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February 20, 2024

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Lina Khan
Chair Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Jonathan S. Kanter
Assistant Attorney General
Antitrust Division
U.S. Department of Justice,
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Garland, Chair Khan, and Assistant Attorney General Kanter,

I write to you to express my opposition to BlackRock's acquisition of Global Infrastructure Partners (GIP), a private equity firm which manages $100 billion in infrastructure assets around the world, and to call on you to use your joint antitrust authority to block this acquisition.[i] This $12.5 billion deal would be BlackRock's largest acquisition in 15 years.

If this deal is approved by federal regulators, BlackRock would combine GIP, the third largest infrastructure asset manager in the world with the more than $50 billion in infrastructure assets it already owns for a total of $150 billion in infrastructure assets. BlackRock's purchase of GIP appears to be a clear violation of the Clayton Act. Under Section 7 of the Clayton Act, investors cannot have stake in companies where "the effect of such an acquisition may be to substantially lessen competition, or to tend to create a monopoly."[ii] The asset management industry is quickly becoming a monopoly and BlackRock's acquisition of GIP will make this problem even worse.

BlackRock has made clear that the acquisition of GIP is part of an ongoing strategy to dominate the infrastructure industry. In November, just months before the GIP deal was announced, BlackRock announced that its Evergreen Infrastructure fund, its mutual fund for investments in North America and Europe, had secured $1 billion in client commitments in Europe.[iii] Larry Fink, BlackRock's CEO, said "we are working right now with two or three major companies looking to restructure themselves, [it will be] $4 to 5 billion of equity needed to do these deals, also talking to governments now that they are looking to transform some of their power grids and so all of these things are acquiring, not a few hundred million, but a few billion dollars, so the need is going to be greater, and the power of GIP, and really BlackRock, allows us to be in the front of the pack."[iv]

As you know, the Federal Trade Commission (FTC) and Department of Justice (DOJ) recently updated their Merger Guidelines. Under Guideline 1 of the FTC and DOJ merger guidance, "Mergers Raise a Presumption of Illegality When They Significantly Increase Concentration in a Highly Concentrated Market."[v] Infrastructure asset management is already a highly concentrated market, and this deal will dramatically widen the gap between the top three infrastructure asset managers and the rest of their competitors. As of March 2023, Macquarie Asset Management had nearly $340 billion in infrastructure assets under management, Brookfield Asset Management had over $200 billion, and IFM, the fourth largest manager after GIP, holds $75 billion under management—less than half of what BlackRock will hold after this deal.[vi] With a market so concentrated among the top few infrastructure asset managers, this deal may concentrate the market so as to be presumptively illegal under Guideline 1.

Beyond its move to dominate infrastructure investment specifically, this acquisition would allow BlackRock to extend its dominant position as an asset management company more broadly, which is a major concern under Guideline 6 of the FTC and DOJ merger guidelines which states that "mergers can violate the law when they entrench or extend a dominant position."[vii]

BlackRock is already the largest asset manager in the world, with over $9 trillion assets under management. BlackRock also controls the Aladdin (Asset, Liability and Debt and Derivative Investment Network) system, which handled portfolio and risk management for nearly $22 trillion in assets in 2020. Fannie Mae, MetLife, and PNC all use Aladdin, giving BlackRock reach over investments outside of their own portfolios.

Just three Wall Street firms—BlackRock, Vanguard, and State Street—manage over $20 trillion in assets. One of these three firms is the largest shareholder in over 85 percent of S&P 500 companies. These three companies control nearly a quarter of all shareholder votes cast at annual meetings, leveraging their power to influence CEO compensation, stock buybacks, environmental commitments, mergers, and pension benefits.[viii]

Guideline 11 states that "When an acquisition anvolves partial ownership or minority interests, the agencies examine its impact on competition."[ix] Beyond individual companies, BlackRock and the rest of the Big Three control entire industries through indirect common ownership, particularly ones that are highly concentrated, which has led to increased concentration and higher prices for consumers. By maintaining partial common ownership of the major players in a given industry, existing evidence indicates that industry executives and managers have less incentive to vigorously compete on price, even if there is no anticompetitive intent on anyone's part.[x] The airline industry is a clear example. The Big Three are the top three shareholders in the top four airlines. This common ownership has been found to raise airline prices by up to 5 percent. BlackRock's acquisition of BGI alone raised airline ticket prices by 0.5 percent.[xi]

This deal is yet another example of how BlackRock is looking to further concentrate its economic power, which is dangerous for our economy and consumers. Infrastructure is a fundamental part of everyday life. We rely on our roads, bridges, drinking water systems, wastewater plants, railways, schools, and housing to live. Asset managers are increasingly taking control over the infrastructure industry, making it more and more concentrated. The inevitable result of this concentration is unavoidable, higher costs for consumers.

I urge you to quickly and thoroughly look into BlackRock's planned acquisition of GIP. If upon looking into this deal, you find that it would further entrench BlackRock's dominant position, and harm competition within the infrastructure industry, I ask that you do everything in your power to oppose it.

Sincerely,

Bernard Sanders
United States Senator

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[i] Global Infrastructure Partners, https://www.global-infra.com/.

[ii] *Clayton Act of 1914, U.S. Code* 15 (2018), § 18.

[iii] Swetha Gopinath and Dinesh Nair, "BlackRock's Energy-Focused Infrastructure Fund Hits $1 Billion," November 16, 2023, *Bloomberg Law*, https://news.bloomberglaw.com/capital-markets/blackrock-green-infrastructure-fund-gets-1-billion-from-clients.

[iv] CNBC, *BlackRock CEO Larry Fink on GIP deal: The future in private markets will be infrastructure* (January 12, 2024) https://www.cnbc.com/video/2024/01/12/blackrock-ceo-larry-fink-on-gip-deal-the-future-in-private-markets-will-be-infrastructure.html (quote from Larry Fink)

[v] U.S. Department of Justice and the Federal Trade Commission, "Merger Guidelines," December 18, 2023, 5-6, https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf.

[vi] Richard Lowe, "Top 100 Infrastructure Investment Managers 2023," *IPE Real Assets*, July/August 2023, https://realassets.ipe.com/top-100-infra-managers/top-100-infrastructure-investment-managers-2023/10067591.article.

[vii] U.S. Department of Justice and the Federal Trade Commission, "Merger Guidelines," December 18, 2023, 18-21, https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf.

[viii] Lucian Bebchuk and Scott Hirst, "Big Three Power, and Why it Matters," December 13, 2022, Harvard Law School Forum on Corporate Governance, https://corpgov.law.harvard.edu/2022/12/13/big-three-power-and-why-it-matters/.

[ix] U.S. Department of Justice and the Federal Trade Commission, "Merger Guidelines," December 18, 2023, 23, https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf.

[x] Antón, M., Ederer, F., Giné, M., & Schmalz, M. (2023). *Common ownership, competition, and top management incentives*. Journal of Political Economy, 131(5), 1294-1355.

[xi] José Azar, Martin Schmalz, and Isabel Tecu, "Anticompetitive Effects of Common Ownership," *The Journal of Finance* 73, no. 4 (August 2018), 1513-1565, https://www.jstor.org/stable/26654659.