

October 26, 2023

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Petition for Rulemaking of the U.S. Chamber of Commerce, Docket No. FTC–2023–0059

To the Federal Trade Commission:

The Consumer Technology Association® (“CTA”) submits this comment in response to the Federal Trade Commission’s (“FTC”) publication of the U.S. Chamber of Commerce’s Petition for Rulemaking (“Petition”) to amend the FTC’s rule regarding disqualification of Commissioners.¹ CTA is North America’s largest technology trade association. Our members are the world’s leading innovators—from startups to global brands—helping support more than 18 million American jobs.

CTA strongly supports the Petition and believes the FTC should implement a formal process to make the resolution of Commissioner recusal motions transparent and subject to clear standards that are consistent with applicable law. This approach will benefit all stakeholders – interested parties, the public, and the FTC itself – by providing transparency, predictability, and accountability in recusal procedures, which have important stakes for the parties involved.

The lack of clear procedures to resolve recusal motions has contributed to significant public controversy in recent months. In particular, the current Chair has been criticized by another Commissioner and members of Congress for failing to recuse in a specific matter, contrary to the recommendation of the FTC’s designated ethics official and without the Chair providing a public written explanation of the recusal decision.² The details about that recusal decision were not initially made public, and only have been revealed in piecemeal fashion in

¹ FTC, Petition for Rulemaking of the U.S. Chamber of Commerce, 88 Fed. Reg. 65865 (Sept. 26, 2023), available at <https://www.federalregister.gov/documents/2023/09/26/2023-20422/petition-for-rulemaking-of-the-us-chamber-of-commerce>.

² See *In re Meta Platforms, Inc.*, FTC Docket No. 9411, Dissenting Statement of Commissioner Christine S. Wilson (Feb. 1, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/d09411orderpetrecusalwilsondissent.pdf; *Oversight of the Federal Trade Commission: Hearing before the House Committee on the Judiciary*, 118 Cong. (2023).

connection with then-Commissioner Wilson's extensive dissent and subsequent Congressional inquiries. No stakeholder benefits from the lack of orderly process and standards for resolving recusal motions. And companies that are subject to the FTC's enforcement powers and rulemaking authority deserve a clear and legally supported answer when they take the significant step of filing a formal motion seeking a Commissioner's recusal.

For these reasons and those explained in more detail in the Petition, CTA urges the FTC to grant the Petition and move forward with amendments on the FTC's rules to formalize fair and transparent standards and procedures for resolving Commissioner disqualification motions.

Respectfully submitted,

CONSUMER TECHNOLOGY ASSOCIATION

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