



May 23, 2022

The Honorable Lina Khan
Chair
Federal Trade Commission
Washington, DC 20580

The Honorable Jonathan Kanter
Assistant Attorney General
Department of Justice
Antitrust Division
Washington, DC 20580

Dear Chair Khan and Assistant Attorney General Kanter,

The U.S. Chamber of Commerce (“the Chamber”) is deeply concerned that Federal Trade Commission (“FTC”) and Department of Justice’s Antitrust Division “Listening Forums” regarding various industries were intentionally designed to wrongly cast mergers as undesirable and inherently harmful.

These forums represent a clear break from the long, bipartisan tradition held by FTC and the Antitrust Division to curate in-depth, substantive workshops, that bring forward diverse views to illuminate important topics in antitrust.

The announcement of these forums itself previewed the built-in bias reflexively stating that mergers “imperil choice and economic gains for consumers, workers, entrepreneurs, and small businesses.”¹ Further, the format for each session was designed to solicit a series of critical statements without any balance or opportunity for rebuttal, review, or questioning.

In short, these forums served little practical purpose other than to feed the fanbase for your agencies’ preexisting agenda. Accordingly, we strongly urge you to refrain from relying on these sessions as the basis for any rulemakings or formal guidance documents.

Public input is important. We appreciate the desire of FTC and the Antitrust Division to gather anecdotal information on mergers from around the country, and the passion of many of the individuals who spoke at the sessions.

However, the agencies you lead have a responsibility to provide credible opportunities for stakeholder engagement. These sessions were incredibly one-sided and lacked any genuine attempt to further a debate on the role mergers play in the economy, how they have been evaluated in the past, or how they should be evaluated in the future.

¹ See <https://www.ftc.gov/news-events/news/press-releases/2022/03/ftc-justice-department-launch-listening-forums-firsthand-effects-mergers-acquisitions>.

We have no doubt that the courts would reach the same conclusion.

Sincerely,

A handwritten signature in black ink that reads "Sean Heather". The signature is written in a cursive, flowing style.

Sean Heather
Senior Vice President
International Regulatory Affairs & Antitrust
U.S. Chamber of Commerce

cc: Noah Phillips, Commissioner, Federal Trade Commission
Rebecca Kelly Slaughter, Commissioner, Federal Trade Commission
Christine Wilson, Commissioner, Federal Trade Commission
Alvaro Bedoya, Commissioner, Federal Trade Commission