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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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June 26, 2014

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Dear Madam Chairwoman:

The Committee on Oversight and Government Reform is conducting oversight of the Federal Trade Commission's involvement in a multi-agency initiative developed within the Consumer Protection Working Group of the Financial Fraud Enforcement Task Force – known within the Department of Justice as "Operation Choke Point."¹ This initiative has scrutinized banks' relationships with payment processors and certain merchants. The Committee has obtained documents suggesting that as a result of coordinated actions by the Department of Justice and other regulators, banks are terminating relationships with legitimate and licensed businesses.²

Documents produced to the Committee by the Department of Justice demonstrate that the FTC is closely involved in Operation Choke Point. Through 2012, the Chief of the Criminal Liaison Unit and the Associate Director of the Division of Marketing Practices worked with officials in DOJ's Consumer Protection Branch on the development of a law enforcement initiative "targeting" payment processors.³ In fact, a draft agenda for the Consumer Protection Working Group specifically tasked the FTC with "tak[ing] the lead" on payday lending.⁴ FTC's collaboration with the Department of Justice continued through the development and implementation of Operation Choke Point. An internal memorandum prepared for senior DOJ leadership in November 2013 describes the FTC's "engagement and collaboration":

¹ See generally Staff Report, H. Comm. on Oversight and Gov't Reform, *The Department of Justice's "Operation Choke Point": Illegally Choking Off Legitimate Businesses?* (May 29, 2014).
² *Id.*
³ See, e.g., E-mail from Sabita Sonelj, Civil Div., U.S. Dep't of Justice, to Richard Goldberg, Director, Consumer Protection Branch, Civil Division, U.S. Dep't of Justice (May 30, 2013, 2:09:17 PM). [HOGGR-3PPP00508]
⁴ *Id.* at HOGGR-3PPP00510.

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The FTC's efforts in this area predate our own, and not surprisingly our agencies work closely. Through information gleaned from the FTC's many actions against fraudulent merchants, we have identified several bank and processor investigatory targets. The FTC has assigned its principal payment processor expert to work as a Special Assistant U.S. Attorney⁵ on one of our criminal cases.

The Committee is concerned that Operation Choke Point and corresponding initiatives by collaborating agencies impose wholly unreasonable burdens on banks and payment processors, effectively punishing them in lieu of the actual perpetrators of fraud. The Commission possesses extensive enforcement authority under Section 5 of the Federal Trade Commission Act and under the Telemarketing Sales Rule. Therefore, any FTC policies derived from Operation Choke Point will have a chilling effect on honest and legitimate businesses.

To enable the Committee to better understand the FTC's regulatory policy with respect to payment processing, and the nature of the FTC's involvement in Operation Choke Point, we request that you provide the following information:

1. All documents and communications since January 1, 2011, between employees of the FTC and employees of the Civil Division of the Department of Justice referring or relating to Operation Choke Point.
2. All documents and communications since January 1, 2011, between employees of the FTC and members of the Consumer Protection Working Group of the Financial Fraud Enforcement Task Force.

3. All documents and communications since January 1, 2011, between or among employees of the FTC referring or relating to Operation Choke Point.
4. All documents and communications since January 1, 2011, between or among employees of the FTC referring or relating to FTC initiatives relating to payday lending or payment processing.

5. All documents and communications since January 1, 2011, between or among employees of the FTC referring or relating to payment processor liability under the Telemarketing Sales Rule or Section 5 of the Federal Trade Commission Act.

In addition, the Committee requests that you designate officials within the Commission to provide a briefing to the Committee staff on or before July 10, 2014.

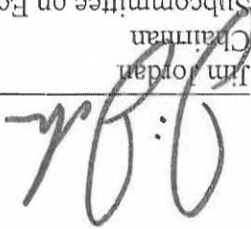
⁵ Memorandum from the Deputy Assistant Attorney General for Consumer Protection, Civil Division to the Staff of the Office of the Attorney General, the Staff of the Office of the Deputy Attorney General, and the Staff of the Office of the Associate Attorney General (Nov. 21, 2013) [HOG-3PPP000497]

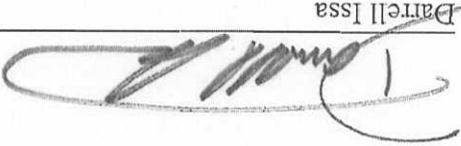
The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

Please provide all responsive material as soon as possible, but no later than 5:00 p.m. on July 10, 2014. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents in **electronic format**.

If you have any question about this request, please contact Brian Daner or Michael Kiko of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,


Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs


Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

The Honorable Julie Brill, Commissioner
Federal Trade Commission

The Honorable Maureen K. Ohlhausen, Commissioner
Federal Trade Commission

The Honorable Joshua D. Wright, Commissioner
Federal Trade Commission

The Honorable Terrell McSweeney, Commissioner
Federal Trade Commission