



January 24, 2025

**Andrew Ferguson**  
**Chair**

**Federal Trade Commission (FTC)**  
**600 Pennsylvania Avenue, NW**  
**Washington, DC 20580**

Re: Matter Number P251201

**The Insights Association (IA), the leading nonprofit trade association for the market research and data analytics industry, respectfully requests that you rescind the FTC’s January 16, 2025 policy statement, “Federal Trade Commission Enforcement Policy Statement on Exemption of Protected Labor Activity by Workers from Antitrust Liability.”<sup>1</sup>**

### Who we are

The Insights Association’s nearly 9,600 members are the world’s leading producers of intelligence, analytics and insights defining the needs, attitudes and behaviors of consumers, organizations, employees, students and citizens. With that essential understanding, leaders can make intelligent decisions and deploy strategies and tactics to build trust, inspire innovation, realize the full potential of individuals and teams, and successfully create and promote products, services and ideas.

### Research subjects = independent contractors

Many consumers who participate in market research studies as research subjects receive some form of remuneration (which our industry refers to as “incentives”) and are thus independent contractors in relation to the firms and organizations conducting such studies.

Encouraging unionization efforts of research subjects who are independent contractors – the goal of the FTC’s policy statement, despite some caveats in the document – could quickly destroy the relationship between insights professionals and our research subjects and thoroughly ruin America’s ability to understand what consumers, customers, and constituents need and want, and the decision making capabilities in both the private and public sectors.

Market research participation is far outside of the traditional conception of work and does not conform to the preconceived notions of employment *or* independent contractors. Research subjects

<sup>1</sup> [https://www.ftc.gov/system/files/ftc\\_gov/pdf/p251201laborexemptionpolicystatement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p251201laborexemptionpolicystatement.pdf)

are, at best, pursuing a hobby, one enjoyed only once in a while, with compensation not necessarily even offered. Unlike an ordinary “worker” in the traditional sense, a research subject is not solely or even primarily motivated by monetary incentives. A bigger driver for market research participation is the opportunity for research subjects to provide their opinions or attitudes on who they are going to vote for in an election (and why), the desired course of a public policy, their feelings about a corporate brand, the need for new medicines, the design of a new smartphone, or changes to their favorite breakfast cereal. Through their participation, they get to influence or impact the future course of products, services and ideas. The foregoing motivations do not describe a traditional (or even non-traditional) worker. However, laws and regulations still apply, and when they receive incentives for being research subjects they are independent contractors.

## Conclusion

As outlandish as it may sound that someone would launch a labor union for research subjects, that is precisely the sort of outcome that could come from the FTC’s policy statement, which was intended to encourage unionization of any and all independent contractors. We appreciate the no votes from you, Chair Ferguson, and Commissioner Holyoak. Commensurate with your dissent, the Insights Association hopes that you will rescind this controversial policy statement as soon as possible.

Sincerely,

Howard Fienberg  
Senior VP, Advocacy  
Insights Association