

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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July 28, 2023

The Honorable Alvaro Bedoya
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Commissioner Bedoya:

The Committee on the Judiciary is conducting oversight of the independence and legitimacy of the Federal Trade Commission's (FTC) decision-making processes. Recent disclosures of *ex parte* communications—including communications from your cell phone and email account—suggest there was an attempt to compromise your work as a commissioner. Accordingly, we write to request relevant information and documents.

On June 16, 2023, the FTC released a letter and attachments from you to April Tabor, Secretary of the FTC.¹ The attachments reveal several *ex parte* communications with you or your staff that raise broader questions about the integrity and independence of decision-making at the Biden FTC. For example, in text messages to you from Dan Geldon, Senator Elizabeth Warren's former chief of staff, Mr. Geldon wrote that you made representations to him "prior to your confirmation" about "backing Lina . . ."² Mr. Geldon's text implies that you may have made such representations because you "need[ed] help getting confirmed."³ Mr. Geldon then communicated to your attorney advisor that your approach after confirmation was "inexcusable and unforgiveable."⁴ Mr. Geldon also implicitly threatened that there would be negative consequences in "how a large number of people perceive your work and kinship moving forward."⁵

¹ See Letter from Hon. Alvaro Bedoya, Comm'r, FTC, to April Tabor, Secretary, FTC, with attachments (available at https://www.ftc.gov/system/files/ftc_gov/pdf/bedoya_comm_combinedpdf.pdf) ("Bedoya Disclosure").

² *Id.* at 3.

³ See *id.* at 4.

⁴ *Id.* at 7.

⁵ *Id.* at 9.

Similarly, Adam Green, another progressive activist aligned with Senator Warren,⁶ sent an email to your chief of staff stating that he “ran a personnel project during the Biden Transition that advocated behind the scenes for now-Commissioner Bedoya.”⁷ But now, Green wrote to your staff to “register . . . disappointment” with your approach, and then mentioned “continued hopes for [you] to play a strong role alongside Lina Khan in making transformational policy.”⁸ Green also noted he was “currently working with the White House and other national groups on a summer strategy of amplifying some of the FTC’s bold moves for consumers on a hyper-local level” and stated it was “important that those bold optics not be undermined.”⁹

These *ex parte* communications raise general concerns about the independence and legitimacy of the FTC’s decision-making. For example, Mr. Geldon’s description of your alleged representations “about backing Lina” on certain matters in exchange for support during your confirmation raises the possibility that other individuals or groups may have understood you to make the same or broader commitments.¹⁰ Although your cover letter revealing the *ex parte* communications says that you made no such representations, at a minimum the documents suggest a pre-existing relationship such that Mr. Geldon felt free to threaten you about your decisions as a Commissioner and remind you of a supposed discussion about the importance of following Chair Khan’s lead.¹¹ Mr. Green likewise felt at liberty to remind you of the importance that optics of being aligned with Chair Kahn, and that you need to be a strong supporter of her.¹² In short, these *ex parte* communications raise a potential appearance of partiality and prejudice in any number of matters before the Commission.

Unfortunately, this episode is just one of the more recent examples of a pattern of concerning behavior and decision-making at Chair Khan’s FTC. Recent reporting revealed that Chair Khan declined to follow an ethics recommendation from the FTC’s Designated Agency Ethics Official (DAEO).¹³ You supported Chair Khan in her decision in that matter¹⁴—a stance that may take on more significance given your *ex parte* communications regarding the importance that activists outside the FTC place in your being aligned in lockstep with Chair Khan¹⁵ and the need to “play a strong role alongside Lina Khan.”¹⁶

Finally, your disclosure shows third parties texting your cell phone or using your personal email address. Both practices raise record retention concerns. The FTC’s approach to record retention practices is already under investigation due to the FTC’s deletion of former employees’

⁶ See *About Us*, PROGRESSIVE CHANGE CAMPAIGN COMMITTEE, <https://www.boldprogressives.org/about/>.

⁷ Bedoya Disclosure at 17.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *Id.* at 17.

¹³ See Letter to Hon. Lina Khan, Chair, FTC, from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary and Hon. Cathy McMorris Rodgers, H. Comm. on Energy and Com. (June 28, 2023).

¹⁴ See, e.g., *Fiscal Year 2024 Federal Trade Commission Budget: Hearing Before the Subcomm. on Innovation, Data, and Com. of the H. Comm. on Energy and Com.*, 118th Cong. (2023).

¹⁵ Bedoya Disclosure at 3.

¹⁶ *Id.* at 17.

documents¹⁷ and the FTC's Inspector General's findings regarding the FTC record retention practices.¹⁸

As the Committee continues its oversight of the FTC, please provide the following documents and information to the Committee:

1. A copy of each signed or sworn statement, pledge, or oath you have made or taken with respect to your commitment to uphold your obligations and duties as an officer of the FTC, including, but not limited to your obligations to uphold and abide by rules of ethics and avoid the appearance of partiality, abide by executive orders on ethics commitments by Executive Branch personnel, and your duty to abide by terms of any agreement that you have with any government ethics office or officer including, but not limited to the FTC's DAEO.
2. All documents and communications between you, your staff, or anyone representing you and Dan Geldon or any of his agents referring or relating to your position as a commissioner, including any communications with Mr. Geldon during the confirmation process that may reflect representations made about any positions you would take as a commissioner.
3. All documents and communications between you, your staff, or anyone representing you and Adam Green or any of his agents referring or relating to your position as a commissioner, including any communications with Mr. Green during the confirmation process reflecting representations made about any positions you would take as a commissioner.
4. All documents and communications on your personal email account(s) or cell phone(s) relating to your official actions as an FTC commissioner.

Please produce this information as soon as possible but no later than 5:00 p.m. on August 11, 2023. The 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.”¹⁹ If you have any questions about this matter, please ask your staff to contact Committee staff at (202) 225-6906.

¹⁷ See Letter to Hon. Lina Khan, Chair, FTC, from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (May 31, 2023) (discussing how the FTC's deletion of former employee emails related to FTC non-compete rulemaking impedes Congressional oversight).

¹⁸ See Memorandum from Andrew Katsaros, FTC Inspector Gen., to Lina M. Kahn, Chair (Feb. 28, 2022) (regarding a management advisory on FTC records management, explaining that the FTC “still faces challenges” in complying with National Archives and Records Administration and “setting up automated processes for properly storing and timely disposing of records in a uniform manner across the agency”).

¹⁹ Rules of the U.S. House of Representatives, R. X (2023).


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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive style with a large, stylized "J" and "D".

Jim Jordan
Chairman

cc: The Honorable Jerrold Nadler, Ranking Member