

United States Senate

April 13, 2023

Mr. Kenichiro Yoshida
Chairman, President, and Chief Executive Officer
1-7-1 Konan
Minato-ku, Tokyo, 108-0075 Japan

Dear Mr. Yoshida,

I write to express concern about Sony's efforts to protect its gaming console business from competition. For more than 20 years, Sony has utterly dominated the gaming console market, as that market has been defined by the Federal Trade Commission.¹ I am concerned Sony's dominance of that market, and its efforts to perpetuate its current position imperils an important economic development opportunity for North Dakota. Therefore, I write to request more information about Sony's anticompetitive business practices.

As you know, gaming is a large and rapidly growing economic sector. A recent Accenture study estimated the gaming industry generated revenues of over \$200 billion in 2021, and it remains on track to grow by over 20 percent on an annualized basis.² To prepare North Dakotans for careers in this burgeoning industry and other technology fields, North Dakota has developed a strategy to lead the nation in computer science and cybersecurity education to organically grow the next generation of technology professionals.³ Preparing students for careers in gaming is an important component of this effort. This includes the 14 North Dakota high schools and universities participating in the competitive eSports revolution by instituting competitive gaming programs.⁴ Last year, the University of North Dakota became one of the first U.S. higher education institutions to offer a Bachelor of Science degree in eSports, providing students with a career path to the video gaming industry.⁵

These investments are already showing their worth. Video gaming in the state produces an economic impact of more than \$20.6 million statewide and accounts for an estimated 221 jobs, according to the Entertainment Software Association.⁶ As gaming increasingly moves to mobile platforms, those numbers are set to grow dramatically. North Dakota projects approximately a 14 percent increase in technology job openings over the next 10 years and estimates 6,320 new and

¹ [Microsoft/Activision: Administrative Part 3 Complaint \(Public\) \(ftc.gov\)](https://www.ftc.gov/enforcement/complaints-files/microsoft-activision)

² <https://www.accenture.com/us-en/insights/software-platforms/gaming-the-next-super-platform>

³ <https://www.ndit.nd.gov/pk-20w-initiative-computer-science-and-cyber-education>

⁴ [https://www.kxnet.com/video/video-games-as-a-sport-nd-high-schools-embrace-the-trend-of-esports/;](https://www.kxnet.com/video/video-games-as-a-sport-nd-high-schools-embrace-the-trend-of-esports/)
<https://www.kfyrtv.com/content/news/14-North-Dakota-high-schools-to-create-an-esports-league-512518802.html>
[https://www.washingtontimes.com/news/2019/jul/8/14-north-dakota-high-schools-to-create-an-esports-/](https://www.washingtontimes.com/news/2019/jul/8/14-north-dakota-high-schools-to-create-an-esports/)

⁵ <https://und.edu/programs/esports-bs/index.html>

⁶ <https://www.theesa.com/video-game-impact-map/state/north-dakota/>

replacement technology jobs will be needed in North Dakota over the next decade to support the growing tech industry.⁷

Given the growing significance of the gaming industry to North Dakota, I am troubled by reports Sony appears to leverage its dominance to exclude competition rather than enabling choice for players and developers.⁸ According to published reports, Sony controls over 68%⁹ of the global market for gaming consoles and a shocking 98% of the Japanese market.¹⁰ Increasingly, it appears Sony's dominance is attributable to exclusionary practices, including paying game publishers not to distribute their games on rival platforms.¹¹

Sony's anticompetitive conduct has also included lobbying the FTC and competition regulators abroad to oppose Microsoft's proposed acquisition of Activision,¹² a transaction many legal and gaming industry experts believe would promote a more competitive gaming market.¹³ Even more troubling is the fact Sony's lobbying of the FTC and other regulators began shortly after Sony itself acquired Bungie, another major gaming competitor.¹⁴ Sony's efforts to block this transaction apparently include a refusal to accept an agreement that fully addresses its concerns and would expand consumers' access to games.¹⁵

Sony's conduct hurts American consumers by leading to higher prices and reduced choice. Importantly, it also constrains economic opportunities for developers, including for small and independent developers.

To assure transparency regarding how Sony conducts its business, I ask you please provide unredacted copies of the following information:

1. All agreements that provide Sony with an exclusive right to distribute a game developed by an independent publisher;
2. All agreements between Sony and a game publisher that prevent the publisher from distributing its games on a rival's subscription or streaming service;
3. All internal company documents describing the strategic rationale for Sony's acquisition of Bungie, Inc.; and

⁷ <https://technd.org/Statistics>

⁸ <https://www.theverge.com/2023/3/3/23623363/microsoft-sony-ftc-activision-blocking-rights-exclusivity>

⁹ <https://www.polygon.com/23546288/microsoft-activision-blizzard-acquisition-deal-merger-ftc-latest-news>

¹⁰ <https://subscriber.politicopro.com/article/2023/03/cantwell-calls-out-sonys-gaming-monopoly-in-exchange-with-us-trade-rep-tai-00088607>

¹¹ <https://gamerant.com/sony-xbox-game-pass-competitor-game-restriction-publishing-marketing-agreement-rumor/>

¹² <https://www.theverge.com/2023/3/8/23630700/sony-microsoft-call-of-duty-sabotage-cma-documents-activision-deal>

¹³ [What's Past Is Prologue: Microsoft's Acquisition of Activision Blizzard Does Not Raise Foreclosure Concerns](#), Julie Carlson, Information Technology and Innovation Foundation; [Bigger Means Different: Four Pro-competitive Arguments in Favor of Microsoft Buying Activision Blizzard](#), Joost van Dreunen, NYU Stern School of Business; [Would Microsoft's Proposed Activision Merger Be Positive for Consumers?](#), Nate Scherer, American Consumer Institute.

¹⁴ <https://www.theverge.com/2022/7/15/23220335/bungie-sony-acquisition-complete-official-done>

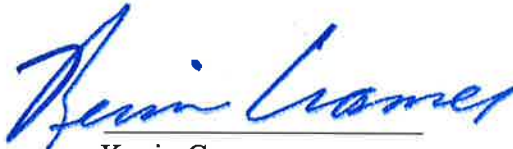
¹⁵ <https://twitter.com/lulumesurvey/status/1633573596911075329?ctx=HHwWgoC85YCiz6stAAAA>

4. All correspondence with any U.S. federal or state government or regulatory agency relating to competition in the video gaming industry.

Please respond in writing along with the requested information no later than May 1, 2023.

Thank you for your prompt attention to this important matter.

Sincerely,



Kevin Cramer
United States Senator

Cc: Gina M. Raimondo, Secretary of Commerce
Ambassador Katherine Tai, United States Trade Representative
Lael Brainard, Director, National Economic Council
Jeffrey Zients, Chief of Staff, White House
Bruce Reed, Deputy Chief of Staff, White House
Steve Ricchetti, Counselor to the President
Ambassador Susan Rice, Assistant to the President for Domestic Policy
Jonathan Kanter, Assistant Attorney General, U.S. Department of Justice
Lina Khan, Chair, Federal Trade Commission
Rebecca Kelly Slaughter, Commissioner, Federal Trade Commission
Alvaro Bedoya, Commissioner, Federal Trade Commission