



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.<sup>1</sup> The antitrust laws protect employees from unlawful restraints of the labor markets,<sup>2</sup> 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.”<sup>3</sup> 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.

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<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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>.