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June 11, 2019

The Honorable Lee Lothfus  
Designated Agency Ethics Official  
Department of Justice  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

Dear AAG Lothfus:

I am writing to request information regarding Assistant Attorney General Makan Delrahim's ethics agreement, as well as any ongoing conversations regarding his recusal from investigations or other matters pertaining to Google or Apple, Inc.

The Department of Justice (DOJ) and the Federal Trade Commission (FTC) share authority to enforce federal antitrust laws. On May 31, 2019, reports emerged that the two agencies had come to an agreement that the DOJ would have jurisdiction over potential anticompetitive conduct by Google, and that the agency was "preparing to open an antitrust investigation" into the company.<sup>1</sup>

As the head of the Antitrust Division, Mr. Delrahim is in a position to supervise that investigation. In 2007, Google hired Mr. Delrahim to lobby federal antitrust officials on behalf of the company's proposed acquisition of online advertising company DoubleClick Inc., a \$3.1 billion merger that the federal government eventually signed off on.<sup>2</sup> By 2018, Google accounted for nearly 40% of digital advertising spending in the U.S.<sup>3</sup> Mr. Delrahim reported an estimated \$100,000 in income from Google in 2007.<sup>4</sup>

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<sup>1</sup> Bloomberg, "Google Is in U.S. Antitrust Sights as DOJ Gears Up for Probe," David McLaughlin, May 31, 2019, <https://www.bloomberg.com/news/articles/2019-06-01/google-antitrust-scrutiny-to-fall-to-doj-under-deal-with-ftc>.

<sup>2</sup> The Mercury News, "Google hires former DOJ lawyer to lobby on DoubleClick deal," Jun. 1, 2007, <https://www.mercurynews.com/2007/06/01/google-hires-former-doj-lawyer-to-lobby-on-doubleclick-deal/>.

<sup>3</sup> Business Insider, "The head of the Justice Department division reportedly preparing an antitrust investigation into Google used to be a lobbyist defending Google against antitrust concerns," Nick Bastone, Jun. 3, 2019, <https://www.businessinsider.com/makan-delrahim-google-antitrust-doubleclick-2019-6>.

<sup>4</sup> Senate Lobbying Database, "Lobbying Report," Feb. 14, 2008, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=61EE34D3-1E4B-462A-A17E-AFFD509B749C&filingTypeID=9>.

Additional reports indicate that in addition to the investigation into Google, the DOJ will also have jurisdiction over Apple. In both 2006 and 2007, Apple hired Mr. Delrahim to lobby the federal government on its behalf on patent reform issues.<sup>5</sup>

Federal ethics law requires that individuals recuse themselves from any “particular matter involving specific parties” if “the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter.”<sup>6</sup> Given his extensive and lucrative previous work lobbying the federal government on behalf of Google and Apple—particularly his work to aid Google in its acquisition of DoubleClick Inc.—any reasonable person would surely question Mr. Delrahim’s impartiality in antitrust matters involving Google. I have also introduced legislation that would prohibit former corporate lobbyists from taking government jobs for six years after lobbying.<sup>7</sup> In addition to his work for Google and Apple in 2006 and 2007, Mr. Delrahim was a corporate lobbyist until 2016, with a client list that included Anthem, Pfizer, Qualcomm, and Caesars.

Mr. Delrahim’s past work as a lobbyist for two of the largest and most scrutinized tech companies in the world creates the appearance of conflict of interest. As the head of the antitrust division at the DOJ, Mr. Delrahim should not be supervising investigations into former clients who paid him tens of thousands of dollars to lobby the federal government. American consumers and markets deserve the confidence that the DOJ will conduct any antitrust investigation into Google or Apple with integrity, impartiality, and with the best interest of competitive markets and consumers in mind.

In order to provide me with information on how the Department is addressing these conflicts, I ask that you answer the following questions by June 14, 2019, and provide me with a copy of Mr. Delrahim’s ethics agreements by the same date.


1. Did Mr. Delrahim file any provision of his ethics agreement pertaining to his involvement in matters related to either Google or Apple? If so, what are the requirements of this provision? Please provide me with a copy of those agreements.
2. Have you been in contact with Mr. Delrahim regarding a potential recusal from any matter related to either Google or Apple? If so, please provide me with details of that communication, including your advice to Mr. Delrahim, any timeline for a recusal decision, and the factors that will be considered in making this decision.

Sincerely,

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<sup>5</sup> Senate Lobbying Database, “Lobbying Registration,” May 19, 2006, <https://soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=CF28A9A2-9A83-4147-A323-09D73AF43FBB&filingTypeID=1>.

<sup>6</sup> 5 CFR 2635.502



Elizabeth Warren  
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