

December 2, 2021

Andrew Katsaros
Inspector General, Federal Trade Commission

The Honorable Maria Cantwell
Chair, Senate Committee on Commerce,
Science and Transportation

The Honorable Roger Wicker
Ranking Member, Senate Committee on
Commerce, Science and Transportation

The Honorable Gary C. Peters
Chair, Senate Committee on Homeland
Security and Governmental Affairs

The Honorable Carolyn B. Maloney
Chair, House Committee on Oversight and
Reform

The Honorable Rob Portman
Ranking Member, Senate Committee on
Homeland Security and Governmental Affairs

The Honorable Frank Pallone
Chair, House Committee on Energy and
Commerce

The Honorable Cathy McMorris Rodgers
Ranking Member, House Committee on
Energy and Commerce

The Honorable James Comer
Ranking Member, House Committee on
Oversight and Reform

***RE: REQUEST FOR INVESTIGATION OF THE FEDERAL TRADE COMMISSION’S PRACTICE
OF COUNTING “ZOMBIE VOTES”***

Dear Inspector General Katsaros; Senators Cantwell, Peters, Wicker and Portman; and
Representatives Pallone, Rodgers, Maloney, and Comer,

We, the undersigned, write to you regarding the Federal Trade Commission’s use of votes cast by
departed-Commissioner Rohit Chopra by e-mail from October 1, 2021 to October 8, 2021. We request
an investigation into both this practice and the Commission’s lack of transparency.

Nearly one month ago, *Politico* reported that the Federal Trade Commission (FTC) held on to “as
many as 20 votes that former Democratic Commissioner Rohit Chopra cast by email on Oct. 8—his
last day at the agency—that remain active even after his departure.”¹ The FTC claims that former-
Commissioner Chopra’s votes continued to be valid two months after Chopra’s departure from the
FTC following his Sept. 30, 2021 confirmation by the U.S. Senate to become Director of the Consumer
Financial Protection Bureau (CFPB).²

¹ See Leah Nylan. “‘Zombies’ to the rescue: The arcane voting rule that could save Dems’ antitrust
agenda.” *Politico*. (November 8, 2021), available at:
<https://www.politico.com/news/2021/11/08/voting-rule-democrats-antitrust-519767>.

² *Id.*

To date, the entirety of the votes, the underlying proposals, and the legal basis from which the FTC apparently derives this authority—beyond compliance with the FTC’s previously unknown internal voting rules—remain unclear and undisclosed to the public.

Using the votes of Commissioners who have departed from their roles at the FTC and concealing it from the public raises serious concerns regarding transparency and accountability. We therefore seek an investigation to determine the following: 1.) the legal basis for this practice, beyond compliance with internal voting rules; 2.) whether the practice has previously been used, when it was used, and, specifically, if it has been used to break ties; and 3.) information relating to each of the underlying proposals, votes, and relevant motions as well as the FTC’s rationale for concealing these specific matters from public disclosure.

Thank you for your attention to this matter.

Sincerely,

Ashley Baker
Director of Public Policy
The Committee for Justice

Maureen Blum
President
Strategic Coalitions & Initiatives

Brandon Arnold
Executive Vice President
National Taxpayers Union

James Edwards
Executive Director
Conservatives for Property Rights

Saulius “Saul” Anuzis
President
60 Plus Association

Theodore A. Gebhard
Former Senior FTC Attorney
Office of Policy & Evaluation

Robert H. Bork, Jr.
President
The Bork Foundation

Tom Hebert
Executive Director
Open Competition Center

Ralph Benko
Chairman
The Capitalist League

Curt Levey
President
The Committee for Justice

Garrett Bess
Vice President
Heritage Action

James L. Martin
Founder/Chairman
60 Plus Association

Adam Brandon
President
FreedomWorks

Katie McAuliffe
Executive Director
Digital Liberty

Iain Murray
Vice President and Senior Fellow
Competitive Enterprise Institute

Richard Manning
President
Americans for Limited Government

Doug McCullough
Director
Lone Star Policy Institute

Jessica Melugin
Director, Center for Technology and
Innovation
Competitive Enterprise Institute

Seton Motley
President
Less Government

Grover Norquist
President
Americans for Tax Reform

Yaël Ossowski
Deputy Director
Consumer Choice Center

Krisztina Pusok
Director
American Consumer Institute

Timothy Sandefur
Vice President for Litigation
Goldwater Institute

Tom Schatz
President
Council for Citizens Against Government
Waste

Dan Schneider
Executive Vice President
The American Conservative Union

David Williams
President
Taxpayers Protection Alliance

NOTE: Organizations listed for identification purposes only.