

## **Jonathan Kanter, Another Big Tech Critic, Nominated to Head Up the Department of Justice's Antitrust Division**

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President Biden has finally nominated Jonathan Kanter as the next Assistant Attorney General for the DOJ's Antitrust Division. The White House called Kanter "a leading advocate and expert in the effort to promote strong and meaningful antitrust enforcement and competition policy."

The nomination was well-received among prominent Democrats. Sen. Amy Klobuchar (D-MN), head of the Senate antitrust subcommittee, described Kanter as "a leader in the effort to increase antitrust enforcement against monopolies." Sen. Elizabeth Warren (D-MA), who vowed on the presidential campaign trail to break up Big Tech, said Kanter would "reinvigorate" antitrust enforcement. And Rep. David Cicilline (D-RI), chairman of the House antitrust subcommittee who led an in-depth investigation of the market power of Big Tech, tweeted that Kanter is "absolutely the right person to take on corporate monopolies and lead the antitrust division at this critical moment."

Kanter appears to be philosophically aligned with the other antitrust progressives appointed by President Biden, including Lina Khan the new chair of the FTC and Tim Wu on the National Economic Council. Together, and with support from many in Congress, Kanter, Khan and Wu are expected to usher in an era of significantly more aggressive and expansive antitrust enforcement.

While Kanter has solid support from anti-monopolists and progressive Democrats, questions are already being raised about the potential need for recusals given Kanter's 21 years of experience as an antitrust lawyer in private practice, including previous representations of Microsoft Corp., Cigna Corp. and several rivals of Alphabet Inc.'s Google. Kanter started his legal career as a Federal Trade Commission attorney from 1998 to 2000. But since then, he has been an associate at Fried, Frank, Harris, Shriver & Jacobson LLP; a partner at Cadwalader, Wickersham & Taft LLP; and a partner and co-chair of the antitrust group at Paul, Weiss, Rifkind, Wharton & Garrison LLP. In September 2020, he struck out on his own, launching a boutique law firm, The Kanter Law Group PLLC, that specializes in representing parties with antitrust grievances against major tech companies.

Now that there is a nominee, the next step is the confirmation hearing. With the Senate set to go into recess from Aug. 9 to Sept. 10, there could be pressure to hold Kanter's confirmation hearing in the next two-and-a-half weeks. Otherwise, he'd have to wait for the Senate to reconvene briefly from Sept. 13 to 15, before taking another recess and returning Sept. 20 through Oct. 7. If the Democrats are unable to move quickly, it could be September or even October before Kanter is sworn in. Once he is sworn in, both federal agencies will have permanent leadership and a new era of antitrust enforcement will begin.

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