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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.¹

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.

¹ 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) <https://docs.house.gov/meetings/JU/JU05/20210318/111350/HHRG-117-JU05-20210318-SD005.pdf>.

Sincerely,



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Douglas Peterson
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Ken Paxton
Texas Attorney General



Treg R. Taylor
Alaska Attorney General



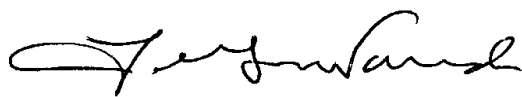
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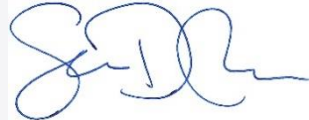
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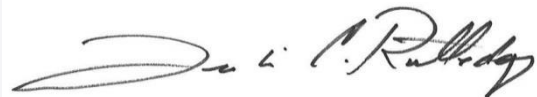
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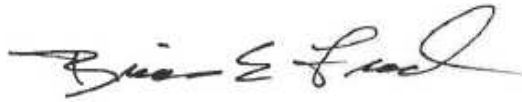
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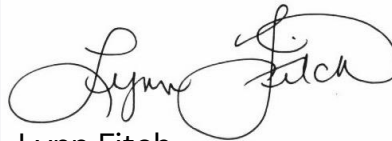
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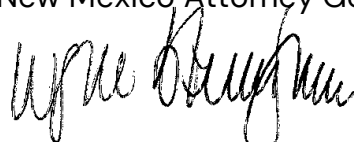
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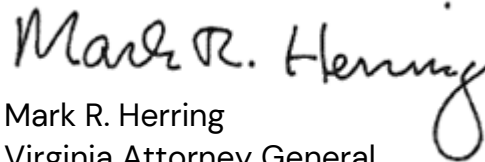
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