The Honorable Mitch McConnell U.S. Capitol Building, S-230 Washington, D.C. 20510 The Honorable Nancy Pelosi U.S. Capitol Building, H-204 Washington, D.C. 20515

The Honorable Chuck Schumer 313 Hart Senate Office Building Washington, D.C. 20510 The Honorable Kevin McCarthy U.S. Capitol Building, H-204 Washington, D.C. 20515

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

On behalf of the undersigned organizations, representing taxpayers and free market advocates across the nation, we write in strong opposition to the "Pandemic Anti-Monopoly Act" from Sen. Elizabeth Warren (D-MA) and Rep. Alexandria Ocasio-Cortez (D-NY) and to similar proposals to ban all mergers from Rep. David Cicilline (D-RI) and others.¹

Sen. Warren, Rep. Ocasio-Cortez, and Rep. Cicilline have painted a disturbing picture of the private sector during this economic and public health emergency, claiming that "predatory" large companies are waiting to "gobble up" small businesses and fire millions of workers in the process.² The only remedy, they claim, is to put a stop to all mergers and acquisitions for the length of the public health and economic emergencies. Even with the limited exceptions they propose, the picture the lawmakers paint and their remedies are divorced from reality.

According to Commissioner Noah Phillips of the Federal Trade Commission (FTC), "[t]here is no evidence of a merger 'wave'... To the contrary, according to Bloomberg, monthly M&A volume hit rock bottom in April – the lowest since 2004." This matches trends during the Great Recession, where filings in fiscal year (FY) 2009 fell by 58.5 percent compared to FY 2008.4

It is critical to note that the FTC and the Department of Justice's (DOJ) Antitrust Division maintained a similar level of enforcement over mergers and acquisitions in the 2009-2010 period, even as M&A filings plummeted during the Great Recession.⁵ In the current crisis, existing FTC and DOJ capabilities are sufficient for the agencies to review mergers and acquisitions they believe could be anti-competitive.

The proposals from Sen. Warren, Rep. Ocasio-Cortez, and Rep. Cicilline to ban all mergers would do active harm to the economic recovery, by forcing small and mid-sized companies to fail rather than survive through a merger or acquisition, and by denying companies the opportunities for innovation and efficiency that come with most mergers. As FTC Commissioner Phillips notes, "[a]s a general matter, decades of research and experience tell us that the vast majority of mergers are either pro-competitive or competitively-neutral. ... American consumers stand to gain from pro-competitive mergers, during and after the current crisis" The Council of Economic Advisors (CEA), for its part, warned in February that "[u]sing antitrust law to regulate markets in the absence of competition problems will exact costs on the economy by preventing efficient market organization."

¹ See: Kapur, Sahil. "Warren, Ocasio-Cortez propose halt to big mergers during coronavirus pandemic." NBC News, April 28, 2020. Retrieved from: https://www. nbenews.com/politics/politics-news/warren-ocasio-cortez-propose-halt-big-mergers-during-coronavirus-pandemic-nl193756 (Accessed May 11, 2020.); Nylen, Leah and Woodruff Swan, Betsy. "House antitrust chairman proposes merger ban during pandemic." Politico, April 23, 2020. Retrieved from: https://www.politico.com/news/2020/04/23/house-antitrust-chairman-proposes-merger-ban-during-pandemic-203467 (Accessed May 11, 2020.)

Total See also: Congressman David Cicilline. (May 5, 2020). "Cicilline Leading Push for Moratorium on Unnecessary Corporate Mergers in Next Relief Package."

Retrieved from: https://cicilline.house.gov/press-release/cicilline-leading-push-moratorium-unnecessary-corporate-mergers-next-relief-package (Accessed May

³ Phillips, Noah. "Let's (NOT) Stop All the Mergers: The Case for Letting the Agencies Do Their Jobs." Truth on the Market, May 5, 2020. Retrieved from: https://truthonthemarket.com/2020/05/05/lets-not-stop-all-the-mergers-the-case-for-letting-the-agencies-do-their-jobs/ (Accessed May 11, 2020.)

⁴ Lautz, Andrew. "Proposals to Halt All Mergers Would Stunt the COVID-19 Economic Recovery." National Taxpayers Union, April 28, 2020. Retrieved from:

https://www.ntu.org/publications/detail/proposal-to-halt-all-mergers-would-stunt-the-covid-19-economic-recovery 5 Ibid.

⁶ Phillips, Noah. "Let's (NOT) Stop All the Mergers: The Case for Letting the Agencies Do Their Jobs." Truth on the Market, May 5, 2020. Retrieved from: https://

truthonthemarket.com/2020/05/05/lets-not-stop-all-the-mergers-the-case-for-letting-the-agencies-do-their-jobs/ (Accessed May 11, 2020.)

The Council of Economic Advisors. (February 2020). "Economic Report of the President." Retrieved from: https://www.whitehouse.gov/wp-content/uploads/2020/02/2020-Economic-Report-of-the-President-WHCEA.pdf

A merger moratorium at any time would harm America's economic growth. During the COVID-19 emergency and in the immediate aftermath, it would be extremely detrimental to America's economic recovery. We urge you to reject legislation like the "Pandemic Anti-Monopoly Act," and all proposals to ban mergers now or in the future.

Sincerely,











National Taxpayers Union 60 Plus Association

ALEC Action

American Consumer Institute Americans for a Balanced Budget



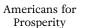








Americans for Limited Government



PROSPERITY

Americans for A Strong Economy Americans for Tax Reform

Center for a Free Economy



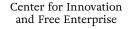








Center for Freedom and Prosperity

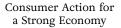


Center for Individual Freedom

Club for Growth

Competitive Enterprise Institute







Council for Citizens Against Government Waste



Digital Liberty



FreedomWorks



The Heartland Institute



Heritage Action for America



Hispanic Leadership Fund



Institute for Liberty



The Market Institute



Net Choice





Taxpayers Protection Alliance

Small Business & Entrepreneurship Council (SBE Council)