

Anti-Big Tech Streak Continues with Nomination of Jonathan Kanter to Lead Antitrust Division

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On July 20, 2021, President Joe Biden nominated Jonathan Kanter to be Assistant Attorney General for the Department of Justice's (DOJ) Antitrust Division. Mr. Kanter is well-known in the legal field as a strong advocate for federal and state antitrust enforcement and has been specifically critical of large technology companies.

Mr. Kanter has spent his career both in the federal government as an attorney at the Federal Trade Commission (FTC) and in private practice at various major law firms. Most recently, Mr. Kanter started his own firm, Kanter Law Group LLP, a boutique antitrust law firm. Throughout his career, Mr. Kanter has represented rivals of large technology companies. He has spoken critically about the federal government's lack of antitrust enforcement in the last 20 years, in one instance likening the government's treatment of monopolization cases to jaywalking cases: "You just don't see them."

Mr. Kanter's nomination received swift support from key lawmakers, including Senator Amy Klobuchar, chair of the Senate Antitrust subcommittee, as well as Senator Elizabeth Warren, who advocated breaking up "big tech" companies during her unsuccessful 2020 presidential campaign. Nonetheless, some have pointed out that Mr. Kanter's previous representations of rivals of those companies, including Google, could require his recusal from the DOJ's ongoing lawsuits and investigations.

Mr. Kanter's nomination to lead the Antitrust Division is yet another strong signal that President Biden's administration is serious about enforcing the nation's antitrust laws against large companies, across various industries. In March, Biden nominated Lina Khan to the FTC; Ms. Khan has long called for additional antitrust scrutiny and investigations. Following her confirmation by the U.S. Senate, President Biden selected her as Chair of the FTC. Moreover, the President appointed Columbia Law School Professor Tim Wu, an antitrust legal scholar who also favors increased legal scrutiny against large technology companies, to be a member of his National Economic Council. Together, the appointment of Wu and nominations of Khan and Kanter foreshadow a new frontier of aggressive antitrust enforcement.

Mr. Kanter's nomination must be approved by the U.S. Senate before he can assume his duties at the DOJ. His nomination is expected to be considered after Labor Day.

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