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FAIR TREATMENT

October 19, 2023

Dear President Biden,

We are strong supporters of your all-of-government competition policy and thank you for the many ways it is being implemented to help consumers, workers, and smaller businesses. We appreciate your 2023 State of the Union focus on the threats posed by “Big Tech” and your commitment to address these problems, including through landmark litigation against Amazon and Google.

We are writing today to urge you and your administration to coordinate with similar efforts underway worldwide. Specifically, we urge you to be supportive of the robust implementation of the European Union’s Digital Markets Act of 2022 (DMA). With a relatively few Big Tech giants dominating the digital sphere globally, it will help achieve our shared competition goals for countries worldwide to act to address this imbalance.

Certainly, the Big Tech monopolists have a global strategy to *evade* oversight and protect their monopoly power. They and their proxies like the Chamber of Commerce are lobbying against U.S. competition initiatives and simultaneously attacking similar policies around the world. We urge you and your administration to coordinate with other governments that share your goal of ending monopoly abuses against competing businesses, workers, and consumers. Coordinating efforts will maximize the likelihood of success.

The Big Tech firms are aware of this. That is why they are trying to generate disputes between countries as a tactic to defeat oversight. One ploy is to claim that other countries’ anti-monopoly policy is “discriminatory” and violates trade principles. This misleading tactic is based on the reality that when anti-monopoly laws target the largest firms with the biggest effects on markets and competition, as they must to be effective, this can impact firms from other countries.

Big Tech lobbyists are now trying to use the EU’s recent designation of six companies as “gatekeeper” companies that must meet certain rules under the DMA to argue that the U.S. government should oppose the DMA. But this European policy, which the tech corporations oppose just as they oppose U.S. competition policy initiatives, is consistent with the Biden administration’s laudable fight for fair markets. The six firms named gatekeepers meet objective criteria related to their size and power, and thus threats they pose. These quantitative criteria determine if some core platform services provided by giant firms today or in the future are an important gateway between businesses and consumers. For a service to be designated as such: A firm must (i) have at least €7.5

billion in annual turnover or a market capitalization of at least €75 billion in the EU, (ii) provide a core platform service in at least three EU member countries, and (iii) have more than 45 million monthly users and 10,000 yearly business users in the EU and have met the user criterion during the last three years.

These size and impact criteria apply irrespective of the national origin of firms or their investors or boards. The DMA does not intentionally target only U.S. firms: Chinese firm ByteDance/TikTok was designated a gatekeeper. That designation also punctures the Big Tech lobby's claim that laws like the DMA will somehow 'help China'. These facts make the Big Tech lobby claims of "discrimination" especially cynical. The targeting in the DMA is against monopoly power, which is the EU law's purpose and that of similar U.S. anti-monopoly efforts. Indeed, the congressional antitrust package that the administration supported in the 117th Congress also used similar criteria based on the number of users, market capitalization or net sales, and how unavoidable an online platform is for small businesses to reach consumers.

We urge you to announce public support for robust DMA implementation. Doing so will benefit the competing firms, workers, and consumers in the United States whose interests you seek to further by promoting competition. It would also demonstrate to countries with which the United States seeks to partner on many important goals that the Biden administration is a reliable ally that stands by its principles.

Sincerely,

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