

December 18, 2024

Brian A. Kane, Executive Director
National Association of Attorneys General
445 Minnesota Avenue, NW
Suite 700
Washington, DC 20001

Dear Mr. Kane:

We are writing to urge state attorneys general to initiate antitrust enforcement action against Nvidia's anticompetitive business practices, which have already prompted a federal investigation by the U.S. Department of Justice.¹ Nvidia's overwhelming dominance in graphics processing (GPU) and artificial intelligence (AI) hardware sectors distorts global and national markets, but it distorts state economies too, leaving small businesses paying higher prices and consumers subject to privacy violations and other harms. The state attorneys general (AGs) in your membership play a vital role protecting consumers in all these areas, so federal action should be complemented by oversight at the state level.

Nvidia controls 88% of the overall market for GPU chips² and provides 98% of the GPU chips in data centers,³ which underpin AI innovation. Their near-absolute dominance enables Nvidia to manipulate supply, dictate prices, and control access to critical hardware. As generative AI drives industries such as finance, healthcare, and logistics, Nvidia's stranglehold on the hardware market grows ever tighter.

Nvidia's stockholders are reaping a fortune — the company's stock value has roughly tripled over the past 12 months⁴ — but their gains have come at a steep cost to consumers and the market. Significantly for AGs, numerous lawsuits suggest that the company's explosive growth has been driven by plainly illegal anticompetitive behavior. Most recent is the "David vs. Goliath" lawsuit filed in September by Xockets, a

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<https://www.bloomberg.com/news/articles/2024-09-03/nvidia-gets-doj-subpoena-in-escalating-antitrust-investigation>

2 <https://www.xda-developers.com/nvidia-88-gpu-market-share/>

3

<https://www.hpcwire.com/2024/06/10/nvidia-shipped-3-76-million-data-center-gpus-in-2023-according-to-study/>

4 <https://finance.yahoo.com/quote/NVDA/history/>

Texas-based startup specializing in data processing units (DPUs), against Nvidia, Microsoft, and patent aggregator RPX, accusing the companies of stealing its patented DPU technology and creating an illegal cartel to expand their market share, manipulate prices, and monopolize the chip and AI markets, locking out smaller competitors.⁵ The Xockets suit is just the latest example. A fintech company sued Nvidia for trademark infringement earlier this year.⁶ Another firm sued them in 2023 for stealing trade secrets.⁷ A group of authors sued over claims Nvidia had used their intellectual property without permission to train its AI platform.⁸ These cases highlight the broader struggles faced by innovative startups — which are critical to state economic growth and consumer welfare — in an environment where giants like Nvidia wield enormous power over markets.

Nvidia's practices have drawn scrutiny from other regulators across the world, but state AG's have a unique role to play in protecting everyday people from the harms of Nvidia's anticompetitive practices. Your membership has a direct understanding of the local economic impact on startups in a given state. Furthermore, state-level lawsuits can lead to more tailored remedies that address specific harms faced by local communities, which might be overlooked in the broader federal and international cases. State lawsuits can also increase the pressure on companies, often leading to faster settlements or more comprehensive resolutions. By pursuing their own legal actions, state attorneys general can amplify the deterrent effect on anticompetitive behavior, signaling that such practices will face multiple levels of scrutiny and consequence, a particularly important function in a time of presidential transition.

We note that it was antitrust concerns about Standard Oil that prompted the founding of NAAG in 1907,⁹ and that your members have broad latitude to take action under state and federal law in response to antitrust violations.¹⁰ We commend your members for

⁵ <https://fortune.com/2024/09/13/nvidia-blackwell-chip-ai-patent-xockets/>

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<https://www.reuters.com/legal/litigation/nvidia-hit-with-trademark-lawsuit-over-modulus-ai-software-2024-04-08/>

⁷ <https://www.bbc.com/news/technology-67489495>

⁸ <https://www.foxbusiness.com/technology/nvidia-sued-authors-over-ai-use-copyrighted-works>

⁹ <https://www.naag.org/issues/antitrust/>. It is also worth noting in that case the federal government also sued, showing the utility of parallel state and federal efforts. See [https://www.law.cornell.edu/wex/standard_oil_co_of_new_jersey_v_united_states_\(1911\)#:~:text=The%20United%20States%20brought%20suit,an%20undue%20restraint%20of%20trade.](https://www.law.cornell.edu/wex/standard_oil_co_of_new_jersey_v_united_states_(1911)#:~:text=The%20United%20States%20brought%20suit,an%20undue%20restraint%20of%20trade.)

¹⁰ <https://www.naag.org/issues/antitrust/antitrust-101/>

frequently doing so, often in cases that garner significant public attention, like this year's *U.S., State of Arizona, State of Arkansas, et al. v. Live Nation*,¹¹ which now has 39 state co-plaintiffs.¹² In regard to Nvidia, your members should act again, by investigating the company's wide range of alleged anticompetitive behaviors.

We appreciate your prompt attention and the leadership your members exert in securing an economy that operates legally and ensures a prosperous future for all of us.

Sincerely,

Demand Progress Education Fund
Artist Rights Alliance
Economic Security Project Action
Future of Music Coalition
Institute for Local Self-Reliance
Lake Research Partners
NextGen Competition
Open Markets Institute
Revolving Door Project

Cc: Members of the NAAG Antitrust Subcommittee, Attorney General Phil Weiser (Colo.), Co-Chair, Attorney General Jonathan Skrmetti (Tenn.), Co-Chair, Attorney General Letitia A. James (N.Y.), Attorney General Michelle Henry (Penn.); Emily Myers, Antitrust Counsel; Members of the Labor and Antitrust working group Schonette Walker (MD), Bryan Bloom (NY), Jennifer Thomson (PA), Jessica Agarwal (NY); and members of the Technology Working Group, Beatriz Marques (NY), and Matthew Michaloski (IN).

¹¹ <https://www.naag.org/issues/antitrust/antitrust-101/>

¹² <https://techcrunch.com/2024/08/20/thirty-nine-state-ags-now-support-live-nation-ticketmaster-lawsuit/>