



August 15, 2023

Christine Park-Gonzalez, Director
Anna Y. Park, Regional Attorney
Los Angeles District Office
U.S. Equal Employment Opportunity Commission
255 East Temple St., 4th Floor
Los Angeles, CA 90012

Investigation Request: Activision/Blizzard Inc.

Dear Ms. Park-Gonzalez:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans. We write under 29 C.F.R. § 1601.6(a) to request a Commissioner’s charge for an inquiry into Activision Blizzard Inc.’s (“Activision’s”) unlawful employment practices.

Activision is a publicly traded California Corporation with its corporate headquarters at 2701 Olympic Boulevard Building B, Santa Monica, CA, 90404. It is subject to Title VII of the Civil Rights Act of 1964. However, Activision admits to engaging in unlawful employment practices. Specifically:

- Activision uses hiring, training, and promotion policies that discriminate because of race, color, religion, and sex, and has promised to continue doing so in the future to “balance” its workforce’s immutable characteristics.¹
- Activision has mandated that internal and external talent recruitment teams create “diverse slates” of job candidates, thereby limiting, segregating, or classifying applicants for employment in a way that deprives or tends to

¹ ACTIVISION BLIZZARD INC., 2022 ENVIRONMENTAL, SOCIAL, AND GOVERNANCE REPORT, at 3, 4, 14, 17, 21, 23- 24 (May 11, 2023) (hereinafter “2022 ESG REPORT”), <https://bit.ly/3PZpMVJ>. Notably, Activision awards scholarships to “Women, non-binary people and those who are gender fluid. [sic]” *Id.* at 23. What Activision means, precisely, when it uses the terms “non-binary people and those who are gender fluid” is unclear. We note that these terms lack fixed or discernable legal meaning. However, it is quite clear that Activision is discriminating based on sex, *see Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731, 1742 (2020), and violating 42 U.S.C. § 1981, both here and in its “social impact investments” where it has contracted for \$200 million in money management services because of the race and sex of its contracting partners. 2022 ESG REPORT at 40.

deprive or limit the employment opportunities of white, Asian, and Jewish males with the company. In fact, these mandates exist for the sole purpose of adversely affecting the employment status of *some* individuals because of their race, color, religion, or sex, and weeding them out.² Activision has gone so far as to create “tools and systems” favoring some immutable characteristics over others, thereby allowing “hiring managers and recruiters to access and better understand their [discrimination] pipeline data.”³ These tools include the “Diversity Pipeline Dashboard,” which provides an aggregate view of the “gender, racial, and ethnic group” membership of potential employees.⁴

- Activision prefers and overtly “steers” candidates for employment based on race, color, and national origin.⁵
- Ninety-five percent of Activision’s executive searches have unlawfully judged candidates for hiring or promotion based on race, color, religion, or sex.⁶
- Activision unlawfully promises to make race, color, national origin, religion, and sex conditions for the director and CEO selection pools.⁷
- Eight of the ten “employee network groups” operated by Activision are based on race, color, national origin, and/or sex. There are groups for Asian & Pacific Islander employees, Black employees, “Latinx” employees, SWANA (Southwest Asian and North African) employees, “multicultural” employees, “indigenous” or “Aboriginal” employees, LGBT+ employees, and women employees. These groups are used for job training and other similar purposes. No such group exists for heterosexual white males.

Activision’s employment practices are patently illegal.⁸ They are also profoundly harmful. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be

² *Id.* at 24.

³ *Id.* at 23.

⁴ *Id.*

⁵ *Id.* at 21, n.7. Activision states:

DE&I Sourcing Jam is a strategic initiative aimed at enhancing DE&I within the company. Through this initiative, we seek to make a tangible impact by sourcing candidates from underrepresented groups and directing them towards critical talent pipelines. Our objective is to source highly skilled and proficient professionals from marginalized communities, thereby bolstering the representation of diverse talent within the Company’s workforce. Recruiters, Sourcers, Hiring Managers and Talent Acquisition Leadership attend the jams.

⁷ *Id.* at 53.

⁸ 42 U.S.C. §§ 2000e-2(a), (d); *Bob Jones Univ. v. United States*, 461 U.S. 574, 593 (1983) (“racial discrimination in education violates a most fundamental national public policy, as well as rights of individuals”).

undone.”⁹ More broadly, the discrimination highlighted in this case necessarily foments contention and resentment; it is “odious and destructive.”¹⁰ It truly “is a sordid business, this divvying us up” by race or sex.¹¹

Thank you in advance for your consideration. Please feel free to contact me if you have any questions.

Sincerely,

/s/ Nicholas R. Barry
Senior Litigation Counsel
America First Legal Foundation

Cc: The Honorable Charlotte A. Burrows, Commission Chair
The Honorable Jocelyn Samuels, Commission Vice Chair
The Honorable Keith E. Sonderling, Commissioner
The Honorable Andrea R. Lucas, Commissioner
The Honorable Kalpana Kotagal, Commissioner

⁹ *Brown v. Bd. of Educ.*, 347 U.S. 484, 494 (1954).

¹⁰ *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

¹¹ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

APPENDIX

Advancing Diverse and Inclusive Communities: We see diversity and inclusion as foundational to our games, policies, and workforce. In 2022, we hired our first dedicated Chief Diversity, Equity, and Inclusion Officer and appointed our first head of Inclusive Game Design (IGD) to ensure a world-class standard for game inclusion and accessibility. IGD is focused on ensuring the widest possible audience can enjoy our games, with characters and narratives that are diverse and welcoming, while promoting positive gaming community interactions. We've also partnered with Reboot Representation to help increase the number of Black, Latina, and Native American women in technology.

Board of Directors: Highlights (As of May, 2023)



Our Board Chairman and CEO are separate positions and we have a Lead Independent Director in place.



In any future search, our selection pool for new Independent Director nominees will include qualified women and racially/ethnically diverse candidates.



Our board engages with investors regarding our financial and operational performance, as well as executive compensation, ESG and other matters investors consider important.



In any future external search, our selection pool for a new CEO will include qualified women and racially/ethnically diverse candidates.



Approximately 78% of our directors are independent, as are all members of our four Board committees.



Approximately 22% of our directors self-identify as having a diverse demographic background.¹⁸



Our directors are elected annually.



Approximately 33% of our directors are women.

Diversity Financial Impact Investments

In 2022, we invested \$250 million in money market funds selected for their support of diverse and inclusive communities. This was in addition to a \$1.25 billion investment in 2021. A large portion of the investment manager fees associated with these funds are reallocated to minority-led, women-owned, or disabled-Veteran-owned firms who use the earned profits to support underserved communities.

Our 2022 social impact investments included the following:

- \$100 million investment to support Black-led securities firm, Loop Capital
- \$100 million investment to support a women-owned securities firm, R. Seelaus & Co., who allocates a portion of earned fees to support gender equity in the technology sector
- \$50 million investment to support disabled-Veteran-owned securities firm, Drexel Hamilton

These investments provide revenue to financial firms that are dedicated to advancing diverse and inclusive communities. At the end of 2022, our combined \$1.5 billion of outstanding social impact investments represented 12% of our aggregate cash, cash equivalents, and short-term investments.

Diverse Candidate Slates:

We expect our internal recruitment teams and external agency partners to provide diverse slates of job candidates where practicable. Building on the tools and systems we launched in 2021, we held training sessions and created resources in 2022 to empower hiring managers and recruiters to access and better understand their diversity pipeline data. Tools such as the Diversity Pipeline Dashboard give our recruiters an aggregate view of the gender, racial, and ethnic group diversity of their candidate pipeline.

Diverse Candidate Slates at the VP Level & Above:

Our Executive Recruiting Team is tasked with bringing in the best leadership talent. In 2022, the team set a goal of having diverse candidate slates for at least 90% of our vice president level and above searches. We are proud to share that our team exceeded this goal, achieving diverse slates in 95% of our executive searches.

ABK Aspiring Women in Games Scholarship

The ABK Aspiring Women in Games Scholarship (formerly the GDC Scholarship) was founded by our King division in Europe in 2016, and expanded to our U.S. operations in 2020. The program provides women interested in the gaming industry with an opportunity to attend the annual Game Developers Conference (GDC) for free, where they can network with industry experts from Activision Publishing, Blizzard Entertainment, and King. Women, non-binary people and those who are gender fluid are encouraged to apply.

Increasing the Combined Percentage of Women and Non-Binary Employees by 50% Over Five Years

Over the last year, we made meaningful progress toward our 2021 goal to increase the combined percentage of women and non-binary employees in our workforce by 50% over five years and we believe our continued investment in our DE&I programs will further enable us to meet this goal. As of November 30, 2022, approximately 26% of our global employee population self-reported as women or non-binary people, up from approximately 24% as of November 30, 2021.



\$250 Million Commitment to Accelerate Opportunities for Diverse Talent

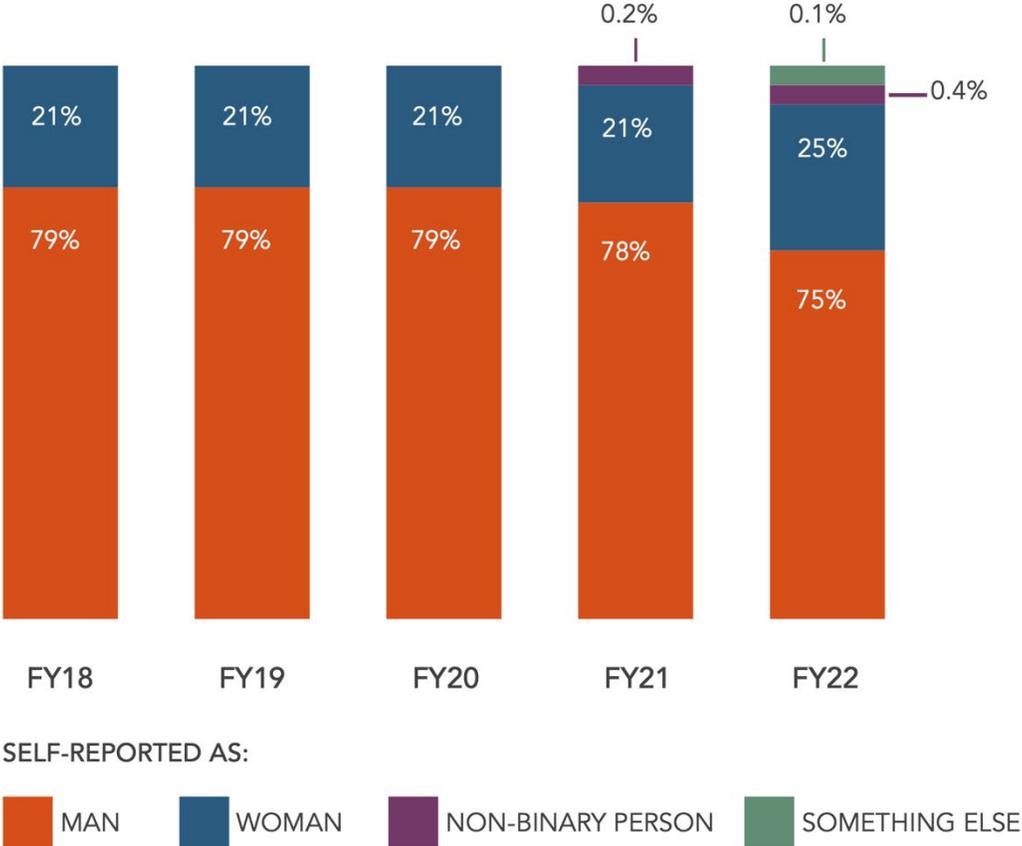
As part of our commitment to invest \$250 million over ten years in initiatives that accelerate opportunities in gaming and technology for diverse talent, we invested approximately \$19 million to launch Level Up U in 2022. Level Up U is a three-month training program for engineers starting out in the gaming industry. Within our class of over 100 [Level Up U](#) engineers, women and non-binary people made up 45% of the class, and the overall diversity of the class was 73%. We have also partnered with [Reboot Representation](#) to help increase the number of Black, Latina, and Native American women in technology through combined philanthropic efforts with 26 other companies.

To further diversify our pipeline of candidates, we revamped our Diversity Sourcing Council to educate recruiters and support diversity sourcing techniques and projects across Activision Blizzard. We also hosted Diversity Sourcing Jams⁷ across 19 different disciplines to assist the Company's understaffed areas in recruiting diverse candidates for their open roles.

Our Employee Network Groups⁵

- ABK Asian Pacific Islander Employee Network
- ABK Black Employee Network
- ABK Differing Abilities Employee Network
- ABK SOMOS (Formerly LatinX) Employee Network
- ABK LGBT+ Employee Network
- ABK SWANA Employee Network
- ABK Veterans Employee Network
- ABK Women's Employee Network
- ABK Indigenous and Aboriginal Employee Network
- ABK Multicultural Employee Network

Gender Diversity^{a,b,j} of People Leadersⁱ Since 2018



Growth of Women Game Development Leaders

The Company saw an increase in the combined representation of women and non-binary employees last year. When you specifically look at women in game development leadership roles, the number has **more than quadrupled** since 2016. We saw the most progress between **2021 and 2022**, when the percentage of women in game development leadership roles **increased by 58%**.

- **45%** of participants who self-reported as either a woman or non-binary person
- **40%** of participants who self-reported as Hispanic or Latinx, Black or African American, Native Hawaiian or Pacific Islander, Asian, Native American or Alaska Native, or more than one of these identities
- **10%** of participants who self-reported as Veterans

Connecting Diversity, Equity, and Inclusion (DE&I) Across Everything We Do

We believe that our employees and players around the world deserve to be seen, heard, and feel valued. To help advance that goal, we announced the addition of Kristen Hines as Activision Blizzard's first Chief Diversity, Equity, and Inclusion Officer in April 2022. She has helped us continue to prioritize our commitment to DE&I, reframe how we think about DE&I, and embed DE&I in everything we do as an organization. To provide more transparency on our progress, we recently published our [2022 DE&I Look-Back](#) which outlines the DE&I purpose, wins, and plans for the future.

DE&I is a business-wide priority, and we will continue to learn and grow as we move forward. In 2022, we set the necessary groundwork and made meaningful progress toward our ambitious goals. And we know there is always more work to be done. As we look ahead, we'll continue to evolve our work to positively impact employees' lived experiences across every part of Activision, Blizzard, and King.

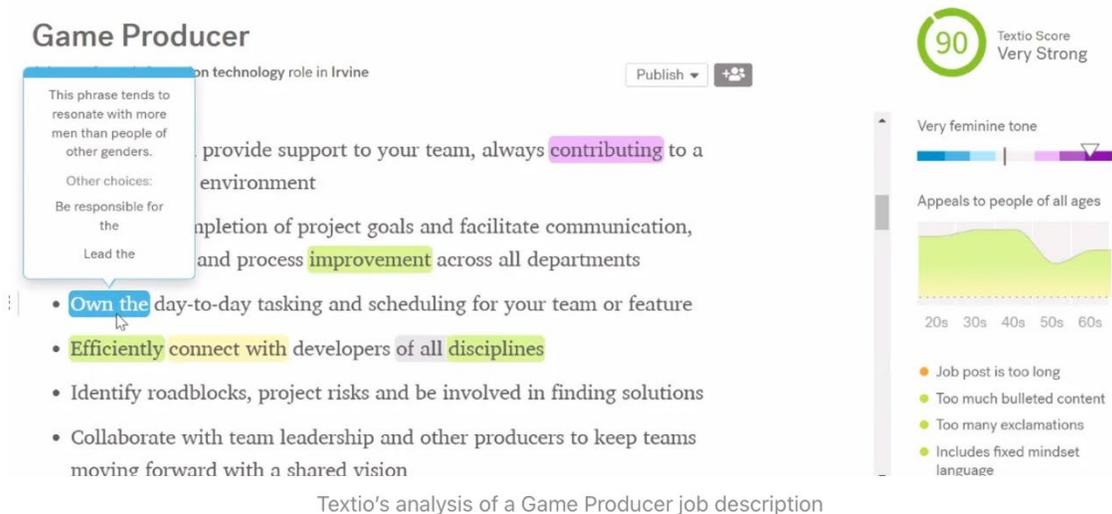
KRISTEN HINES
(she/her)
Chief Diversity, Equity,
and Inclusion Officer
- Activision Blizzard



“I’m excited to be part of a company that is committed to DE&I and making progress on its ambitious goals. In an industry with historical underrepresentation, I’m looking forward to leading the Company’s efforts to build a workplace that values transparency, equity,

and inclusivity. Gaming connects communities around the world and showcases heroes from all backgrounds. I value playing a part in expanding the landscape of talent that creates these

We also implemented “Textio,” a writing tool that helps make the job description language more inclusive and gender-neutral. In 2022, the Talent team revised more than 5,500 job descriptions using Textio as a tool.



Level Up U

In 2021, we committed to investing \$250 million over ten years to accelerate employment opportunities for diverse talent in the gaming industry. In April 2022, we took an important step in making good on that commitment and invested approximately \$19 million to launch Level Up U. Level Up U is a groundbreaking, scalable, immersive talent training program that creates opportunities for developers.

Through Level Up U, we aim to remove barriers to employment and introduce new talent to Activision Blizzard, while also reshaping the industry's talent pool. Level Up U serves as a low-risk entry point for engineers from all backgrounds looking to begin a new career path. Participants are paid as full-time engineers during the program's duration, and regardless of background or experience, the program can help them obtain their first job, opening up opportunities for them in game studios around the world.

To design and lead the program, we hired Tad Leckman as Director of Learning and Development, and Dean of Level Up U. Tad brings more than 20 years of experience creating learning and development content for artists, designers, writers, and engineers. He's held senior roles in the gaming industry as well as several university professorships.

Level Up U was successful beyond our expectations. After completing a rigorous online assessment of their programming and problem-solving skills, more than 100 engineer applicants were hired into the Level Up U class. The selected applicants came from a broad range of backgrounds, including finance, defense, tech, and military fields. The cohort was also deeply diverse, including:

- **45% of participants who self-reported as either a woman or non-binary person**
- **40% of participants who self-reported as Hispanic or Latinx, Black or African American, Native Hawaiian or Pacific Islander, Asian, Native American**