

Congress of the United States
Washington, DC 20515

November 8, 2023

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

The Honorable Rebecca Kelly Slaughter
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

The Honorable Alvaro Bedoya
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Chair Khan, Commissioner Slaughter, and Commissioner Bedoya:

We write to encourage the Federal Trade Commission (FTC) to initiate a rulemaking to establish clear procedures and meaningful parameters for disqualification of Commissioners when the FTC receives a request for a Commissioner's recusal. My colleagues in Congress have expressed serious concerns about the Commission's handling of recusal questions in the Meta/Within Case. Therefore, once the Commission returns to its full body with members from both political parties, we recommend that the FTC undertake a rulemaking effort to reform its recusal process.

Under the leadership of Chair Khan there has been a stark departure from the ethical standards which guided the FTC for over 45 years. Despite the warnings from in-house ethics counsels and objections from the lone Republican commissioner on the Commission, Ms. Khan elected to move forward and insert herself in the case when obvious bias and a basis for recusal had already been established.¹ It is imperative that the FTC correct their recusal standards and procedures in order to maintain public confidence in the FTC's integrity.

The U.S. Chamber of Commerce recently petitioned the Commission to initiate rulemaking to establish enhanced standards and procedures for disqualification of Commissioners.² We agree that the FTC's recusal process suffers from a lack of clarity around recusal standards, lack of transparency about how Commissioners reach recusal decisions, and lack of timing obligations. At a minimum, good governance requires that Commissioners receive ethics advice about recusal petitions in writing as well as provide timely, public written explanations for

¹ Nylen Leah, *Lina Khan Rejected FTC Ethics Recommendation to Recuse in Meta Case*, Bloomberg, June 16, 2023, <https://www.bloomberg.com/news/articles/2023-06-16/ftc-rejected-ethics-advice-for-khan-recusal-on-meta-case#xj4y7vzkg>
² 88 FR 65865.

recusal decisions. Efforts to establish sensible revisions to the rules of practice will enhance transparency, bolster trust in agency decisions, and foster public confidence in rulemaking efforts and administrative adjudications.

We urge the Commission to revise the recusal rules to formalize longstanding agency practices that promote accountability and transparency.

Sincerely,



Nathaniel Moran
Member of Congress



Scott Fitzgerald
Member of Congress



Harriet M. Hageman
Member of Congress