

invest in the school-based behavioral health workforce, and ensure access to mental health and substance use disorder benefits, and, pursuant to House Resolution 1396, he reported the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Pursuant to House Resolution 1396, the question on adoption of the further amendments will be put en gros. The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mrs. McCLAIN. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. McClain of Michigan moves to recommit the bill (H.R. 7780) to the Committee on Education and Labor.

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mrs. McCLAIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to section 8 of rule XX, further proceedings on this question are postponed.

MERGER FILING FEE MODERNIZATION ACT OF 2022

Mr. NADLER. Mr. Speaker, pursuant to House Resolution 1396, I call up the bill (H.R. 3843) to promote antitrust enforcement and protect competition through adjusting premerger filing fees, and increasing antitrust enforcement resources, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. CROW). Pursuant to House Resolution 1396, in lieu of the amendment in the nature of a substitute recommended by the Committee on the Judiciary printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 117-66 is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Merger Filing Fee Modernization Act of 2022”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MODERNIZING MERGER FILING FEE COLLECTIONS; ACCOUNTABILITY REQUIREMENTS; LIMITATION ON FUNDING

Sec. 101. Modification of premerger notification filing fees.

Sec. 102. Reporting requirements for merger fee collections.

TITLE II—DISCLOSURE OF SUBSIDIES BY FOREIGN ADVERSARIES

Sec. 201. Findings and purpose.

Sec. 202. Mergers involving foreign government subsidies.

TITLE III—VENUE FOR STATE ANTITRUST ENFORCEMENT

Sec. 301. Venue for State Antitrust Enforcement.

TITLE I—MODERNIZING MERGER FILING FEE COLLECTIONS; ACCOUNTABILITY REQUIREMENTS; LIMITATION ON FUNDING

SEC. 101. MODIFICATION OF PREMERGER NOTIFICATION FILING FEES.

Section 605 of Public Law 101-162 (15 U.S.C. 18a note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “\$45,000” and inserting “\$30,000”;

(ii) by striking “\$100,000,000” and inserting “\$161,500,000”;

(iii) by striking “2004” and inserting “2023”;

and

(iv) by striking “2003” and inserting “2022”;

(B) in paragraph (2)—

(i) by striking “\$125,000” and inserting “\$100,000”;

(ii) by striking “\$100,000,000” and inserting “\$161,500,000”;

(iii) by striking “but less” and inserting “but is less”;

and

(iv) by striking “and” at the end;

(C) in paragraph (3)—

(i) by striking “\$280,000” and inserting “\$250,000”;

and

(ii) by striking the period at the end and inserting “but is less than \$1,000,000,000 (as so adjusted and published);”;

and

(iii) by striking the period at the end and inserting “but is less than \$2,000,000,000 (as so adjusted and published);”;

and

(iv) by striking the period at the end and inserting “but is less than \$5,000,000,000 (as so adjusted and published).”;

and

(v) by striking the period at the end and inserting “but is less than \$1,000,000,000 (as so adjusted and published).”;

and

(vi) by striking the period at the end and inserting “but is less than \$2,000,000,000 (as so adjusted and published).”;

and

(vii) by striking the period at the end and inserting “but is less than \$5,000,000,000 (as so adjusted and published).”;

and

(viii) by striking the period at the end and inserting “but is less than \$1,000,000,000 (as so adjusted and published).”;

and

(ix) by striking the period at the end and inserting “but is less than \$2,000,000,000 (as so adjusted and published).”;

and

(x) by striking the period at the end and inserting “but is less than \$5,000,000,000 (as so adjusted and published).”;

“(4) An amount adjusted under this section shall be rounded to the nearest multiple of \$5,000.”.

SEC. 102. REPORTING REQUIREMENTS FOR MERGER FEE COLLECTIONS.

(a) **FTC AND DOJ JOINT REPORT.**—For each of fiscal years 2023 through 2027, the Federal Trade Commission and Department of Justice shall jointly and annually report to the Congress on the operation of section 7A of the Clayton Act (15 U.S.C. 18a) and shall include in such report the following:

(1) The amount of funds made available to the Federal Trade Commission and the Department of Justice, respectively, from the premerger notification filing fees under this section, as adjusted by the Merger Filing Fee Modernization Act of 2022, as compared to the funds made available to the Federal Trade Commission and the Department of Justice, respectively, from premerger notification filing fees as the fees were determined in fiscal year 2022.

(2) The total revenue derived from premerger notification filing fees, by tier, by the Federal Trade Commission and the Department of Justice, respectively.

(3) The gross cost of operations of the Federal Trade Commission, by Budget Activity, and the Antitrust Division of the Department of Justice, respectively.

(b) **FTC REPORT.**—The Federal Trade Commission shall include in the report required under subsection (a), in addition to the requirements under subsection (a), for the previous fiscal year—

(1) for actions with respect to which the record of the vote of each member of the Federal Trade Commission is on the public record of the Federal Trade Commission, a list of each action with respect to which the Federal Trade Commission took or declined to take action on a 3 to 2 vote; and

(2) for all actions for which the Federal Trade Commission took a vote, the percentage of such actions that were decided on a 3 to 2 vote.

(c) **SUMMARY.**—The Federal Trade Commission and the Department of Justice shall make the report required under subsection (a) available to the Committees on the Judiciary of the House of Representatives and of the Senate, and shall, for fiscal years 2023 through 2027, no later than July 1, present a summary of the joint annual report for the preceding fiscal year, including the information required in subsections (a) and (b) of this section, to the Committees on the Judiciary of the House of Representatives and of the Senate.

TITLE II—DISCLOSURE OF SUBSIDIES BY FOREIGN ADVERSARIES

SEC. 201. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds the following:

(1) Foreign subsidies, which can take the form of direct subsidies, grants, loans (including below-market loans), loan guarantees, tax concessions, preferential government procurement policies, or government ownership or control, can distort the competitive process by enabling the subsidized firm to submit a bid higher than other firms in the market, or otherwise change the incentives of the firm in ways that undermine competition following an acquisition.

(2) Foreign subsidies are particularly problematic when granted by countries or entities that constitute a strategic or economic threat to United States interests.

(3) The Made in China 2025 plan, states that the Chinese Communist Party will “support enterprises to carry out mergers and acquisitions (M&A), equity investment, and venture capital overseas”.

(4) The 2020 report to Congress from the bipartisan U.S.-China Economic and Security Review Commission concluded that the Chinese Government subsidizes companies with a goal of their expanding into the United States and other countries, finding that “[t]his process assists Chinese national champions in surpassing and

supplanting global market leaders". The report warns that the risk is particularly acute when it comes to emerging technologies, where China seeks to "surpass and displace the United States altogether [and that] [f]ailure to appreciate the gravity of this challenge and defend U.S. competitiveness would be dire . . . [and] risks setting back U.S. economic and technological progress for decades".

(5) In remarks before the Hudson Institute on December 8, 2020, FTC Commissioner Noah Phillips stated, "[O]ne area where antitrust needs to reckon with the strategic interests of other nations is when we scrutinize mergers or conduct involving state-owned entities . . . companies that are controlled, to varying degrees, by the state . . . [and] often are a government tool for implementing industrial policies or to protect national security".

(b) **PURPOSE.**—The purpose of this section is to require parties providing pre-merger notifications to include in the notification required under section 7A of the Clayton Act (15 U.S.C. 18a) information concerning subsidies they receive from countries or entities that are strategic or economic threats to the United States.

SEC. 202. MERGERS INVOLVING FOREIGN GOVERNMENT SUBSIDIES.

(a) **DEFINITION.**—In this section, the term "foreign entity of concern" has the meaning given the term in section 40207 of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)).

(b) **ACCOUNTING FOR FOREIGN GOVERNMENT SUBSIDIES.**—A person required to file a notification under section 7A of the Clayton Act (15 U.S.C. 18a) that received a subsidy from a foreign entity of concern shall include in such notification content regarding such subsidy.

(c) **AUTHORITY OF ANTITRUST REGULATORS.**—The Federal Trade Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, and in consultation with the Chairperson of the Committee on Foreign Investment in the United States, the Secretary of Commerce, the Chair of the United States International Trade Commission, the United States Trade Representative, and the heads of other appropriate agencies, and by rule in accordance with section 553 of title 5, United States Code, shall require that the notification required under subsection (b) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice to determine whether such acquisition may, if consummated, violate the antitrust laws.

(d) **EFFECTIVE DATE.**—Subsection (b) shall take effect on the date on which the rule described in subsection (c) takes effect.

TITLE III—VENUE FOR STATE ANTITRUST ENFORCEMENT

SEC. 301. VENUE FOR STATE ANTITRUST ENFORCEMENT.

Section 1407 of title 28, United States Code, is amended—

(1) in subsection (g) by inserting "or a State" after "United States" and striking "; but shall not include section 4A of the Act of October 15, 1914, as added July 7, 1955 (69 Stat. 282; 15 U.S.C. 15a)"; and

(2) by striking subsection (h).

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees.

The gentleman from New York (Mr. NADLER) and the gentleman from Ohio (Mr. JORDAN) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 3843.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3843 is bicameral, bipartisan legislation that consists of three distinct titles, each of which would make modest, but important improvements to modernize our antitrust system and to help protect competition.

Title I of the bill updates the filing fees that merging parties pay to the Federal antitrust enforcers that review their transactions. These fees have not been updated in two decades, which has left these agencies in desperate need of more resources to complete their increasingly heavy workload.

This bill raises the fees that parties pay for large transactions and lowers the fee that parties pay for small- and medium-sized transactions, which ensures that larger deals pay their fair share.

Critically, this legislation raises revenue to support necessary antitrust enforcement while also saving taxpayers \$1.4 billion over the next 5 years.

Title II of the bill requires merging parties to notify the antitrust agencies if they are subsidized by countries or entities that are strategic or economic threats to the United States.

This notification requirement gives the agencies immediate access to the information they need to assess the full competitive consequences of subsidized transactions and enables them to better protect U.S. economic interests when they review proposed mergers.

Title III of this legislation ensures that States do not have to waste precious time and taxpayer dollars when they litigate antitrust suits in Federal courts. It does this by exempting State enforcement of the Federal antitrust laws from the often time-consuming and costly multidistrict litigation process. Federal antitrust enforcement agencies are already exempt from this process, and the bill simply puts State antitrust enforcement on equal footing with the Federal Government.

Each element of this legislation enjoys bicameral, bipartisan support. Titles I and II have already passed the House as part of the America COMPETES Act, and title III passed the Senate by unanimous consent.

Together, they would help ensure that our antitrust agencies have the resources they need to protect competition, would provide important disclosures about foreign economic adversaries, and would strengthen State enforcement of our antitrust laws.

I thank Mr. NEGUSE for sponsoring this important package of bipartisan legislation. I also thank Mr. CICILLINE and Mr. BUCK, the chair and ranking member of the Antitrust Subcommittee, for their leadership on these bills and on competition issues generally.

I urge all Members to support this legislation, and I reserve the balance of my time.

Mr. JORDAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly urge my colleagues to vote "no." While parts of this bill have some support, the package before us today does nothing but empower the Department of Justice and the Federal Trade Commission.

Why would we support more funding for unaccountable officials in the Biden administration, particularly these two agencies, the Department of Justice, in light of what we have seen from them over the past several months?

Time and time again, they have weaponized that agency to go after the American people.

Now, some are asserting that oh, no, this wouldn't give more money to the bureaucracy. But this is the kind of Washington budget gimmick that the swamp uses to grow government all the time.

In the majority's own committee report on the bill they acknowledge "the updated fee structure would provide the U.S. Department of Justice and the Federal Trade Commission with additional resources to review mergers and enforce the antitrust laws; more money for Merrick Garland and the DOJ to harass the American people."

□ 1230

Even proponents of the bill are talking about how this would get resources to the agencies while saying it doesn't include an appropriation. This logic is laughable.

We know where this money is going. In fact, the chairman of the committee said in his opening remarks that the DOJ and FTC are "in desperate need of more resources." We know where this money is going, \$280 million, \$140 million to each agency, every single year.

Congress has already appropriated money to hire 87,000 new IRS agents, and now we are going to give hundreds of millions of dollars to the DOJ and the FTC. Such a deal for the taxpayer. Where does it stop?

If you want to do something about Big Tech, this bill is not the vehicle. A bill that empowers these two agencies to, I think, collude with Big Tech to come after conservatives is not the way to go. I hope we can vote this down.

Mr. Speaker, as I said before, I urge a "no" vote, and I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I rise in opposition to this bill, and I do so reluctantly, because title I, raising the

fees for enforcement, I am for that. As a matter of fact, I am a cosponsor of that bill. And title II, the foreign measure, I am for that.

But title III is going to create a problem. This has been advanced as if it is noncontroversial. That is not the case. It is complicated. Let me try and be very simple.

In 1968, Congress enacted a provision where if there was a multiplicity of antitrust lawsuits filed by State AGs who have concurrent jurisdiction, a senior panel could consolidate the cases so you wouldn't have inconsistent discovery, inconsistent decisions outside of the various regions.

You don't need that with the Department of Justice because they do the consolidation internally when they bring the case. That is why it worked for the AGs, and it has worked very well for a long time.

Contrary to what some have said, this is not a tech change. This is a venue change for all businesses, which is why I think the Chamber of Commerce said they would score the vote.

I think we need to listen to the main proponent, Mr. BUCK, on this. Last night, during the rule debate, he said Big Tech is crushing competition and crushing conservative speech, and that is what his venue bill is about, to prevent moderation of speech.

Content moderation is important. We have seen, in the January 6th Committee, a lot of material that has spread lies, that has incited violence, and that content should be moderated. It should not be subject to a bogus effort by State AGs to prevent content moderation through the antitrust provision.

To claim that that would not happen, I mean, AGs can bring cases right now without this provision—in fact, California just did against Amazon. Fine. Go at it if you have a case. But if you don't think that the attorney general of Texas, who is currently hiding from a process server and facing other legal complications, wouldn't try to use this to undermine content moderation, I think you are sadly mistaken.

That would be, I am sure, for my Democratic colleagues, not their intent, but that would be a very sad result that would not be good for our country.

Now, if we turn this bill down, I am sure what will happen is that the Committee on Rules will put the first two provisions that have broad support in our party back up, and I will happily vote for them, to give the resources for enforcement and the like.

Mr. Speaker, I urge a "no" vote on this measure, with great sadness that we have been put in this spot.

Mr. JORDAN. Mr. Speaker, I yield myself such time as I may consume.

I will respond to the gentlewoman from California. I appreciate the fact that she is a "no" on this bill, but I think her logic is all wrong. This bill would actually give \$140 million to the DOJ so they can continue to do what

they are already doing, work with Big Tech to censor certain information from getting to we the people.

Why do I say that? Because we know it happened. Just a month ago, Mark Zuckerberg said the FBI came and told him not to allow the story about Hunter Biden's laptop to be on their platform. They gave him the old wink-wink, oh, we think this is Russian disinformation, which we know it wasn't. Now, we are going to give that agency \$140 million more to go collude with Big Tech to keep we the people from getting valuable information before the most important election that we have, the election of the Commander in Chief of our country?

That is why this thing is so scary and why we should be against it.

Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. JOHNSON).

Mr. JOHNSON of Louisiana. Mr. Speaker, we are deeply concerned about this for the reasons that are stated.

There are a lot of people who are confused about it because what they have done here is they have taken three pieces of legislation, three titles, and merged them into one.

I don't have a problem with two of the three. In response to Ms. LOFGREN, I think that antitrust enforcement provision is okay because currently it is not explained what the U.S. Judicial Panel on Multidistrict Litigation can transfer are State AGs' antitrust cases that arise under Federal laws to other jurisdictions. That title would prevent that from happening. We are okay with that. I voted for that in committee.

But one of the other titles here is the disclosure of subsidies by foreign adversaries. We didn't get any regular order on that. We didn't get to actually debate that, mark it up in committee. The substance of that one is okay because it would require parties to notify when they receive subsidies from countries that are threats to the U.S. when filing a merger. We all agree on that.

The problem is, the thing we are so concerned about, is what Ranking Member JORDAN has just talked about, the Merger Filing Fee Modernization Act.

For folks who are trying to follow this back home, this would change filing fees paid by companies seeking regulatory approval for mergers. It would reduce the fees for deals valued under \$1 billion, and it would raise them for the larger mergers, over \$1 billion.

Now, here is the problem. All of this sounds fine so far, but here is the problem. There are no restrictions on the use of the additional funding that is generated by these fees. And the FTC and the DOJ will have even more power to institute their bad policies. This is not a de minimus amount. We are talking about \$1.5 billion over 5 years. That is a lot of money.

Just so you know, since President Biden took office, the FTC has pursued radical goals beyond its jurisdiction.

One Commissioner said she supports prioritizing FTC investigations relating to systematic racism and rule-making for racist practices. These are very amorphous terms. They have been abused and used for all sorts of nefarious purposes.

Republican Commissioner Wilson described Democrat goals as rooted in "a unified worldview that draws heavily on . . . Marxism." That is at the FTC.

Some of the actions of the Chair, Lina Khan, are just outrageous, what she has done.

The DOJ, of course, has indeed been weaponized. We have been talking about that in committee. We have been laying out the evidence, and we will be presenting that to the American people in the new Congress that begins in January.

If what the chairman of the Committee on the Judiciary, Mr. NADLER, said is true, that they are "in desperate need of more resources," maybe they could have not spent money and resources by siccing the FBI and all the U.S. Attorney's Offices on parents who are going to school board meetings to object to curriculum that their kids are being exposed to and mandates, school closures, and all the rest.

This is outrageous. These institutions have been weaponized, and the people are losing their faith in them. We cannot, in good conscience, stand on this floor and send them \$1.5 billion to engage in more of this madness.

We have no choice but to oppose the legislation for that reason, and I think it is a good one. I think most of our colleagues are going to agree.

Mr. NADLER. Madam Speaker, I must confess I am a little puzzled at some of the remarks of Mr. JOHNSON. He says the FTC sics the FBI on parents or whatever. The FTC has no jurisdiction over the FBI and has nothing to do with them. The FTC is part of—never mind.

Mr. Speaker, I yield 5 minutes to the gentleman from Rhode Island (Mr. CICILLINE).

Mr. CICILLINE. Mr. Speaker, I thank the chairman for yielding.

H.R. 3843 is a modest yet critical first step to modernizing the antitrust laws. It generates revenue; it makes foreign adversarial interests in transactions more apparent; and it allows more streamlined antitrust enforcement by State attorneys general.

On the first issue, I think there is general agreement that the fees that are involved in mergers haven't been raised in decades. This simply allows smaller mergers to pay less and larger mergers to pay more.

There is no question about it—this issue came up at the Committee on Rules—this bill does not fund a single additional dollar to any agency. This is a revenue generator. There is no appropriation. The appropriations process will require that this be treated like any other revenue the Federal Government generates, in that the Appropriations Committee, in regular order, will decide how to spend the money.

People should also not be concerned because, under the Consolidated Appropriations Act of 2022, the DOJ Antitrust Division's use of appropriated funds is limited to "expenses necessary for the enforcement of antitrust and kindred laws." There is already a limitation.

It doesn't provide any additional funding. It simply generates revenues and shifts burdens to the largest transactions so that the taxpayers don't have to be responsible for their review.

In recent decades, the rising tide of economic concentration has given rise to monopolies that exercise outsized influence over our democracy and our political institutions. At the same time, the budgets for antitrust enforcement agencies have not kept pace with the demands placed on them.

As Brian Deese, the director of the National Economic Council, explained: "It is unacceptable for these agencies' resources to lag so far behind the growth of the economy they are charged with protecting." That is why the Biden-Harris administration issued a Statement of Administration Policy in support of this bill.

We can have the fight about whether additional resources are necessary during the appropriations process. This bill simply raises the fees, gives smaller businesses a break, and doesn't appropriate a single dollar.

Title III of the bill strengthens antitrust enforcement by preventing the State antitrust actions from being dragged into private litigation in another venue.

This legislation enjoys wide support among the States. Last year, the National Association of Attorneys General and every single State attorney general in the United States wrote a letter urging Congress to pass the bill's amendment to the multidistrict litigation statute "as soon as possible so that our citizens can benefit from more efficient, effective, and timely adjudication of antitrust actions."

Mr. Speaker, I, too, urge my colleagues to vote in favor of this legislation, and I applaud them for their sponsorship. I thank Mr. BUCK, who has been a tremendous leader on this package of bills. There should be no question. Senator LEE, Senator COTTON, and Senator GRASSLEY have said that this package represents "a strong bipartisan consensus."

These bills improve antitrust enforcement without appropriating any more funds. You don't have to believe me. Those are your Republican colleagues who made the same point.

In addition to that, this multijurisdiction litigation robs State attorneys general who bring a Federal antitrust action in Federal court from the ability to litigate in that court, which often, by dragging them to another State, is a great benefit to the big corporations, to the monopolists, but it is harmful to their own constituents, their consumers, their businesses, which is why they support this legislation.

Mr. Speaker, I include in the RECORD a number of items to reflect the broad support enjoyed by H.R. 3843.

First, is a strong Statement of Administration Policy, which makes clear this legislation is necessary to support the President's mission to enforce the antitrust laws, to combat the excessive concentration of industry, the abuse of market power, and the harmful effects of monopoly and monopsony.

Second, is a letter of support for the State Antitrust Enforcement Venue Act of 2021, signed by every attorney general in the United States, including California's Rob Bonta, who makes clear that: "States should accordingly be on equal footing with Federal enforcers in deciding where, when, and how to prosecute cases" and not subject to a system where their enforcement actions "may be subject to transfer to a multidistrict litigation at the request of the defendant," where the cases are typically "postponed and may be joined with other lawsuits brought by private plaintiffs."

Third, is a letter from a broad coalition of 36 labor, consumer, and public interest groups, including Public Citizen, Public Knowledge, Open Markets Institute, AFL-CIO, Teamsters, and SEIU, which states: "This bipartisan, bicameral legislation represents a critical first step for Congress to reverse the course of lax antitrust enforcement that has proved to be destructive to small businesses, workers, communities, and innovation."

Fourth, is a statement from Chris Jones of the National Grocers Association, who says that: "This bipartisan bill does not change the antitrust laws; it takes the simple step of helping enforcers have a better shot of deterring abusive marketplace conduct that American consumers cannot afford right now."

Finally, a statement from Diana Moss, president of the American Antitrust Institute, states that: "Additional resources are needed to enable the U.S. Department of Justice Antitrust Division and the Federal Trade Commission to review and investigate billion-dollar deals."

For all of those reasons, Mr. Speaker, I urge my colleagues to support this commonsense package that will help to enhance competition, give us the ability to improve our economy, and benefit consumers, workers, innovators, and small businesses.

STATEMENT OF ADMINISTRATION POLICY,
H.R. 3843—MERGER FILING FEE MODERNIZATION
ACT OF 2022—REP. NEGUSE, D-CO, AND 39 CO-
SPONSORS

The Administration supports House passage of H.R. 3843, the Merger Filing Fee Modernization Act of 2022.

Open, fair, and competitive markets are essential to the welfare of American families, workers, farmers, and businesses. As the President stated in his Executive Order on Promoting Competition in the American Economy, "it is the policy of my Administration to enforce the antitrust laws to combat the excessive concentration of industry,

the abuses of market power, and the harmful effects of monopoly and monopsony." The Act would support this critical mission in three important respects.

First, to vigorously enforce the antitrust laws, the Department of Justice (DOJ) and the Federal Trade Commission (FTC) need the resources to do their jobs. Yet even as the number, size, and complexity of mergers has grown, the amount of the filing fees that parties must pay in advance of premerger review by the DOJ and the FTC has not kept pace. Moreover, both agencies' annual appropriations support many fewer employees today than they did in 1979, even though the economy has grown significantly since then, and even though the agencies' core missions involve bringing complex cases against some of the best-resourced companies in the world.

The Act would update the regime for merger filing fees to make it fairer and better targeted. The Act would reduce the size of the fees required for smaller transactions, while raising them for the largest mergers that often require the most extensive reviews.

Second, the Act would respect the important role of State Attorneys General in Federal antitrust enforcement by harmonizing the process for transferring antitrust cases filed by State Attorneys General with those filed by Federal agencies. This would increase the efficiency and efficacy of antitrust enforcement.

Third and finally, the Act would require disclosure of merger subsidies by foreign adversaries. Requiring disclosure of foreign subsidies, such as by Chinese and Russian entities, in the premerger notification process would assist the DOJ and the FTC in preventing anticompetitive transactions through which adversaries could gain influence over important parts of the economy.

The Administration encourages the House to pass the bipartisan Merger Filing Fee Modernization Act of 2022 and looks forward to working with Congress on this important legislation.

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, June 18, 2021.

Hon. AMY KLOBUCHAR,
Chair, Subcommittee on Competition Policy,
Antitrust, & Consumer Rights,
Washington, DC.

Hon. MICHAEL LEE,
Ranking Member, Subcommittee on Competition
Policy, Antitrust, & Consumer Rights,
Washington, DC.

Hon. DAVID N. CICILLINE,
Chair, Subcommittee on Antitrust, Commercial
and Administrative Law,
Washington, DC.

Hon. KEN BUCK,
Ranking Member, Subcommittee on Antitrust,
Commercial and Administrative Law,
Washington, DC.

Re Support for the State Antitrust Enforcement Venue Act of 2021

DEAR CHAIRS KLOBUCHAR AND CICILLINE AND RANKING MEMBERS LEE AND BUCK: We write to express our strong support for the State Antitrust Enforcement Venue Act of 2021; H.R. 3460, S. 1787. State attorneys general around the country are actively pursuing significant antitrust enforcement actions on behalf of consumers in their respective states. Although these law enforcement actions are brought in the public interest, they may be subject to transfer to a multidistrict litigation at the behest of defendants, where the cases are typically postponed and may be joined with numerous other lawsuits brought by private plaintiffs. Enforcement actions filed by the Department of Justice or the Federal Trade Commission on behalf of the United States, however, cannot be transferred to a multidistrict litigation. 28 U.S.C.

§1407(g). Federal enforcers are entitled to select and remain in their preferred venue and pursue relief without undue delay and distractions caused by the particularized interests of private plaintiffs. State antitrust enforcement actions should be extended the same protections from transfer as those brought on behalf of the United States.

As Congress has recognized, the states play an essential role in the enforcement of competition laws in the United States. States should accordingly be on equal footing with federal enforcers in deciding where, when, and how to prosecute cases. We appreciate your sponsorship of the State Antitrust Enforcement Venue Act of 2021 and advocate for its passage as soon as possible so that our citizens can benefit from more efficient, effective, and timely adjudication of antitrust actions.

Sincerely,

Phil Weiser, Colorado Attorney General; Jeff Landry, Louisiana Attorney General; Treg R. Taylor, Alaska Attorney General; Rob Bonta, California Attorney General; Karl A. Racine, District of Columbia Attorney General; Christopher M. Carr, Georgia Attorney General; Clare E. Connors, Hawaii Attorney General.

William Tong, Connecticut Attorney General; Ken Paxton, Texas Attorney General; Leslie Rutledge, Arkansas Attorney General; Kathleen Jennings, Delaware Attorney General; Ashley Moody, Florida Attorney General; Leevin Taitano Camacho, Guam Attorney General; Lawrence Wasden, Idaho Attorney General.

Kwame Raoul, Illinois Attorney General; Tom Miller, Iowa Attorney General; Daniel Cameon, Kentucky Attorney General; Brian Frosh, Maryland Attorney General; Dana Nessel, Michigan Attorney General; Lynn Fitch, Mississippi Attorney General; Austin Knudsen, Montana Attorney General; Aaron D. Ford, Nevada Attorney General; Gurbir S. Grewal, New Jersey Attorney General.

Todd Rokita, Indiana Attorney General; Derek Schmidt, Kansas Attorney General; Aaron M. Frey, Maine Attorney General; Maura Healey, Massachusetts Attorney General; Keith Ellison, Minnesota Attorney General; Eric S. Schmitt, Missouri Attorney General; Douglas Peterson, Nebraska Attorney General; John M. Formella, New Hampshire Attorney General; Hector Balderas, New Mexico Attorney General.

Letitia James, New York, Attorney General; Wayne Stenehjem, North Dakota Attorney General; Dave Yost, Ohio Attorney General; Ellen F. Rosenblum, Oregon Attorney General; Domingo Emanuelli-Hernández, Puerto Rico Attorney General; Alan Wilson, South Carolina Attorney General; Herbert H. Slatery III, Tennessee Attorney General; T.J. Donovan, Vermont Attorney General; Robert W. Ferguson, Washington Attorney General.

Josh Stein, North Carolina Attorney General; Edward Manibusan, Northern Mariana Islands Attorney General; Dawn Cash, Oklahoma Acting Attorney General; Josh Shapiro, Pennsylvania Attorney General; Peter F. Neronha, Rhode Island Attorney General; Jason R. Ravnsborg, South Dakota Attorney General; Sean Reyes, Utah Attorney General; Mark R. Herring, Virginia Attorney General; Patrick Morrissey, West Virginia Attorney General; Joshua L. Kaul, Wisconsin Attorney General; Bridget Hill, Wyoming, Attorney General.

SEPTEMBER 27, 2022.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

Hon. KEVIN MCCARTHY,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER PELOSI AND LEADER MCCARTHY: We are writing to urge you to vote

“yes” on H.R. 3843, the Merger Filing Fee Modernization Act of 2022. This bill will strengthen enforcement of our antitrust laws by helping to inject much-needed funds to the antitrust enforcement agencies, the Department of Justice’s Antitrust Division and the Federal Trade Commission, and allow them to properly fulfill their role safeguarding the economy and consumers from anticompetitive conduct and harmful mergers. We task our antitrust enforcers with a duty to protect us, and it is only right we give them adequate resources to do so.

This legislation contains a package of important bipartisan and bicameral proposals:

Title I: Modernizing Merger Filing Fee Collections: The parties to a merger over a certain size pay a nominal fee to the agencies when they seek merger review and this will remain the case after the Merger Filing Fee Modernization Act. The current fee structure is outdated; it has not kept pace with the growth of the economy or with inflation. The number of mergers has skyrocketed: notifications doubled from 2010 to 2020. The bipartisan, bicameral Merger Filing Fees Modernization Act would lower fees for the smallest mergers. Fees would be raised on only the very largest mergers or acquisitions involving companies that can easily and equitably pay the increase. The bill also indexes the fees to inflation, to help them keep up with a growing economy over time.

Additionally, the bill contains a reporting requirement, so Congress will have information on how the bill has affected agency budgets and its overall efficacy in strengthening sound and effective enforcement of our antitrust laws.

Title II: Disclosure of Subsidies by Foreign Adversaries: This will require merger notification filings to include information about any subsidies the merging parties have received from countries or entities that are “strategic or economic threats to the United States.”

Title III: Venue for State Antitrust Enforcement: This bill would give state attorneys general the same ability that federal antitrust enforcers have to stay in the court of their choosing when bringing a federal antitrust suit rather than have a defendant seek to move a case to a more favorable venue.

While we believe much more must be done this year, this bipartisan, bicameral legislation represents a critical first step for Congress to reverse the course of lax antitrust enforcement that has proved to be destructive to small businesses, workers, communities, and innovation. While we continue to support the broader antitrust reforms put forward in the House and Senate, we recognize that antitrust enforcers should urgently have the resources they need, and it is imperative that the legislative package included in H.R. 3843 move forward in the House.

This carefully crafted bill is bipartisan and not controversial. Enacting it now will give a much-needed funding boost to antitrust enforcement and the open, vibrant marketplace it promotes and protects, benefitting us all: consumers, workers, entrepreneurs, and communities. We ask you to vote yes on H.R. 3843, the Merger Filing Fee Modernization Act of 2022.

Sincerely,

Public Knowledge, Consumer Reports, Accountable Tech, American Economic Liberties Project, American Family Voices, Artist Rights Alliance, Asian Pacific American Labor Alliance, AFL-CIO, Athena, Campaign for Family Farms and the Environment, Center for Democracy & Technology, Center for Digital Democracy, Center for Economic and Policy Research, Common Sense Media, Consumer Action, Demand Progress, Demos, Economic Security Project Action, Electronic Privacy Information Center (EPIC), Farm Action Fund.

Fight for the Future, Free Press Action, Future of Music Coalition, Institute for Local Self-Reliance, International Brotherhood of Teamsters, New York Communities for Change, Open Markets Institute, Our Revolution, P Street/Progressive Change Campaign Committee, People’s Parity Project, Public Citizen, Revolving Door Project, Service Employees International Union, The Democratic Coalition, The Tech Oversight Project, Ultra Violet Action, Writers Guild of America West (WGAW).

NATIONAL GROCERS ASSOCIATION,

September 27, 2022.

DEAR REPRESENTATIVE: On behalf of the National Grocers Association (NGA), I am writing to urge you to VOTE YES on H.R. 3843, the Merger Filing Fee Modernization Act of 2022. We believe this bipartisan legislation will deliver important results for consumers, workers, and independent grocers who rely on the benefits that flow from free and fair competition.

Vigorous enforcement of the antitrust laws is a necessary component of American free enterprise. H.R. 3843 gives the federal enforcers and State Attorneys General critical tools and resources needed to address abuses of market power in the grocery industry that intensifies food price inflation and reduces consumer access to critical products.

Today, dominant retail companies and e-commerce giants wield unprecedented economic power with little to no antitrust oversight or enforcement. These companies exercise their power over the marketplace to dictate discriminatory terms and conditions to suppliers, including by demanding more favorable pricing and price terms, more favorable supply, and access to exclusive products. This economic discrimination has only worsened in the current environment of supply chain disruption and increasing inflation.

Independent community grocers play a crucial role in ensuring food access, especially in smaller, rural communities as well as high density urban ones where independents tend to locate. Unfortunately, these communities have suffered the most recently as independent grocers face declining supply delivery rates and share a disproportionate burden of wholesale food price increases.

Antitrust enforcers at the State and Federal level play a critical role in restoring the free play of competitive markets, but they must have the resources and tools at their disposal to address abuses of market power that harms consumers. This bipartisan bill does not change the antitrust laws, it takes the simple step of helping enforcers have a better shot of deterring abusive marketplace conduct that American consumers cannot afford right now. For these reasons, we urge you to vote YES on H.R. 3843.

Sincerely,

CHRIS JONES,
Senior Vice President of Government
Relations & Counsel,
National Grocers Association.

AMERICAN ANTITRUST INSTITUTE,
September 27, 2022.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

Hon. KEVIN MCCARTHY,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER PELOSI AND MINORITY LEADER MCCARTHY: The American Antitrust Institute (AAI) writes to support a proposal under H.R. 3843, the Merger Filing Fee Modernization Act of 2022, that is integral to increasing the transparency and public analysis of

merger enforcement in the United States. Transparency and public analysis are critical in promoting stronger enforcement of Section 7 of the Clayton Act, at a time of mounting concerns over declining competition, increasing concentration, and cadence of the harmful effects of past mergers on consumers, workers, and innovators.

AAI supports the proposal under H.R. 3843 to delineate new categories of merger filing fees for billion-dollar mergers that are outlined in Title 1, Section 101(1)(D)(4-6), "Modification of Premerger Notification Filing Fees." Under the proposal, merger filing fees would account for major categories of mergers worth \$1 billion and up. These include fees for mergers valued between (1) \$1B-\$2B (\$400K filing fee); (2) \$2B-\$5B (\$800K filing fee); and (3) more than \$5B (\$2.25M filing fee).

AAI recently released the white paper, *What Does the Billion-Dollar Deal Mean for Stronger Merger Enforcement?* The findings in the AAT paper strongly support the Title 1, Section 101(1)(D)(4-6) proposal for more specificity in filing fees for billion-dollar mergers and additional agency resources. Additional resources are needed to enable the U.S. Department of Justice Antitrust Division and the Federal Trade Commission to review and investigate billion-dollar deals.

The AAI white paper unpacks the advent of the billion-dollar merger in the 1990s and the growth of billion-dollar transactions over time. Supported by empirical analysis of enforcement data, the paper analyzes the outsized impact of billion-dollar deals on enforcement and associated implications for the allocation of scarce agency resources. This resource allocation issue extends to early-stage inquiries (i.e., second requests) and late-stage inquiries (i.e., investigations). Importantly, it also extends to how the agencies resolve challenged, illegal mergers through settlement, versus forced abandonments, restructurings, and injunctions.

The AAI white paper contains a number of important recommendations. One is that the antitrust agencies be required to report data for multiple categories of mergers above \$1 billion in their annual reports to Congress under the Hart Scott Rodino Act. A second recommendation is the need for more resources to enable the agencies to review billion-dollar deals. A third recommendation is that the agencies undertake a review of resource allocation for both early-stage and late-stage inquiries involving billion-dollar deals. A fourth recommendation is that the agencies review their own successes and failures in past settlements of challenged, billion-dollar mergers.

In sum, the recommendations set forth in *What Does the Billion-Dollar Deal Mean for Stronger Merger Enforcement?* are necessary to enable competition research, education, and advocacy organizations like AAI, to analyze merger enforcement data and to render policy recommendations that are responsive to changing trends that directly impact the vigor of merger enforcement.

We appreciate your attention to AAI's comments in regard to H.R. 3843.

Sincerely,

DIANA MOSS, Ph.D.,
President, American Antitrust Institute.

□ 1245

Mr. JORDAN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MCCLINTOCK), a distinguished member of the Judiciary Committee.

Mr. MCCLINTOCK. Mr. Speaker, this bill imposes \$1.4 billion in new fees on large companies seeking mergers and makes it easier to block those mergers.

Now, mergers only occur when they promote efficiency and productivity. They only occur when they enhance a company's ability to provide better goods and services at lower prices. Interfering in this process harms the prosperity of every American.

Let's start with the simple fact that taxes and fees on businesses aren't paid by businesses. They are paid by consumers through higher prices, employees through lower wages, and investors through lower earnings.

How does increasing consumer prices protect consumers?

Where will these fees go?

Well, they are going to go to increasingly corrupt bureaucracies like the FTC. That agency is now led by a radical leftist who has declared her intention to use the powers of government to replace consumer decisions with her own, all to advance her brand of ideological zealotry.

The worst damage this does is to make the marketplace less efficient, which makes prices higher, consumer choices less satisfying, and ultimately diminishes our prosperity as a society.

Markets are inherently democratic because they fundamentally are regulated by consumer choices. Consumers vote every day with every dollar they spend what the market will provide and at what prices. Consumer choices reward companies that best meet their needs and punish the companies that don't.

Now, the left seeks to substitute its judgment for yours. It seeks to tell you what choices you may make to advance their political goals. For example, personally I don't care for Jeff Bezos' political views, but he has built a successful, gigantic company by satisfying his consumers.

Americans have voted with their dollars every day that the services that Amazon provides are better than the many other alternatives they have to choose from. The moment they decide otherwise, Amazon will shrink and competitors will emerge and grow to fill those gaps.

Substituting government's judgment for yours, as this bill does, ultimately undermines your right to decide for yourself who is best at providing for your own needs.

Mr. Speaker, we need to reject not only this bill, but the poisonous, authoritarian, and destructive ideology behind it.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is interesting to see that Mr. MCCLINTOCK's argument is against all antitrust laws. Consumers make choices, so what do you need antitrust laws for is essentially what he is saying.

Companies buy other companies not just for good reasons. They buy other companies to reduce the competition, and thereby enable them to charge higher monopolistic prices. That is why we have antitrust laws.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas

(Ms. JACKSON LEE), a member of the Judiciary Committee.

Ms. JACKSON LEE. Mr. Speaker, I thank the chairman and sponsors of the bill for their hard work. Let me say, the reason is obvious why I rise in support of H.R. 3843, the Merger Filing Fee Modernization Act of 2022.

Does anybody know the word "consumers"? Do I need to spell it out on the floor of the House?

Ultimately, mergers, in many instances, have a detrimental impact on consumers, either by way of cost or loss of services. Read the history books.

Does anybody know that in years past there were opportunities for many, many flights across America? The aviation industry has been changed by mergers. That is a prime example.

This particular legislation updates the filing fees that merging parties may pay to the Federal antitrust enforcers. It requires merging parties to disclose any subsidies from countries or entities that are strategic or economic threats to the United States.

The people of the United States are consumers, Mr. and Mrs. Jones walking and working every day to make ends meet.

As Democrats have done in the Inflation Reduction Act and the reduction in healthcare costs and insulin costs, we are bringing down fees. But there is something about justice that is involved in this, as well.

We strongly support this. And the National Association of Attorneys General and every single State attorney general wrote a letter urging Congress to pass the bill's amendments to the multidistrict litigation statute "as soon as possible so that our citizens benefit from more efficient, effective, and timely adjudication of antitrust actions."

Merging fees are to provide the extra resources that are needed, and the administration feels that to vigorously enforce the antitrust laws, the DOJ and the Federal Trade Commission need the resources to do their job.

And, again, who do we represent but the people of the United States?

Who are they? Consumers.

What happens when mergers come?

Lack of services, lack of opportunity, lack of a more fiscally responsible commercial scheme, if you will, so that they can get resources, goods, and services without having enormous expense.

Mr. Speaker, I ask my colleagues to support H.R. 3843 because this helps consumers, and it brings justice to this system. This is a bill that is long overdue, and I thank those who sponsored it.

Mr. JORDAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PERRY), my friend.

Mr. PERRY. Mr. Speaker, I would just ask my colleagues, how many more times do we need to see it, the abuse of power by the Department of Justice?

I am sure, just like I do, you travel your district, you talk to people. Some agree with you; some don't agree with you. You know what not one person has said to me? Agree or disagree, not one person has said to me: You know what we need, Perry, we need more money for the Department of Justice. Not one. I don't know why that is, but maybe it is because of the abuse of power.

I appreciate my colleagues that want to do something with Big Tech. I sure want to do something, too.

In about 3 months, the folks who are destroying this country are not going to be in charge around here, and then we can do something meaningful. We don't have to take the bad to get a couple good things. We can just do the good things and leave the bad things out in 3 more months.

We do a lot of things in good faith around here, Mr. Speaker. We do a lot of things in good faith. I am tired of having those things abused.

People will say: Well, what are you talking about, Perry?

I will give you an example. President Biden used the HEROES Act—the HEROES Act made after 9/11 to support people that were called to duty to go and get their education, but they were called to duty. He used that to forgive the loans of all these people that incurred student debt. It is an abuse.

First of all, it is not forgiveness. It is Marxism, right?

Because you are not forgiven, you are paying for it. It is not forgiveness.

How many more times do we need to see it? In good faith. In good faith.

In 3 months, Mr. Speaker, under new management here, we can get a great bill instead of some mediocre thing where we have got to accept something terrible, \$280 million a year, \$1½ billion more for the abuse of power.

Two dozen agents raid a guy's home, a pastor, 7:00 in the morning in Bucks County.

Oh, yeah, DOJ needs more money for that, right?

You know what they could have done?

They could have saved a lot of money. They could have picked up the phone, called the magistrate. The magistrate could have called the pastor and said, You know what, the Federal Government is going to charge you. Show up down here at the office, we need to charge you. And I bet he would have shown up. The guy is not a criminal.

More money for that? No way, Mr. President.

I urge a “no” vote.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. JONES), a member of the Judiciary Committee.

Mr. JONES. Mr. Speaker, I thank the chairman for his leadership.

This bill really should be uncontroversial. But, unfortunately, our Nation's largest tech companies don't want any changes to the status quo. They are content with little to no

antitrust enforcement. They are content with their own Gilded Age.

I regret, deeply regret, that some of my colleagues have agreed to do their bidding. It is consumers and small business owners who are paying the price in an economy that increasingly only works for large corporations and for the ultra-wealthy.

Our antitrust enforcement system is beyond outdated. The last time Congress updated the merger filing fees was in 2001, long before companies like Amazon, Facebook, and Apple began their anticompetitive and monopolistic frenzy of acquisitions.

This bill updates those filing fees and ensures that our antitrust agencies have the resources they need to effectively combat the growing concentration and monopolization of our economy in the hands of the largest corporations.

I urge my colleagues to stand up to Big Tech and our largest corporations and to vote for this bill.

Mr. JORDAN. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BUCK), a member of the Judiciary Committee.

Mr. BUCK. Mr. Speaker, I want to use my time to quote other conservative voices.

The Heritage Foundation just issued a report:

This package equips the American people's Representatives with targeted, commonsense tools to constrain Big Tech companies' abuse of power. These bills represent an important step towards restoring self-governance, shoring up our national security, and enforcing current antitrust laws to promote competitiveness without expanding or unduly empowering the Federal bureaucracy.

Senators LEE, GRASSLEY, and COTTON issued a statement on September 26: “. . . these bills improve antitrust enforcement without appropriating any more funds to President Biden's out-of-control FTC. We call on all of our colleagues in the House of Representatives to strongly support this package.”

The American Mind on September 28 issued a story, “While GOP views on antitrust have evolved, one thing has remained constant: ‘antitrust enforcement is law enforcement.’ You can't provide ‘legal amnesty’ to Big Tech companies that flout antitrust laws. Defunding the antitrust police will have the same result as defunding the municipal police: enabling bad actors to harm the public.”

Finally, The American Conservative on September 29, I guess today, issued this story, “While Buck is pushing restrained, politically viable legislation that would strengthen the average American's position in the cultural battle against Silicon Valley, some of his colleagues seem to be sticking to an overcooked theory derived from a notion of corporate personhood.”

Mr. Speaker, I include in the RECORD the following articles:

“Heritage Tech Policy Experts Applaud House Antitrust Package”;

“Republican Senators Urge House Republicans to Support Antitrust Reform Package”;

The American Conservative: “Tech Hawks Meet Resistance to a ‘Modest Proposal’”;

The American Mind: “Don't Defund the (Antitrust) Police”.

[From the Heritage Foundation, Sept. 29, 2022]

HERITAGE TECH POLICY EXPERTS APPLAUD HOUSE ANTITRUST PACKAGE

WASHINGTON.—This week, the House of Representatives is expected to vote on a package of three antitrust bills that would begin the important work of reining in Big Tech: the State Antitrust Enforcement Venue Act, Merger Filing Fee Modernization Act, and Foreign Merger Subsidy Disclosure Act. Experts from Heritage's Tech Policy Center—Kara Frederick, director of the center; Will Thibeau, policy analyst; and Jake Denton, research associate—released the following statement ahead of the scheduled vote:

Heritage Tech Policy Experts Applaud House Antitrust Package I The Heritage Foundation

“Big Tech companies should not have out-sized authority to shape and control society. However, we have all watched these companies take an increasingly troubling share of control over our politics and culture in recent years. Conservatives should champion targeted, commonsense policies that constrain Big Tech companies' abuse of power. This package equips the American people's representatives with tools to do so. These bills represent an important step toward restoring self-governance, shoring up our national security, and enforcing current antitrust laws to promote competitiveness—without expanding or unduly empowering the federal bureaucracy.

“From providing state attorneys general with a more level playing field in critical litigation against Big Tech to exposing Big Tech's cozy relationship with U.S. adversaries like the Chinese Communist Party, this package is a requisite starting point to rebalance the relationship between American citizens and the Big Tech companies that abuse them.”

September 26, 2022

REPUBLICAN SENATORS URGE HOUSE REPUBLICANS TO SUPPORT ANTITRUST REFORM PACKAGE

Washington, D.C.—Sen. Mike Lee (R-UT), joined by Sens. Tom Cotton (R-AR), and Chuck Grassley (R-IA), urged their colleagues in the House to support passage of an antitrust reform package consisting of the State Antitrust Enforcement Venue Act, the Merger Filing Fee Modernization Act, and the Foreign Merger Subsidy Disclosure Act. The bills would protect antitrust enforcement by state attorneys general, modernize the Hart-Scott-Rodino merger filing fees, and require merging parties to disclose subsidies from certain foreign governments, respectively.

The Senators issued the following joint statement:

This package represents a strong, bipartisan consensus approach to strengthening enforcement of the federal antitrust laws, against both Big Tech and other bad actors. Importantly, these bills improve antitrust enforcement without appropriating any more funds to President Biden's out-of-control FTC. We call on all of our colleagues in the House of Representatives to strongly support this package.

[From theamericanconservative.com]
TECH HAWKS MEET-RESISTANCE TO A "MODEST
PROPOSAL"—THE AMERICAN CONSERVATIVE
(By Harry Scherer)

Intramural fights are causing a dustup in the House Judiciary Committee this week as Colorado Republican Ken Buck looks to push a legislative package that seeks to empower state attorneys general with the authority to try antitrust cases on their home turf, rein in monopolistic tech mergers among large companies, and check China's financial interference in domestic mergers. The bipartisan Merger Filing Fee Authorization Act, which has reconciled the priorities of GOP tech hawks and the aggressive antitrust commissioners on the FTC, is being criticized by Ohio Republican Jim Jordan, ranking member of the Judiciary Committee.

On Tuesday morning, Jordan tweeted: "Do you think we should give the Biden DOJ and FTC more money? Do you trust they won't use the money to target conservatives? Do you think Joe Biden, Merrick Garland, and Lina Khan have your best interests at heart? No, No, No."

Buck, ranking member of the Antitrust, Commercial and Administrative Law Subcommittee, is not swayed by those critiques. In fact, the bills that he brought to the House on Wednesday night seem to have been drafted to encourage state governments to curb Big Tech mergers that allow the merged entities to more comfortably "target conservatives."

Mike Davis, president of the Article III Project, told Steve Bannon on Tuesday: "This is a modest proposal. This is time for Republicans who pretend they want to hold Big Tech accountable. This is time for them to put up or shut up."

Jordan might be one of those Republicans Davis was talking about. When the Facebook Oversight Board upheld the company's decision to ban President Trump from Facebook and Instagram in May of last year, Jordan tweeted, "Break them up."

So which one will it be? Catchy, far-reaching political slogans or common-sense policy? Jordan's position is difficult to follow. One of the bills in the package, Buck's State Antitrust Enforcement Venue Act, passed the Judiciary Committee in June of last year by a vote of 34-7 with a 'yea' vote from Jordan. The second, Colorado Democrat Joe Neguse's Merger Filing Fee Modernization Act, passed the same committee by a vote of 29-12 with a 'no' vote from Jordan. The third, the Foreign Merger Subsidy Disclosure Act, has yet to get a committee vote.

That second bill, though, is what distinguishes those who really care about discouraging anticompetitive behavior. Right now, the FTC imposes fees when corporate entities file for a merger, the values of which are determined by the total amount of voting securities, assets, or non-corporate interests being acquired through the merger. Neguse's bill actually proposes to decrease filing fees for mergers under \$1 billion valuations, but increase fees for mergers in excess of \$1 billion. The bill also directs the FTC to increase filing fees each year according to the percentage change in the Consumer Price Index, a metric that measures the prices paid by U.S. consumers for goods and services.

One group of GOP senators expressed support for those in favor of the package. Utah's Mike Lee, Arizona's Tom Cotton, and Iowa's Chuck Grassley urged their colleagues in the House to pass the package, saying, "This package represents a strong, bipartisan consensus approach to strengthening enforcement of the federal antitrust laws, against both Big Tech and other bad actors. Importantly, these bills improve antitrust enforcement without appropriating any more funds to President Biden's out-of-control FTC."

While Buck is pushing restrained, politically viable legislation that would strengthen the average American's position in the cultural battle against Silicon Valley, some of his colleagues seem to be sticking to an overcooked theory derived from a notion of corporate personhood. History will be on Buck's side.

[From americanmind.org]

DON'T DEFUND THE (ANTITRUST) POLICE
(By Mike Wacker)

As the House gets ready to vote on a bipartisan package of antitrust bills that would target Big Tech, Congressman Jim Jordan—who would set the antitrust agenda if the GOP wins the House this November—slammed his foot on the brakes. "Do you think," he asked, "we should give the Biden DOJ and FTC more money?" This package, in fact, does not give them more money, but given Jordan's emphasis, and his fiscally conservative bent, one has to wonder if he plans to defund the (antitrust) police.

Jordan has been an ardent critic of Federal Trade Commission Chair Lina Khan, describing her as a woke, far-left radical. These criticisms are fair and are shared by other Republicans. During a Senate oversight hearing, Senator Grassley—who previously voted to confirm Khan—decided the agency's "low morale, management and partisanship problems" and its "push for radical antitrust policies."

Tweeting about how Lina Khan is evil, however, is not the same as setting a robust antitrust agenda. And while Republican senators Lee, Cotton, and Grassley have been critical of Khan, they have also thrown their support behind the antitrust package; if it passes the House, it can easily pass the Senate and become law.

While GOP views on antitrust have evolved, one thing has remained constant: "antitrust enforcement is law enforcement." You can't provide "legal amnesty" to Big Tech companies that flout antitrust laws. Defunding the antitrust police will have the same result as defunding the municipal police: enabling bad actors to harm the public.

Nonetheless, given the increased politicization of the FTC—and the broader politicization of federal law enforcement—you shouldn't give antitrust enforcers a blank check. While an earlier version of this package did assign \$418 million to the FTC, the latest version removed that appropriation in order to win over GOP support. As Lee, Cotton, and Grassley noted, "Importantly, these bills improve antitrust enforcement without appropriating any more funds to President Biden's out-of-control FTC."

In an ideal world, you would find ways to both increase funding to law enforcement while also establishing guardrails on that funding. While the FBI, for example, needs more resources to investigate child sexual abuse, they also need safeguards that prevent the agency from redirecting that funding to pursue political investigations—an issue which is not a hypothetical problem. But whether it's the FBI or FTC, those guardrails can't be built overnight, so what can be done now to improve antitrust enforcement?

Big Tech, not taxpayers or small and mid-sized businesses, must foot more of the bill for antitrust enforcement. Title I of the antitrust package adjusts the fees for mergers, charging more for transactions over one billion dollars, while also charging less for mergers under that threshold. Moreover, these fee hikes would not give more money to the FTC and DOJ; instead, they would offset taxpayer funding of these agencies. The nonpartisan Congressional Budget Office estimates that these "discretionary offsetting

collections" would reduce federal spending by \$1.4 billion dollars.

The FTC and DOJ must be diverted from fake problems to real problems. Title II of the antitrust package does exactly that. Especially given the willingness of Big Tech to capitulate to China, both the FTC and DOJ need to focus on foreign influence from, for instance, the Chinese Communist Party when it comes to ruling on mergers. Here, Title II would amend the premerger notification process, requiring companies to disclose if they received "a subsidy from a foreign entity of concern."

Finally, if you don't want to empower the FTC and DOJ, then empower the states instead. When the federal government files an antitrust lawsuit, it picks a venue for that lawsuit. However, state governments—which already have to pool resources to fund antitrust lawsuits against Big Tech—don't have this same privilege. Before they can even debate the merits of their lawsuit, Big Tech will make them debate where they, should have a debate, burning time and money. Title III would let states choose their own venue.

Voters are angry at Big Tech, but they are also asking legislators, "What are you going to do about it?" Jim Jordan and Tucker Carlson may share the same talking points on Big Tech, but as Tucker himself once pointed out when Jordan was on his show, his job as a talk show host is to talk; Jordan's job as a legislator is to legislate.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, Americans are tired of monopolies that saddle them with less choices and higher prices.

The Federal Trade Commission and the Department of Justice must have the resources that they need to aggressively combat anticompetitive mergers.

This commonsense, bipartisan legislation that we are considering today is absolutely needed right now in order to protect consumers. It makes giant companies pay their fair share, improves transparency, and streamlines litigation.

This should not be—and it isn't—a partisan piece of legislation. At a hearing I was chairing as the chair of the Subcommittee on Consumer Protection and Commerce, we had testimony last year from a Bush-appointed member of the Federal Trade Commission, Bill Kovacic, who called for a tripling in the FTC budget. He recognized that this agency should play a leading role in enforcing our laws that protect consumers, workers, and innovation.

I urge all my colleagues to vote in favor of this legislation.

Mr. Speaker, I include in the RECORD a very compelling statement made by both Senator KLOBUCHAR and Senator DURBIN in favor of the legislation.

(By Amy Klobuchar, U.S. Senator from Minnesota, Sept. 29, 2022)

KLOBUCHAR, DURBIN ISSUE STATEMENT URGING HOUSE TO PASS BIPARTISAN LEGISLATION TO STRENGTHEN ANTITRUST ENFORCEMENT

WASHINGTON.—U.S. Senators Amy Klobuchar (D-MN), Chairwoman of the Senate Judiciary Subcommittee on Competition

Policy, Antitrust, and Consumer Rights, and Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, released the statement below urging the House of Representatives to pass—H.R. 3843, the Merger Filing Fee Modernization Act.

“The Merger Filing Fee Modernization Act is the product of years of bipartisan work in both the House and Senate to improve the enforcement of our antitrust laws and protect competition and consumers. This package of bills will update merger filing fees and help ensure that the federal antitrust agencies can be properly funded, that information on foreign subsidies is made available to federal enforcers, and that state antitrust enforcement can proceed more efficiently and without needless delays. We call on all House Members to support this important bipartisan legislation.”

The Merger Filing Fee Modernization Act includes the House companion to Klobuchar’s merger filing fees reform bill with Senator Chuck Grassley (R-IA) and Senator Durbin to help ensure antitrust enforcers have sufficient resources to protect consumers by updating merger filing fees and lowering the burden on small and medium-sized businesses. It also includes the State Antitrust Enforcement Venue Act, Klobuchar’s legislation with Senator Mike Lee (R-UT) to empower state antitrust enforcement by allowing state attorneys general litigating antitrust cases to remain in their selected courts. H.R. 3843 has been endorsed by a coalition of State Attorney Generals:

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. NADLER. Mr. Speaker, I yield the gentlewoman an additional 30 seconds.

Ms. SCHAKOWSKY. Mr. Speaker, I also include in the RECORD Mr. Kovacic’s testimony.

HOUSE OF REPRESENTATIVES,

COMMITTEE ON ENERGY AND COMMERCE,

Hearing Before the Subcommittee on
Consumer Protection and Commerce

SAFEGUARDING AMERICAN CONSUMERS: FIGHTING FRAUDS AND SCAMS DURING THE PANDEMIC

TESTIMONY OF WILLIAM E. KOVACIC,
FEBRUARY 4, 2021

FEDERAL TRADE COMMISSION BUDGET AND
COMPENSATION LEVELS FOR EMPLOYEES

There is a grave mismatch between the duties Congress has assigned the FTC and the resources it has given the agency to carry out its mandate. There is a serious need to raise the FTC’s budget, but not simply to build a larger staff by hiring more people. Reforms to the federal compensation system are necessary to attract and retain a larger number of elite personnel. I do not see how the FTC or many other public agencies can recruit and retain necessary personnel without a significant increase in the salaries paid to managers and staff.

Consider two possibilities for compensation reform. The first is to align FTC salaries with the highest scale paid to the various US financial service regulators. One model would be the compensation scale used to pay employees of the banking regulatory agencies; the salary scale for these bodies exceeds the General Schedule (GS) federal civil service wage scale by roughly twenty percent. In adopting the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010, Congress concluded that the importance of the mission of the new Consumer Financial Protection Bureau (CFPB) warranted higher salaries for the agency’s personnel. If the higher salary scale made sense for the

CFPB, I see no good reason why a more generous compensation schedule is not appropriate for what is the nation’s leading consumer protection agency (and its leading federal data protection authority).

A second, more ambitious alternative would be to triple the FTC’s existing budget of about \$330 million per year and use the increase mainly to raise salaries and partly to add more employees. This experiment might be carried out for a decade to test whether a major hike in pay would increase the agency’s ability to recruit the best talent, retain the talent for a significant time, and apply that talent with greater success in a program that involves prosecuting numerous ambitious cases and devising other significant policy initiatives.

A major increase in compensation, either by adopting the CFPB model or trying our my more ambitious proposal, is a crucial test of our national commitment to improve the foundations for effective consumer protection enforcement. The nation should spend what it takes to get the best possible personnel to run the difficult cases (and carry out other measures, such as the promulgation of trade regulation rules) that will be the pillars of a new, expanded enforcement program. Such steps will become even more important if new political leadership seeks to close the revolving door, which has operated as a mechanism to encourage attorneys and economists to accept lower salaries in federal service in the expectation of receiving much higher compensation in the private sector at a later time.

□ 1300

Mr. JORDAN. Mr. Speaker, I yield myself such time as I may consume to respond to comments made by my friend from Colorado. He used the term “overcooked theory.” Let me tell you what is not theory.

The Department of Justice’s raid on a former President’s home. Not theory. The Department of Justice taking the phone of a sitting Member of this body. Not theory.

Fourteen whistleblowers coming to our office talking about the political nature of the Justice Department. Not theory.

Those are facts. That is scary stuff.

Now this bill, if passed, will give that agency \$140 million each year for the next 5 years.

That is what we want to do? For that reason alone, we should be against this legislation.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ISSA), my good friend, a member of the Committee on the Judiciary.

Mr. ISSA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, 5 minutes is not enough to go through each and every item that is wrong with this bill, so I am going to try to summarize, and some of it may be redundant.

The authors of this bill are the authors of at least three bills. They are the authors of very different bills, and, ultimately, we should be having a vote on three or more bills, as we did in committee.

You might ask, well, why aren’t we? Usually, I don’t want to talk about procedure, but there is a reason. They are trying to cram this thing and get a few

more votes by putting a bill that is not objectionable with bills that are very objectionable.

A bill that doesn’t grab more power with one that empowers two agencies that are under review for good cause. One of them has been trying to seize this very power. As we speak, the Federal Trade Commission has done virtually nothing to protect consumers in the areas it has jurisdiction on. They constantly say we don’t have enough money for the job we already have. But they want to be able to control both before, during, and after mergers and acquisitions. They actually want to be able to and are trying to undo mergers that already have occurred.

So yes, there is an agency that is power hungry. Predominantly, my friends on the other side of the aisle want to give them money. Maybe not money in this bill because we are not appropriators, but it is still \$140 million, and it will keep coming, and it will grow that agency.

I am going to ask the American people something here today, Mr. Speaker.

Have you received a call about your extended warranty?

Have you received a robocall from somebody you don’t know, and it gets through on your personal phone or your cell phone?

Of course, you have. So has every American.

The Federal Trade Commission has an absolute obligation to seek that out and to prosecute that. And they are funded to do it, and they haven’t done it. But, no, they want to get into mergers.

And my colleagues on the other side of the aisle, and some on my side of the aisle, hate a couple of Big Tech companies for their leftist leanings or whatever, on my side. And on the other side, I guess, because they are profitable. They hate them so much that they look past two truths.

One of them is—big tech, medium tech, small tech—they have made us the envy of the world, and we have delivered to the rest of the world a better set of economies when they adopt those very technologies.

And you ask, why do those technologies get adopted? Well, one of the reasons is a startup can be funded because they know they may have an exit that isn’t even a normal one. It is going to be an exit by having one of these big companies buy them. Many companies’ actual plan is to build something that is going to be bought by some large tech. And yet, we are considering changing the basis for mergers and acquisitions so that might no longer be possible.

Innovation could dry up. I was an innovator; I know what it is like as a small startup company to try to get those funds. And you know what, those funds come if they believe not that you might make a living and be around, but that your company might become valuable, that your idea might explode into the marketplace.

The American people see through this. Big tech, medium tech, and small tech. By the way, most of the Big Tech companies, none of them were around 50 years ago, and most of them weren't around 25 years ago. The fact is this is new tech that they are attacking. These are new technologies, and they are playing into the very hands of the people they claim to defend.

If you want to stifle innovation, vote for this. And by the way, going back to that first one, Mr. Speaker, why are we voting on three bills? The reason is they are trying to trick Members of Congress into voting. Please, vote "no." Vote "no" because this is a bad set of multiple bills, and I intend on making sure it never gets through the Senate.

Mr. NADLER. Mr. Speaker, I agree with Mr. ISSA. We should never have passed the Sherman Act to deal with those newfangled railroads.

Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. BUCK).

Mr. BUCK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have heard the arguments against this Big Tech bill by my Republican colleagues.

My Republican friends ask why would we give President Biden a win within 41 days before an election?

Let me be clear. This is not a Democrat bill, and this is not a Republican bill.

Mr. Speaker, holding Big Tech accountable is an American bill. It is American legislation. We are United States Congressmen. We are serving in the United States Congress. We serve United States citizens. It is never the wrong time to do the right thing.

My friends say this Big Tech bill doesn't prevent discrimination and censorship. Competition is the solution for viewpoint censorship. MSNBC may not support my views, but Newsmax and FOX will listen to me.

The New York Times and The Washington Post may disagree with me, but The Wall Street Journal and The Washington Times will hear me out.

Google controls 94 percent of online searches, and when it changes its algorithm to discriminate against one side, there is no alternative. The same goes for Facebook, Amazon, and Apple.

The real threat is that when a monopoly controls information in a democracy, it controls the results of elections. That is the threat that Big Tech poses to America. I am afraid that America may not be able to withstand that threat.

Finally, my friends ask, Why give money to the Biden FTC and DOJ?

America is about to give Republicans control of the oversight and appropriations process. Americans expect us to use those levers of power responsibly and effectively. It is not too much to ask for Congress to walk and chew gum at the same time? We can create competition for Big Tech and level the playing field and at the same time make sure our government treats everyone in this country fairly.

Mr. Speaker, I urge my colleagues to vote for this bill.

Mr. JORDAN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BENTZ), a distinguished member of the Committee on the Judiciary.

Mr. BENTZ. Mr. Speaker, I include in the RECORD an article titled, "Lina Khan's Unfair and Deceptive Approach to Antitrust."

[From U.S. Chamber of Commerce, Sept. 20, 2022]

LINA KHAN'S UNFAIR AND DECEPTIVE APPROACH TO ANTITRUST

(By Sean Heather)

In a recent speech at Fordham University, Federal Trade Commissioner (FTC) Chair Lina Khan outlined an aggressive new approach to the agency's competition policy. Under her leadership, she explained, the FTC will interpret "unfair methods of competition" broadly, block mergers that could reflect an "incipient" trend toward monopoly, reject efficiency defenses, and contend that "conglomerates" harm consumers, irrespective of economic evidence. In Khan's view, her agenda is "fundamentally conservative" because it shows "respect for the rule of law" as reflected in congressional intent.

Khan's speech hearkens back to George Orwell's Ministry of Truth, where words apparently lose all meaning. Khan's agenda rejects the rule of law in favor of a progressive policy agenda that grants the government total discretion to challenge any merger for any reason whatsoever, ignoring basic economics, history, and decades of precedent from the Supreme Court.

Most troubling is the fact that Khan's agenda would allow the agency to challenge any private conduct that conflicts with progressive notions of fairness. Section 5 of the FTC Act directs the agency to combat "unfair methods of competition." Historically, the agency has tied this authority to what's in the consumers' economic interest, which hews closely to the other main antitrust statutes, namely the Sherman Act and Clayton Act. As a result, the FTC provided Section 5 with context, guardrails, and predictability, which are all integral to the rule of law.

Under the FTC's new leadership, however, anything goes. The FTC's new strategic plan condemns "unwarranted health, safety, and privacy risks" and seeks "equity for historically underserved communities." These issues, while important, lie far outside the FTC's statutory authority or competence. Yet under Chair Khan's reading of Section 5, the FTC can do whatever it pleases. Without guardrails, for example, the FTC could condemn as "unfair" a merger that would result in job losses even if that merger would lower costs and lead to lower prices for consumers. Congress never envisioned the FTC to serve as the morality police over the market.

CHERRY-PICKING HISTORY

In fact, the last time the FTC embarked on a path of overreach of this scope was the 1970s. As a result, the Washington Post editorial board labeled the agency the "National Nanny" and Congress nearly eliminated the agency altogether. Similarly, Chair Khan's approach conveniently sidesteps this period of tremendous overreach and willfully ignores the succeeding decades of precedent and economic learning. According to her, the amendments to Section 7 of the Clayton Act show that Congress was concerned with any trend toward mergers and that, therefore, the agencies and courts erred in accounting for the possibility that a merger might increase efficiency. Khan points to Supreme Court cases from the 1960s

to support her position and, in fairness, she is correct that in an earlier time in our history mergers were reflexively viewed more skeptically—but that was prior to now decades of reliance on sound economic analysis that accompanies merger review.

Chair Khan, however, seeks to divorce economic analysis from antitrust law. In those intervening decades, economists came to understand that relatively few mergers actually threaten competition, whereas most mergers, particularly vertical mergers, have pro-competitive benefits such as improved capital flows and greater efficiency. Across political administrations, the antitrust agencies tailored their enforcement activities to target those mergers that posed a genuine risk to competition. Consistent with economic learning and experience, the Supreme Court interpreted the antitrust laws more permissively to allow the private sector more freedom to operate.

By returning to the worldview prevalent in the 1960s, Chair Khan's FTC would seriously damage the economy's dynamism. By blocking mergers that increase concentration only slightly, the FTC would prevent startups from obtaining the capital and technical expertise that they need to grow and thrive. By replacing Section 5's guardrails with amorphous standards subject to the shifting winds of politics, the FTC would eliminate the certainty and predictability that businesses need to plan and invest. And by barring use of the efficiency defense, the FTC would force companies to incur more costs to produce the same products—costs that would be passed along to consumers.

Mr. BENTZ. Mr. Speaker, I support title II of this bill, and, actually, I would vote for it if it was set up as a separate bill as it once was.

I would not support title III.

The real issue is title I and the \$1.4 billion that it would provide to the Department of Justice and the FTC.

The assertion is that it would not or is not supported by the record. Let me explain, however, what has not happened that should have in order to make this \$1.5 billion supportable. And what hasn't happened is we have not had Chairwoman Lina Khan appear before us in our Committee on the Judiciary. It seems odd that we wouldn't find out how this money is going to be spent before we allocate it to the purposes reflected in the RECORD.

Let me just read from a recent speech at Fordham University:

"Chair Lina Khan outlined an aggressive new approach to the agency's competition policy. Under her leadership, she explained, the FTC will interpret 'unfair methods of competition' broadly, block mergers that could reflect an 'incipient' trend toward monopoly, reject efficiency defenses, and contend that 'conglomerates' harm consumers, irrespective of economic evidence. In Khan's view, her agenda is 'fundamentally conservative' because it shows respect for the rule of law as reflected in congressional intent."

To quote the U.S. Chamber of Commerce: "Khan's speech hearkens back to George Orwell's 'Ministry of Truth,' where words apparently lose all meaning. Khan's agenda rejects the rule of law in favor of a progressive policy agenda that grants the government total discretion to challenge any merger for any reason whatsoever, ignoring

basic economics, history, and decades of precedent from the Supreme Court. Most troubling is the fact that Khan's agenda would allow the agency to challenge any private conduct that conflicts with progressive notions of fairness. Section 5 of the FTC Act directs the agency to combat 'unfair methods of competition.' Historically, the agency has tied this authority to what is in the consumers' economic interest, which hews closely to the other main antitrust statutes, namely the Sherman and Clayton Act. As a result, the FTC provided Section 5 with context, guardrails, and predictability, which are all integral to the rule of law.

Why didn't we have Chairwoman Khan appear before us and explain why she wants to vary so dramatically from what has been the law for the past 30 years.

"Under the FTC's new leadership, however, anything goes. The FTC's new strategic plan condemns 'unwarranted health, safety, and privacy risks,' and seeks 'equity for historically underserved communities.' These issues, while important, lie far outside the FTC's statutory authority or competence. Yet under Chair Khan's reading of Section 5, the FTC can do whatever it pleases. Without guardrails, for example, the FTC could condemn as 'unfair' a merger that would result in job losses even if that merger would lower costs and lead to lower prices for consumers."

Mr. Speaker, this is a bill whose time is not right. We don't know how the money is going to be spent, and I urge a "no" vote.

Mr. NADLER. Mr. Speaker, we do know how the money is going to be spent. It is going to be spent on antitrust enforcement.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona (Mr. STANTON), a member of the Committee on the Judiciary.

Mr. STANTON. Mr. Speaker, I thank the chairman for yielding me the time.

Today, I rise in support of H.R. 3843, the Merger Filing Fee Modernization Act of 2022.

This bipartisan legislation will strengthen antitrust enforcement and better protect U.S. consumers, workers, and businesses. I support the full slate of bills in this package, and I am pleased that it includes legislation that I introduced with the gentleman from Wisconsin (Mr. FITZGERALD).

Our bill, the Foreign Merger Subsidy Disclosure Act, will create a more transparent picture for our antitrust enforcers by requiring merging companies to disclose foreign government subsidies. We know that China continues to use state-owned entities to acquire our emerging technologies and intellectual property in an attempt to surpass and suppress United States companies.

Our bill provides an important guardrail so that China and other government-backed competitors can't discreetly buy up U.S. companies, unduly

influence our free market economy, steal intellectual property, and stifle competition.

Our bill will ensure that these investments are not undermined. This is good, commonsense policy. It is a step in the right direction.

Mr. Speaker, I intend to vote "yes" on this package, and I urge my colleagues to do the same.

Mr. JORDAN. Mr. Speaker, I would just point out that I find it interesting. First, we had Mr. CICILLINE, the chair of the subcommittee say that DOJ and FTC don't get the money. It has to be appropriated next year. But then the chairman of the full committee, Mr. NADLER, said we know how the money is going to be spent. It is going to be spent on antitrust enforcement. It can't be both.

□ 1315

So it can't be both. We know what is going to happen. This money is going to wind up in DOJ and FTC, and we know their track record in how they have been treating the American citizen.

But I find it interesting that the Democrats can't even get their argument straight which just reinforces why this bill should not pass, because in the end it is more money for the Department of Justice—the same Department of Justice that has done their egregious actions over the last several months.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT) who is a former judge, a great member of the Judiciary Committee, and a friend of mine.

Mr. GOHMERT. So, Mr. Speaker, we are hearing that we have got to give DOJ and FTC all this authority to supervise and make sure that Big Tech is properly investigated. But our committee has oversight over the Department of Justice, and we have not done oversight as a committee to stop what has been going on.

I understand Heritage Foundation and some of these others, they haven't seen the whistleblower complaints that JIM JORDAN and I have been seeing. I have gotten double-digits now myself that were not counted in the 14 that the committee got.

It sounds like Sodom and Gomorrah up there. We have gotten complaints this week about sexual harassment and about sexual improprieties on the top floor, the seventh floor—where the headquarters of the FBI is—and all the favors and all the intimidation that goes along with sexual improprieties.

Then you want the DOJ—the people who told the Big Tech that story about Hunter's laptop, that is Russian disinformation, which they are good at saying because they passed that on about Russian collusion, and any time that President Trump or people in his administration said anything, here came the DOJ whispering in people's ears: That is Russian disinformation.

These are the last people whom we need to trust with reining in the Big

Tech because we have seen the techniques. I have got to give them credit. Although there is apparently a tremendous amount of corruption at the FBI and the DOJ that has not been reined in, I have to give them credit. When it comes to intimidation and manipulation, they are right there—and I don't say this lightly—they are right there with the gestapo.

I have had FBI agents talk to me about, remember when we used to call the attorney of people whom we knew were not violent?

Even though they committed very serious felonies, we would tell them when to report, and they reported.

We didn't use the gestapo tactics of going in in the dark, beating down doors, and dragging them out in their underwear to parade in front of cameras that they inappropriately leaked information.

Mr. Speaker, this is a different DOJ. They don't need more money. They need less, until they are made to and until they are helped to eliminate their corruption and they start cleaning up their own act which Christopher Wray and, unfortunately, Merrick Garland have not done.

Mr. NADLER. Mr. Speaker, when I listen to Mr. GOHMERT and Mr. JORDAN, I am really amazed that every single Republican Senator voted for this legislation.

Mr. Speaker, may I inquire how much time each side has remaining.

The SPEAKER pro tempore. The gentleman from New York has 10 minutes remaining. The gentleman from Ohio has 16 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Rhode Island (Mr. CICILLINE).

Mr. CICILLINE. Mr. Speaker, I thank the chairman again for yielding.

I just want to make clear, once again, that this bill does not appropriate money to the FTC, and I think the chairman of the Judiciary Committee and I will continue to advocate for more funding. But this is not an appropriations bill. The ultimate decision about whether money will be appropriated to the FTC or the Department of Justice will be made like every other appropriation: by the Members of the Congress of the United States after a robust debate, and the Congress will decide.

This generates revenue and makes certain that big mergers are paid for by gigantic near monopolies of big corporations and not by our constituents, and it lowers the price for merger reviews on smaller transactions. So that is all it does.

Secondly, it is important to remember that, as Mr. BUCK said, this isn't a Republican or Democrat bill.

I want to read to you a statement from Senator KLOBUCHAR and Senator DURBIN:

"The Merger Filing Fee Modernization Act is the product of years of bipartisan work in both the House and

Senate to improve the enforcement of our antitrust laws and protect competition and consumers. This package of bills will update merger filing fees and help ensure that the Federal antitrust agencies can be properly funded, that information on foreign subsidies is made available to Federal enforcers, and that State antitrust enforcement can proceed more efficiently and without needless delays."

I have a statement from Senator LEE, Senator COTTON, and Senator GRASSLEY—Republicans in the Senate—who say: "This package represents a strong, bipartisan consensus approach to strengthening enforcement of the Federal antitrust laws, against both Big Tech and other bad actors."

So this is widely supported by Republicans and Democrats in both Chambers, and I think it is an example of where we can work together collectively to respond to a serious problem: the consolidation of economic power. Antitrust is important because we know competition is the single greatest driver of innovation. Without competition you don't have innovation, and innovation produces more choices, better quality, and lower prices. It benefits consumers, small businesses, and workers.

The SPEAKER pro tempore (Mrs. LURIA). The time of the gentleman has expired.

Mr. NADLER. Madam Speaker, I yield the gentleman from Rhode Island an additional 30 seconds.

Mr. CICILLINE. I say again, this is about supporting competition with some very commonsense proposals that have strong bipartisan support in both Chambers.

We can finally let Big Tech know that the time in which they can do whatever they want and continue to behave as monopolists is coming to an end.

Overwhelmingly, the American people support reining in Big Tech—over 70 percent in poll after poll.

But one other thing I wanted to just mention is that with concentrated economic power often comes concentrated political power. That is one of the dangers of monopoly. They have too much political power. Let's prove them wrong and pass this bill.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, concentrated political power: that is what the Department of Justice is doing right now. They are weaponizing the Department of Justice against the American people.

The most concentrated political power—awesome power—you can have is the Federal Government. And I would argue the agency within the Federal Government that is the most dangerous is the Department of Justice, and we are going to give them \$140 million more over the next 5 years.

It is amazing. Again, Mr. CICILLINE can say what he wants, Madam Speaker, but that is not consistent with what

the chairman said. The chairman said that this is going to give more resources to antitrust enforcement.

Here is what the Democrats' own committee report says: "The upgraded fee structure would provide the U.S. Department of Justice and the Federal Trade Commission with additional resources."

So either Mr. CICILLINE is completely wrong, or the majority report is wrong, or the chairman is wrong. Somebody is wrong.

We know what is going to happen. This is the same old game we hear all the time: Oh, it is not really appropriated, but we are charging more money.

It will result in more money coming to the concentrated political power at the Justice Department, but it is really not going to go there.

Give me break. We know where it is going. They have even said it in their own darn committee report.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I find it amazing that the gentleman from Ohio would argue we shouldn't give appropriations to the Department of Justice. Congress votes appropriations for every department, and if you think the Department of Justice is not being run properly, well, there is a Presidential election coming up. That is the purpose of elections.

At the present time, the American people 2 years ago elected Joe Biden President and Kamala Harris Vice President, and the President appointed the Secretary of Justice and the chairman of the FTC, both of whom I think are doing an excellent job. But it is a matter of debate which can be decided in the next Presidential election.

To argue that we should starve agencies of the United States Government so that they cannot do the job for which Congress passed statutes mandating them to do the job is absurd.

All that the increase in fees does is update, because the last increase of fees was I don't know how many years ago, and there has been inflation. We need the enforcement against the large Big Tech companies because, as Mr. JORDAN already earlier acknowledged, they represent a threat. I think he thinks they represent a different threat from the one I think they represent, but everybody agrees they represent a threat and that their power must be properly supervised by proper enforcement of the antitrust laws.

Madam Speaker, I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I just point out that I didn't say that Congress shouldn't appropriate dollars to Federal agencies. What I said is that we shouldn't give more money to the Department of Jus-

tice in light of what we have seen them do and in light of what 14 whistleblowers have told us over the last several months what they are up to. That is a completely different point.

I am all for looking for ways to cut certain agencies and reduce Government and the power that they have, but I didn't say that. I just said that we shouldn't be giving them more money, for goodness' sake, in light of what they have been doing. I think that is a pretty reasonable position, and, frankly, I think it is the position the vast majority of the country would have when they look at the actions they have seen from their Department of Justice and the tax money that supports that agency.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. NEGUSE), who is a member of the committee.

Mr. NEGUSE. Madam Speaker, I thank Chairman NADLER for his leadership and for yielding the time. I also thank my good friend and colleague, Mr. CICILLINE from Rhode Island, who chairs the Antitrust, Commercial, and Administrative Law Subcommittee in the House. I have had the privilege of serving with him in the last couple of years, including as vice chair of his subcommittee, during the course of the bipartisan antitrust investigation that we undertook in the 117th Congress.

I am here today, Madam Speaker, to rise in support of my bill, the Merger Filing Fee Modernization Act.

The current filing fee structure established in 2001 does not match ongoing merger activity by American businesses. That is why this bill is not a particularly complicated or complex bill. We know these mergers require thorough review by our antitrust enforcer agencies, because it has allowed larger businesses to avoid paying their fair share and hurting small, mid-sized, and medium-sized businesses.

This bipartisan legislation adjusts that antiquated merger filing fee structure and fixes the filing fees to the Consumer Price Index. The bill includes a number of other provisions that I know have been discussed at great length today.

Let me just say it is a commonsense policy that ensures Federal antitrust enforcers have the income to support, ultimately, this important work that they are doing.

But I have to say I have been a bit shocked by the tenor of the debate on the House floor today.

Just to reiterate something that I think the chairman articulated previously, this is a bipartisan bill. Every Senator voted for it. I imagine that the ranking member's objections come as some shock to Senator CRUZ or Senator LEE or Senator HAWLEY. These are not Democratic Senators, they are Republican Senators, and they support this

bill. I am befuddled as to understanding why the ranking member doesn't.

In any event, it is a good bill, it merits the support of Members on both sides of the aisle, and I am hoping that the ranking member may see the light when the vote comes up.

Mr. JORDAN. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I would just add I have talked a lot about my concerns with the DOJ in light of what we have seen from that agency, and I think that is the main reason why this bill is so wrong and it should not be supported.

But the FTC is also engaged in all kinds of things that I just think are interesting.

One commissioner said that she supports prioritizing FTC investigations related to "systemic racism and rule-making for racist practices." A senior FTC adviser who called Kay James, the former head of the Heritage Foundation, she called her a bigot and criticized viewpoint diversity. She is the one who developed FTC policy on AI and discrimination.

Republican Commissioner Wilson described Democrat goals as "rooted in unified world view that draws heavily on Marxism."

This is an agency controlled by people who have a radical belief system, radical opinions, and radical political views. Again, not only is the Department of Justice getting \$140 million more a year, so is the FTC which is run by people with those kinds of positions.

So, again, I think we don't want to be giving more money to agencies with this kind of track record, particularly, I think, now when the American people are about to speak on whom they want to control their Congress. That is why I think we should vote "no" on this legislation, hopefully it goes down, and do the oversight that needs to be done of these two agencies so we can point out the facts and the truth and get that to the American people.

Madam Speaker, I yield back the balance of my time.

□ 1330

Mr. NADLER. Madam Speaker, this bicameral and bipartisan legislation is supported by a broad coalition of labor, consumer, and public interest groups.

As the Biden-Harris administration noted in its Statement of Administration Policy on this bill, H.R. 3843 would advance its "critical mission" to "combat the excessive concentration of industry, the abuses of market power, and the harmful effects of monopoly and monopsony."

Every single United States Senator—every Democrat, every Republican—agrees with this. It is only in this House that there are some people who, for unfathomable reasons, disagree.

Madam Speaker, this bill is squarely in the tradition of the Sherman Act, the Clayton Act, and the Celler-Kefauver Act, and it should be passed.

Madam Speaker, I urge all Members to support this important legislation, and I yield back the balance of my time.

Ms. JACKSON LEE, Madam Speaker, I rise in support of H.R. 3843, the "Merger Filing Fee Modernization Act of 2021," a bill to ensure fair treatment of small- and medium-sized businesses that are engaged in a merger.

This bill enhances fairness by incentivizing mergers between small and medium-sized enterprises while simultaneously disincentivizing monopolization from larger corporations.

Small and medium-sized enterprises, also known as SMEs, are integral to the U.S. economy. According to the Office of the United States Trade Representative, over the past decade, SMEs have created approximately two-thirds of new private sector jobs, greatly expanding the job market and providing new financial opportunities for hardworking families and individuals.

However, current merger filing fees have impeded businesses that are looking to merge because steep fees may be unaffordable for these SMEs.

Meanwhile, large corporations benefit from disproportionately smaller merging fees that enable them to dominate marketplaces by absorbing smaller companies.

This bill intends to modify and expand the schedule by establishing graduated merger filing fees and requiring that such fees are adjusted each year based on the Consumer Price Index.

To ensure a fair market for the public, the Merger Filing Fee Modernization Act of 2021 adjusts the fees made during the merger process based on the aggregate total amount of the merger, considering the adjusted price at the beginning of the fiscal year.

The Merger Filing Fee Modernization Act of 2021 intends to directly solve this issue by amending the aggregate total brackets utilized to determine the filing fee of the merger, where larger aggregate totals incur greater fees.

This legislation would amend the merger fees by decreasing them from \$45,000 to \$30,000 for the first bracket. The criteria to qualify for this bracket are also adjusted. The bracket qualification has been increased to include aggregate total amounts of up to \$161,500,000 from the previous value of \$100,000,000.

Similar adjustments are made to the next two brackets, decreasing the merger fee for companies in the second bracket from \$125,000 to \$100,000 and decreasing the fee of the third, and formerly highest, bracket from \$280,000 to \$250,000.

Finally, the bill will add a fourth, fifth, and sixth bracket for the largest companies which have aggregate total amounts that exceed \$1,000,000,000, \$2,000,000,000, and \$5,000,000,000 respectively. In this way, larger mergers are less incentivized as they must pay a larger fee than before.

According to Texas Economic Development, the state of Texas is home to 3 million small businesses. Texas is home to diverse and numerous small businesses committed to technological discovery and economic stimulation, ranging from scientific development to agriculture and forestry.

Allowing SMEs to thrive without the extra pressures of merger fees is integral to safeguarding the economic freedoms these busi-

nesses need in order to grow and compete against large corporations who seek to dominate and monopolize the marketplace.

Overall, these changes accomplish two goals in promoting a fair marketplace for small- and medium-sized companies.

First, the adjusted merger fee has been decreased for smaller firms, and the qualifying aggregate total has been increased, which encourages mergers among medium-sized companies. By decreasing the fees required for mergers, medium-sized businesses will have more financial resources to reallocate towards developing their workforce, acquiring needed materials, and reinvesting.

Second, this bill hopes to discourage mergers between larger businesses by establishing larger brackets such that businesses whose aggregate total accounting for more than \$1,000,000,000, \$2,000,000,000, and \$5,000,000,000 will not be grouped together. These businesses will be required to pay a larger fee, ideally discouraging monopoly formations.

Additionally, this bill seeks to provide oversight of foreign transactions that may potentially influence the U.S. market. Merging companies must disclose any subsidies received from foreign economic competitors.

The Merger Filing Fee Act of 2021 promotes mergers between medium-sized businesses by adjusting the fee for merging based on the 2022 fiscal year, while also disincentivizing larger-sized businesses from forming monopolies by creating higher brackets with greater fees.

A fair marketplace can be fostered through the implementation of this bill, encouraging small and medium-sized businesses to look for growth opportunities and mitigate extra pressures added by foreign economic imbalances.

Madam Speaker, I urge my fellow Congressmembers to support this bill dedicated to ensuring a fair marketplace for ambitious and innovative American companies by eliminating cost hurdles and establishing fairness in relation to large corporations.

The SPEAKER pro tempore. All time for debate has expired. Pursuant to House Resolution 1396, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. JORDAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

BULK INFANT FORMULA TO RETAIL SHELVES ACT

Ms. DELBENE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 8982) to amend the Harmonized Tariff Schedule of the United