

May 10, 2021

ATTORNEY GENERAL RAOUL CALLS ON CONGRESS TO SUPPORT FEDERAL FUNDS FOR STATE ANTITRUST ENFORCEMENT

Bipartisan Coalition of 45 AGs Request Support for Critical State Enforcement Efforts that Promote Competition and Benefit Consumers

Chicago — Attorney General Kwame Raoul, as part of a bipartisan coalition of 45 attorneys general, today sent a letter to congressional leaders requesting the federal government provide the necessary funding to support state antitrust enforcement efforts.

“States are actively engaged in investigations and litigation aimed at protecting residents from Big Tech’s anticompetitive behavior. The partnerships between states and the federal government to safeguard the competitive process are critical and require significant resources,” Raoul said. “I encourage Congress to support our efforts by passing legislation that will ensure that states are able to continue to undertake robust enforcement action against companies seeking to stifle competition at our residents’ expense.”

State attorneys general around the country are currently leading antitrust cases against powerful and sophisticated Big Tech firms. Late last year, Attorney General Raoul joined a bipartisan coalition of 48 attorneys general in a lawsuit against Facebook for anticompetitive conduct, as well as a bipartisan coalition of 38 attorneys general in suing Google on antitrust grounds. Additionally, in 2019, Attorney General Raoul joined a coalition of attorneys general in filing an antitrust lawsuit to stop the merger of T-Mobile and Sprint.

These are just some of the examples of the many types of enforcement actions states have and can bring to challenge anticompetitive conduct by major players with vast resources in a variety of industries. Often working closely with federal partners, states bring these enforcement actions in the public interest to protect consumers and the competitive process.

Raoul and the coalition [note in their letter](#) to the chairs and ranking members of the respective Senate and House committees that as the 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. There is a growing bipartisan consensus that antitrust is at a turning point, and Congress currently is considering a number of measures that would enable more robust enforcement. Whether antitrust investigations and litigation are pursued together with federal partners or in multistate coalitions, they require massive commitments by lawyers and experts, as well as significant technological resources. Congress is already considering additional funding for the federal agencies, but funding for state agencies will enhance the states’ ability to fulfill their obligations as integral partners to the U.S. Department of Justice and the Federal Trade Commission and as part of Congress’ plan for protecting competition.

Joining Attorney General Raoul in sending today’s letter are the attorneys general of Alaska, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the territories of Guam, the Northern Mariana Islands, and Puerto Rico.



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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
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2233 Rayburn House Office Bldg.
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The Honorable Michael Lee
Ranking Member
Subcommittee on Competition
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361A Russell Senate Office Bldg.
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The Honorable Ken Buck
Ranking Member,
Subcommittee on Antitrust,
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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,



Phil Weiser
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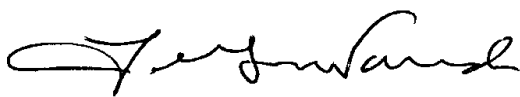
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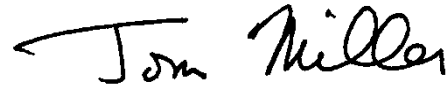
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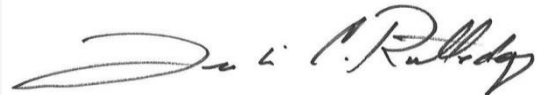
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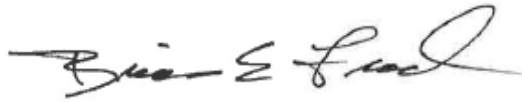
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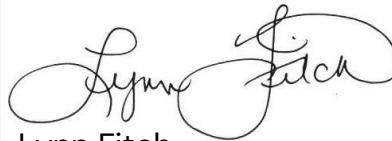
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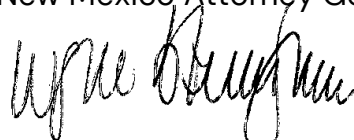
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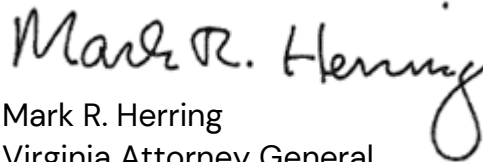
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