

September 9, 2021

Dear President Schapiro and Dean Osofsky:

We write to you as a broad coalition of organizations committed to ensuring that ethical practices prevail in the technology industry and beyond. As the world's dominant social networking platform, Facebook has worked to maintain its monopoly status through flagrant violations of fair competition standards. As a result of the company's well-documented history of anti-competitive behavior, Facebook is currently the subject of scrutiny by the Federal Trade Commission ("FTC").

Unfortunately, in the face of regulatory scrutiny, Facebook has only doubled down on its opposition to basic accountability. Facebook has demanded that FTC Chair Lina M. Khan recuse herself from the agency's lawsuit against the company, egregiously claiming that her strong positions against monopoly power constitute a conflict of interest. There is no ambiguity as to the nature of this campaign: It is a clear-cut case of a lucrative interest looking to evade fair scrutiny through a de facto intimidation campaign against a top regulator.

Since launching this effort, Facebook has turned to legal scholars in an effort to legitimize its meritless demand for Khan's recusal. Northwestern University should be alarmed that Dr. Daniel B. Rodriguez, the former Dean and current Harold Washington Professor of Law at Northwestern Pritzker Law School, has assisted Facebook in this effort. It is disappointing enough to see a scholar of Dr. Rodriguez's stature lend his talent to Facebook's frivolous campaign against accountability. That Dr. Rodriguez has done so without being subject to any basic public disclosure requirements under Northwestern's rules — such as how many hours he worked and what he was compensated — is against the interests of Northwestern and the broader public.

No one would dispute that academics, particularly those talented enough to serve on the faculty of an institution like Northwestern, have the right to employ their expertise outside of the classroom. Indeed, it is wholly justified for academics to seek and receive fair compensation for their expertise from private sources, provided it is conducted in an accountable manner. But by giving faculty the ability to forgo disclosure of relevant activities provided they do not conflict with Northwestern's "institutional responsibilities", the University makes it all too easy for these academics to skirt accountability.

Such broad allowance gives faculty members unbridled liberty to leverage their affiliations with the University for profit while shielding themselves from scrutiny. For this reason, Northwestern should promptly revise these standards and require Dr. Rodriguez to disclose the sum he was paid by Facebook and other details of his arrangement.

It should be stressed that Dr. Rodriguez's position at Northwestern has not gone unnoticed by national media outlets that have reported on his work for Facebook. For example, a report by Politico on August 18, 2021, states "...Facebook submitted an expert report from Daniel

Rodriguez, a Northwestern law professor, early Tuesday evening in the hopes of getting Khan to recuse herself because of her past criticisms of Facebook.” It is clear that Dr. Rodriguez is harnessing his association with Northwestern for commercial gain and Facebook’s benefit without having to disclose any of those activities.

By engaging in anti-competitive practices, Facebook and other technology industry giants haven’t just harmed the health of the market economy. Indeed, by many standards, these actions have come at a grave cost to the future of democracy and civil society itself. Institutions like Northwestern, which have and will likely continue to produce global leaders, have a particular responsibility to hold faculty to fair ethical standards to set a good example.

In the interest of maintaining the strong global reputation Northwestern has acquired, we are calling on the institution to implement fair disclosure requirements for its faculty. Furthermore, we are calling for the institution to swiftly condemn Dr. Rodriguez’s unethical activities in order to set a strong example for its student body.

Sincerely,

American Economic Liberties Project
Chicago Jobs With Justice
Fairplay
Fight For The Future
Institute for Local Self-Reliance
Jobs With Justice
People’s Parity Project
Revolving Door Project
The Strategic Organizing Center

Prof. Marshall Steinbaum, University of Utah