TAXPAYERS PROTECTION ALLIANCE

March 28, 2023

The Honorable Jim Jordan
Chair
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Lindsey Graham
Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Thomas Massie
Chair, Subcommittee on the Administrative State, Regulatory Reform, and Antitrust
House Judiciary Committee
2138 Rayburn House Building
Washington, DC 20515

The Honorable Mike Lee
Ranking Member, Subcommittee on Competition Policy, Antitrust & Consumer Rights
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington D.C. 20515

Dear Chair Jordan, Chair Massie, Ranking Member Graham, and Ranking Member Lee,

The Taxpayers Protection Alliance (TPA), on behalf of the millions of taxpayers and consumers we represent, urge you to investigate recent abuses of power at the Federal Trade Commission (FTC). A number of developments in just the last month have indicated the agency is being run in the pursuit of political ends, dedicating time and taxpayer money to harassing American companies to advance a partisan policy agenda versus protecting American citizens.

In this time, FTC had one of its four commissioners, and the last sitting Republican-appointed commissioner, Christine Wilson, resign very publicly. Commissioner Wilson published a column in the *Wall Street Journal* citing her reasons for leaving the panel. In the piece, Wilson listed a number of instances of overreach and abuse by FTC Chair Lina Khan: Khan s focus on arbitrary social goals instead of consumer welfare will result in higher prices, suppressed production, fewer choices, and dampened innovation.” Wilson continued, I have failed repeatedly to persuade Ms. Khan and her enablers to do the right thing, and I refuse to give their endeavor any further hint of legitimacy.”

Wilson s resignation brings the FTC down to three commissioners. Fully functioning, the panel is supposed to have five members – traditionally, three from the party controlling the executive branch and two from the opposing party. The Commission already had a vacant seat after the resignation of Republican member Noah Phillips in October of last year. Phillips noted the lack of openness to discussion and compromise at the agency as one of his reasons for leaving. Now, the agency is a purely partisan entity, dramatically harming its legitimacy.

Aside from the public criticisms of departing commissioners, the FTC’s agenda imperils its legitimacy as well. An Idaho judge is currently considering the legitimacy of a recent FTC lawsuit against the state-based tech company Kochava. The agency’s complaint accuses Kochava of potentially making it possible to sell “sensitive geolocation data.” It mentions data tied to abortion clinics, places of worship, or domestic abuse shelters.

It is important to know that the term “sensitive geolocation data” does not exist in American law. It appears the FTC is trying to circumnavigate Congress and the rulemaking process to establish new precedents regarding data collection and processing. A point that Commissioner Bedoya made clear in a September 21, 2022 interview with the publication AdExchanger, saying the FTC is interested in this type of lawsuit, “where precedents could be established that could inform industry as a whole.”

The FTC is extrapolating fairly regular business practices into a sensationalized case, seemingly preying upon political sensitivities to justify its overreach. This comes after Kochava pre-emptively sued the FTC, claiming that the agency illegally threatened them with a lawsuit if they didn’t settle on a pre-existing case. Sure enough, Chair Khan has seemingly made good on that threat.

The above case comes on the heels of the FTC losing a high-profile case against Meta – parent company of Facebook. The FTC was suing Meta for its planned acquisition of a virtual reality fitness company, Within. The agency flip-flopped on its own legal justifications during the case. Ultimately, their case boiled down to potential perceived competition” between Within and Meta s virtual reality music game, Beat Saber – in the relevant market of virtual reality fitness. Quite simply, the Commission attempted to pursue a case against Meta for “monopolizing” a virtually non-existent industry, a profound misplacement of priorities.

That lawsuit was undertaken despite the opposition of the FTC s dedicated career staff of expert public servants committed to consumer protection. Chair Khan decided to go it alone and was soundly defeated in a court of law. Just days later, the FTC decided to abandon the pursuit altogether, dropping follow-ups or appeals. What the case amounted to was a multi-million dollar goose chase, funded by taxpayer dollars that was doomed to fail from the start. These resources would have been better spent on endeavors more germane to the Commission’s core missions of fraud prevention and consumer protection.

The world recently also turned its attention to Capitol Hill for a hearing on government censorship, particularly concerning the Twitter Files.” A group of journalists teamed up with Twitter s new management team to release files disclosing how policymakers, particularly members of the Biden administration, sought to influence the company’s content moderation decisions, a clear red flag in the context of the First Amendment.

Doubling down on the administration’s affront to free speech, it has been recently revealed that the FTC sent dozens of letters to Twitter owner Elon Musk, demanding the names of the journalists with which he and Twitter’s management team communicated. The agency s demands were revealed by the House GOP’s Select Subcommittee on the Weaponization of the Federal Government. This was a blatant effort to suppress a legitimate First Amendment activity by journalists and a private company.

TAXPAYERS PROTECTION ALLIANCE

Given Congress' role in oversight and recent focus on the weaponization of government agencies, it is our sincere hope that your committee would take charge in looking into the many overreaches of the FTC under Chair Khan.

Sincerely,

David Williams
President

Taxpayers Protection Alliance, 1101 14th Street, NW., Suite 1120, Washington, D.C. 20005
(202) 930-1716
www.protectingtaxpayers.org