



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

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Molly Dwyer, Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
James R. Browning Courthouse
95 Seventh Street
San Francisco, CA 04103

**RE: *FTC v. Microsoft Corp.*, No. 23-15992
(Argued Dec. 6, 2023 – Collins, Forrest, Sung, JJ.)**

Dear Ms. Dwyer:

The Federal Trade Commission (FTC) writes to notify the Court of Microsoft’s publicly reported plan to eliminate 1,900 jobs in its video game division.¹ This newly-revealed information contradicts Microsoft’s representations in this proceeding, which seeks to temporarily pause Microsoft’s acquisition of Activision pending the FTC’s evaluation of the merger’s antitrust merits.

Microsoft represented to this Court that “the post-merger company will be structured and operated in a way that would readily enable Microsoft to divest any or all of the Activision businesses as robust market participants in the unlikely event that such a divestiture is ordered.” ECF_23 (Opposition to Injunction Pending Appeal) at 24; *see also* ECF_58 (Answering Brief) at 23, 66. Further, Microsoft argued that the principal public equity that would be served by an injunction—“to maintain the pre-merger status quo”—is “not implicated by Microsoft’s *vertical* acquisition of Activision, which Microsoft intends to operate as a limited-integration studio.” *Id.* at 65, 66. Microsoft claimed that the public equity favoring an injunction “is more acutely implicated in horizontal mergers, where competing entities integrate their operations and, in the process, often eliminate redundancies.” *Id.* at 65.

¹ *See, e.g.*, J. Edward Moreno and Karen Weise, [*Microsoft Cuts 1,900 Jobs in Its Video Game Division*](#) (The New York Times January 25, 2024).

Microsoft’s recently-reported plan to eliminate 1,900 jobs in its video game division, including in its newly-acquired Activision unit, contradicts the foregoing representations it made to this Court. Specifically, Microsoft reportedly has stated that the layoffs were part of an “execution plan” that would reduce “areas of overlap” between Microsoft and Activision,² which is inconsistent with Microsoft’s suggestion to this Court that the two companies will operate independently post-merger. Moreover, the reported elimination of thousands of jobs undermines the FTC’s ability to order effective relief should the pending administrative proceeding result in a determination that Microsoft’s acquisition of Activision violated Section 7 of the Clayton Act. The reported layoffs thus underscore the FTC’s need for injunctive relief pending completion of the administrative proceeding.

Respectfully submitted,

/s/ Imad Abyad
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FEDERAL TRADE COMMISSION

cc: Counsel of Record

² See Tom Warren, [*Microsoft lays off 1,900 Activision Blizzard and Xbox employees*](#) (The Verge Jan. 25, 2024).