

PRESIDENT

Karl A. Racine District of Columbia Attorney General

PRESIDENT-ELECT

# Tom Miller

Iowa Attorney General

VICE PRESIDENT

#### Josh Stein

North Carolina Attorney General

IMMEDIATE PAST PRESIDENT

### Jeff Landry

Attorney General

#### Chris Toth

**Executive Director** 

1850 M Street NW 12th Floor Washington, DC 20036 (202) 326-6000 www.naag.org May 10, 2021

The Honorable Amy Klobuchar Chair Subcommittee on Competition, Policy, Antitrust, and Consumer Rights 425 Dirksen Senate Office Bldg.

Washington, DC 20510

The Honorable David N. Cicilline Chair Subcommittee on Antitrust Commercial and Administrative Law 2233 Rayburn House Office Bldg. Washington, D.C. 20515 The Honorable Michael Lee Ranking Member Subcommittee on Competition Policy, Antitrust, and Consumer Rights 361A Russell Senate Office Bldg. Washington, DC 20510

The Honorable Ken Buck Ranking Member, Subcommittee on Antitrust, Commercial and Administrative Law 2455 Rayburn House Office Bldg. Washington, D.C. 20515

Re: Enhanced State Antitrust Enforcement

Dear Chairs Klobuchar and Cicilline and Ranking Members Lee and Buck:

The undersigned attorneys general are the chief legal officers of our respective 45 states and are charged with enforcing state and federal antitrust laws to protect our citizens and economies from anticompetitive conduct. Our offices occupy critical roles in the antitrust enforcement community, and our efforts complement those of the Antitrust Division of the U.S. Department of Justice and the Bureau of Competition of the Federal Trade Commission. We are encouraged by bipartisan legislative proposals and congressional reports to increase funding to these federal agencies and urge you to consider similarly supporting the states' antitrust enforcement capabilities.

We recognize that antitrust policy is at a pivotal moment, and a bipartisan consensus is growing in Congress and beyond that more robust antitrust enforcement across a multitude of markets is needed. At the forefront of this consensus is Big Tech where we are confronted daily with the effects of extreme concentrations of market power

amassed by firms in technology industries. Among other competition-related matters, state attorneys general have opened multiple investigations of Big Tech firms, some of which are ongoing and some resulted in pending lawsuits alleging antitrust violations. We bring these enforcement actions, as well as those involving other industries, in the public interest to protect consumers and the competitive process in our states.

Whether they are pursued in coordination with federal enforcers or in the form of a multistate group, antitrust investigations and litigation require significant human and technological resources, including significant resources for economic and other experts. Additional funding of antitrust enforcement is required at both the federal and state levels. As our nation's economy has grown, so too has the need to staff and finance a greater number of antitrust enforcement actions that are fundamentally more complex and resource-intensive than in the past. Allocating and optimizing funding for antitrust enforcement is a perennial challenge at the state level. Today, budgetary impacts of COVID-19 have exacerbated the problem and increased the risk of underenforcement. An appropriation of federal funding for state antitrust enforcement, particularly with respect to Big Tech litigation, will inure to the benefit of the economy and consumers throughout the United States.<sup>1</sup>

There is precedent for Congress aiding state antitrust enforcement consistent with our request. The Hart–Scott–Rodino Antitrust Improvements Act of 1976 revitalized both federal and state enforcement and notably authorized state attorneys general to bring damages actions as *parens patriae* on behalf of citizens in our states. In conjunction with this Act, Congress also passed the Crime Control Act of 1976, which, in part, authorized the U.S. Department of Justice to "provide assistance and make grants to states" in order "to improve the antitrust enforcement capability" of states. Crime Control Act, Pub. L. No. 94–503, S 309, 90 Stat. 2415 (1976). Many states used this seed money to establish their own antitrust divisions and enhance enforcement efforts throughout the country. More generally, there are other precedents for federal financial support for state enforcement activities, including COPS Hiring Program and the Edward Byrne Memorial Justice Assistance Grant Program. These could provide models for a similar program for state antitrust enforcement.

As Congress once again considers antitrust reform measures that will have significant impacts on our citizens and business communities for years to come, we encourage you to enhance the antitrust enforcement capabilities of the states, in addition to federal agencies. We thank you for your leadership on this important matter.

<sup>&</sup>lt;sup>1</sup> See Letter from Utah Attorney General Reyes to the U.S. House of Representatives Subcommittee on Antitrust, Commercial, and Administrative Law at pages 3–4 (Mar. 25, 2021) <a href="https://docs.house.gov/meetings/JU/JU05/20210318/111350/HHRG-117-JU05-20210318-SD005.pdf">https://docs.house.gov/meetings/JU/JU05/20210318/111350/HHRG-117-JU05-20210318-SD005.pdf</a>.

## Sincerely,

Phil Weiser

Colorado Attorney General

Wester

Douglas Peterson Nebraska Attorney General

Ken Paxton

Texas Attorney General

Treg R. Taylor

Alaska Attorney General

Rob Bonta

California Attorney General

Kathleen Jennings

athleen Annings

Delaware Attorney General

Leevin Taitano Camacho Guam Attorney General

Lawrence Wasden Idaho Attorney General Jon Millar

Tom Miller

Iowa Attorney General

SetitIA James

Letitia James

New York Attorney General

Sean Reyes

**Utah Attorney General** 

Leslie Rutledge

Arkansas Attorney General

William Tong

Connecticut Attorney General

Karl A. Racine

District of Columbia Attorney General

Clare E. Connors

Hawaii Attorney General

Kwame Raoul

Illinois Attorney General

Denk Schmidt foll Derek Schmidt

Kansas Attorney General

anon M. Fren

Aaron M. Frey

Maine Attorney General

Maura Healey

Massachusetts Attorney General

Keith Ellison

Minnesota Attorney General

Eric S. Schmitt

Missouri Attorney General

John M. Formella

New Hampshire Attorney General

**Hector Balderas** 

New Mexico Attorney General

Wayne Stenehjem

North Dakota Attorney General

Jeff Landry

Louisiana Attorney General

Brian Frosh

Maryland Attorney General

Dana Nessel

Michigan Attorney General

Lynn Fitch

Mississippi Attorney General

Aaron D. Ford

Nevada Attorney General

Gurbir S. Grewal

New Jersey Attorney General

Josh Stein

North Carolina Attorney General

**Edward Manibusan** 

Northern Mariana Islands Attorney General

Dave York

Dave Yost

Ohio Attorney General

Ellen F. Rosenblum

Oregon Attorney General

Domingo Emanuelli-Hernández Puerto Rico Attorney General

Alan Wilson South Carolina Attorney General

T.J. Donovan

Vermont Attorney General

PATRICK momsey

Bridget Siel

Patrick Morrisey

West Virginia Attorney General

Bridget Hill

Wyoming Attorney General

Milytuston

Mike Hunter

Oklahoma Attorney General

Josh Shapiro

Pennsylvania Attorney General

Peter F. Neronha

Rhode Island Attorney General

Jason R. Ravnsborg

South Dakota Attorney General

Mark R. Herry

oshua L. Kail

uson & Ray

Mark R. Herring

Virginia Attorney General

Joshua L. Kaul

Wisconsin Attorney General