

September 20, 2021

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, DC 20510

The Honorable Jerrold Nadler
Chair
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Dick Durbin
Chairman
Chair
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

The Honorable Jim Jordan
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

RE: 2021 Congressional Legislation to Update Federal Antitrust Laws

Dear Speaker Pelosi, Majority Leader Schumer, Minority Leader McCarthy, and Minority Leader McConnell:

As you know, state attorneys general are on the front line of consumer protections and antitrust enforcement for our respective states. This month, we were pleased to see a bipartisan plan in Congress unveiled to update federal antitrust laws.

A comprehensive update of federal antitrust laws has not occurred in decades. Given changes in technology, decreased competition in important sectors, and undue judicial skepticism towards robust enforcement, we applaud Congress for taking up the Ending Platform Monopolies Act¹, American Choice and Innovation Online Act², Platform Competition and Opportunity Act³, Augmenting Compatibility and Competition by Enabling Service Switching (“ACCESS”) Act⁴, Merger Filing Fee Modernization Act⁵, and State Antitrust Enforcement Venue Act⁶. The sponsors of these bills should be commended for working to ensure that federal antitrust laws remain robust and keep pace with that of modern markets.

¹ Ending Platform Monopolies Act of 2021, H.R. 3825, 117th Cong. (2021).

² American Choice and Innovation Online Act of 2021, H.R. 3816, 117th Cong. (2021).

³ Platform Competition and Opportunity Act of 2021, H.R. 3826, 117th Cong. (2021).

⁴ Augmenting Compatibility and Competition by Enabling Service Switching Act of 2021, H.R. 3849, 117th Cong. (2021).

⁵ Merger Filing Fee Modernization Act of 2021, H.R. 3843, 117th Cong. (2021).

⁶ State Antitrust Enforcement Venue Act of 2021, H.R. 3460, 117th Cong. (2021).

As state attorneys general, we are very supportive of Congress' efforts to modernize federal antitrust laws. As the antitrust bills move forward from the House Committee on the Judiciary for consideration by the full House of Representatives and, eventually, the Senate, we encourage Congress to continue making improvements to these important measures. These include provisions to further enhance consumer protections from unlawful and irresponsible mergers and business practices as well as necessary improvements to ensure that competition and innovation are not stifled. In addition, we urge Congress to include in the legislation a provision confirming that the states are sovereigns that stand on equal footing with federal enforcers under federal antitrust law, including with regard to the timing of challenging anticompetitive mergers and other practices.

As Congress considers how best to improve antitrust law, we encourage the House and Senate to prioritize protecting competition and innovation. We welcome the opportunity to discuss suggestions to address these critical considerations and to improve any of the proposed laws. We stand ready and willing to share our experience with members of Congress, including how our antitrust enforcement efforts have met inappropriate skepticism in the courts, as Attorneys General Peterson and Weiser recently explained in testimony before the House Antitrust Subcommittee⁷.

As H.R. 3825, H.R. 3816, H.R. 3826, H.R. 3849, H.R. 3843, and H.R. 3460 advance in the lawmaking process, we look forward to working with the House of Representatives and the Senate and being a resource to your members. It is critical, as we do so, that we advance measures to promote competition and that we not let this moment pass. There is simply too much at stake.

Sincerely,



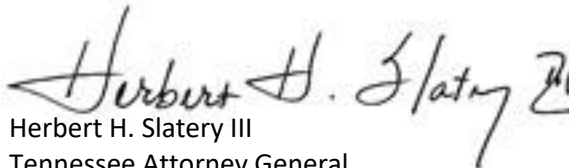
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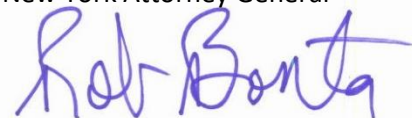
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California Attorney General



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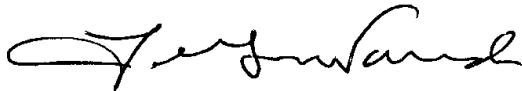
⁷ Reviving Competition, Part 3: Strengthening the Laws to Address Monopoly Power: Hearing Before the Subcomm. on Antitrust, Commercial, and Administrative Law, 117th Cong. (2021) (Testimony of Phillip J. Weiser and Doug Peterson).



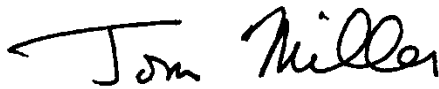
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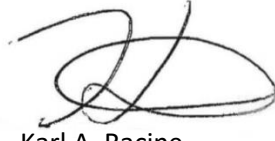
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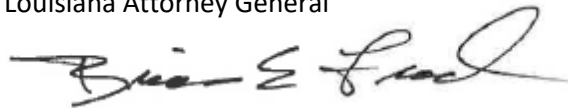
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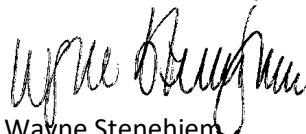
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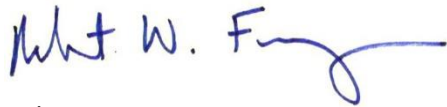
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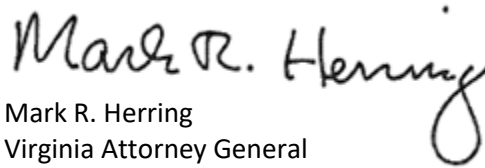
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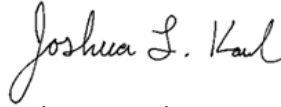
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