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An Open Letter to Public Officials: Consumer Welfare Standard Should Guide Antitrust Policy

We, the undersigned economists and legal experts, write to express concern regarding the government's approach toward antitrust and competition policy, embodied recently in federal and state litigation against tech firms, as well as legislative proposals to ban mergers or radically restructure industries. We urge public officials to be wary of antitrust activities that distort existing antitrust standards and do not focus on real harm to consumers. Such caution is especially critical now, as consumers here and around the world have benefited from the existing robust, adaptable business structures that have efficiently responded to the pandemic.

History shows that these antitrust actions and proposals have major potential to: deprive consumers of choices, limit the ability of entrepreneurs to innovate, deny workers and shareholders opportunities to build wealth, confer artificial benefits on competitors, drain "defendant" companies of capital due to legal expenses, and thwart potential growth in the economy as companies are forced to divert resources and attention to legal battles instead of innovation.

Ultimately taxpayers suffer from this heavy-handed approach as well -- a less vibrant economy not only means rising deficits from shrinking government revenues, but also less technological advancement that can make those governments operate more efficiently.

Perhaps most alarming are the notions that governments can engineer a superior "remedy" to the equilibrium markets will find, and that the consumer welfare standard should no longer guide policymakers. Proposed alternatives to this standard, such as forced break-ups, restructuring, or restrictions on business models do not serve the interests of the consumers whom public officials seek to protect.

Regardless of the particular firm under government scrutiny, the harm and uncertainty posed to businesses from expanded or excessively broad interpretations of antitrust laws are significant. These destructive and ill-fated actions imperil the economy at a pivotal point in its progress toward full recovery from the effects of the pandemic.

Long-form signatories (for identification purposes only):

- Charles W. Baird,
California State University,
East Bay
- Don Bellante,
University of South Florida
(emeritus)
- James T. Bennett,
George Mason University
- Bruce L. Benson,
Florida State University
- Geoffrey A. Black,
Boise State University
- Michael Bond,
University of Arizona
- Samuel L. Bostaph,
University of Dallas
- Donald J. Boudreaux,
George Mason University
- Scott Bradford,
Brigham Young University
- Jason Brennan,
Georgetown University
- Wayne T. Brough,
R Street Institute
- Peter T. Calcagno,
College of Charleston
- James H. Cardon,
Brigham Young University
- Joe Cobb,
Concordia University Irvine

- Joab N. Corey,
University of California,
Riverside
- Joseph S. DeSalvo,
University of South Florida
(emeritus)
- Gerald P. Dwyer,
Clemson University
- Kenneth J. Elzinga,
University of Virginia
- Richard A. Epstein,
University of Chicago
- Fred Esposto,
Kutztown University
- John A. Flanders,
Central Methodist
University
- Judge Ferdinand,
Glock Cicero Institute
- Robert James Gmeiner,
Kennesaw State University
- Stephan F. Gohmann,
University of Louisville
- Kenneth Greene,
Binghamton University
(emeritus)
- Stephen K. Happel,
Arizona State University
- Dermot James Hayes,
Iowa State University
- Jeff Haymond,
Cedarville University
- David R. Henderson,
Hoover Institute, Stanford
University
- John P. Hoehn,
Michigan State University
- Douglas Holtz-Eakin,
American Action Forum
- Jeffrey Rogers Hummel,
San Jose State University
- David Kalist,
Shippensburg University
- Raymond J. Keating,
Small Business and
Entrepreneurship Council
- Daniel Klein,
George Mason University
- Kishore G. Kulkarni,
Metropolitan State
University of Denver
- Richard N. Langlois,
University of Connecticut
- Thomas E. Lehman,
Indiana Wesleyan
University
- Stan Liebowitz,
University of Texas - Dallas
- Tony Lima,
California State University,
East Bay
- Christopher Lingle,
Universidad Francisco
Marroquin
- Abir Mandal,
University of Mt. Olive
- Michael L. Marlow,
California Polytechnic State
University
- Scott E. Masten,
University of Michigan
- John R. McArthur,
Wofford College
- W. Douglas McMillin,
Louisiana State University
(emeritus)
- James C. Miller III,
Former Chairman, FTC
- Michael C. Munger,
Duke University
- Sam Peltzman,
University of Chicago
(emeritus)
- Arturo C. Porzecanski,
American University
- Barry W. Poulson,
University of Colorado
- Farhad Rassekh,
University of Hartford
- Nancy Roberts,
Arizona State University
(emeritus)
- Paul H. Rubin,
Emory University
(emeritus)
- John G. Ruggiero,
University of Dayton
- Joseph T. Salerno,
Pace University
- Raymond D. Sauer,
Clemson University
- Nilopa N.S. Shah,
University of California,
Irvine
- William F. Shugart II,
Utah State University
- Daniel J. Smith,
Middle Tennessee State
University
- Vernon L. Smith, Chapman
University
- Charles N. Starnes,
Wayland Baptist University

- Daniel Sutter,
Troy University
- Edward J. Timmons,
St. Francis University
- Edward Tower,
Duke University
- Michael Welker,
Franciscan University of
Steubenville
- Christopher Westley,
Florida Gulf Coast
University
- Bill Yang,
Georgia Southern
University
- Benjamin Zycher,
American Enterprise
Institute