

July 17, 2019

Chairman Joseph J. Simons  
Commissioner Noah Joshua Phillips  
Commissioner Rohit Chopra  
Commissioner Rebecca Kelly Slaughter  
Commissioner Christine S. Wilson

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

Dear Chairman and Commissioners of the Federal Trade Commission:

You have the rare distinction of arriving at the FTC about the same time – an installation with no known precedent for the Commission. A little more than a year after you were sworn in (with the exception of Commissioner Wilson), you know the institutional burden that you have inherited. With slight surges over the past fifty years since our FTC report, The Nader Report on the Federal Trade Commission, was published in 1969, followed by some reforms, the FTC remains a largely moribund, sluggish, frightened, alleged watchdog for the American consumer.

Institutionally, it has an anemic estimate of its own significance during this wave of corporate crime, fraud and abuse. It raises few general alarms about grave harm to consumers and has dropped the ball, with its Justice Department counterpart, on antitrust enforcement, to an extreme degree.

You would do well to read the new book *The Myth of Capitalism: Monopolies and the Death of Competition* by Jonathan Tepper, with co-writer Denise Hearn (Wiley, 2018) to see what many inactions have led to our present concentrated economy. The author observes, after much data, on the drive toward duopolies or monopolization that “Dozens of industries are so egregiously concentrated that it begs the question as to what the antitrust authorities are doing with their time.”

The FTC has been intimidated by an industry-indentured Congress for many years. Note the ban, in the late seventies, on investigating the insurance industry. Your budget is disgracefully small. You are operating with a little more than \$300 million a year to oversee a mega-trillion dollar economy rife with the abuses which the FTC statutes were passed to confront. It is as if there were massive street crime waves in a major city with two dozen police to handle the chaos. To put your budget in perspective, it is less than one tenth of one percent of the estimated \$350 billion in billing fraud this year just within the health care sector of our economy. That estimate comes from the work of the applied mathematician, Harvard professor Malcolm Sparrow, author of the seminal book *License to Steal: How Fraud Bleeds America's Health Care System*. As the EPIC advocacy group has documented, the FTC's consent decree with Facebook in 2011 has gone unenforced. How long will the public have to wait after the FTC's hugely delayed 3 to 2 decision to impose a mere \$5 billion fine on the company, without adding executive fines and

some restructural reforms? The stock market and Facebook are laughing at you.

The FTC's delays in responding to petitions are one of your institutional markers. A California consumer advocacy organization – REPRESENT – has just filed a detailed petition, "Secret Surveillance Scoring: Urgent Request for Investigation and Enforcement Action," regarding the abuse of consumer data to discriminate against and overcharge consumers, stratify service and deny opportunities in housing and employment. (See the petition at [representconsumers.org](http://representconsumers.org)). You had a workshop on this fast burgeoning problem in 2014. Let's see how long you take to respond.

One could go on and on, but here are some suggestions:

1. You go on a road trip to get in touch with real people and absorb their grievances where they live, work and raise their families. The F.C.C. did this several years ago because it was overtaken so completely by its corporate patrons.
2. More workshops with intent to obtain media. To most reporters, the FTC is a laugh when it is not a yawn.
3. We need more thoughtful addresses and articles by FTC Commissioners. From all of you. Out there in the country, whether blue or red state, whether conservatives or liberals, they are indiscriminately cheated. They all bleed the same way.
4. Have occasional roundtable gatherings with consumer and other civic action leaders. The FTC, like any other agency, needs some thoughtful, friendly jolts.
5. Drive yourselves to levels of higher visibility. You're supposed to be federal cops on the corporate crime/fraud beat. Act like enforcement officers! Regulation is just another word for law and order over crime in the suites.
6. Think of more penetrating ways to reach people. The FTC has a specific educational mandate. A higher profile may get more resources and stronger legal authority to keep up with the times.
7. Conference a call with the dynamic, former chair of the FTC, Michael Pertschuk, who writes worthy books from Santa Fe. (See his latest book – *When the Senate Worked for Us: The Invisible Role of Staffers in Countering Corporate Lobbies*).

Sincerely yours,  
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