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December 14, 2021

The Honorable Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Secretary Raimondo:

I am writing regarding remarks you made last week in a video statement to the U.S. Chamber of Commerce about potential regulation of large tech companies by European Union (EU) authorities[1] and the extent to which these comments appear to publicly undermine the Administration's previously announced policies to protect consumers and workers from Big Tech monopolies.

Your comments, which were made at the U.S. Chamber of Commerce's Transatlantic Business Works Summit, were in reference to the EU's Digital Markets Act and Digital Services Act, legislative proposals under consideration by the European Commission that would protect internet users and "establish a level playing field to foster innovation, growth, and competitiveness."[2] The objectives of the Digital Markets Act in particular mirror those of the bipartisan tech antitrust bills introduced in the House in June.[3] Furthermore, these goals are similar to those outlined by President Biden and other Administration officials. For example, the President's Executive Order on Promoting Competition in the American Economy states that the Administration's policy is "to enforce the antitrust laws to meet the challenges posed by new industries and technologies, including the rise of the dominant Internet platforms" and

[1] U.S. Chamber of Commerce, "Remarks by Commerce Secretary Gina Raimondo, to the U.S. Chamber of Commerce, 'Transatlantic Goals," December 9, 2021, https://www.uschamber.com/on-demand/government-policy/us-eu-partnerships-the-biden-administrations-transatlantic-goals-and-priorities.
[2] Digital Strategy, "The Digital Services Act package," https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package.
[3] House Committee on the Judiciary, "Chairman Nadler Applauds Committee Passage of Bipartisan Tech Antitrust Legislation," press release, June 24, 2021, https://judiciary.house.gov/news/documentsingle.aspx?DocumentID=4622.

encourages the Federal Trade Commission to use its rulemaking authority to better regulate "unfair competition in major Internet marketplaces."[4]

Looking beyond our borders, the Biden Administration has also promised a sharp break from decades of pro-industry, anti-worker trade deals, with a "foreign policy for the middle class" and a "worker-centered trade policy."[5]

Your comments on Wednesday, December 9, 2021 are inconsistent with these positions. Specifically, you stated, "the EU wants to use these pieces of legislation to create a fair, transparent, and safe digital space. But we have serious concerns that these proposals will disproportionately impact U.S.-based tech firms, and their ability to adequately serve EU customers, and uphold security and privacy standards."[6]

Your comments require clarification and explanation. This Administration has promised to engage our allies to put worker-centered trade policies in place, and to promote competitive markets and regulate Big Tech to protect consumers and workers. It makes little sense for you to go before the U.S. Chamber of Commerce, which opposes all these Administration efforts, and promise to defend U.S. Big Tech firms from competition policies designed to achieve the same goals as the Biden Administration's policies merely because they emerge from our allies.

In particular, your focus on the impact of the new EU legislation on U.S.-based tech firms and their ability to serve EU customers is a clear effort to defend these monopolists from scrutiny. The mere fact that the world's largest tech companies like Facebook, Google, and Amazon are headquartered in the United States does not justify protecting their profits and their market share as if that is our default national interest. These companies consistently take steps to avoid paying their fair share in taxes[7] and to avoid responsibility for spreading misinformation and

[4] White House, "Executive Order on Promoting Competition in the American Economy," press release, July 9, 2021, https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/.

[5] Carnegie Endowment for International Peace, "U.S. Foreign Policy for the Middle Class," https://carnegieendowment.org/specialprojects/usforeignpolicyforthemiddleclass/; Executive Office of the President of the United States, "2021 Trade Policy Agenda and 2020 Annual Report of the President of the United States on the Trade Agreements Program," https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf.

[6] U.S. Chamber of Commerce, "Remarks by Commerce Secretary Gina Raimondo, to the U.S. Chamber of Commerce, 'Transatlantic Goals," December 9, 2021, https://www.uschamber.com/on-demand/government-policy/us-eu-partnerships-the-biden-administrations-transatlantic-goals-and-priorities.

[7] Warren Democrats, "Tax Returns," https://elizabethwarren.com/tax-returns.

disinformation on key topics from elections to COVID-19;[8] they monetize consumers' data, and crush competition.[9]

Too often, our federal government has carried water for big multinationals when it comes to our trade policy, leading to trade rules that limit the ability of our own country and our trading partners to pursue legitimate regulation of drug pricing, environmental standards, and more. Big Tech now wants to run the same play and preempt legitimate antitrust, anti-disinformation and misinformation, pro-worker and pro-consumer regulation. They should not be able to rely on you to run interference for them.

Your comments on EU efforts to rein in Big Tech take place in the context of other concerning moves on digital trade. You recently announced that you are co-leading a new Indo-Pacific economic framework that will include digital services.[10] While promoting the newly announced framework, you called attention to the welcome reception from trading partners but did not articulate how this framework would help workers or increase environmental protections. You have said that it is "flexible" and "inclusive"[11] – raising questions of whether you intend to allow trading partners with low labor and environmental standards, without requiring them to make changes. You also specifically expressed interest in engaging with countries like Vietnam that have poor labor and environmental protections, as well as restrictions on internet freedoms, without reference to potential reforms in this area.[12] And your comments that this new agreement would be "even more robust in some ways than the traditional free trade agreement"[13] provides little comfort given that how bad traditional free trade agreements have been for workers, consumers, and the environment. Reports that the Administration is considering launching negotiations on an Asia-Pacific new digital trade agreement[14] are equally concerning,

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[8] Letter from Senator Elizabeth Warren to Amazon on Consumer Misinformation, September 7, 2021, https://www.warren.senate.gov/imo/media/doc/2021.9.7%20Letter%20to%20Amazon%20on%20COVID%20Misinformation.pdf; Letter from Senator Elizabeth Warren to Facebook on Climate disinformation, July 15, 2020, https://www.warren.senate.gov/imo/media/doc/07.15.2020%20Letter%20from%20Sens.%20Warren,%20Carper,%20Whitehouse,%20&%20Schatz%20to%20Mr.%20Zuckerberg.pdf.

[9] House Committee on the Judiciary, "Investigation of Competition in Digital Markets," 2020, pp. 12-17, https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519.

[10] Inside U.S. Trade, "Raimondo: Commerce to co-lead Indo-Pacific economic framework," https://insidetrade.com/daily-news/raimondo-commerce-co-lead-indo-pacific-economic-framework.

[11] Reuters, "U.S. says new Indo-Pacific economic framework not typical trade deal," Rozanna Latiff and Liz Lee, November 18, 2021, https://www.reuters.com/world/asia-pacific/us-malaysia-agree-transparency-semiconductor-manufacturing-supply-chains-2021-11-18/; Bloomberg, "U.S. Eyes 'Powerful' Asia Economic Deal in 2022, Raimondo Says," Jenny Leonard and Eric Martin, December 12, 2021, https://www.bloombergquint.com/global-economics/u-s-eyes-powerful-asia-economic-deal-in-2022-raimondo-says.

[12] Freedom House, "Vietnam: Political Rights and Civil Liberties," https://freedomhouse.org/country/vietnam/freedom-world/2021; Freedom House, "Vietnam: Obstacles to Access, Limits on Content and Violations of User Rights," https://freedomhouse.org/country/vietnam/freedom-net/2021; Environmental Performance Index, "Viet Nam," https://epi.yale.edu/epi-results/2020/country/vnm.

[13] Inside U.S. Trade, "Raimondo: U.S. eyeing Indo-Pacific framework 'more robust' than CPTPP, https://insidetrade.com/daily-news/raimondo-us-eyeing-indo-pacific-framework-%E2%80%98more-robust%E2%80%99-cptpp.

[14] Wall Street Journal, "U.S. – Asia Digital Pact Held Up by Squabble Among Biden Officials," https://www.wsj.com/articles/u-s-asia-digital-pact-held-up-by-squabble-among-biden-officials-11626781120/.

and so far have come with no clear explanation as to how such an agreement would help workers, rather than just serving Big Tech interests.

Given my concerns about your recent comments, and the role you will play in upcoming digital trade negotiations, I ask that you provide answers to the following questions no later than December 29, 2021.

1. What specific concerns were you referring to in your December 9 comments when you stated that "these proposals will disproportionately impact U.S.-based tech firms, and their ability to adequately serve EU customers, and uphold security and privacy standards"?
2. Can you explain how your statements are not in conflict with the Biden Administration's executive order on competition and various policy statements with respect to reining in tech companies?
3. Have you previously discussed the concerns you cited in your December 9, 2021 comments with executives from or representatives of Google, Facebook, Amazon, or any other large U.S. technology companies?
    a. If so, please describe the nature and content of these discussions.
    b. Have you had similar discussions with representatives of competitor companies or companies in nearly every sector of the economy experiencing the negative effects of excessive market power deployed by large U.S. technology companies?
    c. Have you had similar discussions with labor, consumer, environmental, or other advocacy organizations?
4. What, specifically, are the goals of U.S. trade policy as you see them with regard to large technology firms? Do they explicitly include promoting robust competition and curbing monopolies, protecting workers' rights, protecting consumer data privacy, and protecting consumers from disinformation?
5. What specific discussions, if any, have you had with EU authorities regarding the Digital Markets Act and Digital Services Act?

Thank you for your attention to this matter. I look forward to receiving your reply.

Sincerely,

Elizabeth Warren
United States Senator