

February 3, 2021

To President Joseph R. Biden, Jr.:

The below undersigned independent business associations represent over 60,000 independent businesses across the country from industries including pharmacies, office supplies, booksellers, and many others. Small, independent businesses are the lifeblood of a dynamic and equitable economy. Their ability to thrive and grow will be key to a robust recovery. Across many industries, however, small businesses are imperiled by highly concentrated markets and rampant market power abuse by dominant corporations. Before Covid-19, small businesses in many sectors were already rapidly disappearing.¹ At the same time, fewer new businesses have been opening their doors. The number of businesses launched each year has shrunk by almost two-thirds since 1983.²

While there are multiple drivers of these trends, by far the most significant is the consolidation of economic power. In recent decades, the federal antitrust enforcement agencies have failed to stop dominant corporations from engaging in abusive and anticompetitive conduct at the expense of independent businesses, including our members. They have allowed dominant firms to use predatory and exclusionary tactics to hobble their small competitors.³ They have declined to block anticompetitive mergers, including vertical acquisitions that have given dominant corporations control over key suppliers and other firms that our members depend on.⁴ Finally, they have failed to address the tremendous power wielded by dominant digital platforms, such as Amazon, which functions as a gatekeeper to the online market, a position it has exploited to the detriment of competing independent businesses.⁵

This is the leading issue impacting our members. A 2019 survey of independent businesses found that two-thirds favor more vigorous antitrust enforcement (while only 7 percent oppose increased enforcement).⁶

We urge your administration to use all the policy levers at your disposal to strengthen antitrust policy and enforcement. Your administration and regulatory agencies, including the Federal Trade Commission (FTC) and Department of Justice (DOJ), should prioritize reinvigorating anti-monopoly policy.

¹ See: <https://ilsr.org/fighting-monopoly-power/americas-monopoly-problem-and-why-it-matters/>

² See: <https://www.thenation.com/article/society/democrats-labor-business-monopoly/>

³ See, e.g.,: <https://www.theamericanconservative.com/articles/the-rebirth-of-independent-pharmacies/>; <https://www.openmarketsinstitute.org/publications/petition-federal-communications-commission-ban-exclusionary-contracting>; <https://ilsr.org/amazons-monopoly/>; and <https://www.wsj.com/articles/craft-brewers-take-issue-with-ab-inbev-distribution-plan-1449227668>

⁴ See, e.g.,: <https://ilsr.org/stacy-mitchell-on-staples-essendant-merger-in-washington-monthly/>

⁵ See: <https://www.wsj.com/articles/amazon-competition-shopify-wayfair-allbirds-antitrust-11608235127>; https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519; and https://ilsr.org/amazons_tollbooth/.

⁶ See: <https://ilsr.org/2019-independent-business-survey/>

Personnel appointments are pivotal. We urge your administration to appoint personnel who are willing to address the concentrated market structures and abuses that are impeding independent businesses and threatening their survival. We are hopeful you will choose FTC commissioners and leaders at the Justice Department who are committed to using the full range of these agencies' expansive powers. This is especially crucial in regard to the FTC, which was created by Congress to police "unfair methods of competition," including through rulemaking, and yet has declined to use these tools to ensure a fair playing field and vigorous competition.⁷

We believe that it is imperative that you avoid appointing individuals who have served as lawyers, lobbyists, or consultants for Amazon, Apple, Facebook, and Google to key antitrust enforcement positions. Instead, we encourage you to appoint experienced litigators or public servants who recognized the dangers of, rather than helped to exacerbate, these corporations' market power.

As you know, the House Subcommittee on Antitrust, Commercial and Administrative Law recently completed a comprehensive investigation into the monopoly power of Apple, Amazon, Facebook, and Google.⁸ Its findings and its legislative and regulatory recommendations to rein in the power of these corporations have garnered bipartisan support. The investigation concluded that the antitrust authorities have repeatedly fallen down on the job—stating that "together with the DOJ, the FTC has chosen to stop enforcing certain antitrust laws entirely." The report makes a range of recommendations to revive antitrust enforcement, which we believe will help enable independent businesses to compete in the marketplace.

Reviving antitrust enforcement requires personnel appointments who are committed to restoring competition, ensuring small businesses have a fair shot, and willing to use the full extent of their legal authority granted by Congress. Furthermore, appointing personnel willing to address the structural obstacles small businesses face is critical to achieving the objectives you laid out for economic recovery in the Build Back Better agenda and, ultimately, to stabilizing and strengthening the U.S. economy.

Sincerely,

Alliance for Pharmacy Compounding
American Booksellers Association
American Independent Business Alliance
American Specialty Toy Retailing Association
Austin Independent Business Alliance
Cambridge Local First

⁷ See: https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf

⁸ See: https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf

Dane Buy Local
Independent Office Products and Furniture Dealers Association
Local First Arizona
Local First La Plata
Louisville Independent Business Alliance
Lowcountry Local First
North American Paint and Hardware Association
Running Industry Alliance
Spokane Independent Metro Business Alliance