and staff to better understand the specific issues and challenges. In doing so, we identified three key root causes: communication, processes, and policies. We subsequently took steps to clarify our vision and priorities and create regular ways to communicate them to all levels of management and staff; streamline processes for decision-making and delegation; and revisit, clarify, or change some internal policies that unintentionally created confusion or concerns. We have also completed our office reentry and implemented our policy for the next phase of workplace flexibilities, giving staff clarity and certainty on key workplace issues that were still under development at the time when the 2021 and 2022 FEVS were administered. Much of the implementation began just months before the 2022 survey, and the work has been ongoing. Since the 2022 survey was administered, my office has continued to solicit feedback, implementing a series of meetings with manager groups, employee resource groups, and staff teams, and creating opportunities for continued dialogue about priorities, action steps, and progress.

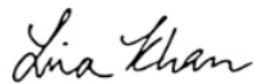
I am extraordinarily proud of the work that FTC staff do every day to further our mission to promote fair competition and protect Americans from unfair or deceptive practices. The staff's excellent work is evident from how active we are in enforcement, rulemaking, and research.

The Human Capital Management Office (HCMO) reports that it has no records for past and pending complaints and disciplinary cases for me, my staff, employees that report directly to

me, or Senior Executive Service employees. The Performance Review Board does not independently manage or maintain complaints or disciplinary cases. HCMO, the Office of the Executive Director, and the custodians listed in Request 3 are currently searching for other communications relevant to your requests, and we anticipate being able to provide a progress update soon.

The Commission is expending significant time and resources to respond to the eleven requests for information from the Committees. Thank you for your understanding as we continue to be responsive to this and other Committee information and document requests.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission

cc: The Honorable Jerrold Nadler
Ranking Member
House Committee on the Judiciary

The Honorable Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce

RON WYDEN
OREGON

CHAIRMAN OF COMMITTEE ON
FINANCE

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COMMITTEES:
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COMMITTEE ON THE BUDGET
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SELECT COMMITTEE ON INTELLIGENCE
JOINT COMMITTEE ON TAXATION

July 27, 2023

The Honorable Jen Easterly
Director
Cybersecurity and Infrastructure Security Agency
245 Murray Lane SW
Washington, D.C. 20528-0075

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Director Easterly, Attorney General Garland and Chair Khan:

I write to request that your agencies take action to hold Microsoft responsible for its negligent cybersecurity practices, which enabled a successful Chinese espionage campaign against the United States government.

On July 12, the Cybersecurity Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation published a joint advisory about a hacking campaign targeting organizations, including government agencies, that were Microsoft customers. According to press reports, “at least hundreds of thousands of individual U.S. government emails” were stolen, and the email accounts compromised include the Secretary of Commerce, the U.S. Ambassador to China, and the Assistant Secretary of State for East Asia. Rob Joyce, the director of cybersecurity at the National Security Agency, has publicly described this hacking campaign as “China doing espionage.”

Microsoft revealed in a July 14 blog post that the hack occurred because hackers had stolen an encryption key that Microsoft had generated for its identity service, Microsoft Account (MSA). MSA validates that a user is who they claim to be – for example, by verifying the password for a @hotmail.com account – and issues “authentication tokens” that confirm that a user has been validated. Consumer-facing Microsoft products, such as Outlook, verify that a token is valid by checking that a token is digitally signed using an MSA encryption key.

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SUITE 285
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Since the hackers stole an MSA encryption key, the hackers could create fake authentication tokens to impersonate users and gain access to Microsoft-hosted consumer accounts, even if a user's account was protected with multi-factor authentication and a strong password. Government emails were stolen because Microsoft committed another error. Although the stolen encryption key was for consumer accounts, "a validation error in Microsoft code" allowed the hackers to also create fake tokens for Microsoft-hosted accounts for government agencies and other organizations, and thereby access those accounts.

This is not the first espionage operation in which a foreign government hacked the emails of United States government agencies by stealing encryption keys and forging Microsoft credentials. The Russian hackers behind the 2020 SolarWinds hacking campaign used a similar technique, with a noteworthy difference. There, the targets were organizations that ran Microsoft's identity management software on their own servers, rather than relying on Microsoft's cloud service for user authentication, Azure Active Directory (Azure AD). That Microsoft software defaulted to not warning administrators when their organizations' digital identity encryption keys were removed — even though removal is a rare event strongly indicative of suspicious activity. Moreover, while Microsoft had known since 2017 that such keys could be quietly exfiltrated from customer servers running its software, it failed to warn its customers, including government agencies, about this risk.

Microsoft never took responsibility for its role in the SolarWinds hacking campaign. It blamed federal agencies for not pushing it to prioritize defending against the encryption key theft technique used by Russia, which Microsoft had known about since 2017. It blamed its customers for using the default logging settings chosen by Microsoft, and then blamed them for not storing the high-value encryption keys in a hardware vault, known as a Hardware Security Module (HSM). Instead, Microsoft used the incident as an opportunity to promote its Azure AD product. After a 2021 Senate Intelligence Committee hearing focused on the SolarWinds incident, Microsoft's President Brad Smith told the committee that "[t]hose who want the best security should move to the cloud." Microsoft's customers heard the message — it is too hard to secure these keys on your own servers, so let Microsoft do it for you. In the three years since that high-profile hacking campaign, Microsoft's cloud security business revenues have ballooned to over \$20 billion a year.

Even with the limited details that have been made public so far, Microsoft bears significant responsibility for this new incident. First, Microsoft should not have had a single skeleton key that, when inevitably stolen, could be used to forge access to different customers' private communications. Second, as Microsoft pointed out after the SolarWinds incident, high-value encryption keys should be stored in an HSM, whose sole function is to prevent the theft of encryption keys. But Microsoft's admission that they have now moved consumer encryption keys to a "hardened key store used for our enterprise systems" raises serious questions about whether Microsoft followed its own security advice and stored such keys in an HSM. Third,

the encryption key used in this latest hack was created by Microsoft in 2016, and it expired in 2021. Federal cybersecurity guidelines, industry best practices, and Microsoft's own recommendations to customers, dictate that encryption keys be refreshed more frequently, for the very reason that they might become compromised. And authentication tokens signed by an expired key should never have been accepted as valid. Finally, while Microsoft's engineers should never have deployed systems that violated such basic cybersecurity principles, these obvious flaws should have been caught by Microsoft's internal and external security audits. That these flaws were not detected raises questions about what other serious cybersecurity defects these auditors also missed.

While Microsoft certainly deserves most of the blame, the executive branch also bears responsibility. On May 12, 2021, President Biden issued Executive Order 14028, which among other things, created a Cyber Safety Review Board, whose first task would be to study the SolarWinds incident. That review never took place — the Board was subsequently directed by the Department of Homeland Security to study another hacking incident. I have repeatedly pushed CISA and DHS to direct the Board to study the SolarWinds incident, but have been rebuffed. Had that review taken place, it is quite likely that Microsoft's poor data security practices around encryption keys would have come to light, and this most recent incident might have been averted.

Holding Microsoft responsible for its negligence will require a whole-of-government effort. To that end, I request that each of your agencies take the following actions:

Director Easterly, I urge you to exercise your shared authority to direct the Cyber Safety Review Board to investigate this incident. In particular, the Board should examine whether Microsoft stored the stolen encryption key in an HSM, a best practice recommended by the National Security Agency and even by Microsoft, and if not, examine why Microsoft failed to follow its own security advice. The Board should also examine why Microsoft's negligence was not discovered during the external audits that were required to obtain certification for government use under the FedRAMP program, or during Microsoft's own internal security reviews.

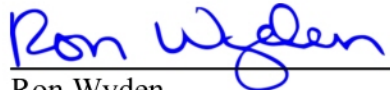
Attorney General Garland, the Department of Justice has previously pledged to “use [its] civil enforcement tools to pursue companies, those who are government contractors who receive federal funds, when they fail to follow required cybersecurity standards.” I urge you to examine whether Microsoft's negligent practices violated federal law.

Chair Khan, I urge you to investigate Microsoft's privacy and data security practices related to this incident to determine if Microsoft violated federal laws enforced by the Federal Trade Commission, including those prohibiting unfair and deceptive business practices. In addition, Microsoft was subject to a consent decree for 20 years after a security incident with its

predecessor single sign-on product, Passport. That consent decree, which expired in December 2022, required Microsoft to “establish and maintain a comprehensive information security program in writing that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers” for Passport or substantially similar services. Microsoft Account, the product from which the encryption key was stolen, is Passport’s modern successor. If Microsoft’s negligent cybersecurity practices predated the expiration of the consent decree, I also urge you to take all necessary steps to hold the company responsible for any violations of that order.

Thank you for your attention to this important matter. If you have any questions about this request, please contact Chris Soghoian in my office.

Sincerely,



Ron Wyden
United States Senator



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Kristen Gillibrand
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Gillibrand:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posted by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

Unfortunately, it is already easy for bad actors to use AI technology to help perpetrate scams. For example, bad actors only need a short audio sample to create a nearly undetectable voice clone. The pace of innovation will make AI-assisted scams more common as it becomes even easier for bad actors to leverage AI technology to injure consumers.

We are exploring possible policy suggestions to protect older adults from AI-related scams. As discussed in more detail below, this topic has been the subject of an Advisory Group formed in connection with the Stop Senior Scams Act. Further, the FTC's Bureau of Competition and the newly formed Office of Technology, along with the entire Bureau of Consumer Protection, are focused on ways to ensure that AI technology is used in a manner that complies with the laws that we administer.

Second, you asked for information or data on the prevalence of AI-related scams and how they affect older Americans. The FTC's Consumer Sentinel Network collects and analyzes consumer reports. In 2022, Sentinel received 5.3 million reports. While it is difficult for consumers to know when scammers use AI technology, a high-level review of consumer data shows that we have received thousands of reports from consumers that reference the use of AI, and many of those reports reference impersonator scams.

Third, you asked about the steps the FTC is taking to protect Americans from AI-related scams, including the FTC’s work with the private sector. The FTC is pursuing several steps to help protect Americans from AI scams. As you may know, the FTC has been examining AI for a number of years. In 2022, the FTC issued a report to Congress warning of the dangers in relying too heavily on AI to combat online harms.¹ More recently, the FTC has been having conversations with a variety of stakeholders including academics, startups, and established tech companies, to learn more about the development of AI and what can be done to protect the American public. The FTC has also published several blog posts to put market participants on notice about potentially illegal uses of AI.²

The FTC is also collaborating with numerous partners on initiatives to identify and stop scams from impacting older adults through its cross-industry Advisory Group formed under the Stop Senior Scams Act. The Advisory Group created four subcommittees to attack this problem from different angles, including: expanding consumer education, improving industry training, identifying technological solutions, and developing research on customer and employee engagement. The technology committee, which is focused on spurring the creation or adoption of technology and other methods of spotting and stopping scams, has discussed—and will continue to explore—the impact of AI and voice-cloning on scams impacting older adults.

Fourth, you asked whether the FTC is preparing to update its counter-scam education and awareness materials, including the “Pass It On” campaign to account for the risks of AI-related scams.³ Part of the FTC’s mission is to not only create educational resources for consumers and businesses, but also to get them into the hands of people who need them. For example, when the FTC published each of the blog posts mentioned in response to question 3, it also sent email notifications in English and Spanish to more than 400,000 subscribers to its alerts. While the FTC does not collect detailed demographic information about those subscribers, recipients likely included older adults and representatives from organizations that work with older adults, as well as members of the local media, who help to amplify the messages and who followed up on those posts with interview requests.

Finally, the FTC will incorporate messaging about the use of AI in its ongoing outreach efforts to help older adults stop scams.⁴

¹ See Press Release, Fed. Trade Comm’n, *FTC Report Warns About Using Artificial Intelligence to Combat Online Problems* (June 16, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-report-warns-about-using-artificial-intelligence-combat-online-problems>.

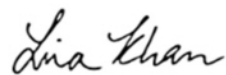
² See Michael Atleson, *Keep Your AI Claims in Check*, FTC (Feb. 27, 2023), <https://www.ftc.gov/business-guidance/blog/2023/02/keep-your-ai-claims-check>; Michael Atleson, *Chatbots, Deepfakes, and Voice Clones: AI Deception for Sale*, FTC (Mar. 20, 2023), <https://www.ftc.gov/business-guidance/blog/2023/03/chatbots-deepfakes-voice-clones-ai-deception-sale>; Alvaro Puig, *Scammers Use AI to Enhance their Family Emergency Schemes*, FTC (Mar. 20, 2023), <https://consumer.ftc.gov/consumer-alerts/2023/03/scammers-use-ai-enhance-their-family-emergency-schemes>; Alvaro Puig, *Ads for Fake AI and Other Software Spread Malicious Software*, FTC (Apr. 13, 2023), <https://consumer.ftc.gov/consumer-alerts/2023/04/ads-fake-ai-and-other-software-spread-malicious-software>; Michael Atleson, *The Luring Test: AI and the Engineering of Consumer Trust*, FTC (May 1, 2023), <https://www.ftc.gov/business-guidance/blog/2023/05/luring-test-ai-engineering-consumer-trust>.

³ Pass It On is the FTC’s ongoing fraud prevention education campaign aimed at older adults.

⁴ See FTC, *Protecting Older Consumers 2021-2022* (2022), https://www.ftc.gov/system/files/ftc_gov/pdf/P144400OlderConsumersReportFY22.pdf.

Thank you for your attention to this issue. If you or your staff have additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Mark Kelly
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Kelly:

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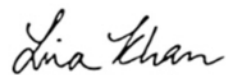
² See Michael Atleson, *Keep Your AI Claims in Check*, FTC (Feb. 27, 2023), <https://www.ftc.gov/business-guidance/blog/2023/02/keep-your-ai-claims-check>; Michael Atleson, *Chatbots, Deepfakes, and Voice Clones: AI Deception for Sale*, FTC (Mar. 20, 2023), <https://www.ftc.gov/business-guidance/blog/2023/03/chatbots-deepfakes-voice-clones-ai-deception-sale>; Alvaro Puig, *Scammers Use AI to Enhance their Family Emergency Schemes*, FTC (Mar. 20, 2023), <https://consumer.ftc.gov/consumer-alerts/2023/03/scammers-use-ai-enhance-their-family-emergency-schemes>; Alvaro Puig, *Ads for Fake AI and Other Software Spread Malicious Software*, FTC (Apr. 13, 2023), <https://consumer.ftc.gov/consumer-alerts/2023/04/ads-fake-ai-and-other-software-spread-malicious-software>; Michael Atleson, *The Luring Test: AI and the Engineering of Consumer Trust*, FTC (May 1, 2023), <https://www.ftc.gov/business-guidance/blog/2023/05/luring-test-ai-engineering-consumer-trust>.

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Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Rick Scott
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Scott:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posted by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

Unfortunately, it is already easy for bad actors to use AI technology to help perpetrate scams. For example, bad actors only need a short audio sample to create a nearly undetectable voice clone. The pace of innovation will make AI-assisted scams more common as it becomes even easier for bad actors to leverage AI technology to injure consumers.

We are exploring possible policy suggestions to protect older adults from AI-related scams. As discussed in more detail below, this topic has been the subject of an Advisory Group formed in connection with the Stop Senior Scams Act. Further, the FTC's Bureau of Competition and the newly formed Office of Technology, along with the entire Bureau of Consumer Protection, are focused on ways to ensure that AI technology is used in a manner that complies with the laws that we administer.

Second, you asked for information or data on the prevalence of AI-related scams and how they affect older Americans. The FTC's Consumer Sentinel Network collects and analyzes consumer reports. In 2022, Sentinel received 5.3 million reports. While it is difficult for consumers to know when scammers use AI technology, a high-level review of consumer data shows that we have received thousands of reports from consumers that reference the use of AI, and many of those reports reference impersonator scams.

Third, you asked about the steps the FTC is taking to protect Americans from AI-related scams, including the FTC’s work with the private sector. The FTC is pursuing several steps to help protect Americans from AI scams. As you may know, the FTC has been examining AI for a number of years. In 2022, the FTC issued a report to Congress warning of the dangers in relying too heavily on AI to combat online harms.¹ More recently, the FTC has been having conversations with a variety of stakeholders including academics, startups, and established tech companies, to learn more about the development of AI and what can be done to protect the American public. The FTC has also published several blog posts to put market participants on notice about potentially illegal uses of AI.²

The FTC is also collaborating with numerous partners on initiatives to identify and stop scams from impacting older adults through its cross-industry Advisory Group formed under the Stop Senior Scams Act. The Advisory Group created four subcommittees to attack this problem from different angles, including: expanding consumer education, improving industry training, identifying technological solutions, and developing research on customer and employee engagement. The technology committee, which is focused on spurring the creation or adoption of technology and other methods of spotting and stopping scams, has discussed—and will continue to explore—the impact of AI and voice-cloning on scams impacting older adults.

Fourth, you asked whether the FTC is preparing to update its counter-scam education and awareness materials, including the “Pass It On” campaign to account for the risks of AI-related scams.³ Part of the FTC’s mission is to not only create educational resources for consumers and businesses, but also to get them into the hands of people who need them. For example, when the FTC published each of the blog posts mentioned in response to question 3, it also sent email notifications in English and Spanish to more than 400,000 subscribers to its alerts. While the FTC does not collect detailed demographic information about those subscribers, recipients likely included older adults and representatives from organizations that work with older adults, as well as members of the local media, who help to amplify the messages and who followed up on those posts with interview requests.

Finally, the FTC will incorporate messaging about the use of AI in its ongoing outreach efforts to help older adults stop scams.⁴

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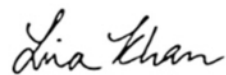
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Thank you for your attention to this issue. If you or your staff have additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Pete Ricketts
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Ricketts:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posted by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

Unfortunately, it is already easy for bad actors to use AI technology to help perpetrate scams. For example, bad actors only need a short audio sample to create a nearly undetectable voice clone. The pace of innovation will make AI-assisted scams more common as it becomes even easier for bad actors to leverage AI technology to injure consumers.

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Second, you asked for information or data on the prevalence of AI-related scams and how they affect older Americans. The FTC's Consumer Sentinel Network collects and analyzes consumer reports. In 2022, Sentinel received 5.3 million reports. While it is difficult for consumers to know when scammers use AI technology, a high-level review of consumer data shows that we have received thousands of reports from consumers that reference the use of AI, and many of those reports reference impersonator scams.

Third, you asked about the steps the FTC is taking to protect Americans from AI-related scams, including the FTC’s work with the private sector. The FTC is pursuing several steps to help protect Americans from AI scams. As you may know, the FTC has been examining AI for a number of years. In 2022, the FTC issued a report to Congress warning of the dangers in relying too heavily on AI to combat online harms.¹ More recently, the FTC has been having conversations with a variety of stakeholders including academics, startups, and established tech companies, to learn more about the development of AI and what can be done to protect the American public. The FTC has also published several blog posts to put market participants on notice about potentially illegal uses of AI.²

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Fourth, you asked whether the FTC is preparing to update its counter-scam education and awareness materials, including the “Pass It On” campaign to account for the risks of AI-related scams.³ Part of the FTC’s mission is to not only create educational resources for consumers and businesses, but also to get them into the hands of people who need them. For example, when the FTC published each of the blog posts mentioned in response to question 3, it also sent email notifications in English and Spanish to more than 400,000 subscribers to its alerts. While the FTC does not collect detailed demographic information about those subscribers, recipients likely included older adults and representatives from organizations that work with older adults, as well as members of the local media, who help to amplify the messages and who followed up on those posts with interview requests.

Finally, the FTC will incorporate messaging about the use of AI in its ongoing outreach efforts to help older adults stop scams.⁴

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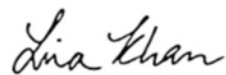
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Sincerely,

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Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Marco Rubio
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Rubio:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posted by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

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The FTC is also collaborating with numerous partners on initiatives to identify and stop scams from impacting older adults through its cross-industry Advisory Group formed under the Stop Senior Scams Act. The Advisory Group created four subcommittees to attack this problem from different angles, including: expanding consumer education, improving industry training, identifying technological solutions, and developing research on customer and employee engagement. The technology committee, which is focused on spurring the creation or adoption of technology and other methods of spotting and stopping scams, has discussed—and will continue to explore—the impact of AI and voice-cloning on scams impacting older adults.

Fourth, you asked whether the FTC is preparing to update its counter-scam education and awareness materials, including the “Pass It On” campaign to account for the risks of AI-related scams.³ Part of the FTC’s mission is to not only create educational resources for consumers and businesses, but also to get them into the hands of people who need them. For example, when the FTC published each of the blog posts mentioned in response to question 3, it also sent email notifications in English and Spanish to more than 400,000 subscribers to its alerts. While the FTC does not collect detailed demographic information about those subscribers, recipients likely included older adults and representatives from organizations that work with older adults, as well as members of the local media, who help to amplify the messages and who followed up on those posts with interview requests.

Finally, the FTC will incorporate messaging about the use of AI in its ongoing outreach efforts to help older adults stop scams.⁴

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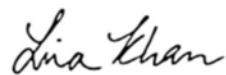
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Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable JD Vance
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Vance:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posed by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

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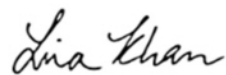
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UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

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Special Committee on Aging
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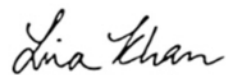
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Thank you for your attention to this issue. If you or your staff have additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Raphael Warnock
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Warnock:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posted by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

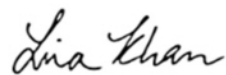
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We are exploring possible policy suggestions to protect older adults from AI-related scams. As discussed in more detail below, this topic has been the subject of an Advisory Group formed in connection with the Stop Senior Scams Act. Further, the FTC's Bureau of Competition and the newly formed Office of Technology, along with the entire Bureau of Consumer Protection, are focused on ways to ensure that AI technology is used in a manner that complies with the laws that we administer.

Second, you asked for information or data on the prevalence of AI-related scams and how they affect older Americans. The FTC's Consumer Sentinel Network collects and analyzes consumer reports. In 2022, Sentinel received 5.3 million reports. While it is difficult for consumers to know when scammers use AI technology, a high-level review of consumer data shows that we have received thousands of reports from consumers that reference the use of AI, and many of those reports reference impersonator scams.

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The FTC is also collaborating with numerous partners on initiatives to identify and stop scams from impacting older adults through its cross-industry Advisory Group formed under the Stop Senior Scams Act. The Advisory Group created four subcommittees to attack this problem from different angles, including: expanding consumer education, improving industry training, identifying technological solutions, and developing research on customer and employee engagement. The technology committee, which is focused on spurring the creation or adoption of technology and other methods of spotting and stopping scams, has discussed—and will continue to explore—the impact of AI and voice-cloning on scams impacting older adults.

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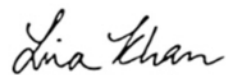
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Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Elizabeth Warren
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posed by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

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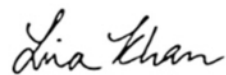
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Lina M. Khan
Chair, Federal Trade Commission



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

July 27, 2023

The Honorable Robert P. Casey, Jr.
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Chairman Casey:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posed by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

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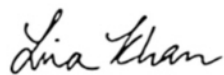
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Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Richard Blumenthal
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Blumenthal:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posted by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

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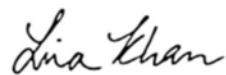
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Thank you for your attention to this issue. If you or your staff have additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable Mike Braun
Ranking Member
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Ranking Member Braun:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posed by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

Unfortunately, it is already easy for bad actors to use AI technology to help perpetrate scams. For example, bad actors only need a short audio sample to create a nearly undetectable voice clone. The pace of innovation will make AI-assisted scams more common as it becomes even easier for bad actors to leverage AI technology to injure consumers.

We are exploring possible policy suggestions to protect older adults from AI-related scams. As discussed in more detail below, this topic has been the subject of an Advisory Group formed in connection with the Stop Senior Scams Act. Further, the FTC's Bureau of Competition and the newly formed Office of Technology, along with the entire Bureau of Consumer Protection, are focused on ways to ensure that AI technology is used in a manner that complies with the laws that we administer.

Second, you asked for information or data on the prevalence of AI-related scams and how they affect older Americans. The FTC's Consumer Sentinel Network collects and analyzes consumer reports. In 2022, Sentinel received 5.3 million reports. While it is difficult for consumers to know when scammers use AI technology, a high-level review of consumer data shows that we have received thousands of reports from consumers that reference the use of AI, and many of those reports reference impersonator scams.

Third, you asked about the steps the FTC is taking to protect Americans from AI-related scams, including the FTC’s work with the private sector. The FTC is pursuing several steps to help protect Americans from AI scams. As you may know, the FTC has been examining AI for a number of years. In 2022, the FTC issued a report to Congress warning of the dangers in relying too heavily on AI to combat online harms.¹ More recently, the FTC has been having conversations with a variety of stakeholders including academics, startups, and established tech companies, to learn more about the development of AI and what can be done to protect the American public. The FTC has also published several blog posts to put market participants on notice about potentially illegal uses of AI.²

The FTC is also collaborating with numerous partners on initiatives to identify and stop scams from impacting older adults through its cross-industry Advisory Group formed under the Stop Senior Scams Act. The Advisory Group created four subcommittees to attack this problem from different angles, including: expanding consumer education, improving industry training, identifying technological solutions, and developing research on customer and employee engagement. The technology committee, which is focused on spurring the creation or adoption of technology and other methods of spotting and stopping scams, has discussed—and will continue to explore—the impact of AI and voice-cloning on scams impacting older adults.

Fourth, you asked whether the FTC is preparing to update its counter-scam education and awareness materials, including the “Pass It On” campaign to account for the risks of AI-related scams.³ Part of the FTC’s mission is to not only create educational resources for consumers and businesses, but also to get them into the hands of people who need them. For example, when the FTC published each of the blog posts mentioned in response to question 3, it also sent email notifications in English and Spanish to more than 400,000 subscribers to its alerts. While the FTC does not collect detailed demographic information about those subscribers, recipients likely included older adults and representatives from organizations that work with older adults, as well as members of the local media, who help to amplify the messages and who followed up on those posts with interview requests.

Finally, the FTC will incorporate messaging about the use of AI in its ongoing outreach efforts to help older adults stop scams.⁴

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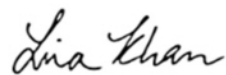
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Thank you for your attention to this issue. If you or your staff have additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

A handwritten signature in black ink that reads "Lina Khan". The signature is written in a cursive, flowing style.

Lina M. Khan
Chair, Federal Trade Commission



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

July 27, 2023

The Honorable John Fetterman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Fetterman:

Thank you for your inquiry regarding the Federal Trade Commission's ("FTC") efforts to protect older Americans from the increasing threats posed by artificial intelligence-related ("AI") scams. I share your concerns that older Americans will be harmed by developments in AI technology.

First, you asked generally about the FTC's understanding of developments in AI-related scams, how the pace of innovation will affect these scams, and whether there are specific policy suggestions that can help protect older Americans from these scams. The FTC is well aware that scammers take advantage of a variety of AI tools to help them injure their victims. AI-assisted scams include: (1) family emergency scams, where the scammer clones the voice of a loved one to call a family member and ask for financial assistance; (2) romance scams, where the scammer uses a chatbot to write messages to fake a love interest; (3) business-related scams, where the scammers clone the voice of a high-ranking employee to call businesses and arrange wire transfers or obtain sensitive information; and (4) phishing scams, where the scammers use AI technology to quickly create detailed spam and phishing emails.

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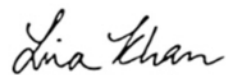
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Thank you for your attention to this issue. If you or your staff have additional questions or comments, please contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,

A handwritten signature in cursive script that reads "Lina Khan".

Lina M. Khan
Chair, Federal Trade Commission

Congress of the United States
Washington, DC 20515

July 28, 2023

The Honorable Lina Khan
Chair
U.S. Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, D.C., 20580

Dear Chair Khan:

On July 10, 2023, Judge Jacqueline Scott Corley of the Northern District of California, denied the Federal Trade Commission's (FTC's) attempt to block the acquisition of Activision Blizzard by Microsoft.¹ Four days later, on July 14, 2023, the United States Court of Appeals for the Ninth Circuit similarly denied the FTC's attempt to halt the merger between Microsoft and Activision Blizzard.² In her ruling, Judge Corley states what Microsoft, Activision Blizzard, and the consumers of the products have been saying all along, that "the record evidence points to more consumer access to *Call of Duty* and other Activision content."³ Only foreign video game companies stand to benefit from the FTC's action against Microsoft and Activision Blizzard. Yet, despite finding no evidence that this acquisition could substantially lessen competition after an almost yearlong investigation, the FTC spent nearly seven months litigating, millions of taxpayer dollars, and thousands of staff hours chasing evidence to support your anti-business policies.

This is just the latest example of the FTC fighting a losing battle. On November 2, 2022, the FTC lost its challenge to Meta's acquisition of Within.⁴ Under your leadership, the FTC lost two additional merger challenges in front of its administrative law judge: Illumina's acquisition of GRAIL and Altria's acquisition of JUUL.⁵ The FTC has yet to win a merger challenge in litigation since you became Chair. In addition, reports suggest that your challenge to Amgen's acquisition of Horizon is relying on an even more dubious theory of harm than your prior

¹ FTC v. Microsoft Corp., No. 23-CV-02880-JSC, 2023 WL 4443412 (N.D. Cal. July 10, 2023).

² Order, FTC v. Microsoft Corp., No. 23-15992 (9th Cir. 2023).

FTC v. Microsoft Corp., No. 23-CV-02880-JSC, 2023 WL 4443412 (N.D. Cal. July 10, 2023).

³ FTC v. Microsoft Corp., No. 23-CV-02880-JSC, 2023 WL 4443412 at *53 (N.D. Cal. July 10, 2023).

⁴ *Id.*

⁵ Press Release, FTC, Administrative Law Judge Dismisses FTC's Challenge of Illumina's Proposed Acquisition of Cancer Detection Test Maker Grail (Sept. 12, 2021); Press Release, FTC, Administrative Law Judge Dismisses FTC Antitrust Complaint against Altria Group and JUUL Labs, Inc. (Feb. 24, 2022).

challenges.⁶ Further, a review of the FTC's recent draft merger guidelines suggests that the FTC is likely to pursue even more novel theories unsupported by current law or economics.

The FTC's losses at trial are partially explainable by your choice of resource allocation. Former Commissioner Christine Wilson, who resigned in February 2023 due to your abuse of merger review process,⁷ noted in her dissent of the FTC's Notice of Proposed Rulemaking (NPRM) regarding non-compete clauses that, "[d]efending these challenges will entail lengthy litigation that will consume substantial staff resources. I anticipate that the Rule will not withstand these challenges, so the Commission majority essentially is directing staff to embark on a demanding and futile effort."⁸ Despite this warning, the FTC has moved forward with its Rule.

For Fiscal Year (FY) 2024, the FTC is requesting an appropriation of \$590 million and 1,690 full-time equivalent (FTE) employees, an increase of \$190 million and an estimated 310 FTE above the FTC's FY 2023 enacted appropriation, respectively. As Congress debates your agency's budget request, we must ensure taxpayer dollars are not being wasted chasing conduct that is not unlawful.

Accordingly, please provide us with the following information no later than August 25, 2023.

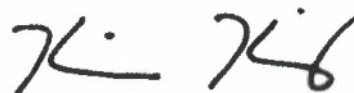
1. The amount of funds spent on litigation in each of the aforementioned cases.⁹
2. The amount of staff hours spent on the aforementioned cases.
3. A list of outside experts, including their affiliate organizations, in each of the aforementioned cases and the amount paid to each expert and their affiliate organizations.
4. The amount of funds spent on outside counsel, if any, in each of the aforementioned cases.
5. All recommendation memorandum prepared by FTC staff that discuss each of the aforementioned cases.

Thank you for your attention to this matter. Please do not hesitate to contact our offices with any questions.

Sincerely,



Scott Fitzgerald
Member of Congress



Kevin Kiley
Member of Congress

⁶ Diane Bartz, *FTC effort to stop Amgen's Horizon takeover faces uphill fight*, REUTERS (May 19, 2023).

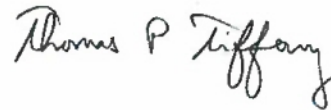
⁷ Christine Wilson, Opinion, *Why I'm Resigning as an FTC Commissioner*, WALL ST. J. (Feb. 14, 2023).

⁸ Dissenting Statement of Commissioner Christine S. Wilson Regarding the Notice of Proposed Rulemaking for the Non-Compete Clause Rule, Commission File No. P201200-1 (Jan. 5, 2023).

⁹ The aforementioned cases include: Microsoft/Activision; Meta/Within; Altria/Juul; Illumina/Grail; and Amgen/Horizon.



Andy Biggs
Member of Congress



Thomas P. Tiffany
Member of Congress



Ben Cline
Member of Congress



Harriet M. Hageman
Member of Congress



Nathaniel Moran
Member of Congress

Congress of the United States
Washington, DC 20515

July 31, 2023

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, D.C. 20580

Dear Chair Khan,

I write to request a confidential staff briefing on pharmacy benefit managers. I hope to set up a briefing at your earliest convenience possible.

I understand the sensitivity of discussing such matters and neither I nor my staff will disclose any non-public information that your staff provides during the briefing.

Thank you for your assistance on this matter.

Sincerely,



Brett Guthrie
Chairman, Subcommittee on Health
Energy and Commerce Committee

United States Senate

WASHINGTON, DC 20510

COMMITTEES

ENERGY AND NATURAL RESOURCES

FOREIGN RELATIONS

SELECT COMMITTEE ON ETHICS

SELECT COMMITTEE ON INTELLIGENCE

SMALL BUSINESS AND ENTREPRENEURSHIP

July 31, 2023

The Honorable Lina Khan
Chair
U.S. Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

I am writing to express my serious concerns about the social media giant, TikTok. Given its connections to the Chinese Communist Party (CCP) and the way it collects and controls sensitive personal information, TikTok poses one of the greatest long-term threats to the health, safety, and privacy of millions of Americans.

While almost every company collects various types of data, TikTok's substantial size and the Chinese Communist Party's ability to seize and exploit this data at any time creates the perfect storm for concern.

TikTok is one of the most popular apps in the United States with more than 150 million regular users, or nearly 45 percent of the U.S. population.¹ Ironically, three in five Americans think the app poses a national security threat².

TikTok is built like an indoctrination machine, and its user base is comprised of one of the most impressionable and vulnerable populations: children. The nature of TikTok's application and its content are tailor-made to appeal to younger generations. While some of its content is benign, many users as young as 13 are fed a constant digital diet of content linked to dangerous behaviors like eating disorders and self-harm.³

Every social media company uses algorithms to determine what content is visible to users, but using TikTok comes with particularly serious risks. The company censors topics viewed by the CCP as politically sensitive, denying U.S. citizens access to full information. Even more worrisome, ByteDance employees in China and CCP officials have access to TikTok's data, as we know from multiple whistleblowers.

TikTok has the potential to influence millions of Americans with content that is sympathetic to China. FBI Director Christopher Wray confirmed concerns TikTok could be used to promote the CCP's policy agenda, including anti-Taiwan sentiments. According to Wray, "This is a tool that

¹ <https://www.nbcnews.com/politics/congress/tiktok-now-150-million-active-users-us-ceo-tell-congress-rcna75607>

² <https://www.businessinsider.com/majority-americans-think-tiktok-threat-national-security-pew-study-2023-7?inline-endstory-related-recommendations=>

³ <https://www.nytimes.com/2022/12/14/business/tiktok-safety-teens-eating-disorders-self-harm.html>

is ultimately within the control of the Chinese government—and...to me, it screams out with national security concerns.”⁴

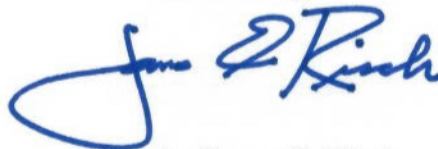
The app has aggressively censored accounts promoting sentiments counter to the CCP. For example, TikTok suspended the Acton Institute for its support of Hong Kong democracy advocate Jimmy Lai,⁵ who is now a political prisoner and facing trial on bogus charges. TikTok also banned the account of the former NBA player and regular CCP critic, Enes Kanter Freedom. Kanter’s account was only reinstated the day TikTok CEO Shou Zi Chew testified to lawmakers that Americans’ TikTok feeds were immune from Chinese censorship.⁶

To ensure the administration is actively seeking to safeguard the data of Americans and protect our kids and grandkids, please provide answers to the follow question to my office by no later than October 30, 2023.

1. How is the FTC protecting data of those under the age of 18?
2. How will the FTC prevent apps like TikTok from using consumer data to target youth with dangerous content encouraging eating disorders and self-harm?
3. What investigations, if any, is the FTC launching into TikTok?
4. How is the FTC working with the private sector and other branches of the federal government to better protect consumer data from international threats?
5. What guardrails are the FTC putting in place to prohibit the development of algorithms that directly promote CCP propaganda? How does the FTC intend to track this and inform Congress of its findings?
6. Is the FTC investigating any other apps owned by ByteDance, such as Lemon8 or others?

I look forward to your prompt response to this crucial matter.

Sincerely,



Senator James E. Risch
United States Senator

⁴ <https://www.reuters.com/technology/fbi-chief-says-tiktok-screams-us-national-security-concerns-2023-03-08/>

⁵ <https://www.nationalreview.com/corner/tiktok-suspends-libertarian-think-tank-that-posted-about-hong-kong-and-jimmy-lai/>

⁶ <https://www.washingtonpost.com/technology/2023/03/24/enes-kanter-freedom-nba-tiktok-ban/>



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

July 10, 2023

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan,

Please find enclosed the Commission's seventh production in response to your February 14, 2023, letter requesting documents and information related to the Federal Trade Commission's Non-Compete Clause Notice of Proposed Rulemaking (NPRM). This seventh production includes documents Bates stamped FTC-000003346 - FTC-000003993. This production includes internal email correspondence as well correspondence with third parties and the Executive Office of the President.

Some of the information that we are providing includes internal staff analyses and recommendations, which are pre-decisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987). Finally, some of this information may also be exempt from mandatory public disclosure under FOIA Exemption 5 by the attorney-client privilege. *Mead Data Cent. Inc. v. U.S. Dep't of the Air Force*, 566 F.2d 242, 252-53 (D.C. Cir. 1977); *Rein v. U.S. Pat. & Trademark Off.*, 553 F.3d 353, 375-77 (4th Cir. 2009).

Commission regulations and practice require a Commission vote to release nonpublic information in response to requests from congressional committees and subcommittees. *See* 16 C.F.R. § 4.11(b). To respond to this request, the Commission held a vote to authorize staff to provide responsive information to the Committee. Although FOIA exemptions do not provide authority to withhold such information from this Congressional Committee, *see* 5 U.S.C. § 552(d), because the information provided in the briefing would not be available to the public under the FOIA or otherwise, the Commission requests that the Committee maintain its confidentiality.

The Commission is devoting significant time and resources to respond to this request. In order to get you the information you seek, the Commission is submitting productions on a rolling basis as it collects and reviews responsive documents and information.

Thank you for that consideration and for your understanding as we continue to be responsive to this and other Committee information and document requests.

Sincerely,



April J. Tabor
Secretary

cc: The Honorable Jerrold Nadler, Ranking Member
House Committee on the Judiciary

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 12/20/2022 12:13:13 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: Briefing on non-compete NPRM

Location: <https://ftc.zoomgov.com> (b)(6)

Start: 12/21/2022 3:30:00 PM

End: 12/21/2022 4:00:00 PM

Show Time As: Busy

Thanks! (b)(6)

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 11/8/2022 8:59:15 AM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: (b)(5)
Location: Ben calls Mike

Start: 11/8/2022 11:30:00 AM
End: 11/8/2022 12:00:00 PM
Show Time As: Busy

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 7/27/2022 11:26:21 PM
To: Lipsitz, Michael [mlipsitz@ftc.gov]

Subject: (b)(5)

Location: Ben calls Mike

Start: 7/28/2022 10:00:00 AM

End: 7/28/2022 11:00:00 AM

Show Time As: Tentative

Required Attendees: Mike Lipsitz

(b)(5)

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 7/25/2022 7:34:14 AM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: (b)(5)

Location: <https://ftc.zoomgov.com> (b)(6)

Start: 7/26/2022 1:00:00 PM

End: 7/26/2022 2:00:00 PM

Show Time As: Busy

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 7/19/2022 3:15:59 PM
To: Lipsitz, Michael [mlipsitz@ftc.gov]

Subject: Chat about (b)(5)
Location: Ben calls Mike (b)(6)

Start: 7/19/2022 4:00:00 PM
End: 7/19/2022 4:30:00 PM
Show Time As: Tentative

Required Attendees: Mike Lipsitz

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 7/18/2022 9:43:02 AM
To: Cady, Benjamin [bcady@ftc.gov]
Subject: Accepted: (b)(5)
Location: Ben calls Mike (b)(5)
Start: 7/19/2022 11:00:00 AM
End: 7/19/2022 11:30:00 AM
Show Time As: Busy

Great—thanks for the flexibility!

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 7/15/2022 3:59:32 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted (b)(5)
Location: Ben calls Mike (b)(6)

Start: 7/18/2022 11:00:00 AM
End: 7/18/2022 11:30:00 AM
Show Time As: Busy

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 6/30/2022 1:38:09 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: Mike/Ben (b)(5)

Location: Ben calls Mike (b)(6)

Start: 7/1/2022 11:00:00 AM

End: 7/1/2022 12:00:00 PM

Show Time As: Busy

Appointment

From: Vita, Michael G. [MVITA@ftc.gov]
Sent: 6/15/2022 11:51:49 AM
To: Lipsitz, Michael [mlipsitz@ftc.gov]

Subject: Accepted: (b)(5)
Location: <https://ftc.zoomgov.com> (b)(6)

Start: 6/15/2022 3:00:00 PM
End: 6/15/2022 3:30:00 PM
Show Time As: Busy

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 6/6/2022 5:56:57 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: (b)(5)

Start: 6/9/2022 10:00:00 AM
End: 6/9/2022 11:00:00 AM
Show Time As: Busy

Appointment

From: Lipsitz, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03f9381922f34575b1164fd8f306753d-mlisitz]
Sent: 6/1/2022 12:59:57 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted (b)(5)

Location: <https://ftc.zoomgov.com> (b)(6)

Start: 6/2/2022 10:30:00 AM

End: 6/2/2022 11:00:00 AM

Show Time As: Busy

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 1/26/2022 3:49:56 PM
CC: Signs, Kelly [ksigns@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]; Merber, Kenneth [kmerber@ftc.gov]; Gilman, Daniel [dgilman@ftc.gov]

Subject: Non-compete NPRM (b)(5)
Location: Microsoft Teams Meeting

Start: 1/28/2022 2:00:00 PM
End: 1/28/2022 3:00:00 PM
Show Time As: Tentative

Optional Attendees: Signs, Kelly; Mackey, Sarah D.; Lipsitz, Michael; Merber, Kenneth; Gilman, Daniel

(b)(5)

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

[Learn More](#) | [Meeting options](#)

Message

From: Lipsitz, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=03F9381922F34575B1164FD8F306753D-MLISITZ]
Sent: 1/17/2023 12:27:12 PM
To: McAdams, John [jmcadams@ftc.gov]; Vita, Michael G. [MVITA@ftc.gov]
Subject: (b)(5)
Attachments: (b)(5)

(b)(5)

Mike

Message

From: Wilkins, Elizabeth [ewilkins1@ftc.gov]
Sent: 1/11/2023 10:12:55 PM
To: Lipsitz, Michael [mlipsitz@ftc.gov]
Subject: Fwd: FTC Announces Proposed Rule on Noncompete Clauses

Get Outlook for iOS

From: Kang, Hyo <(b)(6)@marshall.usc.edu>
Sent: Wednesday, January 11, 2023 9:41:58 PM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Subject: RE: FTC Announces Proposed Rule on Noncompete Clauses

Dear Elizabeth Wilkins,

Happy new year, and many thanks for your message. I am glad my work with Lee Fleming contributed to this important policy proposal.

FYI, I have another recent paper that studied how noncompete clauses change firms' patenting/innovation activities. The key finding is that, when facing lower enforcement of noncompetes, firms increased their patent filings. This does *not* necessarily reflect their genuine innovation efforts; instead, as their ability to keep secrecy within a firm decreases, they increase the propensity to patent. So, even if we see a surge in patent filings after this proposal is implemented, a significant portion of the new patents may simply reflect the strategic patenting of existing inventions. This paper also has methodological advantages in identifying the causal effects, and I am happy to talk more if you are interested.

<https://onlinelibrary.wiley.com/doi/10.1002/smj.3404> (open access).

Thank you,

Hyo Kang

Hyo Kang
Assistant Professor
Marshall School of Business
University of Southern California
<https://hyokang.com>

From: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Sent: Thursday, January 5, 2023 8:02 AM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Subject: FTC Announces Proposed Rule on Noncompete Clauses



Federal Trade Commission
Office of Policy and Planning

For those of you I haven't met, my name is Elizabeth Wilkins, and I serve as director of the FTC's Office of Policy Planning.

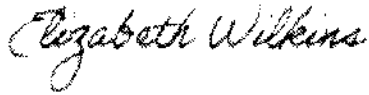
Today, we published a [Notice of Proposed Rulemaking \(NPRM\) on Noncompete Clauses](#). The rule would provide that noncompete clauses are an unfair method of competition, and would prohibit employers from entering noncompete clauses with their workers, including independent contractors.

Your work is cited in the NPRM, and I am writing to thank you for the work you've done that's helped shape this proposal.

The proposed rule seeks public comment on a number of topics, including whether franchises should be covered by the rule; whether senior executives should be exempted from the rule, or subject to a rebuttable presumption rather than a ban; and whether low- and high-wage workers should be treated differently under the rule. You can read more about our proposed rule on [our website](#) (more info below).

The Commission welcomes comments.

Sincerely,



Elizabeth Wilkins
Director, Office of Policy Planning
Federal Trade Commission

ewilkins@ftc.gov

(b)(6)

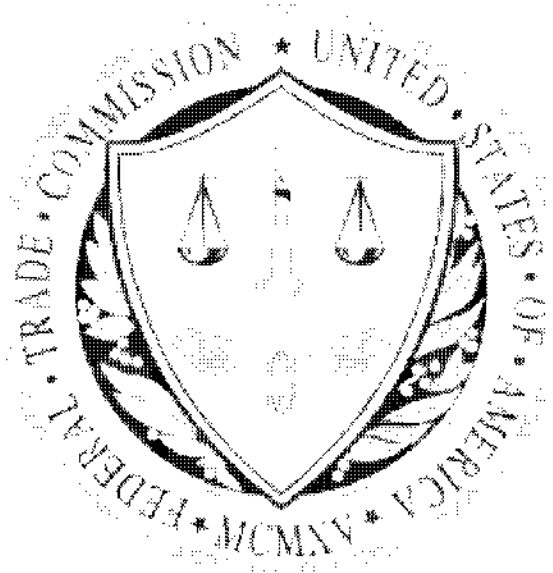
###

The FTC's webpage and related materials regarding the NPRM on Noncompete Clauses are available [here](#).

The press release regarding the NPRM on Noncompete Clauses is available [here](#).

The fact sheet regarding the NPRM on Noncompete Clauses is available [here](#).

The NPRM on Noncompete Clauses is available [here](#).



Message

From: Martinez, Melody [mmartinez2@ftc.gov]
Sent: 7/25/2022 10:37:49 AM
To: Lipsitz, Michael [mlipsitz@ftc.gov]; Cady, Benjamin [bcady@ftc.gov]
Subject: RE: Buying published versions of papers
Attachments: (b)(5)

Good Morning Ben and Mike,

(b)(5)

Please let me know if you need anything else.

Melody

From: Lipsitz, Michael <mlipsitz@ftc.gov>
Sent: Friday, July 22, 2022 3:28 PM
To: Martinez, Melody <mmartinez2@ftc.gov>; Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Thanks so much!

Mike

From: Martinez, Melody <mmartinez2@ftc.gov>
Sent: Friday, July 22, 2022 3:26 PM
To: Cady, Benjamin <bcady@ftc.gov>; Lipsitz, Michael <mlipsitz@ftc.gov>
Subject: RE: Buying published versions of papers

Mike and Ben,

(b)(5)

Please let me know if you need anything.

Melody

From: Cady, Benjamin <bcady@ftc.gov>
Sent: Monday, July 18, 2022 9:43 AM
To: Lipsitz, Michael <mlipsitz@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>
Subject: RE: Buying published versions of papers

(b)(5)

From: Lipsitz, Michael <mlipsitz@ftc.gov>
Sent: Monday, July 18, 2022 8:15 AM
To: Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

(b)(5)

Thanks again!
Mike

From: Martinez, Melody <mmartinez2@ftc.gov>
Sent: Friday, July 15, 2022 2:59 PM
To: Lipsitz, Michael <mlipsitz@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Mike and Ben,

(b)(5)

Sorry for the delay I was just trying to make sure that I followed the correct steps.

Melody

From: Lipsitz, Michael <mlipsitz@ftc.gov>
Sent: Wednesday, July 13, 2022 5:24 PM
To: Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

(b)(5)

Thanks a lot,
Mike

From: Martinez, Melody <mmartinez2@ftc.gov>
Sent: Wednesday, July 13, 2022 4:29 PM
To: Lipsitz, Michael <mlipsitz@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Well Wonderful news Mike and Ben,

(b)(5)

(b)(5)

Respectfully,
Melody Martinez
Staff Assistant
Office of Policy Planning
U.S. Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
202-326-2265
mmartinez2@ftc.gov

A smile is a free way to brighten someone's day.

From: Lipsitz, Michael <mlipsitz@ftc.gov>
Sent: Wednesday, July 13, 2022 1:56 PM
To: Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Melody,

Thanks in advance for your help.

(b)(5)

Thanks a lot!

Mike

From: Lipsitz, Michael
Sent: Wednesday, July 13, 2022 9:37 AM
To: Mackey, Sarah D. <smackey@ftc.gov>; Wilkins, Elizabeth <ewilkins1@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Yep—I'll put together a list of the papers that we need later today.

Thanks,
Mike

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Wednesday, July 13, 2022 9:28 AM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>; Lipsitz, Michael <mlipsitz@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Mike

(b)(5)

Thanks
Sarah

From: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Sent: Tuesday, July 12, 2022 9:49 PM
To: Lipsitz, Michael <mlipsitz@ftc.gov>; Mackey, Sarah D. <smackey@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

(b)(5)

From: Lipsitz, Michael <mlipsitz@ftc.gov>
Sent: Tuesday, July 12, 2022 9:47 PM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: Buying published versions of papers

Hi Elizabeth,

(b)(5)

(b)(5)

Thanks, and let me know if there's a better person to talk to about this!

Mike

Message

From: Martinez, Melody [mmartinez2@ftc.gov]
Sent: 7/13/2022 4:28:54 PM
To: Lipsitz, Michael [mlipsitz@ftc.gov]
CC: Cady, Benjamin [bcady@ftc.gov]
Subject: RE: Buying published versions of papers
Attachments: (b)(5)

Well Wonderful news Mike and Ben.

(b)(6)

(b)(5)

Respectfully,
Melody Martinez
Staff Assistant
Office of Policy Planning
U.S. Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
202-326-2265
mmartinez2@ftc.gov

A smile is a free way to brighten someone's day.

From: Lipsitz, Michael <mlipsitz@ftc.gov>
Sent: Wednesday, July 13, 2022 1:56 PM
To: Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Melody,

Thanks in advance for your help.

Here are the papers we'll need:

(b)(5)

(b)(5)

Thanks a lot!

Mike

From: Lipsitz, Michael
Sent: Wednesday, July 13, 2022 9:37 AM
To: Mackey, Sarah D. <smackey@ftc.gov>; Wilkins, Elizabeth <ewilkins1@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

(b)(5)

Thanks,
Mike

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Wednesday, July 13, 2022 9:28 AM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>; Lipsitz, Michael <mlipsitz@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>
Cc: Cady, Benjamin <bcady@ftc.gov>
Subject: RE: Buying published versions of papers

Mike

(b)(5)

Thanks
Sarah

From: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Sent: Tuesday, July 12, 2022 9:49 PM
To: Lipsitz, Michael <mlipsitz@ftc.gov>; Mackey, Sarah D. <smackey@ftc.gov>; Martinez, Melody <mmartinez2@ftc.gov>

Cc: Cady, Benjamin <bcady@ftc.gov>

Subject: RE: Buying published versions of papers

(b)(5)

From: Lipsitz, Michael <mlipsitz@ftc.gov>

Sent: Tuesday, July 12, 2022 9:47 PM

To: Wilkins, Elizabeth <ewilkins1@ftc.gov>

Cc: Cady, Benjamin <bcady@ftc.gov>

Subject: Buying published versions of papers

Hi Elizabeth,

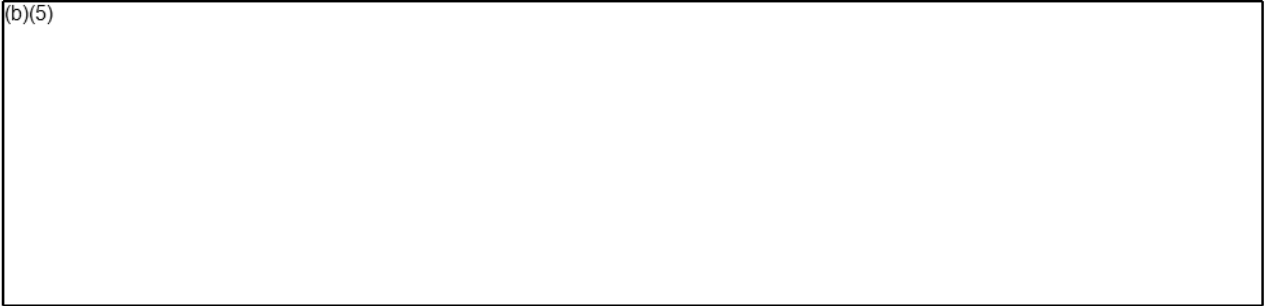
(b)(5)

Thanks, and let me know if there's a better person to talk to about this!

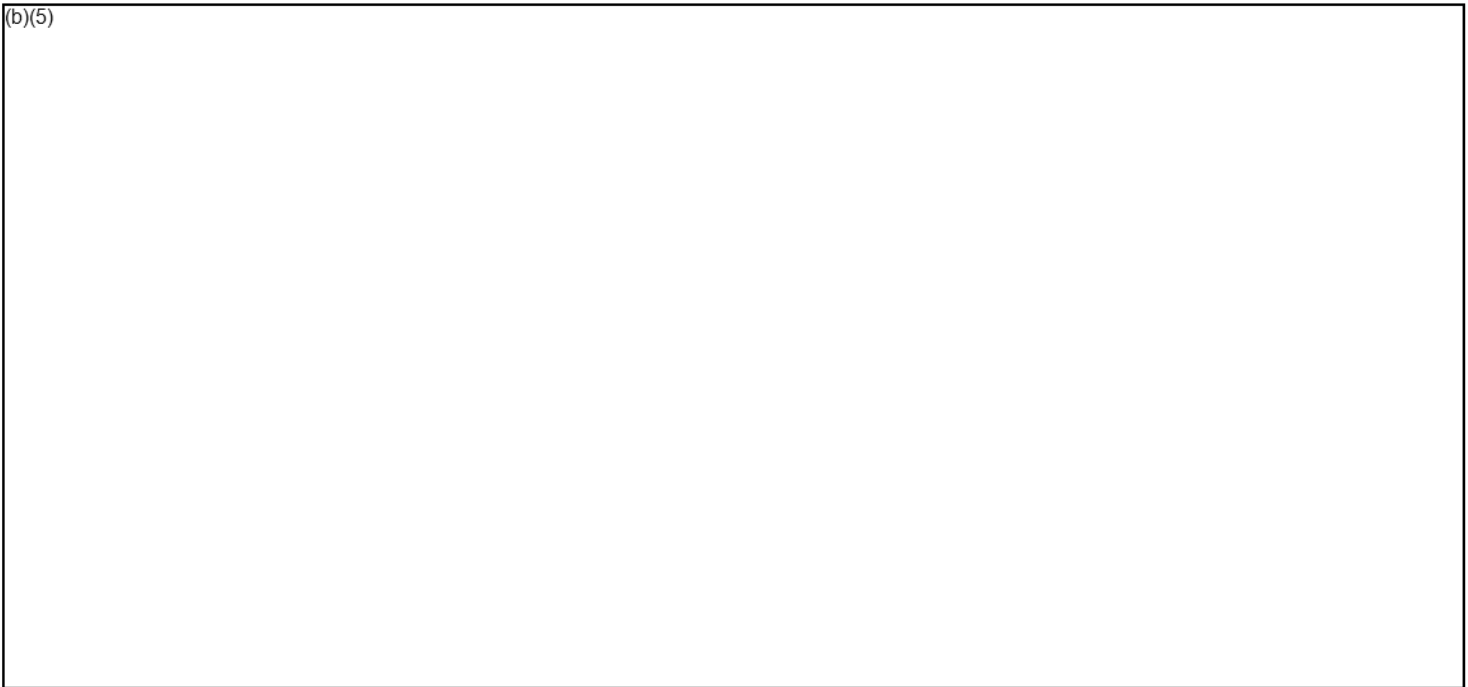
Mike

Message

From: Shimmons, Jonathan [jshimmons@ftc.gov]
Sent: 4/1/2022 3:20:27 PM
To: Lipsitz, Michael [mlipsitz@ftc.gov]
Subject: Article on non-competes found so far
Attachments: (b)(5)



Michael:



Jonathan Shimmons
Library Director
Federal Trade Commission
(Desk) 202.326.3216
(Mobile) (b)(6)

This document is being produced natively

Message

From: Lipsitz, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=03F9381922F34575B1164FD8F306753D-MLISITZ]
Sent: 3/13/2022 11:40:05 AM
To: Wilkins, Elizabeth [ewilkins1@ftc.gov]; Cady, Benjamin [bcady@ftc.gov]
Subject: RE: (b)(6)

(b)(5) [redacted] (b)(6) [redacted]

From: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Sent: Friday, March 11, 2022 10:43 PM
To: Cady, Benjamin <bcady@ftc.gov>; Lipsitz, Michael <mlipsitz@ftc.gov>
Subject: Fwd: (b)(5); (b)(6)

(b)(5) [redacted] (b)(6) [redacted]

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From: Wu, Tim EOP/WHO <Timothy.Wu@who.eop.gov>
Sent: Friday, March 11, 2022 10:36 PM
To: Wilkins, Elizabeth
Cc: Hansmann, Lisa S. EOP/WHO
Subject: (b)(6)

(b)(5) [redacted]

Best Tim

Sent from my iPhone

Message

From: Wilkins, Elizabeth [ewilkins1@ftc.gov]
Sent: 3/11/2022 10:43:10 PM
To: Cady, Benjamin [bcady@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]
Subject: Fwd: (b)(6)

(b)(5) (b)(6)

[Get Outlook for iOS](#)

From: Wu, Tim EOP/WHO <Timothy.Wu@who.eop.gov>
Sent: Friday, March 11, 2022 10:36 PM
To: Wilkins, Elizabeth
Cc: Hansmann, Lisa S. EOP/WHO
Subject: (b)(6)

Hey this is Tim Wu from the White House, Chair Khan gave me your email.

(b)(5)

Best Tim

Sent from my iPhone

Appointment

From: Schmidt, David R. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de89550c06a049e9bebc18a87721e26d-dschmidt]
Sent: 2/22/2022 3:57:17 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: (b)(5)
Location: <https://ftc.zoomgov.com> (b)(6)

Start: 2/22/2022 4:00:00 PM
End: 2/22/2022 4:45:00 PM
Show Time As: Busy

Appointment

From: Schmidt, David R. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de89550c06a049e9bebc18a87721e26d-dschmidt]
Sent: 2/2/2022 10:22:32 AM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: Non-compete NPRM - (b)(5)
Location: Microsoft Teams Meeting

Start: 2/7/2022 2:00:00 PM
End: 2/7/2022 3:00:00 PM
Show Time As: Busy

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 2/2/2022 12:10:46 AM
To: Cady, Benjamin [bcady@ftc.gov]; Signs, Kelly [ksigns@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]; Merber, Kenneth [kmerber@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]; Gilman, Daniel [dgilman@ftc.gov]; Schmidt, David R. [DSCHMIDT@ftc.gov]

Subject: Non-compete NPRM (b)(5)

Location: Microsoft Teams Meeting

Start: 2/7/2022 2:00:00 PM

End: 2/7/2022 3:00:00 PM

Show Time As: Busy

Required Attendees: Signs, Kelly; Mackey, Sarah D.; Merber, Kenneth; Lipsitz, Michael; Gilman, Daniel; Schmidt, David R.

I'll keep Tuesday's team meeting on the calendar for now, in case we end up needing to get together (b)(5)
(b)(5)

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

[Learn More | Meeting options](#)

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 4/26/2022 4:05:28 PM
To: Cady, Benjamin [bcady@ftc.gov]; Dan Gilman [dgilman@ftc.gov]; Dave Schmidt [dschmidt@ftc.gov]; Elizabeth Wilkins [ewilkins1@ftc.gov]; Kelly Signs [ksigns@ftc.gov]; Ken Merber [kmerber@ftc.gov]; Mike Lipsitz [mlipsitz@ftc.gov]; Sarah Mackey [smackey@ftc.gov]; Waller, Spencer [swaller@ftc.gov]; Vita, Michael G. [MVITA@ftc.gov]

Subject: (b)(5)
Location: https://ftc.zoomgov.com (b)(6)

Start: 5/5/2022 2:00:00 PM
End: 5/5/2022 2:30:00 PM
Show Time As: Tentative

Required Attendees: Dan Gilman; Dave Schmidt; Elizabeth Wilkins; Kelly Signs; Ken Merber; Mike Lipsitz; Sarah Mackey; Spencer Weber
Attendees: Waller (swaller@ftc.gov); Vita, Michael G.

(b)(5)

Hi there,

Melody Martinez is inviting you to a scheduled ZoomGov meeting.

Join Zoom Meeting

One tap US: (b)(6)
mobile:

Meeting <https://ftc.zoomgov.com> (b)(6)

URL:
Meeting (b)(6)

ID:
Passcode (b)(6)

Join by Telephone

For higher quality, dial a number based on your current location.

Dial: (b)(6)

Meeting ID: (b)(6)

ID:

International numbers

Join from an H.323/SIP room system

H.323 Meeting ID: (b)(6)

Meeting ID:

ID:

Passcode: (b)(6)

SIP:

Passcode:

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 3/3/2022 5:08:50 PM
To: Cady, Benjamin [bcady@ftc.gov]; Wilkins, Elizabeth [ewilkins1@ftc.gov]; Marcus-Kurn, Joel [jmarcuskurn@ftc.gov]; Grossman, Bradley D. [bgrossman@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]

Subject: Non-compete NPRM (b)(5)
Location: https://ftc.zoomgov.com (b)(6)

Start: 3/8/2022 4:00:00 PM
End: 3/8/2022 5:00:00 PM
Show Time As: Tentative

Required Attendees: Wilkins, Elizabeth; Marcus-Kurn, Joel; Grossman, Bradley D.; Lipsitz, Michael

Hi Joel and Brad – would this work? Sorry for the last-minute change.

* * *

(b)(5)

Thanks,
Ben



Hi there,

Melody Martinez is inviting you to a scheduled ZoomGov meeting.

Join Zoom Meeting

One tap US: + (b)(6)

Meeting <https://ftc.zoomgov.com> (b)(6)

URL:
Meeting (b)(6)
ID:
Passcode:

Join by Telephone

For higher quality, dial a number based on your current location.

Dial

(b)(6)

Meeting

ID:

International numbers

Join from an H.323/SIP room system

H.323.

(b)(6)

Meeting

ID:

Passcod

SIP:

Passcod

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 4/26/2022 4:05:28 PM
To: Cady, Benjamin [bcady@ftc.gov]; Dan Gilman [dgilman@ftc.gov]; Dave Schmidt [dschmidt@ftc.gov]; Elizabeth Wilkins [ewilkins1@ftc.gov]; Kelly Signs [ksigns@ftc.gov]; Ken Merber [kmerber@ftc.gov]; Mike Lipsitz [mlipsitz@ftc.gov]; Sarah Mackey [smackey@ftc.gov]; Waller, Spencer [swaller@ftc.gov]; Vita, Michael G. [MVITA@ftc.gov]

Subject: (b)(5)
Location: https://ftc.zoomgov.com (b)(6)
Start: 5/5/2022 2:00:00 PM
End: 5/5/2022 2:30:00 PM
Show Time As: Tentative

Required Attendees: Dan Gilman; Dave Schmidt; Elizabeth Wilkins; Kelly Signs; Ken Merber; Mike Lipsitz; Sarah Mackey; Spencer Weber
Waller (swaller@ftc.gov); Vita, Michael G.

(b)(5)

Hi there,

Melody Martinez is inviting you to a scheduled ZoomGov meeting.

Join Zoom Meeting

One tap (b)(6)
mobile:
Meeting <https://ftc.zoomgov.com> (b)(6)
URL:
Meeting (b)(6)
ID:
Passcod

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For higher quality, dial a number based on your current location.

Dial: (b)(6)

Meeting ID: (b)(6)

International numbers

Join from an H.323/SIP room system

H.323 Meeting ID: (b)(6)
Passcode
SIP: (b)(6)
Passcode

Appointment

From: Stephen, Sunila [ssteephen@ftc.gov]
Sent: 9/9/2022 10:04:23 AM
To: Stephen, Sunila [ssteephen@ftc.gov]; Dahdouh, Thomas N. [TDAHDOUH@ftc.gov]; Dasgupta, Anisha [adasgupta@ftc.gov]; Wilkins, Elizabeth [ewilkins1@ftc.gov]; Cady, Benjamin [bcady@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]; Grossman, Bradley D. [bgrossman@ftc.gov]
CC: Howard, Jennifer [jhoward1@ftc.gov]; Nathan, Jon J. [jnathan@ftc.gov]; Sussman, Shaoul [ssussman@ftc.gov]
Subject: Meeting with OGC and OPP
Location: https://ftc.zoomgov.com/(b)(6)
Start: 9/15/2022 3:00:00 PM
End: 9/15/2022 3:30:00 PM
Show Time As: Tentative

Required Attendees: Dahdouh, Thomas N.; Dasgupta, Anisha; Wilkins, Elizabeth; Cady, Benjamin; Lipsitz, Michael; Mackey, Sarah D.; Grossman, Bradley D.
Optional Attendees: Howard, Jennifer; Nathan, Jon J.; Sussman, Shaoul

(b)(5) (b)(5)

Hi there.

Sunila Steephen is inviting you to a scheduled ZoomGov meeting.

Join Zoom Meeting

One tap US: (b)(6)

Meeting [\(b\)\(6\)](https://ftc.zoomgov.com/(b)(6))

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International numbers

Join from an H.323/SIP room system

H.323 Meeting ID: (b)(6)
Passcode
SIP: (b)(6)
Passcode

Appointment

From: Tuttle, Bryce [btuttle@ftc.gov]
Sent: 11/10/2022 11:14:11 AM
To: Dasgupta, Anisha [adasgupta@ftc.gov]; Choi, Marie [mchoi1@ftc.gov]; Grossman, Bradley D. [bgrossman@ftc.gov]; Marcus-Kurn, Joel [jmarcuskurn@ftc.gov]; Bedoya, Alvaro [abedoya@ftc.gov]; Sanchez, Catherine [csanchez@ftc.gov]; Miller, Max [mmiller6@ftc.gov]

Subject: OGC Call re Noncompete NPRM

Location: Microsoft Teams Meeting

Start: 11/10/2022 3:00:00 PM

End: 11/10/2022 3:30:00 PM

Show Time As: Tentative

Required Attendees: Dasgupta, Anisha; Choi, Marie; Grossman, Bradley D.; Marcus-Kurn, Joel; Alvaro Bedoya; Catherine Sanchez; Max Miller

Microsoft Teams meeting

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Meeting ID: (b)(6)

Passcode (b)(6)

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Or call in (audio only)

(b)(6) United States, Washington DC

Phone Conference ID (b)(6)

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Appointment

From: Zhao, Daniel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d8d17e1a1b0644fd931c56ec899541e1-dzhao]
Sent: 5/27/2022 3:53:06 PM
To: Khan, Lina [lkhan@ftc.gov]; Wilkins, Elizabeth [ewilkins1@ftc.gov]; Dasgupta, Anisha [adasgupta@ftc.gov]; Howard, Jennifer [jhoward1@ftc.gov]
CC: Cady, Benjamin [bcady@ftc.gov]; Wright, Kenny [kwright@ftc.gov]; Grossman, Bradley D. [bgrossman@ftc.gov]
Subject: Meeting on policy
Location: <https://ftc.zoomgov.com> (b)(6)
Start: 6/2/2022 3:00:00 PM
End: 6/2/2022 3:30:00 PM
Show Time As: Busy

Required Attendees: Wilkins, Elizabeth; Dasgupta, Anisha; Howard, Jennifer
Optional Attendees: Cady, Benjamin; Wright, Kenny; Grossman, Bradley D.

(b)(5)

Daniel Zhao is inviting you to a scheduled ZoomGov meeting.

Topic: Room A for internal check-ins
Time: This is a recurring meeting Meet anytime

Join ZoomGov Meeting
<https://ftc.zoomgov.com> (b)(6)

Meeting ID: (b)(6)
Passcode: (b)(6)

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(b)(6)

Dial by your location
(b)(6)

Meeting ID: (b)(6)
Find your local number: (b)(6)

Join by SIP
(b)(6)

Passcode:

Appointment

From: Leisten, Matthew [mleisten@ftc.gov]
Sent: 4/26/2022 11:50:49 AM
To: 1255DL [1255DL@ftc.gov]; 1256DL [1256DL@ftc.gov]; 1257DL [1257DL@ftc.gov]; 1258DL [1258DL@ftc.gov]; 1261DL [1261DL@ftc.gov]

Subject: BE Brownbag: Mike Lipsitz

Location: <https://ftc.zoomgov.com> (b)(6)

Start: 5/3/2022 12:00:00 PM

End: 5/3/2022 1:00:00 PM

Show Time As: Tentative

Required Attendees: 1255DL; 1256DL; 1257DL; 1258DL; 1261DL

Next week we have Mike Lipsitz presenting his work, "The Enforceability of Noncompete Agreements and Innovation: Evidence from State Law Changes."

Please reach out to me or Will Violette if you are interested in presenting later this spring! We still have a few slots open.

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 2/2/2022 12:10:46 AM
To: Cady, Benjamin [bcady@ftc.gov]; Signs, Kelly [ksigns@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]; Merber, Kenneth [kmerber@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]; Gilman, Daniel [dgilman@ftc.gov]; Schmidt, David R. [DSCHMIDT@ftc.gov]

Subject: Non-compete NPRM - (b)(5)

Location: Microsoft Teams Meeting

Start: 2/7/2022 2:00:00 PM
End: 2/7/2022 3:00:00 PM
Show Time As: Busy

Required Attendees: Signs, Kelly; Mackey, Sarah D.; Merber, Kenneth; Lipsitz, Michael; Gilman, Daniel; Schmidt, David R.

(b)(5)

Microsoft Teams meeting

Join on your computer or mobile app

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Appointment

From: Meyers, Erika [emeyers@ftc.gov]
Sent: 8/26/2022 11:16:04 AM
To: Meyers, Erika [emeyers@ftc.gov]; Signs, Kelly [ksigns@ftc.gov]

Subject: (b)(5)

Start: 8/26/2022 2:00:00 PM
End: 8/26/2022 2:30:00 PM
Show Time As: Busy

Recurrence: (none)

Required Attendees: Signs, Kelly

Microsoft Teams meeting

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Meeting ID: (b)(6)
Passcode: (b)(6)

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(b)(6) United States, Washington DC

Phone Conference ID: (b)(6)

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Appointment

From: Signs, Kelly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a02d2881180f491789abe52204d2cc99-ksigns]
Sent: 8/26/2022 11:28:57 AM
To: Meyers, Erika [emeyers@ftc.gov]

Subject: Accepted (b)(5)

Start: 8/26/2022 2:00:00 PM
End: 8/26/2022 2:30:00 PM
Show Time As: Busy

Appointment

From: Signs, Kelly [/o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=a02d2881180f491789abe52204d2cc99-ksigns]
Sent: 5/4/2022 3:07:42 PM
To: Cady, Benjamin [bcady@ftc.gov]

Subject: Accepted: Discuss (b)(5)
Location: <https://ftc.zoomgov.com> (b)(6)

Start: 5/5/2022 2:00:00 PM
End: 5/5/2022 2:30:00 PM
Show Time As: Busy

Appointment

From: Cady, Benjamin [bcady@ftc.gov]
Sent: 2/2/2022 12:10:46 AM
To: Cady, Benjamin [bcady@ftc.gov]; Signs, Kelly [ksigns@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]; Merber, Kenneth [kmerber@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]; Gilman, Daniel [dgilman@ftc.gov]; Schmidt, David R. [DSCHMIDT@ftc.gov]

Subject: Non-compete NPRM (b)(5)
Location: Microsoft Teams Meeting

Start: 2/7/2022 2:00:00 PM
End: 2/7/2022 3:00:00 PM
Show Time As: Busy

Required Attendees: Signs, Kelly; Mackey, Sarah D.; Merber, Kenneth; Lipsitz, Michael; Gilman, Daniel; Schmidt, David R.

I'll keep Tuesday's team meeting on the calendar for now (b)(5)
(b)(5)

Microsoft Teams meeting

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Message

From: Wilkins, Elizabeth [ewilkins1@ftc.gov]
Sent: 12/14/2022 8:52:45 AM
To: Cady, Benjamin [bcady@ftc.gov]; Carter, Paige [pcarter@ftc.gov]; Lane, Shannon [slane@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]
Subject: Fwd: Group Letter: Ban Noncompetes Now
Attachments: noncompete_ftc_signon_12-13-22_final.pdf

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From: Vedova, Holly L. <HVEDOVA@ftc.gov>
Sent: Wednesday, December 14, 2022 8:29:35 AM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Cc: Levine, Samuel <slevine1@ftc.gov>
Subject: Fwd: Group Letter: Ban Noncompetes Now
Elizabeth,

FYI.

Holly

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From: Matthew Kent (b)(6) [redacted]@citizen.org>
Sent: Wednesday, December 14, 2022 2:41:17 AM
To: ANTITRUST <ANTITRUST@ftc.gov>
Cc: Levine, Samuel <slevine1@ftc.gov>; Vedova, Holly L. <HVEDOVA@ftc.gov>
Subject: Group Letter: Ban Noncompetes Now

Lina Khan
Chair
Federal Trade Commission

Alvaro Bedoya
Commissioner

Rebecca Kelly Slaughter
Commissioner

Christine S. Wilson
Commissioner

CC: Director Holly Vedova, FTC Bureau of Competition; Director Sam Levine, FTC Bureau of Consumer Protection

SENT VIA E-MAIL

Dear Chair Khan and Commissioners,

The undersigned organizations urge the Federal Trade Commission (FTC) to start the work of banning employers' use of non-compete agreements. It should do so by issuing a notice of proposed rulemaking (NPRM) without further delay. Tens of millions of workers across the U.S. economy remain vulnerable to economic disempowerment through employers' use of, or threat to use, non-compete clauses. [1] Each day that

passes without an NPRM weakens the likelihood of a robust final rule and increases the effort's exposure to a potential Congressional Review Act challenge post-2024.

Employers' use of non-compete clauses inflict real and substantial harms on the American worker and the overall U.S. economy without any legitimate justification. By limiting worker's mobility, non-competes drive down wages, reduce the formation of new businesses and keep workers stuck in unsafe or hostile workplaces. These one-sided contracts can also unfairly restrain competition in downstream markets by allowing dominant firms to hold on to specialized workers—think of monopolistic hospitals and surgeons. Instead of retaining workers through coercive non-compete clauses, employers should maintain a loyal workforce by offering good wages, regular raises and promotions, and fair treatment.

In March 2019, a coalition of civil society organizations, labor unions and legal experts formally petitioned the FTC to issue a rule that declares worker non-compete clauses to be an unfair method of competition and classifies them as *per se* illegal under the FTC Act.^[1] The coalition demanded an FTC rule that would make non-compete clauses illegal for all workers, irrespective of income or occupation. In July 2021, President Biden issued an executive order that expressly directed the FTC Chair to “consider working with the rest of the Commission to exercise the FTC’s statutory rulemaking authority . . . to curtail the unfair use of non-compete clauses and other clauses or agreements that may unfairly limit worker mobility.”^[2] This summer, the *Wall Street Journal* reported that the FTC was considering a rule on non-competes.^[3] As recently as September, Chair Khan told the Senate Judiciary Committee that the agency was “closely scrutinizing the growing use of non-compete clauses throughout the economy.”^[4] Importantly, the FTC has laid the legal groundwork for use of Section 5 of the FTC act to police a broad set of unfair methods of competition, presumably including the use of non-competes.^[5]

The FTC has made clear it is contemplating action, but time is running short. It is vital that the FTC begin the rulemaking process to signal to the public, courts, and corporate America that it is committed to fair competition in the labor market. Additionally, further delay in issuing an NPRM may result in legal jeopardy. An NPRM is only the first step toward prohibiting non-compete clauses—reviewing and responding to comments and developing the final rule will take significant time. Lawmakers have historically depended on the Congressional Review Act to overturn agency actions with which they disagree. ^[6] Should there be unified control of Congress and the White House following the 2024 election, any agency action completed in the second half of 2024 will be open to repeal.

The country is in the midst of a widespread re-empowerment of labor, the Biden administration has made clear that reviving employer competition for workers' services is a key plank of its policy program. We cannot waste a historic opportunity to use federal authority to eliminate pernicious non-compete clauses. We call on the FTC to begin its important work by issuing a strong rule proposal now.

For questions, please contact Matt Kent (b)(6) [@citizen.org](mailto:matt.kent@citizen.org).

Thank you for your attention to this matter.

Sincerely,

Public Citizen
Open Markets Institute
Future of Music Coalition
Demand Progress Education Fund
Lake Research Partners
Towards Justice
Economic Policy Institute
Revolving Door Project
National Employment Law Project
Campaign for Family Farms and the Environment
People's Parity Project
Farm Action
American Economic Liberties Project

National Women's Law Center
Center for Digital Democracy
Student Borrower Protection Center
Fight for the Future
Service Employees International Union
Institute for Local Self-Reliance
Oxfam America
Public Knowledge
Communications Workers of America
United Food & Commercial Workers Local 400
Economic Security Project Action
American Federation of Labor and Congress of Industrial Organizations

[1] U.S. Dep't of Treasury, Non-Compete Contracts: Economic Effects and Policy Implications 6 (2016).

[2] Petition for Rulemaking to Prohibit Worker Non-Compete Clauses. Accessible at <https://www.regulations.gov/document/1-FC-2021-0036-0001>

[3] Executive Order on Promoting Competition in the American Economy. (2021). <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>

[4] *Wall Street Journal*, "FTC Considers Restricting the Use of Noncompete Clauses by Companies", June 22, 2022. <https://www.wsj.com/articles/ftc-considers-restricting-the-use-of-noncompete-clauses-by-companies-11654747203>. "Ms. Khan also said the FTC is considering drafting a regulation targeting the use of noncompete provisions. 'An FTC rule there could have significant value-add,' she said. 'We need to be using all of our tools.' She said the rules could be adopted via a rarely used FTC authority, a section of the 1914 FTC Act, which says 'unfair methods of competition in or affecting commerce' are illegal."

[5] FTC Press Release, FTC Chair Lina M. Khan Testifies Before Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, Sept. 20, 2022. <https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-chair-lina-m-khan-testifies-senate-judiciary-subcommittee-antitrust-competition-policy-consumer-rights>

[6] FTC Policy Statement Regarding the Scope of Unfair Methods of Competition Under Section 5 of the Federal Trade Commission Act. (2022). https://www.ftc.gov/system/files/ftc_gov/pdf/P221202Section5PolicyStatement.pdf

[7] Congressional Research Service, The Congressional Review Act (CRA): Frequently Asked Questions. November 12, 2021. <https://crsreports.congress.gov/product/pdf/R/R43992>

Matt Kent
Competition Policy Advocate, Public Citizen

he/him/his

(b)(6)

mkent@publicciti.org

December 13, 2022

Lina Khan
Chair
Federal Trade Commission

Alvaro Bedoya
Commissioner

Rebecca Kelly Slaughter
Commissioner

Christine S. Wilson
Commissioner

CC: Director Holly Vedova, FTC Bureau of Competition; Director Sam Levine, FTC Bureau of Consumer Protection

SENT VIA E-MAIL

Re: FTC must begin its rulemaking to ban employer non-compete agreements

Dear Chair Khan and Commissioners,

The undersigned organizations urge the Federal Trade Commission (FTC) to start the work of banning employers' use of non-compete agreements. It should do so by issuing a notice of proposed rulemaking (NPRM) without further delay. Tens of millions of workers across the U.S. economy remain vulnerable to economic disempowerment through employers' use of, or threat to use, non-compete clauses.¹ Each day that passes without an NPRM weakens the likelihood of a robust final rule and increases the effort's exposure to a potential Congressional Review Act challenge post-2024.

Employers' use of non-compete clauses inflict real and substantial harms on the American worker and the overall U.S. economy without any legitimate justification. By limiting worker's mobility, non-competes drive down wages, reduce the formation of new businesses and keep workers stuck in unsafe or hostile workplaces. These one-sided contracts can also unfairly restrain competition in downstream markets by allowing dominant firms to hold on to specialized workers—think of monopolistic hospitals and surgeons. Instead of retaining workers through coercive non-compete clauses, employers should maintain a loyal workforce by offering good wages, regular raises and promotions, and fair treatment.

In March 2019, a coalition of civil society organizations, labor unions and legal experts formally petitioned the FTC to issue a rule that declares worker non-compete clauses to be an unfair method of competition and classifies them as *per se* illegal under the FTC Act.² The coalition demanded an FTC rule that would make non-compete clauses illegal for all workers, irrespective of income or occupation. In July 2021, President Biden issued an executive order that expressly directed the FTC Chair to “consider working with the rest of the Commission to exercise the FTC’s statutory rulemaking authority ... to curtail the unfair use of non-compete clauses and other clauses or agreements that may unfairly limit

¹ U.S. DEP'T OF TREASURY, NON-COMPETE CONTRACTS: ECONOMIC EFFECTS AND POLICY IMPLICATIONS 6 (2016)

² Petition for Rulemaking to Prohibit Worker Non-Compete Clauses. Accessible at <https://www.regulations.gov/document/FTC-2021-0036-0001>

worker mobility.”³ This summer, the *Wall Street Journal* reported that the FTC was considering a rule on non-competes.⁴ As recently as September, Chair Khan told the Senate Judiciary Committee that the agency was “closely scrutinizing the growing use of non-compete clauses throughout the economy.”⁵ Importantly, the FTC has laid the legal groundwork for use of Section 5 of the FTC act to police a broad set of unfair methods of competition, presumably including the use of non-competes.⁶

The FTC has made clear it is contemplating action, but time is running short. It is vital that the FTC begin the rulemaking process to signal to the public, courts, and corporate America that it is committed to fair competition in the labor market. Additionally, further delay in issuing an NPRM may result in legal jeopardy. An NPRM is only the first step toward prohibiting non-compete clauses—reviewing and responding to comments and developing the final rule will take significant time. Lawmakers have historically depended on the Congressional Review Act to overturn agency actions with which they disagree.⁷ Should there be unified control of Congress and the White House following the 2024 election, any agency action completed in the second half of 2024 will be open to repeal.

The country is in the midst of a widespread re-empowerment of labor, the Biden administration has made clear that reviving employer competition for workers’ services is a key plank of its policy program. We cannot waste a historic opportunity to use federal authority to eliminate pernicious non-compete clauses. We call on the FTC to begin its important work by issuing a strong rule proposal now.

For questions, please contact Matt Kent (mkent@citizen.org).

Thank you for your attention to this matter.

Sincerely,

Public Citizen
Open Markets Institute
Future of Music Coalition
Demand Progress Education Fund
Lake Research Partners
Towards Justice
Economic Policy Institute

³ EXECUTIVE ORDER ON PROMOTING COMPETITION IN THE AMERICAN ECONOMY. (2021). <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy>

⁴ *Wall Street Journal*, “FTC Considers Restricting the Use of Noncompete Clauses by Companies”, June 22, 2022. <https://www.wsj.com/articles/ftc-considers-restricting-the-use-of-noncompete-clauses-by-companies-11654747203> “Ms. Khan also said the FTC is considering drafting a regulation targeting the use of noncompete provisions. ‘An FTC rule there could have significant value-add,’ she said. ‘We need to be using all of our tools.’ She said the rules could be adopted via a rarely used FTC authority, a section of the 1914 FTC Act, which says ‘unfair methods of competition in or affecting commerce’ are illegal.”

⁵ FTC Press Release. FTC Chair Lina M. Khan Testifies Before Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, Sept. 20, 2022. <https://www.ftc.gov/news-events/news/press-releases/2022/09-ftc-chair-lina-m-khan-testifies-senate-judiciary-subcommittee-antitrust-competition-policy-consumer-rights>

⁶ FTC POLICY STATEMENT REGARDING THE SCOPE OF UNFAIR METHODS OF COMPETITION UNDER SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT. (2022). https://www.ftc.gov/system/files/ftc_gov/pdf/P221202Section5PolicyStatement.pdf

⁷ Congressional Research Service, The Congressional Review Act (CRA): Frequently Asked Questions, November 12, 2021. <https://crsreports.congress.gov/product/pdf/R/R43992>

Revolving Door Project
National Employment Law Project
Campaign for Family Farms and the Environment
People's Parity Project
Farm Action
American Economic Liberties Project
National Women's Law Center
Center for Digital Democracy
Student Borrower Protection Center
Fight for the Future
Service Employees International Union
Institute for Local Self-Reliance
Oxfam America
Public Knowledge
Communications Workers of America
United Food & Commercial Workers Local 400
Economic Security Project Action
American Federation of Labor and Congress of Industrial Organizations

Message

From: Patel, Karuna [kpatel1@ftc.gov]
Sent: 3/13/2023 3:19:07 PM
To: Mackey, Sarah D. [smackey@ftc.gov]
Subject: FW: Invitation SHRM Government Affairs Webcast: March 23, 2023

Hi Sarah,

I wanted to confirm that for public purposes, my title is Attorney Advisor in the Office of Policy Planning, FTC (or is it Attorney?).

I will work with OPA on the rest and share a draft bio with you before it goes out.

Thanks,
Karuna

From: McIntosh, Sean (b)(6)@shrm.org>
Sent: Monday, March 13, 2023 11:16 AM
To: Patel, Karuna <kpatel1@ftc.gov>
Cc: Perrotta, Steven <steven.perrotta@shrm.org>; Kirkpatrick, Chenai (b)(6)@shrm.org>; Farrar, Douglas <dfarrar@ftc.gov>
Subject: RE: Invitation SHRM Government Affairs Webcast: March 23, 2023

Hi Karuna,

Happy Monday! Thank you again for your willingness to participate in our webcast next week; as promised, I wanted to follow up with some additional information on the format and logistics of our program.

The webcast will start at **4:00 p.m. EST on Thursday, March 23rd**. Pending your availability, we ask that you please log on 10-15 minutes (around 3:45 p.m. EST) before the start of the program for a tech check. I will send you a calendar invitation shortly with login instructions for our webcast platform (On24) and that will include best practices as well.

In terms of format, we were envisioning that you could provide between 10-15 minutes of remarks followed by approximately 5 minutes of moderated Q&A. We would share questions with you in advance for your review, and optionally we can also field some live audience Q&A if you are comfortable doing so. These questions would be posted to you verbally via our moderator (which will be our Director of Public Policy, Steven Perrotta). To be mindful of your time, following your segment of the program, you are free to drop off from the webcast. Does this work for you?

Could you also please share a preferred headshot + short bio that we can feature on the webcast registration page and promote to our membership?

Please let me know if you have any questions. Thanks so much.

Sean McIntosh | Sr. Advisor, State Government Relations
Society for Human Resource Management
1800 Duke Street | Alexandria, VA 22314 USA

(b)(6)@shrm.org | (b)(6)

From: Patel, Karuna <kpatel1@ftc.gov>
Sent: Friday, March 10, 2023 12:24 PM
To: Kirkpatrick, Chenai <Chenai.Kirkpatrick@shrm.org>; Farrar, Douglas <dfarrar@ftc.gov>

Cc: Perrotta, Steven <steven.perrotta@shrm.org>; McIntosh, Sean (b)(6)@shrm.org>
Subject: RE: Invitation SHRM Government Affairs Webcast: March 23, 2023

Chenai, Sean,

Thank you and I look forward to connecting with you and speaking to your membership.

Have a great weekend.

Best,
Karuna

From: Kirkpatrick, Chenai (b)(6)@shrm.org>
Sent: Thursday, March 9, 2023 8:16 PM
To: Patel, Karuna <kpatel1@ftc.gov>; Farrar, Douglas <dfarrar@ftc.gov>
Cc: Perrotta, Steven (b)(6)@shrm.org>; McIntosh, Sean (b)(6)@shrm.org>
Subject: Re: Invitation SHRM Government Affairs Webcast: March 23, 2023

Doug, thank you for the rapid response.

Karuna, great to meet you virtually and thank you for agreeing to participate in SHRM's Advocacy Team webcast.

My colleague Sean (cc'd) will follow up with you next week with more information on the format and logistics for the webcast.

In the meantime, please do not hesitate to contact us with any questions.

SHRM truly appreciates the FTC's willingness to speak to our membership on this very important issue.

Kind regards,
Chenai

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From: Patel, Karuna <kpatel1@ftc.gov>
Sent: Thursday, March 9, 2023 4:07 PM
To: Farrar, Douglas <dfarrar@ftc.gov>; Kirkpatrick, Chenai (b)(6)@shrm.org>
Cc: Perrotta, Steven (b)(6)@shrm.org>; McIntosh, Sean (b)(6)@shrm.org>
Subject: RE: Invitation SHRM Government Affairs Webcast: March 23, 2023

Chenai,

I look forward to participating in your webcast. Please provide me with information about the format and the length of time allotted for my remarks.

Best,
Karuna

From: Farrar, Douglas <dfarrar@ftc.gov>
Sent: Thursday, March 9, 2023 3:34 PM
To: Kirkpatrick, Chenai (b)(6)@shrm.org>; Patel, Karuna <kpatel1@ftc.gov>
Cc: Perrotta, Steven (b)(6)@shrm.org>; McIntosh, Sean (b)(6)@shrm.org>
Subject: RE: Invitation SHRM Government Affairs Webcast: March 23, 2023

Dear Chenai,

Please allow me to introduce you to Karuna Patel of our Office of Policy Planning, who would be happy to participate in the webcast.

Gratefully,

Doug

E: dfarrar@ftc.gov | M (b)(6)

From: Kirkpatrick, Chenai (b)(6) [@shrm.org](mailto:shrm.org)
Sent: Thursday, March 9, 2023 2:44 PM
To: Farrar, Douglas <dfarrar@ftc.gov>
Cc: Perrotta, Steven (b)(6) [@shrm.org](mailto:shrm.org); McIntosh, Sean (b)(6) [@shrm.org](mailto:shrm.org)
Subject: RE: Invitation SHRM Government Affairs Webcast: March 23, 2023

Hi Doug, thank you for your call.

Yes, SHRM would welcome an FTC staff member to participate in our webcast on March 23.

The audience for this webcast is comprised of SHRM members that closely track federal and state labor laws and regulations as many are labor and employment attorneys, or HR professionals responsible for regulatory compliance.

Let us know if you have any follow-up questions.

Kind regards,
Chenai

From: Kirkpatrick, Chenai
Sent: Thursday, March 9, 2023 10:46 AM
To: dfarrar@ftc.gov
Cc: Perrotta, Steven (b)(6) [@shrm.org](mailto:shrm.org); McIntosh, Sean (b)(6) [@shrm.org](mailto:shrm.org)
Subject: Invitation SHRM Government Affairs Webcast: March 23, 2023

Good morning Douglas, I hope this email finds you well.

Thank you for your response to SHRM's invitation.

Are you available for a brief chat to discuss whether any of the other FTC Commissioners would be interested in participating in SHRM's upcoming webcast on March 23rd?

Please let me know if you are available to chat sometime today.

Thank you for your attention to this matter.

Kind regards,
Chenai

Chenai R. Kirkpatrick, J.D. | Director, Global Policy & Regulatory Affairs
Society for Human Resource Management
1800 Duke Street | Alexandria, VA 22314, United States

(b)(6) [redacted]@shrm.org | [redacted]

From: Farrar, Douglas <dfarrar@ftc.gov>
Sent: Friday, February 24, 2023 2:39:43 PM
To: Dickens, Emily (b)(6) [redacted]@shrm.org>
Subject: RE: Invitation SHRM Government Affairs Webcast: March 23, 2023

Emily,

Thank you for this invitation. The Chair sends her regrets but thanks you for the opportunity and wishes you good luck with the event.

Doug

E: dfarrar@ftc.gov | M (b)(6) [redacted]

From: Dickens, Emily (b)(6) [redacted]@shrm.org>
Sent: Tuesday, February 14, 2023 10:52 AM
To: Khan, Lina <lkhan@ftc.gov>
Cc: Robbins, David <d Robbins@ftc.gov>; Tabor, April <atabor@ftc.gov>; McIntosh, Sean (b)(6) [redacted]@shrm.org>
Subject: Invitation SHRM Government Affairs Webcast: March 23, 2023

Chair Khan, I hope this email finds you well.

SHRM, the Society for Human Resource Management, invites you to participate as a featured guest during SHRM's Government Affairs' first quarterly webcast of the year on Thursday, March 23, from 4 pm-5 pm.

The webcasts have attracted thousands of HR professionals, business leaders, and executives from across the country; and serve as a platform to provide our members with the latest workplace policy and regulatory updates.

Past featured guests include Jessica Looman, Principal Deputy Administrator for the U.S. Department of Labor's Wage and Hour Division, EEOC Commissioner Samuels, Commissioner Dhillon, Congressman David Trone, and Congresswoman Jaime Herrera Beutler.

SHRM members are eager to learn about the Federal Trade Commission and its recent proposed rule on noncompete clauses. As you know, our members are intimately involved in the use and drafting of non-compete agreements and will have an important role in the implementation of any final rule. Hearing directly from the FTC Chair will assist our members in understanding the intent of the proposed rule and especially for small to medium-sized businesses.

Thank you for your consideration and we look forward to your response.

Emily

Emily M. Dickens
Chief of Staff, Head of Public Affairs & Corporate Secretary
Office of the President and CEO
Society for Human Resource Management
1800 Duke Street | Alexandria, VA 22314 USA

(b)(6) [redacted]@SHRM.org (b)(6) [redacted]

shrm.org

Message

From: Lane, Shannon [slane@ftc.gov]
Sent: 2/9/2023 4:17:06 PM
To: Mackey, Sarah D. [smackey@ftc.gov]
Subject: FW: Ana Blitch

I received the below from Ana. I assume a Monday call is too late?

-----Original Message-----

From: Ana Blitch [REDACTED]
Sent: Thursday, February 9, 2023 4:16 PM
To: Lane, Shannon <slane@ftc.gov>
Subject: Ana Blitch

Good afternoon,
I received your email wanting to speak to me further about my non compete. I don't mind speaking to you!
Mondays work best for me.

Thank you!
Ana Blitch

Sent from my iPhone

Message

From: Lane, Shannon [slane@ftc.gov]
Sent: 2/7/2023 11:25:23 AM
To: Mackey, Sarah D. [smackey@ftc.gov]
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses Next Week

Will do. Do you have Diane Gherson's email address? I don't see it in any of the correspondence and am having trouble finding one online.

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Tuesday, February 7, 2023 11:24 AM
To: Lane, Shannon <slane@ftc.gov>
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses Next Week

On the next invite, let's change the date for acceptance to Feb 9th.

thanks

From: Lane, Shannon <slane@ftc.gov>
Sent: Tuesday, February 7, 2023 11:20 AM
To: [REDACTED] <[REDACTED]@blueprint-local.com>
Cc: Mackey, Sarah D. <smackey@ftc.gov>; Carter, Paige <pcarter@ftc.gov>
Subject: Invitation to Speak at FTC Public Forum on Non-Compete Clauses Next Week

Dear Mr. Baird,

Last month, the FTC [proposed a rule](#) to ban employers from imposing non-compete clauses on their employees, preliminarily finding that they are an unfair method of competition. The FTC is currently seeking [public comment](#) on the proposed rule. As part of the process of seeking public input, the FTC will be holding a virtual [public forum](#) to discuss the proposed rule and allow stakeholders to share their experiences with non-competes.

We are reaching out to invite you to speak as a panelist at the public forum on the proposed rule. We think your experience will be a valuable addition to our understanding.

The public forum will be held on **February 16, 2023 from 12:00-3:00 (ET)**; FTC Commissioners will be in attendance along with FTC staff. We will provide brief opening remarks, we will then ask you and the other panelists each to speak for 4 minutes before we have a moderated discussion. So that you can be prepared for the moderated portion of the panel, we will send you proposed questions before the forum. We anticipate the moderated portion of the forum that you will be participating in will take about an hour, but we are still fleshing out the agenda. After the panel discussion, someone from the FTC will give short comments. There will also be time reserved at the end for members of the public to comment. This will be an FTC event and will be recorded and transcribed as part of the rulemaking record.

We believe the public comment period is an important process and we want to hear from all voices who are interested in this proposed rule. Please let us know if you would like to participate by close of business **Wednesday, February 8, 2023**. Once you confirm your interest, we will send you the necessary links and technical details for participating.

As the listening session is right around the corner, if you are interested in participating, could you quickly provide us with:

- **A Short Bio:** We ask that your bio be no more than three sentences. All bios will be collated into a list of speaker bios that will be made public as part of the listening forum materials.

- **A Brief Description of your Remarks:** Please give us a few bullets on what you hope to discuss during your remarks. We are happy to discuss further if you have questions.
- **Responses to the Following Financial Disclosure Questions, for the FTC's Record:**
 - a) Whether any third party funded or otherwise provided financial assistance for the commentary/research/analysis you will present at the hearing? If yes, who?
 - b) Whether any third party will compensate you for your participation at the hearing or otherwise provide financial assistance for your participation (e.g., reimburse your travel expenses)? If yes, who?

If you have any additional questions, please feel free to contact us. You can reach me by email at slane@ftc.gov or by phone at [REDACTED].

Best regards,

Shannon Lane
Attorney Advisor
Office of Policy Planning • Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington D.C. 20580
Work: 202-326-2084
Cell: [REDACTED]

Message

From: Lane, Shannon [slane@ftc.gov]
Sent: 2/6/2023 12:17:03 PM
To: Mackey, Sarah D. [smackey@ftc.gov]
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

I'll send this now.

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Monday, February 6, 2023 12:16 PM
To: Lane, Shannon <slane@ftc.gov>
Subject: Re: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Try resending the invite again and include jlewy@ycombinator.com and KL.Ba@ycombinator.com.

Thanks

Get [Outlook for iOS](#)

From: Lane, Shannon <slane@ftc.gov>
Sent: Monday, February 6, 2023 10:17:50 AM
To: (b)(6)@ycombinator.com' (b)(6)@ycombinator.com>
Cc: Mackey, Sarah D. <smackey@ftc.gov>; Carter, Paige <pcarter@ftc.gov>
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Dear Mr. Tan,

I hope that you had a good weekend. I am following-up on our invitation to join the panel at the FTC's upcoming public forum on the proposed rule banning employers from imposing non-compete clauses. The panel will take place on **February 16, 2023 from 12:00-3:00 (ET)** and will be entirely virtual. We are happy to answer any questions about the event.

Best regards,
Shannon Lane

From: Lane, Shannon
Sent: Thursday, February 2, 2023 11:38 AM
To: (b)(6)@ycombinator.com
Cc: Mackey, Sarah D. <smackey@ftc.gov>; Carter, Paige <pcarter@ftc.gov>
Subject: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Dear Mr. Tan,

Last month, the FTC [proposed a rule](#) to ban employers from imposing non-compete clauses on their employees, preliminarily finding that they are an unfair method of competition. The FTC is currently seeking [public comment](#) on the proposed rule. As part of the process of seeking public input, the FTC will be holding a virtual [public forum](#) to discuss the proposed rule and allow stakeholders to share their experiences with non-competes.

We are reaching out to invite you to speak as a panelist at the public forum on the proposed rule. We think your experience will be a valuable addition to our understanding.

The public forum will be held on **February 16, 2023 from 12:00-3:00 (ET)**; FTC Commissioners will be in attendance along with FTC staff. We will provide brief opening remarks, we will then ask you and the other panelists each to speak for 4 minutes before we have a moderated discussion. So that you can be prepared for the moderated portion of the panel, we will send you proposed questions before the forum. We anticipate the moderated portion of the forum that you will be participating in will take about an hour, but we are still fleshing out the agenda. After the panel discussion, someone from the FTC will give short comments. There will also be time reserved at the end for members of the public to comment. This will be an FTC event and will be recorded and transcribed as part of the rulemaking record.

We believe the public comment period is an important process and we want to hear from all voices who are interested in this proposed rule. Please let us know if you would like to participate by close of business **Wednesday, February 8, 2023**. Once you confirm your interest, we will send you the necessary links and technical details for participating.

As the listening session is right around the corner, if you are interested in participating, could you quickly provide us with:

- **A Short Bio:** We ask that your bio be no more than three sentences. All bios will be collated into a list of speaker bios that will be made public as part of the listening forum materials.
- **A Brief Description of your Remarks:** Please give us a few bullets on what you hope to discuss during your remarks. We are happy to discuss further if you have questions.
- **Responses to the Following Financial Disclosure Questions, for the FTC's Record:**
 - a) Whether any third party funded or otherwise provided financial assistance for the commentary/research/analysis you will present at the hearing? If yes, who?
 - b) Whether any third party will compensate you for your participation at the hearing or otherwise provide financial assistance for your participation (e.g., reimburse your travel expenses)? If yes, who?

If you have any additional questions, please feel free to contact us. You can reach me by email at slane@ftc.gov or by phone at [REDACTED].

Best regards,

Shannon Lane
Attorney Advisor
Office of Policy Planning • Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington D.C. 20580
Work: 202-326-2084
Cell: [REDACTED]

Message

From: Lane, Shannon [slane@ftc.gov]
Sent: 2/3/2023 1:36:49 PM
To: Mackey, Sarah D. [smackey@ftc.gov]
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

I will save those now. Thank you!

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Friday, February 3, 2023 1:35 PM
To: Lane, Shannon <slane@ftc.gov>
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Please keep all the invites and responses in an archive folder. It helps to have these in a place that's easy to find.

From: Lane, Shannon <slane@ftc.gov>
Sent: Friday, February 3, 2023 12:15 PM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>; Mackey, Sarah D. <smackey@ftc.gov>; Carter, Paige <pcarter@ftc.gov>; Kaplan, Peter P. <pkaplan@ftc.gov>; Farrar, Douglas <dfarrar@ftc.gov>; Khan, Zehra <zkhan1@ftc.gov>; Lipsitz, Michael <mlipsitz@ftc.gov>
Subject: FW: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Hi all,

We have our first confirmed panelist. Emily Glendinning called me a few minutes ago and was happy to join the panel. She sent over her bio and is working on the brief description of her remarks. She also requested a list of the other panelists when that becomes available.

Best,
Shannon

From: Glendinning, Emily (US) [REDACTED]@baesystems.com>
Sent: Friday, February 3, 2023 12:05 PM
To: Lane, Shannon <slane@ftc.gov>
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Dear Shannon,

It was a pleasure to speak with you today. Following up on our conversation, here is my bio:

Emily Glendinning is the Vice President & Associate General Counsel for Employment and the Chief Privacy Officer at BAE Systems, Inc., a global defense, security, and aerospace company. She began her career practicing employment law at Wiley Rein LLP and Hogan Lovells LLP in Washington, DC. Ms. Glendinning received her B.A. from Williams College and her J.D. from the University of Chicago Law School.

And I can confirm that no third party has funded my participation in the panel or compensated me for my participation. I look forward to receiving the information on the other panelists and the proposed questions when you have them.

Best,

Emily

Emily J. Glendinning
Vice President & Associate General Counsel
Chief Privacy Officer, CIPP/US
BAE Systems, Inc.

T: [REDACTED] E: (b)(6)@baesystems.com
2941 Fairview Park Drive, Falls Church, Virginia 22042

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From: Lane, Shannon <slane@ftc.gov>
Sent: Thursday, February 2, 2023 11:36 AM
To: Glendinning, Emily (US) (b)(6)@baesystems.com>
Cc: Mackey, Sarah D. <smackey@ftc.gov>; Carter, Paige <pcarter@ftc.gov>
Subject: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

External Email Alert

This email has been sent from an account outside of the BAE Systems network.

Please treat the email with caution, especially if you are requested to click on a link, decrypt/open an attachment, or enable macros. For further information on how to spot phishing, access "Cybersecurity OneSpace Page" and report phishing by clicking the button "Report Phishing" on the Outlook toolbar.

Dear Ms. Glendinning,

Last month, the FTC [proposed a rule](#) to ban employers from imposing non-compete clauses on their employees, preliminarily finding that they are an unfair method of competition. The FTC is currently seeking [public comment](#) on the proposed rule. As part of the process of seeking public input, the FTC will be holding a virtual [public forum](#) to discuss the proposed rule and allow stakeholders to share their experiences with non-competes.

We are reaching out to invite you to speak as a panelist at the public forum on the proposed rule. We think your experience will be a valuable addition to our understanding.

The public forum will be held on **February 16, 2023 from 12:00-3:00 (ET)**; FTC Commissioners will be in attendance along with FTC staff. We will provide brief opening remarks, we will then ask you and the other panelists each to speak for 4 minutes before we have a moderated discussion. So that you can be prepared for the moderated portion of the panel, we will send you proposed questions before the forum. We anticipate the moderated portion of the forum that you will be participating in will take about an hour, but we are still fleshing out the agenda. After the panel discussion, someone from the FTC will give short comments. There will also be time reserved at the end for members of the public to comment. This will be an FTC event and will be recorded and transcribed as part of the rulemaking record.

We believe the public comment period is an important process and we want to hear from all voices who are interested in this proposed rule. Please let us know if you would like to participate by close of business **Wednesday, February 8, 2023**. Once you confirm your interest, we will send you the necessary links and technical details for participating.

As the listening session is right around the corner, if you are interested in participating, could you quickly provide us with:

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If you have any additional questions, please feel free to contact us. You can reach me by email at slane@ftc.gov or by phone at (b)(6)

Best regards,

Shannon Lane
Attorney Advisor
Office of Policy Planning • Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington D.C. 20580
Work: 202-326-2084
Cell: (b)(6)

Message

From: Lane, Shannon [slane@ftc.gov]
Sent: 2/3/2023 12:15:03 PM
To: Wilkins, Elizabeth [ewilkins1@ftc.gov]; Mackey, Sarah D. [smackey@ftc.gov]; Carter, Paige [pcarter@ftc.gov]; Kaplan, Peter P. [pkaplan@ftc.gov]; Farrar, Douglas [dfarrar@ftc.gov]; Khan, Zehra [zkhan1@ftc.gov]; Lipsitz, Michael [mlipsitz@ftc.gov]
Subject: FW: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Hi all,

We have our first confirmed panelist. Emily Glendinning called me a few minutes ago and was happy to join the panel. She sent over her bio and is working on the brief description of her remarks. She also requested a list of the other panelists when that becomes available.

Best,
Shannon

From: Glendinning, Emily (US) (b)(6)@baesystems.com>
Sent: Friday, February 3, 2023 12:05 PM
To: Lane, Shannon <slane@ftc.gov>
Subject: RE: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

Dear Shannon,

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Emily Glendinning is the Vice President & Associate General Counsel for Employment and the Chief Privacy Officer at BAE Systems, Inc., a global defense, security, and aerospace company. She began her career practicing employment law at Wiley Rein LLP and Hogan Lovells LLP in Washington, DC. Ms. Glendinning received her B.A. from Williams College and her J.D. from the University of Chicago Law School.

And I can confirm that no third party has funded my participation in the panel or compensated me for my participation. I look forward to receiving the information on the other panelists and the proposed questions when you have them.

Best,

Emily

Emily J. Glendinning
Vice President & Associate General Counsel
Chief Privacy Officer, CIPP/US
BAE Systems, Inc.

T: (b)(6) | E: (b)(6)@baesystems.com
2941 Fairview Park Drive, Falls Church, Virginia 22042

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From: Lane, Shannon <slane@ftc.gov>
Sent: Thursday, February 2, 2023 11:36 AM
To: Glendinning, Emily (US) (b)(6)@baesystems.com>
Cc: Mackey, Sarah D. <smackey@ftc.gov>; Carter, Paige <pcarter@ftc.gov>
Subject: Invitation to Speak at FTC Public Forum on Non-Compete Clauses

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Dear Ms. Glendinning,

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We are reaching out to invite you to speak as a panelist at the public forum on the proposed rule. We think your experience will be a valuable addition to our understanding.

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 - b) Whether any third party will compensate you for your participation at the hearing or otherwise provide financial assistance for your participation (e.g., reimburse your travel expenses)? If yes, who?

If you have any additional questions, please feel free to contact us. You can reach me by email at slane@ftc.gov or by phone at (b)(6)

Best regards,

Shannon Lane

Attorney Advisor
Office of Policy Planning • Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington D.C. 20580
Work: 202-326-2084
Cell: (b)(6)

Message

From: Mackey, Sarah D. [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1B7693BC755C4FCD8CD62E6B2FDE67D4-SMACKEY]
Sent: 2/1/2023 3:26:41 PM
To: Lane, Shannon [slane@ftc.gov]; Carter, Paige [pcarter@ftc.gov]
Subject: FW: Keynote speaking invitation - Chair Khan

Mary is letting Emily know. Let's get the invite ready to send to Emily.

Invite #1!

From: Mary K. Engle <(b)(6)@bbbn.org>
Sent: Wednesday, February 1, 2023 2:54 PM
To: Mackey, Sarah D. <smackey@ftc.gov>
Subject: RE: Keynote speaking invitation - Chair Khan

Sure, we will do that, thanks. Glad it worked out!

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Wednesday, February 1, 2023 2:48 PM
To: Mary K. Engle <(b)(6)@bbbn.org>
Subject: RE: Keynote speaking invitation - Chair Khan

We are going to reach out and invite Emily. Do you want to reach out to her first to let her know that she'll be receiving an email invite from the FTC?

From: Mary K. Engle <(b)(6)@bbbn.org>
Sent: Monday, January 30, 2023 6:23 PM
To: Mackey, Sarah D. <smackey@ftc.gov>
Subject: RE: Keynote speaking invitation - Chair Khan

Hi Sarah,

It was great catching up with you on Friday. We have a suggested speaker for your event: Emily Glendinning at BAE Systems, Inc. Eric Reicin has known Emily for more than a decade and believes she will be a thoughtful panel participant. Her contact information and a short bio are attached for your consideration (understanding that if she participates, you will want a shorter bio!).

Emily J. Glendinning
Vice President & Associate General Counsel
Chief Privacy Officer, CIPP/US
BAE Systems, Inc.

T: [REDACTED] | E: (b)(6)@baesystems.com
2941 Fairview Park Drive, Falls Church, Virginia 22042

Emily Glendinning is the Vice President & Associate General Counsel for Employment & Labor and the Chief Privacy Officer at BAE Systems, Inc., a global defense, security, and aerospace company. She provides comprehensive advice to the enterprise on a variety of employment and privacy matters and is the co-lead of the company's insider threat

program. Ms. Glendinning serves on the senior leadership teams of both the Legal organization and the Human Resources organization.

Prior to joining BAE Systems, Inc., Ms. Glendinning practiced law at Hogan Lovells LLP, where she provided counseling to Fortune 500 corporations on labor and employment matters. She began her career practicing employment law at Wiley Rein LLP.

Ms. Glendinning has authored numerous articles for legal publications on developments in labor and employment law, and she has been a frequent speaker on these topics for the Association of Corporate Counsel and the Society of Human Resource Management. Ms. Glendinning is the Chair of the Board of Directors for MATHCOUNTS Foundation, an organization that promotes math in middle schools.

Ms. Glendinning received her B.A. from Williams College and her J.D. from the University of Chicago Law School.

Let me know if you need anything else.

Best,
Mary

From: Mackey, Sarah D. <smackey@ftc.gov>
Sent: Thursday, January 26, 2023 5:07 PM
To: Mary K. Engle (b)(6) <[@bbbnf.org](mailto:(b)(6)@bbbnf.org)>
Subject: RE: Keynote speaking invitation - Chair Khan

Thank you Eric!

Mary,

It would be so nice to catch up and discuss our upcoming event. Do you have time tomorrow? Does 10:00 work for you?

I'm going to move Eric and Elizabeth into bcc to free up their inboxes.

Best
Sarah

From: Eric D. Reicin (b)(6) <[@BBBNF.org](mailto:(b)(6)@BBBNF.org)>
Sent: Thursday, January 26, 2023 5:01 PM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Cc: Mackey, Sarah D. <smackey@ftc.gov>; Mary K. Engle (b)(6) <[@bbbnf.org](mailto:(b)(6)@bbbnf.org)>
Subject: RE: Keynote speaking invitation - Chair Khan

Absolutely. Happy to explore that as well.

Sarah, I believe you know my colleague Mary Engle, our EVP, Policy and former FTC leader. I am copying Mary on this email as it might make sense for the two of you to chat initially about the art of the possible for us (or with us as a conduit to other reasonable folks).

Eric

Best Regards,

Eric D. Reicin

President and Chief Executive Officer

BBB National Programs

1676 International Drive, Suite 550

McLean, Virginia 22102

(o) 703-247-3660

(c) (b)(6)

(b)(6)@bbbnp.org

bbbprograms.org



**National
Programs**

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From: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Sent: Thursday, January 26, 2023 2:30 PM
To: Eric D. Reicin (b)(6)@BBBNP.org>
Cc: Mackey, Sarah D. <smackey@ftc.gov>
Subject: RE: Keynote speaking invitation - Chair Khan

Eric, on a separate issue, I wanted to connect you with our deputy OPP director, Sarah Mackey. We're working on a potential event around the noncompete NPRM, which I know you all have interest in. Is there someone on your team Sarah could reach out to in terms of potential participation?

From: Eric D. Reicin (b)(6)@BBBNP.org>
Sent: Wednesday, January 25, 2023 4:34 PM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Cc: Mary K. Engle (b)(6)@bbbnp.org>; Farrar, Douglas <dfarrar@ftc.gov>
Subject: RE: Keynote speaking invitation - Chair Khan

Thank you Elizabeth. Look forward to working with you Doug,

Eric

Best Regards,

Eric D. Reicin

President and Chief Executive Officer

BBB National Programs

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From: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Sent: Wednesday, January 25, 2023 4:31 PM
To: Eric D. Reicin (b)(6)@BBBNP.org>
Cc: Mary K. Engle (b)(6)@bbbnp.org>; Farrar, Douglas <dfarrar@ftc.gov>
Subject: RE: Keynote speaking invitation - Chair Khan

Thanks Eric, it was great meeting you. I'm looping Doug Farrar, our Public Affairs Director, to follow up.

Best,
Elizabeth

From: Eric D. Reicin (b)(6)@BBBNP.org>
Sent: Wednesday, January 25, 2023 4:27 PM
To: Wilkins, Elizabeth <ewilkins1@ftc.gov>
Cc: Mary K. Engle <MEngle@bbbnp.org>
Subject: Keynote speaking invitation - Chair Khan

Elizabeth –

I really enjoyed our time together at the ABA Government Liaison Meeting earlier this week. I appreciate the warm regards you expressed as well. I agree with you that the FTC and BBB National Programs have a long history of working together to enhance consumer trust in the marketplace.

Among our many collaborations, we have referred dozens of matters to the FTC, have worked closely with FTC staff, and have appreciated the opportunity to present at important FTC workshops such as speaking right after Chair Khan at the FTC [Protecting Kids from Stealth Advertising in Digital Media](#) event last October.

While our nonprofit administers 18 self-regulatory and co-regulatory programs such as the National Advertising Review Board, DSSRC, Children's Food and Beverage Initiative (CFBAI), BBB Autoline, Digital Advertising Accountability Program (DAAP), and Children's Advertising Review Unit (CARU), my email today is focused on our National Advertising Division Annual Conference.

As a follow-up to our chat Elizabeth, attached is a formal invitation for Chair Khan to keynote the National Advertising Division Annual Conference on either September 19 or 20. In 2022, Commissioner Bedoya was our keynote speaker ([remarks](#)) and Commissioner Slaughter keynoted in 2021 ([remarks](#)).

I have copied Mary Engle on my team on this email as well. Mary joined BBB National Programs as EVP, Policy after a nearly 30-year career at the Commission, where she led the FTC's Division of Advertising Practices for over 18 years.

I look forward to our next time together.

Eric

Best Regards,

Eric D. Reicin

President and Chief Executive Officer

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