

TAXPAYERS PROTECTION ALLIANCE

June 6, 2023

The Honorable James Comer
Chair
Committee on Oversight and Accountability
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chair Comer,

On behalf of the millions of taxpayers and consumers represented by the Taxpayers Protection Alliance (TPA), thank you for opening a probe into the U.S. Federal Trade Commission (FTC) Chair Lina Khan's abuses of power and weaponization of a key government agency. In recent months, several developments have indicated that the FTC is being run in pursuit of political ends, dedicating time and taxpayer money to harassing American companies to advance a partisan policy agenda versus protecting American consumers.

The FTC's legitimacy is dramatically harmed by its current panel of commissioners. With the resignations of Commissioners Christine Wilson and Noah Phillips, the agency now has no Republican representation, despite typically having three from the party controlling the executive branch and two from the opposing party. Both departing commissioners publicly stated Khan's leadership style, lack of bipartisanship, and wayward application of antitrust law as their reasons for leaving. Former Commissioner Wilson went so far as to write in a *Wall Street Journal* column that she refuses "to give [the majority's] endeavor any further hint of legitimacy."

Chair Khan's FTC has also abused taxpayer resources, time, and dollars by circumnavigating Congressional authority and pursuing baseless cases. For example, the FTC is currently attempting to effectively legislate through setting legal precedent by pursuing a case against the Idaho-based tech company, Kochava. The case is based on the theory that the company is potentially making it possible to sell "sensitive geolocation data," including abortion clinics, places of worship and domestic abuse shelters. However, the basis for the FTC's case against Kochava, "sensitive geolocation data," is not found anywhere in American law. 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."

Moreover, the FTC recently lost a high-profile case against Meta, the 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. The case amounted to 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.

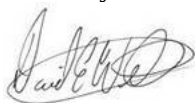
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Then, still eager to crack down Meta in any way possible, the FTC proposed unilaterally – without a court’s assent – making significant revisions to a 2020 privacy order with the company. While much about this case is not yet public, much of what is known about the FTC’s allegations – e.g., that Meta committed years-old and since-redressed violations – suggests that the agency is more concerned with advancing a politicized agenda than advancing the cause of justice.

Moreover, besides its malfeasance at home, the FTC has reportedly coordinated with European regulators to impose on American companies innovation-killing, E.U.-style regulations. For instance, sensing adversity in U.S. courts, the agency appears to have reached out to its continental counterpart to kill the Illumina–Grail merger. It has since overruled an in-house administrative law judge to continue its crusade against the deal. Unelected bureaucrats should not be in the business of attempting to unilaterally reshape American competition policy in direct contravention of Congress’s intentions.

Given your committee’s critical role in oversight, thank you for investigating Chair Khan’s overreaches and weaponization of the FTC.

Sincerely,



David Williams
President