

October 6, 2021

Senator Richard Durbin
Chairman
Committee on the Judiciary
711 Hart Senate Office Bldg.
Washington, D.C., 20510

Senator Charles Grassley
Ranking Member
Committee on the Judiciary
135 Hart Senate Office Bldg.
Washington, D.C., 20510

Senator Amy Klobuchar
Chairwoman
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
425 Dirksen Senate Office Bldg.
Washington, D.C., 20510

Senator Michael Lee
Ranking Member
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
361A Russell Senate Office Bldg.
Washington, D.C., 20510

Chairman Durbin, Ranking Member Grassley, Chairwoman Klobuchar & Ranking Member Lee:

Public Knowledge writes in support of a quick confirmation for Jonathan Kanter as the Assistant Attorney General (AAG) for the Antitrust Division at the Department of Justice (DOJ). We believe that Mr. Kanter's significant litigation experience and commitment to strong antitrust enforcement make him the right enforcer for this critical juncture in competition and technology policy.

Jonathan Kanter has spent over 20 years being at the forefront of antitrust litigation. His groundbreaking work at the Kanter Law Group has been a pivotal component in the broader fight against dominant digital platforms. He's built a career looking out for smaller online businesses and consumers suffering under the power of digital gatekeepers. He's an innovative legal thinker and a consensus builder, qualities that should serve him well as he leads the Department of Justice's antitrust enforcement efforts. His arguments and writings helped us get to this important moment in Big Tech accountability. His advocacy, some before this very Committee, has showcased his deep knowledge of competition policy and the ways it can be reformed to better protect competition and consumers.

After years of underenforcement, agencies like the Federal Trade Commission (FTC) and Department of Justice are pushing harder than ever to address the dangers caused by the gatekeeper power of Big Tech. In particular, the DOJ case against Google has already been proceeding apace. A permanent head of the Antitrust Division like Kanter would strengthen that impressive work while pushing other ongoing investigations forward. The FTC, under Chairwoman Khan's leadership, is already streamlining procedures and reevaluating old ways of thinking to better fulfill its mission. It's essential that Mr. Kanter is swiftly confirmed so the DOJ can move forward with similarly important decisions about its work.

Getting bold leaders like Mr. Kanter in place is just one part of the antitrust puzzle. Strong enforcement is needed, but we also need to update our antitrust laws, significantly increase agency resources, and provide our enforcers with new legal tools to fully address competition concerns from dominant digital platforms. Together with the statutory tools Congress can provide, the Antitrust Division will be fully equipped to achieve their mission of promoting economic competition. In tandem, we urge the Judiciary Committee to take up bills like Senator Klobuchar's *Competition and Antitrust Law Enforcement Reform Act of 2021* and Senator Blumenthal's *Open App Markets Act*. The Committee has already done laudable work passing through the *Merger Filing Fee Modernization Act of 2021* to help solve the Antitrust Division's funding crisis.

The pro-enforcement agenda should apply across the economy, including work relating to intellectual property (IP) and to broadband. Intellectual property rights can be an important innovation incentive, but courts have long recognized that patents, copyright, and trademark can be abused to restrict competition, and that there is no IP exception to antitrust law. We hope a Kanter-led Antitrust Division will continue this longstanding practice. We must see an end to the ongoing consolidation of the mobile broadband market and a bold DOJ should work in concert with the Federal Communications Commission (FCC) to ensure that consumers have choices in both mobile and fixed broadband offerings. Robust policing of anticompetitive conduct from internet providers can ensure consumers have affordable, high-quality broadband options and that providers cannot leverage their control of a user's internet on-ramp to restrict competition.

The challenges facing antitrust enforcers are immense. If we want to revitalize competition across the entire economy, we need audacious leaders like Jonathan Kanter at the Antitrust Division leading the way.

Thank you for your continued leadership in this area,

/s/ Charlotte Slaiman

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/s/ Alex Petros

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