

April 21, 2021

President Joseph R. Biden, Jr.  
President of the United States  
The White House  
1600 Pennsylvania Ave, N.W.  
Washington, D.C., 20500

Senator Maria Cantwell  
Chairwoman  
Committee on Commerce, Science,  
& Transportation  
511 Hart Senate Office Bldg.  
Washington, D.C., 20510

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

Senator Roger Wicker  
Ranking Member  
Committee on Commerce, Science,  
& Transportation  
555 Dirksen 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

Dear President Biden, Chairwoman Cantwell, Ranking Member Wicker, Chairman Durbin, and Ranking Member Grassley,

Public Knowledge writes to urge swift confirmation for Lina Khan as a Commissioner for the Federal Trade Commission. In parallel, we write to request swift nomination and confirmation of leadership roles at both the FTC and the Department of Justice's Antitrust Division -- specifically, an additional Democratic FTC Commissioner and the Assistant Attorney General for Antitrust.

Public Knowledge applauds the nomination of Professor Khan as a signal that this Administration is serious about protecting consumers and tackling concentrations of power in the technology sector. Professor Khan is a visionary antitrust scholar, whose work has already encouraged enforcers to better safeguard consumers and society from dominant technology platforms. In particular, we would highlight her scholarship on expanding the FTC's regulatory toolkit and advocating for competition-focused rulemaking.<sup>1</sup> This is the time for big, bold action from the FTC, and we are confident that Professor Khan will move the FTC in the needed direction for consumers.

Professor Khan's history of advocating for the public interest culminated in her recent work with Chairman David Cicilline's House Antitrust Subcommittee. She helped craft the magisterial

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<sup>1</sup> Rohit Chopra and Lina M. Khan, *The Case for "Unfair Methods of Competition" Rulemaking*, 87 U. CHI. L. REV. 357 (2020).

report on major technology platforms that will be a resource for policymakers and advocates as our country considers policy solutions to address the dominance in these markets and how best to protect consumers as they engage in the digital space. We hope that Professor Khan will be able to use her position as a Commissioner at the FTC to make that report's relevant recommendations a reality.

As we recover from a global pandemic, nurturing a competitive and equitable economy is among our greatest priorities. Consumers are threatened by digital gatekeepers that, left unregulated, will exploit consumers, by mining their personal data for financial gain and foreclosing real consumer choices that can protect consumers from abusive practices. Innovation in crucial technology sectors has stagnated due to lack of competitive incentives, which could result in ceding our technological edge to foreign rivals. The time to act to protect consumers and competition in the digital marketplace is now.

We are at a crossroads when it comes to confronting the unchecked power of dominant digital platforms. Digital giants like Facebook, Google, Apple, and Amazon have grown relatively unimpeded -- gobbling up nascent and potential competitors and creating fiefdoms with treacherous competitive moats. However, the tide is turning. Recently, federal enforcers filed major monopolization cases against Facebook and Google. It is critical that the Biden administration capitalizes on that momentum and expands on this important work.

Unfortunately, the U.S. risks being left behind by its international counterparts without bold action. Both the European Union and the United Kingdom have gone beyond competition cases to offering pro-competitive regulatory packages to rein in Big Tech for European consumers. We need parallel work here in the U.S., and it cannot move forward until a full suite of bold antitrust thinkers are in place throughout the Biden administration, focused on promoting competitive markets and protecting consumers.

Under Acting Chairwoman Rebecca Kelly Slaughter's leadership, the FTC is already signaling that now is the time for courageous action. This is a positive sign that the Chairwoman recognizes the need for the FTC to make full use of its broad suite of powers to rein in Big Tech. However, she needs reinforcements. We urge Ms. Khan's swift confirmation, followed by the confirmation of another strong public interest advocate.

The FTC is not alone in shouldering the load of aggressive antitrust enforcement, including against Big Tech companies with nearly limitless resources. The Department of Justice also needs a strong, pro-enforcement leader for the Antitrust Division to root out, stop, and remedy anticompetitive conduct and mergers across the economy. The Department's landmark case against Google is particularly important.

With the right people at the helm, federal enforcers can reinvigorate and restore consumer protection and competition in the digital marketplace.

Thank you for your continued leadership in this area,

/s/ Charlotte Slaiman

Charlotte Slaiman

Competition Policy Director

Public Knowledge

/s/ Alex Petros

Alex Petros

Policy Counsel

Public Knowledge