



Margrethe Vestager, Executive Vice President
European Commission
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1049 Brussels
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via Email: margrethe-vestager-contact@ec.europa.eu

February 20, 2023

Dear Executive Vice President Vestager,

The Communications Workers of America (CWA) is a labor union that represents workers in telecommunications, technology, media, manufacturing, public service and other sectors across the United States. We have a long history of participating in merger review and advocating for sound market governance in our industries.

CWA through our Campaign to Organize Digital Employees (CODE-CWA) is supporting tech and video game workers to form unions at major corporations that have long been hostile to collective bargaining and workplace protections. In that context, we write to ensure you are aware of the major implications for those workers of the proposed acquisition of Activision Blizzard by Microsoft.

Since 2021, CWA has been supporting workers at Activision Blizzard to organize a union. They have faced management intransigence at every turn. With CWA's support, the workers have filed a number of unfair labor practice charges with the NLRB alleging that Activision executives have prohibited employees from communicating about ongoing investigations of sexual harassment and working conditions, and threatened or disciplined employees on account of protected concerted activity.¹ In May, the NLRB confirmed that it found merit to allegations that Activision Blizzard allegedly threatened employees for discussing working conditions, wages, and ongoing investigations under the guise of an "overly broad social media policy."²

When the Microsoft acquisition was announced, we studied the implications for labor markets and raised concerns about the potential for increased employer power over workers that could worsen labor monopsony, leading to lower wages and less bargaining power over working

¹ Communications Workers of America, "Employees of Activision Blizzard File Unfair Labor Practice Charge Against the Gaming Company," September 14, 2022, <https://cwa-union.org/news/releases/employees-of-activision-blizzard-file-unfair-labor-practice-charge-against-gaming> ; Communications Workers of America, "Communications Workers of America Files Second Unfair Labor Practice Charges Against Activision Blizzard Over Threatening Employee's Protected Speech," April 29, 2022, <https://cwa-union.org/news/releases/communications-workers-of-america-files-second-unfair-labor-practice-charges-against>.

² Josh Eidelson, *Bloomberg*, "Activision Illegally Threatened Staff, Labor Officials Find," May 23, 2022, <https://www.bloomberg.com/news/articles/2022-05-23/activision-illegally-threatened-staff-us-labor-officials-find>.

conditions.³ After we raised those concerns, we were able to enter a dialogue with Microsoft that resulted in an agreement to ensure the workers of Activision Blizzard have a clear path to collective bargaining if the merger is completed.⁴ Microsoft's binding commitments will give employees a seat at the table and ensure that the acquisition of Activision Blizzard benefits the company's workers and the broader video game labor market. Collective bargaining is an effective counterbalance to employer power over the labor market, as is well documented in empirical research.⁵

This labor-management compact is particularly groundbreaking and important because it reflects a shared understanding that the current U.S. labor law regime does not deliver on the rights it professes to guarantee. As the case of Activision Blizzard has shown, workers who seek to form unions in the United States today face severe barriers to exercising basic rights of freedom of association, with frequent firings of union supporters well-documented but not discouraged through any meaningful consequences.⁶

As explained by Emily Knief, a senior motion graphic designer who is part of the workers' organization A Better ABK, "[The agreement between Microsoft and CWA] is huge and absolutely game-changing. ABK employees will have an easy path to recognition and easier access to collective action."

The European Commission has an opportunity in this case to take seriously the impact of a major transaction on the video game labor market. Given the clear pathway to enforceable behavioral remedies for potential consumer harms articulated by the European Commission and other regulators, we hope you will approve this merger and help make history in rebalancing power in labor markets.

Sincerely,

Christopher Shelton
President, Communications Workers of America

³ Coalition letter signed by CWA to the Federal Trade Commission regarding the proposed acquisition of Activision Blizzard by Microsoft, March 1, 2022, <https://www.citizen.org/article/microsofts-activision-blizzard/>.

⁴ Communications Workers of America, "CWA, Microsoft Announce Labor Neutrality Agreement," Press Release, June 13, 2022, <https://cwa-union.org/news/releases/cwa-microsoft-announce-labor-neutrality-agreement>.

⁵ See, for example, Marshall Steinbaum, *The Sling*, "On the Practicalities of Unionization as a Remedy for Employer Monopsony Power," December 6, 2022.

<https://www.thesling.org/on-the-practicalities-of-unionization-as-a-remedy-for-employer-monopsony-power/>

⁶ Barry Eidlin, "It's all too easy for employers to interfere in union elections," *The Washington Post*, April 23, 2021, https://www.washingtonpost.com/outlook/its-all-too-easy-for-employers-to-interfere-in-union-elections/2021/04/23/f2378ca6-a2d1-11eb-85fc-06664ff4489d_story.html.