



Office of Commissioner
Andrew N. Ferguson

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Dissenting Statement of Commissioner Andrew N. Ferguson
Joined by Commissioner Melissa Holyoak
Regarding the Antitrust Guidelines for Business Activities Affecting Workers
Matter Number P251202**

January 16, 2024

I dissent from the Commission’s issuance of this replacement of the 2016 Antitrust Guidance for Human Resource Professionals. As I have said before, it is appropriate for the Commission periodically to review its non-binding guidance.¹ The antitrust laws protect employees from unlawful restraints of the labor markets,² and guidance reflecting the Commission’s enforcement position on these issues promotes important transparency and predictability to market participants. But the lame-duck Biden-Harris FTC should not replace existing guidance mere days before they hand over the baton. That is not “running through the tape.”³ Rather, the Biden-Harris FTC announcing its views on how to comply with the antitrust laws in the future is a senseless waste of Commission resources. The Biden-Harris FTC has no future.

I respectfully dissent.

¹ Dissenting Statement of Comm’r Andrew N. Ferguson, Regarding the Withdrawal of the Antitrust Guidelines for Collaborations Among Competitors, Matter No. V250000 (Dec. 11, 2024).

² Dissenting Statement of Comm’r Andrew N. Ferguson, *In re Guardian Serv. Indus., Inc.*, Matter No. 2410082, at 1 (Dec. 4, 2024); Concurring Statement of Comm’r Andrew N. Ferguson, Joined by Comm’r Melissa Holyoak, *In re Planned Building Services, Inc.*, Matter No. 2410029, at 1 (Jan. 6, 2025).

³ CNBC Transcript: First on CNBC: FTC Chair Lina Khan Speaks with CNBC’s Andrew Ross Sorkin on “Squawk Box” Today (Jan. 7, 2025), <https://www.cnbc.com/2025/01/07/cnbc-transcript-first-on-cnbc-ftc-chair-lina-khan-speaks-with-cnbc-andrew-ross-sorkin-on-squawk-box-today.html>.