

January 18, 2024

Sen. Patty Murray, Chair
Sen. Susan Collins, Vice Chair
Senate Committee on Appropriations
Room S-128, The Capitol
Washington, DC 20510

Rep. Kay Granger, Chairwoman
Rep. Rosa DeLauro, Ranking Member
House Committee on Appropriations
Room H-307, The Capitol
Washington, DC 20510

Dear Senator Murray, Senator Collins, Congresswoman Granger, and Congresswoman DeLauro:

We are concerned by recent reporting that budget limitations over the past four years have prevented the Department of Justice’s Antitrust Division from fully investigating anti-competitive actions by America’s largest technology companies.

Big Tech’s monopolistic behavior leads to higher prices for consumers, puts their personal information at risk, and locks competitors out of the market. We’re writing to you to strongly urge you to increase funding for the DOJ Antitrust Division in the current appropriations cycle — so it can fully carry out its mission of protecting the public from corporate abuse.

Under the leadership of Assistant Attorney General Jonathan Kanter, it has been encouraging to see the Division — with significant bipartisan Congressional support — expand its enforcement actions against Big Tech. We were particularly heartened to see the Google local search lawsuit — the most significant tech antitrust action in two decades — come to trial this past fall.

Now the Antitrust Division is [reportedly on the verge](#) of filing a similar lawsuit against Apple. But its ability to prosecute it is contingent on staffing, and securing adequate funding is an annual problem for the Division. According to [DOJ sources](#), the Apple investigation was delayed for three years: “[the DOJ] prioritized its antitrust review of Google over Apple because it lacked the financial resources and personnel to fully evaluate both companies.”

America's antitrust enforcers shouldn't have to pick their battles. But without sufficient funding, they do. And to resolve this problem, we depend on you.

The examples of Big Tech market abuses are legion, and have been widely documented through investigations, reporting, and trial testimony over more than two decades. And they continue. Just in the past year:

- Google and Apple saw extensive damning testimony about their collusive behavior come out during last year's [closely watched trial](#). [Apple's CEO Tim Cook told Google's CEO Sundar Pichai](#) that he wanted the two to "work as if we are one company," as "deep, deep partners" with services that are "deeply connected." In exchange for helping Google manipulate the online search market, Google helps Apple cement the dominance of the iPhone. Both companies win — but consumers lose.
- Apple [blocked](#) the message service Beeper Mini, which threatened its tight control over the iPhone's widely used iMessage service by enabling secure and encrypted message exchange with Android users for the first time. This has sparked concern by [both the Federal Trade Commission and the Justice Department](#).
- Amazon raised the price of its ad-free Prime Video service by 26%, while continuing to [manipulate the enrollment and account management process using "dark patterns."](#) The FTC filed a federal complaint [in November](#) over the company's "years-long effort to enroll consumers into its Prime program without their consent while knowingly making it difficult for consumers to cancel their subscriptions to Prime."
- Facebook was found to have [violated EU privacy laws](#) by unlawfully pressuring consumers to consent to using their personal data for advertising purposes — resulting in a \$414 million fine.

As a first step, we applaud the 117th Congress for increasing the funding available to the Antitrust Division, by incorporating the provisions of the Merger Filing Fee Modernization Act of 2022 (S.228/H.R.3843) [into the 2023 Consolidated Appropriations Act](#) (H.R.2617). [The resulting budget increases](#) (17% for the DOJ and 13% for the FTC) were significant, and helped the Antitrust Division [open 19 new cases](#) last year — including the Google case. But now the Division is at risk of seeing the increase withdrawn, with a cut of [as much as \\$50 million](#), in the current appropriations cycle.

The scale of the challenge is vast, and Big Tech is aggressively working to forestall antitrust action. Together, the five Big Tech companies [spent](#) almost \$70 million — more than a third of the [entire DOJ budget](#) — lobbying the federal government in 2022. [Apple](#), the subject of the pending case, spent more than \$9 million.

At the margins, the capacity of the Antitrust Division scales directly with its funding for personnel, which is an appropriations matter. We strongly encourage you to increase funding for the Department of Justice's Antitrust Division in the current cycle, so that they can cast their net widely enough in 2025 to address *every* violation that raises prices, risks privacy, and limits market choice for ordinary Americans.

Sincerely,

The Tech Oversight Project
American Economic Liberties Project
Accountable Tech
Blue Future
Center for Digital Democracy
Consumer Federation of America
Demand Progress
Fight For The Future
Institute for Local Self-Reliance
Open Markets Institute
Oxfam America
P Street
Public Knowledge
Revolving Door Project

CC: Jeff Zients, White House Chief of Staff
Lael Brainard, Director of the National Economic Council
Merrick Garland, U.S. Attorney General
Lisa Monaco, U.S. Deputy Attorney General
Vanita Gupta, Associate Attorney General
Jonathan Kanter, Assistant Attorney General for Antitrust