

March 6, 2024

The Honorable Joe Biden
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Honorable Lael Brainard
Director of the National Economic Council
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

The Honorable Chuck Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Mike Johnson
Speaker
United States House of Representatives
568 Cannon House Office Building
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
United State House of Representatives
2433 Rayburn House Office Building
Washington, D.C. 20515

Dear President Biden, Director Brainard, Senate Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, and House Minority Leader Jeffries,

We write to urge you to provide enforcement agencies with the resources they need to rein in corporate lawbreaking. Alongside the Federal Trade Commission (“FTC”), the Department of Justice Antitrust Division (“DOJ Antitrust Division,” or “the Division”) plays a critical role in holding illegal, monopolistic behavior accountable. Despite this important responsibility, the Division has long been

deprived of the resources it needs to police anti-competitive behavior. This is why we are alarmed by proposed appropriations language released this week that would unravel the Merger Filing Fee Modernization Act enacted by Congress in 2022.¹ We are adamantly opposed to this and all efforts to undermine the Division's budget and urge all parties in negotiations to restore the Division's full access to merger filing fees.

While Congress has made little progress on antitrust priorities in recent years, the passage of the Merger Filing Fees Modernization Act was a bright spot and represented an important bipartisan success in supporting antitrust policy and enforcement. And it was a welcome departure from recent decades, in which Congress failed to give the Antitrust Division adequate resources to combat monopolistic actors even as corporate concentration sharply increased. As noted by Jonathan Kanter, Assistant Attorney General for the Antitrust Division, the Division employed some 230 fewer staffers as of February 2023 than it had in 1979.² Despite insufficient resources, the DOJ Antitrust Division has still worked tirelessly to rein in anti-competitive behavior across a variety of sectors, including airlines,³ publishing⁴ and the tech sector.⁵

At a time when American consumers are reeling from high prices, it should be a bipartisan priority to promote competition and prevent monopolistic behavior. American consumers need relief from unconstrained corporate concentration, and it would be a major mistake for Congress to roll back progress on reinvigorating antitrust enforcement. In addition, it would be a sign that lobbyists representing Big Tech and other monopolistic companies have succeeded at gutting funding to get their employers off the hook for ongoing or looming enforcement against illegal, anti-competitive behavior. In fact, *The New York Times* recently reported that the passage of the bipartisan Merger Filing Fee Modernization Act was critical in allowing the DOJ to proceed with its impending antitrust lawsuit against tech giant Apple, three years after its investigation began in 2019.⁶ For these reasons, we once again urge the White House and

¹ "Making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal year ending September 30, 2024, and for other purposes," page 36, https://www.appropriations.senate.gov/imo/media/doc/fy24_cjs_bill_text.pdf; Press release by Vinson & Elkins, "Congress Increases U.S. Merger Filing Fees, Adds Foreign Subsidy Disclosure Requirements, and Empowers State Attorneys General," January 10, 2023, <https://www.velaw.com/insights/congress-increases-u-s-merger-filing-fees-adds-foreign-subsidy-disclosure-requirements-and-empowers-state-attorneys-general/>

² *Bloomberg Law*, "Biden Seeks \$100 Million Boost for Justice's Antitrust Muscle, Dan Papsun, March 9, 2023, <https://news.bloomberglaw.com/antitrust/biden-seeks-100-million-budget-increase-for-doj-antitrust-unit>

³ Press release by the U.S. Department of Justice Office of Public Affairs, "Justice Department Statements on JetBlue Terminating Acquisition of Spirit Airlines," March 4, 2024, <https://www.justice.gov/opa/pr/justice-department-statements-jetblue-terminating-acquisition-spirit-airlines>

⁴ Press release by the U.S. Department of Justice Office of Public Affairs, "Justice Department Obtains Permanent Injunction Blocking Penguin Random House's Proposed Acquisition of Simon & Schuster," October 31, 2022, <https://www.justice.gov/opa/pr/justice-department-statements-jetblue-terminating-acquisition-spirit-airlines>

⁵ U.S. Department of Justice Antitrust Division, "U.S. and Plaintiff States v. Google LLC [2020] - Trial Exhibits," accessed March 4, 2024, <https://www.justice.gov/atr/us-and-plaintiff-states-v-google-llc-2020-trial-exhibits>

⁶ *The New York Times*, "U.S. Moves Closer to Filing Sweeping Antitrust Case Against Apple," David McCabe and Tripp Mickle, January 5, 2024, <https://www.nytimes.com/2024/01/05/technology/antitrust-apple-lawsuit-us.html>

congressional lawmakers to stand in opposition to the proposed appropriations text and accompanying conference report, and enhance funding for antitrust enforcers to do their jobs.

Sincerely,

20/20 Vision
Accountable Tech
American Indian Mothers (AIM)
Americans for Financial Reform
American Economic Liberties Project
Campaign for Family Farms and the Environment
Consumer Federation of America
Demand Progress
Economic Security Project Action
Electronic Frontier Foundation
Farm Action Fund
Future of Music Coalition
Institute for Local Self-Reliance
Kansas Black Farmers Association
Minnesota Farmers Union
National Farmers Union
Open Markets Institute
P Street
People Power United
People's Action
Public Citizen
Public Knowledge
Revolving Door Project
Rural Coalition
The Tech Oversight Project
Wisconsin Farmers Union
