



March 5, 2019

The Hon. Mike Lee
Chairman
Subcommittee on Antitrust,
Competition Policy, and Consumer
Rights
361A Russell Senate Office Building
Washington, D.C. 20510

The Hon. Amy Klobuchar
Ranking Member
Subcommittee on Antitrust,
Competition Policy, and Consumer
Rights
425 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Lee and Ranking Member Klobuchar:

We applaud the Subcommittee for addressing the important issue of increasing concentration in many significant sectors of our economy. This hearing, “Does America Have a Monopoly Problem?: Examining Concentration and Competition in the US Economy” is an excellent opportunity for members to learn more about the problems of consolidation and how to address them.

We believe that a judicial narrowing of what constitutes a violation of our competition laws, together with periods of inadequate antitrust enforcement and deregulation have contributed to significant problems in numerous markets, including telecom, media, airlines, agriculture and healthcare industries. Now we are seeing similar problems unfold in the digital marketplace.

We therefore support Sen. Klobuchar's S. 306, the Merger Enforcement Improvement Act, as well as S. 307, the Consolidation Prevention and Competition Promotion Act, and any similar legislation that would improve the ability of the Federal Trade Commission and Department of Justice Antitrust Division to enforce the antitrust laws fully and effectively. These bills are an important step in promoting more competitive markets throughout the economy by making it easier for enforcement agencies to challenge anticompetitive abuses.

However, the progress that would be made by enacting these bills' passage would still not be enough to solve the myriad problems related to consolidation and stagnation in our economy. Historically it has taken pro-competition regulatory action working in conjunction with strong antitrust enforcement to break markets open to robust competition and to temper the tendency for certain types of markets to tip towards increased concentration.

Platforms in the digital marketplace have provided consumers with excellent products and services, and in many ways have created and built opportunities for small businesses

to flourish. They may also use their power to make things difficult in a variety of ways for competitors, and even their own users, as well as small businesses that rely on them to reach customers. Regulations to promote competition on digital platforms and between digital platforms are now needed to preserve an open internet that works for individual users and small businesses. Regulations like those used to promote competition in other communications industries should be considered. Requirements like interconnection, non-discrimination, and open access seem especially apt here.¹

We urge the Subcommittee to consider legislation that would expand all of these tools -- both antitrust and targeted regulation -- to promote maximum competition and innovation across the economy.

Sincerely,

/s/ Gene Kimmelman
President & CEO
Public Knowledge

/s/ Charlotte Slaiman
Policy Counsel
Public Knowledge

¹ See this post with the German Marshall Fund for more information. Gene Kimmelman, *To Make the Tech Sector Competitive, Antitrust Is Only Half the Answer*, available at <http://www.gmfus.org/blog/2019/02/19/make-tech-sector-competitive-antitrust-only-half-answer>.