

CATHY McMORRIS RODGERS, WASHINGTON
CHAIR

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-3641
Minority (202) 225-2927

July 11, 2023

The Honorable Lina M. Khan
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20508

Dear Chair Khan:

Pursuant to Rules X and XI of the U.S. House of Representatives, we request information and documents from the Federal Trade Commission (FTC) regarding the activities detailed in Commissioner Alvaro Bedoya's ex parte notice.¹

On Friday, June 16, 2023, after consulting with the Commission's Office of the General Counsel and pursuant to 16 C.F.R. 4.7(c), Commissioner Bedoya, submitted to the Secretary of the FTC the written, unsolicited ex parte communications directed to him from May 2023.² These communications included digital messages and in person communications between Commissioner Bedoya and his personal staff with progressive activists.³ One thing was clear from the communications, activists were not pleased with a statement Commissioner Bedoya shared so they implemented a plan to ensure that he was ostracized by their "movement" because of it. It is troubling that left-wing activists, who were not nominated by the President or confirmed by the Senate to be FTC Commissioners are apparently dictating policy at the Commission.

Commissioner Bedoya ultimately voted with his fellow Democratic commissioners in a 3-0 vote, on a matter related to a company violating the terms of a 2020 settlement.⁴ However, the progressive activists were angered by a statement accompanying Commissioner Bedoya's vote noting reservations about the relationship between present day violations to a 2020 consent

¹ Letter from Hon. Alvaro M. Bedoya, Comm'r of the Fed. Trade Comm'n, to April Tabor, Sec'y of the Fed. Trade Comm'n, (June 16, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/bedoya_comm_combinedpdf.pdf.

² *Id.*

³ *Id.* These activists include: Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Adam Green, Co-Founder of the Progressive Change Campaign Committee.

⁴ John Sisco, *Progressives blast FTC's Bedoya for 'unforgivable' stance in Meta privacy case*, POLITICO.COM (June 20, 2023), <https://www.politico.com/news/2023/06/20/progressives-blast-ftcs-bedoya-for-unforgivable-stance-in-meta-privacy-case-00102646>.

The Honorable Lina M. Khan

July 11, 2023

Page 2

decree, the proposed modified order, and the relation to the present day alleged violations.⁵ The threats made in the communications include, turning Commissioner Bedoya's statement into a scandal, suggesting he be uninvited to a progressive antitrust summit, and accusing him of standing in the way of the FTC's agenda shared by progressive outside groups and the White House.⁶

Excerpts from the text messages between Mr. Dan Geldon, an antitrust reform consultant and former chief of staff to Sen. Elizabeth Warren, and Commissioner Bedoya, to which Commissioner Bedoya did not respond, include the following:

Alvaro – Your statement today is insanely at odds with the representations you made to me about backing Lina [Khan] on Facebook matters prior to your confirmation. Very very [sic] disappointing. I suspect it was obvious to you how the other side would weaponize it – like they did here... if not, it should have been.⁷

Mr. Geldon followed up after the initial message stating: “Very telling that you don't even respond to text messages now that you don't need help getting confirmed. That pretty much says it all.”

Prompted by Commissioner Bedoya not responding, Mr. Geldon texted a staffer of the Commissioner, sharing a screen shot of the text messages. Commissioner Bedoya's staff explained that there is now a prohibition on communicating regarding an active administrative proceeding to which Mr. Geldon responded:

Ok. Please feel free to convey to whoever you'd like that this was inexcusable and unforgivable. If I were aelp [sic] I [sic] would be disinviting you from the summit. You should also feel free to convey that I hope this same standard has applied to Robert raben [sic] And I hope Alvaro knows that if he has been talking to him in any way about Facebook it will come out and will be a scandal.⁸

Mr. Geldon, followed up once again by forwarding a newsletter to Commissioner Bedoya's staff and stated: “[f]or how what you did is affecting the FTC's momentum. I hope you appreciate how consequential this will be for how a large number of people perceive your work and kinship moving forward.”

A few days after Mr. Geldon's threatening and harassing messages, Adam Green, co-founder of the Progressive Change Institute also sent Commissioner Bedoya's staff an email noting his disappointment and voicing concern that the Commissioner could undermine a

⁵ Press Release, Hon. Alvaro Bedoya, Statement of Commissioner Alvaro M. Bedoya in The Matter of Facebook, Inc. Commission Docket No. C-4365 (May 3, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/2023-05-02-Bedoya-Facebook-Order-Statement-FINAL.pdf.

⁶ *Supra* note 1, at 3, 6, 7, and 8.

⁷ *Supra* note 1 at 3, 6, and 7.

⁸ *Supra* note 1 at 8.

strategy outside groups were working on with the White House for a summer of amplifying some of the FTC's bold moves.

These harassing messages raise larger questions at the Commission related to what may be in violation of ex parte communication rules, as well as how the FTC, an independent agency is interacting with the White House. Please provide answers to the following questions:

1. Did you direct the individuals, or groups associated with the individuals, mentioned in Commissioner Bedoya's production, to treat Commissioner Bedoya in this manner?
2. Were you made aware that Commissioner Bedoya would be threatened and did you tell AELP not to invite Commissioner Bedoya to their summit?
3. Has behavior by progressive activists, like what was detailed in Commissioner Bedoya's ex parte notice, contributed to low staff morale and the departures of long-time staff of the Commission?
4. Has Adam Green of the Progressive Change Campaign approached you about hiring anyone from his organization's list of "400 recommended names for positions," in the Biden Administration?⁹
 - a. If so, did you hire any of these individuals?
 - b. Did you recommend that any of these individuals be appointed to career positions at the FTC because of all the vacancies created by low morale under your leadership of the Commission?
5. Provide all communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that you or your staff have had with Dan Geldon, Adam Green, and those who work at their organizations.
6. Dates and attendees at any meetings attended by you or your staff, FTC career staff, and Dan Geldon, Adam Green, and those who work at their organizations, and a summary of what was discussed.
7. Any information, or communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) your offices have had related to coordination with the White House and outside groups on matters related to the "summer strategy of amplifying some of the FTC's bold moves."
 - a. What are the "bold moves" referred to in this exchange?

⁹ Sydney Ember, *Another Progressive Group Suggests Biden hires: 'We are making it easy for them to appoint good people,'* NEW YORK TIMES (Nov. 13, 2020), <https://www.nytimes.com/live/2020/11/13/us/joe-biden-trump#another-progressive-group-suggests-biden-hires-we-are-making-it-easy-for-them-to-appoint-good-people>. The list included Lina Khan and Alvaro Bedoya.

The Honorable Lina M. Khan

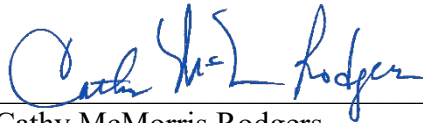
July 11, 2023

Page 4

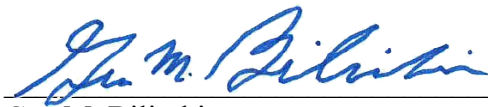
8. Information related to all interactions and communications (including but not limited to notes, text messages, emails and attachments, call logs, or memos to file after an in-person interaction) that career, non-political, staff have had with the individuals and organizations associated with Dan Geldon, Adam Green, and those who work at their organizations.

Please produce this information as soon as possible but no later than 5:00 p.m. on July 25, 2023. Please contact the Committee staff at (202) 225-3641 with any questions.

Regards,



Cathy McMorris Rodgers
Chair
House Committee on Energy and
Commerce



Gus M. Bilirakis
Chairman
Subcommittee on Innovation, Data, and
Commerce