



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

Office of the Chair

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.<sup>1</sup> 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.

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<sup>1</sup> 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 black ink that reads "Lina Khan". The signature is written in a cursive, flowing style.

Lina M. Khan  
Chair, Federal Trade Commission