

March 3, 2025

Pam Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, District of Columbia 20530

Omeed Assefi
Acting Deputy Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, District of Columbia 20530

RE: DOJ Antitrust Cases Contradict Trump Administration's Policy on Defending American Companies

Dear Attorney General Bondi and Acting Deputy Attorney General Assefi,

ACT | The App Association, the leading trade association representing the small businesses technology developer community, writes to express concerns regarding the Department of Justice's (DoJ's) continued pursuit of Biden Administration antitrust cases that contravene the Trump Administration's efforts to safeguard America's sovereignty over its economy, detailed in the President's February 21, 2025, memorandum on *Defending American Companies and Innovators From Overseas Extortion and Unfair Fines and Penalties*, by seeking to implement discriminatory anti-American policies such as the European Union's Digital Markets Act (DMA) in the United States.

The App Association represents an ecosystem of countless small business innovators valued at approximately \$1.8 trillion and responsible for 6.1 million American jobs. App Association members make the software and connected devices that are revolutionizing healthcare, agriculture, public safety, financial services, and virtually all other industries.

The President's February 21, 2025, memorandum rightly recognized that foreign governments, particularly the EU, have unfairly targeted U.S. technology companies with regulations and fines that stifle American innovation and global competitiveness. The DMA is a prime example of this, as it disproportionately affects leading U.S. firms, including curated online marketplaces that our members rely on for seamless and trusted distribution channels. In imposing rigid restrictions on American companies' operations in the digital economy, the DMA undermines their ability to protect consumer privacy, defeat cybersecurity attacks, and protect vital intellectual property.

The Biden Administration's antitrust lawsuits, filed in federal courts in the District of Columbia, Virginia, and New Jersey, as well as its participation as amici in numerous civil antitrust suits opposing the interests of the same companies, have consistently urged U.S. courts to impose remedies that mirror many of the same principles enshrined in the EU's DMA, which President Trump has made clear is an improper attempt to dictate how American companies interact with consumers. For example, consistent with DMA's approach, DoJ's claims in its suit against Apple

plainly seek to favor specific competitors' interests while deprioritizing consumer welfare.¹ Meanwhile, DoJ went even further than DMA in proposing remedies in its case targeting Google Search by including open data access requirements with even fewer privacy safeguards than DMA and blanket prohibitions on investing in adjacent markets.² If these cases proceed as the Biden Administration requested, U.S. courts would enforce the DMA's most damaging provisions domestically, leading to outcomes that align with anti-innovation European regulatory goals rather than U.S. interests and legitimizing foreign regulatory overreach into American markets.

Further, the Trump Administration DoJ's continued support for Biden-era antitrust policies through continued support for the latter's suits as well as participation in civil antitrust cases as amici undermines U.S. economic leadership in the global digital economy. In stark contrast to reasonable antitrust enforcement and advocacy necessary to ensure fair competition, Biden Administration antitrust cases and related positions taken as amici in civil antitrust cases were motivated by political ideology rather than sound legal and economic foundations. Instead of protecting American consumers and innovation, the Biden Administration consistently worked to wield antitrust laws and trade policy to weaken America's most successful industries in ways that foreign governments and competitors have long sought.

Consistent with the Trump Administration's commitment to supporting American small business innovator growth and job creation, we urge the DoJ to pivot away from the Biden Administration's antitrust litigation policies that openly sought to implement foreign laws like the DMA. The App Association's small business community calls on you to shift to advocate for policies that protect American interests in both its ongoing antitrust cases against American companies and through its advocacy as amici in related civil litigation.

We thank you for your leadership and commitment to defending American small businesses and innovation. The App Association commits to assist you in your efforts moving forward in any way possible.

Sincerely,



Morgan Reed
President

ACT | The App Association

¹ Graham Dufault, "Issue Brief: DoJ's Lawsuit Against Apple Puts Big Company Complaints Over Small Business Interests," ACT | THE APP ASSOCIATION BLOG (Apr. 9, 2024), available at <https://actonline.org/2024/04/09/issue-brief-dojs-lawsuit-against-apple-puts-big-company-complaints-over-small-biz-interests/>.

² See Graham Dufault, "Google Search Remedies: Even Worse than DMA?" ACT | THE APP ASSOCIATION BLOG (Jan. 31, 2025), available at <https://actonline.org/2025/01/31/dojs-google-search-remedies-even-worse-than-dma/>.