

July 12, 2023

Ranking Member Ted Cruz and Republican Members
U.S. Senate Committee on Commerce, Science, and Transportation
512 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators:

As you are aware, Republican Leader Mitch McConnell has nominated attorney Melissa Holyoak to the Federal Trade Commission. Unfortunately, Ms. Holyoak's ties to global Big Tech corporations make her wholly unsuitable for the position. We ask you to vote NO on this nomination in the Commerce Committee and prevent it from moving forward.

As liberal Big Tech companies like Google, Facebook, and Amazon have expanded their influence over every corner of American life and used their outsized influence to squeeze competitors, Ms. Holyoak has been working for organizations that actively supported the policy aims of these companies — to frustrate any attempts to put limits on their market power. Given her close ties to companies like these, we are not confident that she will support current efforts at the FTC and the Department of Justice to bring them to heel.

This makes her a singularly inappropriate choice. We urge the Committee to scrutinize her record closely, and to press Leader McConnell to withdraw her nomination in favor of someone who is more committed to the conservative free-market principles that protect the smooth functioning of our economy.

Our nation's greatness has been built on a foundation of economic competition. A free market ensures that companies that invest in growth are rewarded, and that their investors and owners see a return. It keeps prices fair for consumers, and protects jobs. It's the reason our economy has grown into the mightiest and most prosperous on earth, and it's why our innovation economy is the envy of the world.

But the free market depends on the rule of law, and for nearly two decades, companies like Google, Facebook, and Amazon have been operating at the edge of the law — or outside it. Countless lawsuits, administrative actions, and investigations have been brought against all these companies for violating basic anti-monopoly provisions enshrined in the laws passed by Congress and the agency regulations implementing them.

As these companies have extended their market reach, the DOJ, FTC, state attorneys general, and other public agencies — here and in other countries — have repeatedly alleged that they have overreached. And billions of dollars in court judgments and settlements make clear that those allegations are accurate: Big Tech companies [illegally bundle](#) their own products, [use customer data](#) in unlawful ways to build market share, [behaviorally manipulate](#) children into harmful situations, [monetize young people's personal information](#), and much more. And, what is worse,

in many cases [their internal documents show](#) that they are doing these things willfully, with open disregard for the law, for ethics, and for decency.

As the economy grapples with the market abuses of these giants and their destabilizing effects, this is not the time to destabilize the FTC by naming a Commissioner who is openly opposed to a competitive and free market.

Holyoak spent five years as a senior attorney at the “Center for Class Action Fairness” at the Competitive Enterprise Institute (CEI), and then founded the Hamilton Lincoln Law Institute (HLLI). Both organizations openly oppose the exercise of the authority vested by Congress in the FTC and DOJ to ensure that small businesses — which employ half of American workers — have the ability to compete against giants on a fair playing field. During her time with these organizations, Holyoak and her partner, Ted Frank, objected to dozens of class action settlements [involving Google](#) and other companies that were duly reached under the auspices of the federal courts. And [she sought to overturn FCC conditions](#) on a megamerger among giant telecom companies.

And as Holyoak was arguing in court on behalf of “a society thriving without unnecessary government burdens,” CEI was collecting tens of thousands of dollars in contributions from Big Tech companies, while running public relations interference on their behalf. Google’s then Director of Public Policy Adam Kovacevich himself [said](#) that Google received “tangible outcomes” in exchange for its [contributions to CEI](#) (like its \$50,000 2013 contribution), as CEI flooded the press with propaganda meant to discredit federal agencies like the FTC.

Facebook (in 2013, 2014, 2019, and 2020) and Amazon (in 2017, 2019, and 2020) also funded CEI, which went to bat for them, too. [CEI called](#) Facebook’s business model “perfectly legitimate and well-established” in the wake of an enormously damaging data harvesting scandal that led to a \$5 billion FTC fine. And they opposed the EU’s lawsuit against Amazon for using data from its third-party sellers to bolster its own competitive business — a monopolistic practice that is also being investigated by the FTC.

Let us be clear: anticompetitive practices like data misuse and predatory product bundling are illegal under current law. (Passing pending legislation like the [American Innovation and Choice Online Act](#) would make that even plainer.) They kill competitors, and they kill competition; they’re bad for consumers. And the FTC and DOJ, after long delays extended even further by the enormous lobbying budgets of Big Tech, is finally taking action. Holyoak, on the other hand, has spent her career to date trying to kneecap these kinds of basic steps on the part of government to ensure a free market that’s fair for everyone.

Americans deserve FTC commissioners who are genuinely committed to the mission of the agency, not who have spent the past decade actively working to sabotage it. We urge you to exert your review power to ensure that the nomination of Melissa Holyoak not come to the floor.

Sincerely,

Aiden Buzzetti

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Bull Moose Project

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Director of Policy

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President

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Senator Roger Wicker

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Senator Jerry Moran

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