



House Antitrust Subcommittee Proposes a Legislative Package To Promote Competition in Big Tech

Public Knowledge's Press Statement supporting the legislative package:
[House Antitrust Subcommittee Proposes Strong Bipartisan Legislation to Rein In Big Tech](#)

We are losing the promise of the internet as powerful gatekeepers control access to more and more online activity. Under this legislation, the Federal Trade Commission and Department of Justice will be equipped with the most effective tools yet to break open the gates. People should be free to bring new ideas to market and to choose a new platform when they're frustrated with misinformation, privacy violations, and low-quality products on these gatekeeper platforms. These five bills will promote competition on and against the most powerful digital platforms to benefit consumers and innovation.

- **Covered Platforms**

- The four substantive bills apply only to "covered platforms," a defined term
- A covered platform is an online platform (allows users to generate content for others, facilitates transactions, or enables user searches for information) that: (1) has a \$600B market capitalization (indexed to inflation); AND (2) serves at least 50,000,000 United States-based monthly active users, or at least 100,000 United States-based monthly active business users; AND (3) is a critical trading partner (controls access to a business' customers or key tools to access customers)
- This means the bills only cover Google, Amazon, Facebook, Apple, and Microsoft

- **Non-Discrimination: The American Innovation and Choice Online Act**

- Bans advantaging a platform's own products, services, or lines of business over those of a rival business; bans platforms from excluding rivals; bans discriminating among similarly situated business competitors
- Carve-outs include: conduct that doesn't harm the competitive process, and conduct narrowly tailored to protect user privacy
- Enforcement through actions by FTC, DOJ, state attorneys general, and private litigants
- Establishes a Bureau of Digital Markets within the FTC to help enforce the Act

- **Interoperability: The Augmenting Compatibility and Competition by Enabling Service Switching (ACCESS) Act**

- Mandates data portability for covered platforms, allowing users to easily take their data with them when they decide to leave a platform
- Mandates interoperability for covered platforms so that users would be able to communicate across networks and try out new platforms without losing access to their networks on old ones
- Would allow for competition not just over size of a platform's network, but a network's quality and responsiveness to user concerns

- **Mergers: The Platform Competition and Opportunity Act**
 - Shifts the burden so that acquisitions by covered platforms are prohibited *unless* the acquired company doesn't: (1) compete with the covered platform; (2) constitute nascent or potential competition to the covered platform; (3) enhance the covered platform's market power; or (4) increase the covered platform's ability to maintain market power
 - Enforcement through actions by FTC, DOJ, state AGs, and private litigants
- **Line of Business Restrictions: The Ending Platform Monopolies Act**
 - Gives the FTC and DOJ the ability to spin off ("divest") parts of covered platforms where they determine there is a conflict of interest
 - The spun-off or "divested" business would not disappear, it would just be independently owned or purchased by a less powerful company
 - An important tool for the agencies to protect consumers from mammoth platforms and to ensure compliance with other parts of the package
- **Funding: The Merger Filing Fee Modernization Act**
 - Big funding increases for FTC (\$418B from \$351B in FY21) and DOJ Antitrust (\$252B from \$184.5B in FY21)
 - Would streamline merger filing fees so mega-deals pay their fair share of fees while small businesses would face lower fees