



July 11, 2023

The Honorable Lina M. Khan  
Chair  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Dear Chair Khan,

I write to you today as a firm supporter of the Federal Trade Commission's (FTC) efforts to curb monopoly power and promote fair competition. Consumers, workers, and small businesses alike stand to benefit from your leadership's pro-competition agenda. As the FTC works to advance the interest of consumers, it is crucial that agency employees are free of any financial conflicts of interest that could influence their work. Unfortunately, recent reports have raised concerns that certain commission officials' financial conflicts of interest could be hindering the FTC's work.

Specifically, I wish to call attention to revelations that certain agency employees own shares in companies facing scrutiny by the commission. I am similarly concerned by reports of former FTC staff and commissioners entering through the 'revolving door' with companies facing investigations and legal action from the commission. In the interest of sound governance, I am writing today to encourage the FTC to consider rules that would prevent such conflicts of interests from interfering with agency activities.

**Concerns About FTC Officials' Ownership of Stock in Companies Facing Agency Scrutiny**

In June 2023, it was reported that Lorielle Pankey, the FTC's designated official on ethics issues, is a stockholder in Facebook parent company Meta. As you know, Meta faces mounting

FTC scrutiny on antitrust<sup>1</sup> and child privacy<sup>2</sup> grounds. According to reporting from *The Wall Street Journal*, Pankey maintains ownership of Meta stock worth between \$15,001- \$50,000.<sup>3</sup> Accordingly, her choice to participate in ethical deliberations concerning Meta's complaint against your participation in a past FTC lawsuit against Meta raises enormous conflict of interest concerns. As you may be aware, our organization has called on the FTC Inspector General to investigate potential ethical violations by Pankey.<sup>4</sup>

Unfortunately, a *Wall Street Journal* report in 2022 found that certain FTC officials may have similar financial conflicts of interest that could compromise the agency's work. The report found that, of the approximately 60 large corporations the FTC filed suits against from 2016 to 2021, agency officials owned shares in 22 of them. The article also found that around a third of FTC officials owned shares in corporations that were facing merger scrutiny from the FTC.<sup>5</sup> Moreover, *The Wall Street Journal* reported that technology industry stocks owned by individual commission officials include Meta as well as Amazon, which also faces mounting FTC scrutiny.<sup>6</sup>

### **Concerns Surrounding the 'Revolving Door' Between FTC Officials and Companies Facing Agency Scrutiny**

In addition to certain officials' financial conflicts of interests, the well-documented revolving door between the commission and companies facing FTC scrutiny threatens the agency's functions. In late June, it was reported that Amazon has been aggressively poaching former FTC staffers as it prepares to fend off an expected antitrust suit by the commission.<sup>7</sup> There's little doubt that Amazon seeks to leverage the institutional knowledge of FTC alumni to ward off fair legal scrutiny. For this reason, it is crucial that the FTC does not allow revolving door behavior to compromise the agency's investigations and enforcement activities.

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<sup>1</sup> Federal Trade Commission, "FTC Sues Facebook for Illegal Monopolization," December 9, 2020, <https://www.ftc.gov/news-events/news/press-releases/2020/12/ftc-sues-facebook-illegal-monopolization>

<sup>2</sup> Federal Trade Commission, "FTC Proposes Blanket Prohibition Preventing Facebook from Monetizing Youth Data," May 3, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data>

<sup>3</sup> The Wall Street Journal, "Ethics Official Owned Meta Stock While Recommending FTC Chair Recuse Herself From Meta Case," Brody Mullins and Rebecca Ballhaus, June 30, 2023 <https://www.wsj.com/articles/ethics-official-owned-meta-stock-while-recommending-ftc-chair-recuse-herself-from-meta-case-8582a83b>

<sup>4</sup> Letter by the Revolving Door Project to FTC Inspector General Andrew Katsaros, June 30, 2023, <https://therevolvingdoorproject.org/rdp-asks-ftc-ig-to-investigate-ethics-officer-who-owned-meta-stock/>

<sup>5</sup> The Wall Street Journal, "The Regulators of Facebook, Google and Amazon Also Invest in the Companies' Stocks," Brody Mullins, Rebecca Ballhaus, Chad Day, John West and Coulter Jones, October 13, 2022 <https://www.wsj.com/articles/the-regulators-of-facebook-google-and-amazon-also-invest-in-the-companies-stocks-11665670207>

<sup>6</sup> *Ibid.*

<sup>7</sup> New York Post, "Amazon poaching Federal Trade Commission officials before antitrust lawsuit," Lydia Moynihan, June 29, 2023 <https://nypost.com/2023/06/29/amazon-poaching-ftc-officials-ahead-of-antitrust-lawsuit/>

Senior Amazon employees who are alumni of the FTC include vice president of public policy Brian Huseman, senior corporate counsel Amy Posner, and senior manager for public policy Sean Pugh. More recently, former FTC senior attorney Andi Arias left her position in January 2023 and joined Amazon as a corporate counsel the same month.<sup>8</sup> After over a decade at the commission, former FTC antitrust attorney Stelios Xenakis left the agency to join Amazon as a corporate counsel in January 2023.<sup>9</sup> In October 2021, Brian Berggren left his position at the FTC Division of Privacy and Identity Protection to join the company as a corporate counsel the same month.<sup>10</sup>

In addition to ex-staffers, former FTC commissions have also engaged in quintessential FTC activity after leaving office. Last year, our organization sounded the alarm on the activities of former FTC commissioner Joshua D. Wright, who was found by the Office of the Inspector General (OIG) to have violated federal conflict of interest rules.<sup>11</sup> The OIG found that after leaving office, Wright pushed FTC officials in 2017 to reach a settlement with Qualcomm in its antitrust case against the company. As he had “personally and substantially” worked on the case during his tenure, Wright’s activities were found to be unlawful by the OIG.<sup>12</sup>

During her tenure on the commission from 2018 to 2023, Christine S. Wilson worked on official matters that raised serious conflict of interest concerns stemming from her career in the private sector. In 2019, Wilson voted to approve the acquisition of Celgene by pharmaceutical giant Bristol-Myers Squibb, a company she has previously represented as an attorney at Kirkland & Ellis.<sup>13</sup> Wilson’s failure to recuse herself from agency scrutiny of a company she provided legal representation raises clear ethical concerns. Going forward, the FTC must prevent commissioners from involving themselves in matters that pose such a direct financial conflict of interest.

## **Conclusion**

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<sup>8</sup> LinkedIn, “Andi Arias,” accessed July 4, 2023, <https://www.linkedin.com/in/andi-arias-a728b225/>

<sup>9</sup> LinkedIn, “Stelios Xenakis,” accessed July 4, 2023, <https://www.linkedin.com/in/stelios-xenakis-a318801b7/>

<sup>10</sup> LinkedIn, “Brian Berggren,” accessed July 4, 2023, <https://www.linkedin.com/in/briancberggren/>

<sup>11</sup> Washington Post, “Watchdog groups call on FTC to revisit Trump-era ethics calls,” Cristiano Lima, March 4, 2022, <https://www.washingtonpost.com/politics/2022/03/04/watchdog-groups-call-ftc-revisit-trump-era-ethics-calls/>

<sup>12</sup> Tech Transparency Project, “Big Tech’s Backdoor to the Federal Trade Commission,” March 12, 2021, <https://www.techtransparencyproject.org/articles/big-techs-backdoor-ftc>

<sup>13</sup> Legal Dive, “Did non-compete ban drive Christine Wilson to resign from FTC?,” Robert Freeman, February 15, 2023, <https://www.legaldive.com/news/FTC-christine-wilson-resignation-conflict-celgene-bristol-myers-squibb-antitrust-law/642846/>

In the two years since you became chair of the FTC, the commission has undertaken ambitious efforts to promote competition and protect consumers. As the agency works to reinvigorate fair competition, it is crucial that the public servants at the FTC do not leverage their positions for financial gain.

As such, I do hope that you consider the following:

1. The FTC should consider rules to restrict senior officials' ability to own and trade stock in companies facing scrutiny from the commission.
2. The FTC should take appropriate steps to ensure that agency investigations and enforcement efforts are not compromised by revolving door activities.

Thank you for your attention to this matter.

Sincerely,

Jeff Hauser  
Executive Director  
Revolving Door Project