

U.S. Department of Justice
Antitrust Division
Attn: Kenneth Dintzer
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SUBJECT: Joint Open Letter on Antitrust in Texas

Texas is a low economic regulation, free market State. As a result, Texas has a legacy of pioneering innovation and technology. From the invention of the handheld pocket calculator at Texas Instruments to the home of Dell Computer, the technology industry has helped shape our state's diverse and innovative economy. Our business-friendly environment has attracted investment from many technology companies, rivaling California's Silicon Valley. While most Texas industries have taken decades to expand, the modern technology industry has injected unrivaled growth into Texas' economy in a matter of a few short decades.

- Amazon, founded in 1994, began as a small upstart online bookseller. Today, Amazon has invested \$10.5 billion in the Lone Star State, including customer fulfillment, cloud infrastructure, research facilities, and employee compensation. The company has more than 20,000 full-time employees in Texas, with plans to further expand operations in the state.
- Apple, on the verge of bankruptcy in the mid-1990s, was revived, creating a uniquely American comeback and success story. Apple's second-largest corporate presence in the world is in Austin, where the company broke ground on a \$1 billion, 3-million-square-foot campus in 2019. Apple supports jobs and the local economy by using 515 Texas-based suppliers and provides jobs for more than 8,000 employees in the state.
- Google, a company that began in a garage in 1998, employs more than 1,500 Texans. In 2019, Google helped provide \$26.03 billion in economic activity for 110,900 Texas businesses, nonprofits, and developers. In June of 2019, Google broke ground on its \$600 million data center in Midlothian, Texas.

From infrastructure investment to energy and manufacturing, information technology is a critical part of our economic system. According to the Texas Economic Development Corporation, nearly 204,000 Texans are employed in the technology sector.

Despite the important ecosystem that makes Texas an information technology powerhouse, the industry is under fire from certain groups in Austin and Washington, D.C. with what appears to be misguided antitrust pursuits that could have a serious negative impact on our state and its economy.

History of Antitrust

According to the Federal Trade Commission, antitrust laws were passed by Congress to protect consumers by promoting competition in the marketplace. Antitrust laws were originally passed by the U.S. Congress in the late 1800s to address market concerns related to the railroad, oil, steel, and sugar industries. A few of the most notable antitrust cases in our nation's history include the pursuit of Bell System in the 1980s for monopolistic control over telecom, Kodak for cornering the market for photography and film products, and Standard Oil for engaging in unreasonable restraint to trade. These

cases had one thing in common: consumer harm. Consumer choice was largely non-existent because there were no competitive marketplace options.

The Wrong Approach

Much of antitrust law never contemplated our modern information technology economy. Consumer choice has never been more alive and well than in today's technology marketplace. Consumers have options, transparency, and more access than ever before, right at their fingertips, and at the click of a button.

The growth of modern technology companies and their products have empowered the consumer and business owner more than ever before. Americans can start and grow a business from almost anywhere harnessing free and low-cost platforms to access marketing, advertising, sales, and communications tools. Competition is fierce among tech companies, and startups and incubators leverage a talented workforce and open market, continually innovating and claiming market share. Startups like Hey and Superhuman are changing how we use email in competition with Gmail, while others like Nuvia are challenging the likes of Apple in the processor chip market.

Antitrust laws can be a necessary enforcement tool for government. However, they should help preserve and enhance the playing field for competition in our market-based economy. Those laws would be misapplied however, when considering the posturing currently being contemplated against today's technology companies. Political expediency should not eclipse the correct application of antitrust actions.

It's a difficult argument to claim the consumer has been harmed by the growth of technology. If you don't like using Google, then opt for DuckDuckGo or Bing. If Amazon doesn't offer the price you are looking for, then shop directly with Walmart or one of your local retailers. In previous antitrust cases such as Standard Oil, the range of options were not available to the consumer like they are today.

The case against technology companies has largely played out in Washington as an exercise in political maneuvering. And how does this maneuvering justify making American-owned companies less competitive? China's technology sector methodically infiltrates and occupies global markets. In a global race for dominance in data, artificial intelligence, 5G technology, and mobile connectivity, we need our government officials to work in coordination with American technology companies and protect their freedom to excel, rather than handicap their ability to be an asset for our national security.

Big Tech Policy

Antitrust actions – encouraged by competing businesses – are often corporate warfare tactics conveniently disguised as a means of consumer protection. However, American consumers have realized enormous benefits from the technology companies being examined.

Imagine a day without Amazon delivery, Google searches, or the power of an App Store that has revolutionized everything from personal health to transportation. Some politicians are utilizing antitrust law to focus on the size of technology companies, rather than the interest of the consumer or the vibrant competition in the marketplace. Ultimately, Texans will pay the price.

Starting the examination of these technology companies under the heavy hand of existing antitrust laws seems misguided. Instead, we support the commencement of thoughtful conversations about reforming

antitrust laws and updating fair competition standards to make them more applicable and equitable with respect to our modern digital economy. Should Google be pursued under the same legal threshold of Standard Oil and Kodak? Of course not.

When did free enterprise become the enemy of the people in America? On the contrary, free enterprise and world-class technology are critical to the health of our economy, our national security, and the future prosperity of our nation.



The Honorable Henry Cisneros
Former Secretary of Housing
and Urban Development &
Mayor of San Antonio



The Honorable Tom Loeffler
Former United States
Congressman & Chairman of
the University of Texas Board of
Regents



The Honorable Steve Bartlett
Former United States
Congressman & Mayor of Dallas



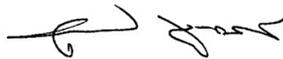
The Honorable Dan Branch
Former Member of the Texas
House of Representatives &
Candidate for Texas Attorney
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The Honorable John T.
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The Honorable Henry Bonilla
Former United States
Congressman



The Honorable Craig Enoch
Former Associate Justice of the
Texas Supreme Court

CC: William Barr, United States Attorney General