

Committee on Energy and Commerce

**Opening Statement as Prepared for Delivery
of
Ranking Member Frank Pallone, Jr.**

Innovation, Data, and Commerce Subcommittee Hearing on “Fiscal Year 2024 Federal Trade Commission Budget.”

April 18, 2023

Let me start by expressing my support for Chair Khan. I don’t agree with Chair Rodgers’ criticism of her. The problem is that the GOP doesn’t like the Federal Trade Commission (FTC) enforcement role. They would simply gut the FTC at the expense of consumers.

The FTC has one of the broadest purviews of any federal agency, fighting deceptive and unfair business practices, and anti-competitive conduct, across the entire economy. Managing this portfolio with less than fourteen hundred employees is no small feat. And in order to ensure the FTC can continue its important work, Congress must approve its requested budget to further support much needed staffing.

It's clear the Republicans don’t like what the FTC does, they don’t seek to protect consumers. Whenever the Republicans are in charge in Congress or at the administration level, they seek to cut the legs of the FTC. And that’s unfortunate because the FTC brings enforcement actions to prevent companies from misusing consumers’ personal information, failing to properly protect consumers data, and profiting from deceptive advertising and other telemarketing scams. This important work comes at a time when the FTC is facing coordinated attacks from Big Tech aimed at evading the FTC’s challenges to its business model. For years, Big Tech has been putting profits ahead of consumers’ privacy, and the opportunity to maximize advertising revenue ahead of our children’s safety and well-being.

The FTC is also committed to protecting seniors, veterans, communities of color, and non-English speakers who have all historically been targets for fraudsters and deceptive businesses.

The FTC also protects consumers during some of the most important times of their lives, often when they are at their most vulnerable. The Funeral Rule protects grieving family members from predatory pricing. The Mortgage Assistance Relief Rule protects consumers who are seeking services to avoid foreclosure. And the Used Car Rule requires that used car dealers display essential information on the window of every car they are selling.

The FTC does all of this with fewer employees than it had 45 years ago, when the American economy was smaller and simpler. Back then, a deceptive advertising case often focused on a single print or television ad. Today, the FTC needs even more resources in a complex economy where targeted advertising presents consumers with different ads and prices based on their personal characteristics.

In addition to making sure the FTC is properly staffed, we should restore the FTC's full legal authority. Last Congress, this Subcommittee led legislation that passed the House to restore the FTC's authority to go to court to seek to have money returned to consumers. Unfortunately, that legislation never passed the Senate.

We must also resume our historic work on bipartisan, comprehensive privacy legislation, which could help the FTC give consumers substantive data privacy protections beyond the current notice and consent regime.

Finally, given the frequency of Big Tech's repeat violations, we should also consider providing the FTC with additional tools to fight repeat corporate offenders. Just months after Twitter's second settlement with the FTC for privacy violations, media reporting suggested that Twitter may be violating that settlement by having engineers, rather than high level officers, certify compliance and privacy controls.

And Twitter isn't the only Big Tech repeat offender. In 2019, the FTC obtained a \$5 billion civil penalty from Facebook for violating a 2012 Consent Order governing Facebook's privacy practices. The FTC has also brought five consumer protection enforcement actions against Google since 2011.

Based on Big Tech's past performance, we should not do anything to undermine the FTC's enforcement against Big Tech. I am concerned by false claims that the FTC's Twitter compliance investigation is partisan. In truth, it would be a dereliction of duty if the FTC did not thoroughly investigate Twitter's compliance.

I also urge skepticism about coordinated partisan calls for Chair Khan's recusal based on her prior academic views. We shouldn't forget that this was well known by the 69 Senators, including 20 Republicans, who voted to confirm her and lauded her for being tough on social media platforms and other Big Tech companies.

Unsurprisingly, within weeks of Chair Khan's confirmation, Amazon and Facebook campaigned to undermine her enforcement efforts, in part by calling for her recusal. In October, a federal judge rejected such a motion, and, independently of Chair Khan, the Commission did the same in February.

I look forward to hearing from the Chair and the Commissioners today, but before yielding I want to recognize that Commissioner Slaughter has joined us wearing a mask because she was ill earlier this week. Republicans passed a rule that prevents witnesses from appearing remotely. Rather than taking advantage of the technological tools that allows us to engage with Americans wherever they are, this rule requires her to choose between appearing in person or not appearing at all. I think this rule should be reconsidered because it limits participation by witnesses.