

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE FEDERAL TRADE COMMISSION (FTC)
AND THE NATIONAL LABOR RELATIONS BOARD (NLRB)
REGARDING INFORMATION SHARING, CROSS-AGENCY TRAINING, AND
OUTREACH IN AREAS OF COMMON REGULATORY INTEREST**

The FTC and NLRB share an interest in protecting American workers and promoting fair competition in labor markets. To better root out practices that harm workers in the “gig economy” and other labor markets, to enhance the enforcement of federal laws and regulations administered by the agencies, and to promote interagency collaboration through information sharing, cross-agency training, and coordinated outreach, the FTC and NLRB enter this Memorandum of Understanding (“MOU”):

1. The FTC enforces the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 41 *et seq.*, and other laws and regulations that prohibit, among other things, unfair methods of competition and unfair or deceptive acts or practices. The FTC aims to prevent anticompetitive, deceptive, and unfair business practices through effective law enforcement, advocacy, and education.
2. The NLRB enforces the National Labor Relations Act (“NLRA”), 29 U.S.C. § 151 *et seq.*, which guarantees the rights of employees to join together to improve their wages and working conditions, to organize a union and bargain collectively, and to engage in other protected concerted activity. It prohibits, as unfair labor practices, discrimination or retaliation based upon employees’ engagement in these activities or choice to refrain from them. The NLRB’s primary functions are to prevent and remedy unfair labor practices and to conduct elections among employees to determine whether they wish to be represented by a labor organization.
3. The FTC and the NLRB (each individually a “Party” and collectively, “the Parties”) recognize that continued and enhanced coordination and cooperation concerning issues of common regulatory interest will help to protect workers against unfair methods of competition, unfair or deceptive acts or practices, and unfair labor practices. Issues of common regulatory interest include labor market developments relating to the “gig economy” and other alternative work arrangements; claims and disclosures about earnings and costs associated with gig and other work; the imposition of one-sided and restrictive contract provisions, such as noncompete and nondisclosure provisions; the extent and impact of labor market concentration; the impact of algorithmic decision-making on workers; the ability of workers to act collectively; and the classification and treatment of workers.
4. Accordingly, the Parties enter into this MOU to facilitate (a) information sharing and cross-agency consultations on an ad hoc basis for official law enforcement purposes, in a manner consistent with and permitted by the laws and regulations that govern the Parties, (b) cross-agency training to educate each Party about the laws and regulations enforced by the other Party, and (c) coordinated outreach and education as appropriate.

5. This MOU does not create legally binding obligations on the Parties and does not create any right enforceable against the Parties or any of their officers or employees or any other person. This MOU also does not confer upon any third party any right and specifically does not confer on any third party the ability directly or indirectly to obtain, suppress, or exclude any information shared pursuant to this MOU, or to challenge a request under this MOU. Nothing in this MOU modifies each Party's ability, responsibility, or obligation to comply with or enforce the laws and regulations within its jurisdiction.
6. The FTC designates the Director of its Office of Policy Planning, or their designee, as the point of contact for matters related to coordination and cooperation pursuant to this MOU. For all other matters related to the interpretation or application of this MOU, the FTC designates its General Counsel, or their designee, as its point of contact.
7. The NLRB designates its Associate General Counsel in the Division of Operations-Management, or their designee, as the point of contact for matters related to coordination and cooperation pursuant to this MOU. For all other matters related to the interpretation or application of this MOU, the NLRB designates its Associate General Counsel in the Division of Legal Counsel or their designee, as its point of contact.
8. For purposes of this MOU, "Nonpublic Information" means all information in any format (including written, oral, or electronic) shared pursuant to this MOU unless the Providing Party expressly consents or designates the information as publicly available. Information shared by a Party under this MOU may be marked as Controlled Unclassified Information ("CUI") in accordance with 32 C.F.R. Part 2002. The Parties shall handle information marked as CUI in accordance with Executive Order 13556 (Nov. 4, 2010), 32 C.F.R. Part 2002, and the CUI Registry ([CUI Categories | National Archives](#)).
9. The Parties may provide each other such Nonpublic Information concerning issues of common regulatory interest on an ad hoc basis, where this is consistent with applicable authorities, complies with statutory and regulatory requirements, and as otherwise appropriate. Nothing in this MOU shall be deemed to waive or alter any existing statutory or regulatory requirements governing the disclosure of Nonpublic Information. Each Party will maintain such Nonpublic Information in a manner that conforms to the standards that apply to federal Parties for the protection of the confidentiality of Nonpublic Information and personally identifiable information and for data security and integrity, including the Privacy Act of 1974, 5 U.S.C. § 552a; the Freedom of Information Act, 5 U.S.C. § 552; the Federal Records Act, 44 U.S.C. § 3101 *et seq.*; the Federal Information Security Modernization Act of 2014 (FISMA), 44 U.S.C. Chapter 35; Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2; Section 7A of the Clayton Act, 15 U.S.C. § 18a; FTC Rules 4.9-4.11, 16 C.F.R. §§ 4.9-4.11; and NLRB regulations, including 29 C.F.R. § 102.118 and 29 C.F.R. § 102.119.
10. Unless applicable law requires otherwise, the Parties shall take all actions reasonably necessary to preserve, protect, and maintain all privileges, protections, and claims of confidentiality related to all Nonpublic Information provided pursuant to this MOU. The Party receiving information ("Receiving Party") shall not disclose to any third party that

it has received information from the other Party (“Providing Party”) except with written permission from the Providing Party. Nothing in this MOU, including the sharing of Nonpublic Information pursuant to this MOU, will constitute public disclosure of Nonpublic Information (within the meaning of the Freedom of Information Act, 5 U.S.C § 552, or otherwise), a waiver of confidentiality, or alteration of any claim of confidentiality; a waiver of any applicable privileges or protections (e.g., deliberative process, law enforcement, or common interest privileges or the work product doctrine); or a waiver of any other protection applicable to Nonpublic Information provided pursuant to this MOU. Neither Party is authorized to waive confidentiality or privileges on behalf of the other Party, nor shall any waiver of confidentiality or applicable privilege by one Party be construed to apply to the other Party. All Nonpublic Information provided or received pursuant to this MOU shall be used only for official law enforcement purposes.


11. In the event a third party makes a request (including any demand, request for production, interrogatory, request for admission, subpoena, court order, or request pursuant to the Freedom of Information Act, 5 U.S.C. § 552) for access to or copies of Nonpublic Information received by the Receiving Party from the Providing Party, unless otherwise prohibited by law, the Receiving Party shall:
 - a. For Freedom of Information Act requests made by a third party for such Nonpublic Information, refer requests for the Providing Party’s records to the Providing Party for response.
 - b. For other such third-party requests:
 - i. Promptly give written notification to the Providing Party of the third-party request for such information;
 - ii. Before responding to or complying with the third-party request, give the Providing Party a reasonable opportunity lawfully to object or otherwise prevent disclosure to the third party, and consent to an application by the Providing Party to intervene in any related action for purposes of protecting the Providing Party’s interests; and
 - iii. Refrain from disclosing such information to the third party except as otherwise provided herein, or otherwise from making such information public without prior written approval of the Providing Party.

12. Each Party represents that it:

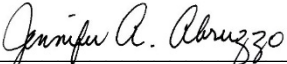
- a. Maintains reasonable and appropriate safeguards to ensure the continuous protection of Nonpublic Information provided under this MOU;

- b. Has an incident response and breach notification plan and procedures as required by Federal law, 44 U.S.C. § 3544(b)(7), and implementing guidance, OMB Memorandum M-17-12; and
 - c. Will, in accordance with such law and guidance, promptly notify and coordinate with the other Party upon discovery of any breach or other suspected or confirmed incident potentially affecting the confidentiality and, if applicable, privacy of such Nonpublic Information.
13. Notwithstanding the confidentiality provisions set forth in the paragraphs above, nothing in this MOU shall prevent the Parties from complying with an order of a court of the United States or an official request from either House, or a committee or subcommittee, of the United States Congress.
14. The Parties shall conduct all cross-agency consultations and training in compliance with and as permitted by the laws and regulations that govern the Parties, individually and collectively, including, as applicable in each case: (a) if conducted (i) on a non-reimbursable basis, pursuant to and in compliance with, as appropriate, 31 U.S.C. § 1301 (Appropriations restriction) and 31 U.S.C. §§ 1341, 1342, 1517(a) (Antideficiency Act); or (ii) on a reimbursable basis, pursuant to the Economy Act, 31 U.S.C. § 1535, and all related regulations and legal authority, as applicable; and (b) pursuant to any agency-specific regulations and procedures as required.
15. Nothing in this MOU is intended to prevent a Party from seeking assistance from or providing assistance to the other Party pursuant to other agreements, arrangements, or practices.
16. This MOU shall become effective as of the date of its signing, shall remain in effect unless terminated by either Party, and may be revised or modified by mutual written agreement of the Parties or as required by changes in relevant laws or other requirements. The Party terminating, or recommending the revision or modification of, this MOU shall notify the other Party in writing at least 30 days before the date the notifying Party wishes the termination, revision, or modification of the MOU, as applicable, to become effective.

EFFECTIVE this 19th day of July 2022.



Lina M. Khan
Chair
Federal Trade Commission



Jennifer A. Abruzzo
General Counsel
National Labor Relations Board