



January 12, 2022

Dear Senators,

As longtime advocates for policies that increase consumer choice, boost competition, and protect consumers, the American Consumer Institute Center for Citizen Research (ACI), a 501(c)(3) non-partisan research and educational institute, has analyzed and highlighted numerous times the negative effects the American Innovation and Choice Online Act (S. 2992) would have on consumer and small businesses.

We are especially concerned of the following ramifications:

- The designated covered platforms would be unable to self-preference their products or pre-install their own products. As a result, consumers will likely be denied access to the cheapest products available, which would translate into higher prices for consumers and decrease in consumer choice;
- Increased risks for user data privacy and security. The designated covered platforms cannot “materially restrict or impede a business user from accessing data generated on the covered platform,” and would not be able to impose strict terms and conditions on small businesses that use the platform. Given that large platforms operate sophisticated cybersecurity programs and offer substantial data privacy protections, mandating smaller companies with fewer protections to be given access to consumer data would mean that consumer data would be at increased for privacy and security breaches;
- The bill would make it difficult for small businesses to access online marketplaces, which have been vital for their growth and success. The alternative for small businesses would be to set up their own platforms for selling goods and services, which could be extremely costly. This added cost would undoubtedly raise questions about the financial viability of the large number of small businesses, startups, and entrepreneurs that currently are able to access a large pool of consumers on online marketplaces at a low cost.

We can't emphasize enough that these are not just speculations, but analysis-based estimations corroborated by a large group of consumer advocates and antitrust experts.

In contrast, without providing evidence to support their claims, supporters of the bill might suggest that it would not negatively affect the services and products consumers currently enjoy, but unfortunately, in reality it would absolutely make consumer choice and technology worse, while also hurting small businesses.

In fact, this bill would do little in addressing anti-competitive behavior, and instead deem a variety of commonplace business practices as antitrust violations. The specific lingo used in the bill targets only a handful of technology companies suggesting that this is not truly about protecting competition and consumers. Instead it would empower antitrust enforcers to pursue noneconomic goals, thus undermining the consumer welfare standard.

Most importantly, the bill is scheduled for a markup without a committee hearing that could place concerns under scrutiny. This no review process is extremely concerning given the numerous ramifications the bill could project. We urge you to be cautious about any proposal to rush the bill without any opportunity for review and discussion.

While those who support the bill might believe it will enable smaller businesses to compete with large technology companies, they ignore the reality that the bill's stringent provisions might lead to the exact opposite. And if this were to happen, small businesses and consumers would bear the heavy costs.

Respectfully,



Krisztina Pusok  
Director  
American Consumer Institute