

United States Senate
WASHINGTON, DC 20510

March 18, 2021

The Honorable Rebecca Kelly Slaughter
Acting Chair
Federal Trade Commission
600 Pennsylvania Ave NW
Washington, D.C. 20580

Dear Acting Chair Slaughter,

We write regarding major new revelations regarding the Federal Trade Commission's (FTC) antitrust investigation into Google, and its determination not to pursue enforcement actions in accordance with the nation's antitrust laws. Today, we also sent a letter to the Chairman of the Senate Committee on the Judiciary demanding a hearing on this matter, and expect FTC officials to appear before Congress to publicly testify about the decision not to pursue enforcement.

Not since the Gilded Age have so few firms dominated such large swaths of the U.S. economy. Recent reporting from *Politico* provides some insight into the regulatory failures that allowed for the current state of affairs to metastasize.¹ The reporting details previously undisclosed internal memorandums from FTC lawyers and economists, written from 2011 to 2013 during the agency's investigation into Google's business practices. The reporting confirms what has become increasingly apparent in recent years: confronted with the most consequential antitrust case in a generation, and ample evidence of market power and anticompetitive conduct, the FTC failed to act. Rather than enforce the antitrust laws enacted by Congress, the Obama Administration's FTC, after a 19-month investigation, instead agreed to a non-binding sweetheart deal proposed by Google itself. This is outrageous.

Unsurprisingly, this regulatory slap on the wrist did little to discourage the tech firm from deploying anticompetitive practices in its quest for monopoly power. In the intervening years, Google has amassed an ever-growing market share in search and digital advertising and smartphones, and has exploited that market power to make inroads into other product lines and services, oftentimes discriminating against its competitors. As distressing as these consequences may be, the FTC's inaction has had consequences far beyond the market power of a single firm or the market concentration of a single industry. The FTC's failure to enforce the nation's antitrust laws signaled to similarly dominant market participants, in tech or elsewhere, that compliance is optional. In other words, lax enforcement of our laws encourages lawlessness. This has had broad-sweeping implications for our economy, our culture, and our democracy.

The regulators responsible for this era of underenforcement must be held to account, under oath. We urge you to cooperate with congressional efforts to conduct oversight into enforcement—or, underenforcement—of our nation's antitrust laws.

¹ <https://www.politico.com/news/2021/03/16/google-files-ftc-antitrust-investigation-475573>

Sincerely,



Josh Hawley
United States Senator



Mike Lee
United States Senator



Marsha Blackburn
United States Senator