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## United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <https://commerce.senate.gov>

June 19, 2023

The Honorable Lina Khan  
Chairwoman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairwoman Khan,

As a former Federal Trade Commission (“FTC”) Director of the Office of Policy Planning, I am troubled by recent reports regarding FTC employees’ sinking morale and deepening lack of confidence in FTC leadership. Despite your promises to address the situation, the problem appears to be worsening. I therefore write to inform you and FTC employees that the minority staff of the U.S. Senate Committee on Commerce, Science, and Transportation (“Committee”) is opening an investigation into allegations of mismanagement of the agency and mistreatment of staffers.

The data alone is disheartening. According to the 2022 Office of Personnel Management Federal Employee Viewpoint Survey, which was released in January 2023, less than half (49 percent) of FTC employees agreed that FTC “leaders maintain high standards of honesty and integrity.”<sup>1</sup> That number is four points lower than it was in the 2021 survey<sup>2</sup> and 38 points lower than it was in 2020—when 87 percent of FTC employees believed that the agency’s leaders “maintain[ed] high standards of honesty and integrity.”<sup>3</sup> Moreover, just 44 percent of FTC employees surveyed in 2022 said that they have “a high level of respect” for the FTC’s senior leaders.<sup>4</sup> Across the board, the data tells the same story: In 2022, 40 percent of employees strongly agreed that the FTC “is successful at accomplishing its mission,” down 24 percent from

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<sup>1</sup> 2022 *Office of Personnel Management Federal Employee Viewpoint Survey: Report by Agency* (“2022 Survey”), Office of Personnel Management (2022), <https://www.opm.gov/fevs/reports/data-reports/data-reports/report-by-agency/2022/2022-agency-report.pdf>.

<sup>2</sup> 2021 *Office of Personnel Management Federal Employee Viewpoint Survey: Report by Agency* (“2021 Survey”), Office of Personnel Management (2021), <https://www.opm.gov/fevs/reports/data-reports/data-reports/report-by-agency/2021/2021-agency-report.pdf>.

<sup>3</sup> 2020 *Office of Personnel Management Federal Employee Viewpoint Survey: Report by Agency* (“2020 Survey”), Office of Personnel Management (2020), <https://www.opm.gov/fevs/reports/data-reports/data-reports/report-by-agency/2020/2020-agency-report.pdf>.

<sup>4</sup> 2022 Survey, *supra* note 1.

2020.<sup>5</sup> In 2022, just 62 percent of employees said they were satisfied with the FTC, compared to 85 percent in 2020.<sup>6</sup>

FTC staffers' personal stories underscore the data. Reporters who interviewed FTC staffers in June 2022 said that they “were notably emotional,” and “admitted to a deep sadness and ... to a kind of angry grief” over recent changes at the FTC.<sup>7</sup> Employees explained that they “fe[lt] marginalized and afraid to speak truth to power, for fear of being frozen out for not being ‘on board’ with Khan’s mission.”<sup>8</sup> One “veteran staffer” stated that FTC leaders have “no regard to people’s quality of life and what they are dealing with.”<sup>9</sup> Others described the agency as a “toxic environment.”<sup>10</sup>

It is no surprise then that employees are leaving the FTC. Seventy-one non-leadership, senior attorneys left the agency in the two-year period between 2021 and 2022—the highest number of senior attorneys to leave during a similar period since 2000.<sup>11</sup> And seven of the twenty-eight leadership attorneys left in 2021. Indeed, despite the FTC’s repeated requests for more staff—110 additional staffers for FY 2022 (1,250), 300 additional staffers for FY 2023 (1,440), and 310 additional staffers for FY 2024 (1,690)—which Congress has (so far) granted, the number of FTC staffers has continued to decline from 2020 levels, falling to 1,128 in 2022.<sup>12</sup>

Some have offered possible explanations for the plunge in morale. One possibility is the FTC’s recent insistence of investigating every merger application, without prioritizing those that are likely to harm consumers, has unnecessarily “maxed out staff.”<sup>13</sup> Another is the reported general “fear of reprisals and pressure for ideological loyalty.” Still others posit that “there is a lack of managerial experience and expertise at the top.”

Whatever the reason, the FTC cannot accomplish its mission to “protect[] the public from deceptive or unfair business practices and from unfair methods of competition” with a demoralized and depleted staff. In order to understand the causes of the deepening dissatisfaction among FTC employees, please provide written responses and responsive documents to the initial requests listed below no later than July 3, 2023.

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<sup>5</sup> 2022 Survey, *supra* note 1; 2020 Survey, *supra* note 3.

<sup>6</sup> *Id.*

<sup>7</sup> Mike Swift, Kathleen Murphy, Michael Acton, *Under Khan’s Leadership, Staffers Air Frustrations in Wake of Survey*, mlex (Jun. 6, 2022), <https://mlexmarketinsight.com/news-hub/editors-picks/area-of-expertise/antitrust/under-khans-leadership-staffers-air-frustrations-in-wake-of-survey>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Kathleen Murphy, *FTC Plummets in Best Workplace Rankings*, FTC Watch (Jul. 25, 2022), <https://www.mlexwatch.com/articles/16875/print?section=ftcwatch>.

<sup>11</sup> Dan Papsun, *FTC Lawyers Leave at Fastest Rate in Years as Khan Sets New Tone*, BLOOMBERG LAW (Mar. 16, 2023), <https://news.bloomberglaw.com/antitrust/senior-ftc-staff-departures-spike-as-ambitious-agenda-looms>.

<sup>12</sup> *FTC Appropriation and Full-Equivalent (FTE) History*, <https://www.ftc.gov/about-ftc/bureaus-offices/office-executive-director/financial-management-office/ftc-appropriation>.

<sup>13</sup> Swift et al. *supra* note 7.

1. Please provide the number of individuals employed/full-time equivalents (“FTE”) by the FTC from January 1, 2021 to present, broken down by month. Out of the total number of employees/FTE in a given month, please indicate how many are leadership attorneys and how many are senior attorneys.
2. How many employees/FTEs have left the FTC from January 1, 2021 to present? Please break that figure down by month and indicate how many of those departures were leadership attorneys and how many were senior attorneys.
3. Please identify any actions that the Chairwoman’s Office has taken to improve staff morale.
4. Please provide any and all complaints, both formal and informal, that the Chairwoman’s Office has received from FTC employees from January 1, 2021 to present.

In addition, please be advised that the minority staff of the Committee has established a whistleblower email and hotline for FTC employees to report any concerns. Concerned employees may anonymously reach out to my staff at [Republican\\_Whistleblower@commerce.senate.gov](mailto:Republican_Whistleblower@commerce.senate.gov) or 202-224-5115.

Please provide unedited and unredacted copies of this letter to all employees and contractors of the FTC. In doing so, please also inform them of their right to communicate with Congress and that it is against the law to deny or interfere with their rights to furnish information to Congress or to retaliate against whistleblowers.<sup>14</sup>

Thank you for your attention to this matter.

Sincerely,



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Ted Cruz  
Ranking Member

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<sup>14</sup> See 5 U.S.C. §§ 7211, 2302(b)(8).