

March 16, 2022

U.S. Senator Elizabeth Warren  
309 Hart Senate Office Building  
Washington, DC 20510

U.S. Representative Mondaire Jones  
1017 Longworth Bldg.  
Washington, DC 20515

Dear Senator Warren and Congressman Jones:

We write to you to express our support for the Prohibiting Anticompetitive Mergers Act of 2022. This legislation would put an end to harmful anticompetitive mergers and be a major step forward in turning around the crisis of concentration in nearly every sector of our economy. We applaud your efforts to address this pressing issue and are excited to support this bold legislation that shifts our nation's merger policy to focus on helping workers, consumers, small and minority-owned businesses, local or rural communities, communities of color, enhancing privacy, and unleashing innovation.

America has a corporate concentration and monopoly problem. Nearly every sector of every industry is highly concentrated.<sup>1</sup> Monopoly power lowers wages;<sup>2</sup> reduces innovation<sup>3</sup> and entrepreneurship;<sup>4</sup> exacerbates income<sup>5</sup> and regional<sup>6</sup> inequality; undermines the free press<sup>7</sup> and access to information; and perpetuates toxic systems of racial,<sup>8</sup> gender,<sup>9</sup> and class dominance.

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<sup>1</sup> *America's Concentration Crisis*, OPEN MARKETS INSTITUTE (Jun. 2019), <http://concentrationcrisis.openmarketsinstitute.org/>; Gustavo Grullon, Yelena Larkin, and Roni Michaely, *Are US Industries Becoming More Concentrated?*, REVIEW OF FINANCE (July 2019), <https://doi.org/10.1093/rof/rfz007>.

<sup>2</sup> Suresh Naidu, Eric Posner, and Glen Weyl, *More and more companies have monopoly power over workers' wages. That's killing the economy*, VOX (Apr. 6, 2018), <https://www.vox.com/the-big-idea/2018/4/6/17204808/wages-employers-workers-monopsony-growth-stagnation-inequality>.

<sup>3</sup> Tim Wu, *Tech Monopolies Are Stifling Innovation. Antitrust Enforcement May Help*, BRINK (Dec. 11, 2018), <https://www.brinknews.com/is-antitrust-enforcement-the-wests-best-weapon-against-chinese-tech/>.

<sup>4</sup> Stacy Mitchell, *Monopoly Power and the Decline of Small Business*, INSTITUTE FOR LOCAL SELF RELIANCE (Aug. 2016), <https://ilsr.org/wp-content/uploads/downloads/2016/08/MonopolyPower-SmallBusiness.pdf>.

<sup>5</sup> James A. Schmitz Jr., and David Fettig, *Monopolies: Silent Spreaders of Poverty and Economic Inequality*, PROMARKET (Aug. 14, 2020), <https://promarket.org/2020/08/14/monopolies-silent-spreaders-of-poverty-and-economic-inequality/>.

<sup>6</sup> Maryann Feldman, Frederick Guy, and Simona Iammarino, *Regional income disparities, monopoly and finance*, CAMBRIDGE JOURNAL OF REGIONS, ECONOMY AND SOCIETY (Mar. 2021), <https://academic.oup.com/cjres/article/14/1/25/6056183>.

<sup>7</sup> Sally Hubbard, *The Decline of American Journalism Is an Antitrust Problem*, PROMARKET (Jun. 14, 2019), <https://promarket.org/2019/06/14/the-decline-of-american-journalism-is-an-antitrust-problem/>.

<sup>8</sup> Jade Magnus Ogunnaike, *Corporate Monopolies Are a Racial Justice Issue. We Need Federal Regulation Now*, THE ROOT (Jan. 29, 2021), <https://www.theroot.com/corporate-monopolies-are-a-racial-justice-issue-we-need-1846155644>.

<sup>9</sup> Sally Hubbard, *How Monopolies Make Gender Inequality Worse*, FORBES (Dec. 20, 2017), <https://www.forbes.com/sites/washingtonbytes/2017/12/20/how-monopolies-make-gender-inequality-worse-and-concentrated-economic-power-harms-women>.

For nearly four decades, our antitrust agencies have failed to stop harmful mergers,<sup>10</sup> and at the same time, courts have narrowed the scope of what constitutes an illegal merger under our antitrust laws.<sup>11</sup> Whether the Federal Trade Commission (FTC) and the Department of Justice (DOJ) Antitrust Division have been lax in bring challenges to mergers or judges have been too quick to approve mergers over the objection of agencies, or both, the fact is hundreds and hundreds of harmful mergers have been consummated under this system.

Merger filings are now out of control. Just last year merger filings more than doubled<sup>12</sup> to over 4,000.<sup>13</sup> Yet, the underfunded agencies that review these acquisitions were already strapped before this explosion of merger filings, and a single challenge to a merger can cost millions of dollars. It is past time we rethink merger policy in this country.<sup>14</sup>

The Warren-Jones Prohibiting Anticompetitive Mergers Act would solve this problem by making large and harmful prohibited mergers illegal, reforming the current merger review process to give the FTC and DOJ the power to reject mergers without expensive litigation or the approval of a court, increasing the power of the agencies to breakup mergers that never should have been approved in the first place, and providing a boost in funding for the FTC and DOJ to ensure that there are adequate resources to review mergers under this new process.

By banning the most harmful mergers outright, breaking up past mergers, and giving the agencies the power to review and reject other harmful mergers, this legislation would have an enormous impact on monopolies and concentration across the economy. This would result in more competition, better wages and conditions for workers, more consumer choice, an opportunity for small and minority-owned businesses to thrive, and reinvigoration of local and rural communities.

We are proud to support this important legislation and look forward to working with you to stop harmful mergers and put workers and people back at the center of our economy.

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<sup>10</sup> *Bush ripped for lax antitrust enforcement*, NBC NEWS (Mar. 7, 2007), <https://www.nbcnews.com/id/wbna17506831>; Don Lee, *Big companies are swallowing up smaller ones. Why that's not good for the economy*, LOS ANGELES TIMES (Sep. 27, 2020), <https://www.latimes.com/politics/story/2020-09-27/big-companies-increasingly-swallow-competitors-could-hurt-economy>.

<sup>11</sup> Daniel A. Hanley, *How Antitrust Lost Its Bite*, SLATE (Apr. 6, 2021), <https://slate.com/technology/2021/04/antitrust-hearings-congress-legislation-bright-line-rules.html>; Jennifer Saba and Gina Chon, *Breakdown: U.S. antitrust frenzy stops with judges*, REUTERS (Jul. 21, 2021), <https://www.reuters.com/legal/litigation/breakdown-us-antitrust-frenzy-stops-with-judges-2021-07-21/>.

<sup>12</sup> Rebecca Kern, *Antitrust enforcers are drowning in mergers*, POLITICO (Jan. 10, 2022), <https://www.politico.com/newsletters/morning-tech/2022/01/10/antitrust-enforcers-are-drowning-in-mergers-799773>.

<sup>13</sup> *Premier Notification Program: HSR Transactions by Month*, FEDERAL TRADE COMMISSION (Accessed Feb. 3, 2022), <https://www.ftc.gov/enforcement/premerger-notification-program>.

<sup>14</sup> Ruth Reader, *Lina Khan's first on-camera interview: 5 takeaways, from Big Tech mergers to the metaverse*, FAST COMPANY (Jan. 19, 2022), <https://www.fastcompany.com/90714284/lina-khans-first-on-camera-interview-5-takeaways-from-big-tech-mergers-to-the-metaverse>.

Sincerely,

Public Citizen

Action Center on Race & the Economy

American Economic Liberties Project

American Family Voices

Artist Rights Alliance

Athena Coalition

Better Organizing to Win Legalization

Broward for Progress

Campaign for Family Farms and the Environment

Center for Common Ground

Center for Digital Democracy

Center for Popular Democracy

Color Of Change

Courage California

Dakota Rural Action

Demand Progress

Democratic Coalition

Farm Action Fund

Future of Music Coalition

Greenpeace USA

Groundwork Action

HEAL Food Alliance

Indivisible California Green Team

Indivisible Ulster

Institute for Agriculture and Trade Policy

Institute for Local Self-Reliance

International Brotherhood of Teamsters

IronPac

Jobs With Justice

Liberation in Generation

Main Street Alliance

Missouri Workers Center

New York Communities for Change

Northridge Indivisible

Open Markets Institute

Oregonizers

Our Revolution

People's Parity Project

PowerSwitch Action

Progressive Democrats of America

Strategic Organizing Center

United for Respect

Working Families Party

Writers Guild of America West