

# AMERICAN AND INNOVATION AND CHOICE ONLINE ACT

## UNLAWFUL CONDUCT (S. 2992)

## UNLAWFUL CONDUCT (H.R. 3816)

## DEFENSES (S. 2992)

§3(a)(1) Covered platform (CP) preferences its own products or businesses over competitors'	§2(a)(1) <i>contains same or substantially similar language</i>	§3(b)(1)(A)-(C): CP establishes, by a preponderance, that the conduct was narrowly tailored, non-pretextual, <b>AND</b> reasonably necessary to: (A) prevent a violation of existing law; (B) protect user safety, privacy, nonpublic data, CP security; <b>OR</b> (C) maintain or substantially enhance the CP's core functionality
§3(a)(2) CP limits availability of competing products or businesses	§2(a)(2) CP excludes or disadvantages competitors' products or businesses §2(a)(8) CP interfering with competitors' pricing	
§3(a)(3) CP enforces terms of service to discriminate against competitors	§2(a)(3) CP discriminates among similarly situated businesses	
§3(a)(4) CP impedes competitors' access or interoperability	§2(b)(1) CP blocks access or interoperability with the operating system, hardware, software §2(b)(9) CP blocks access to rival products §2(b)(6) CP blocks businesses from connecting with users	§3(b)(2)(A)-(B)(i)-(iii): CP establishes, by a preponderance, that the conduct: (A) hasn't resulted in material harm to competition  <b>OR</b> (B) was narrowly tailored, non-pretextual, <b>AND</b> reasonably necessary to: (i) prevent a violation of an existing law; (ii) protect user safety, privacy, nonpublic data, CP security; or (iii) maintain/enhance the CP core functionality
§3(a)(5) CP conditions businesses' access or prioritization on purchase or use of CP's other products or services	§2(b)(2) <i>contains same or substantially similar language</i>	
§3(a)(6) CP uses competitors' nonpublic data to win against them	§2(b)(3) <i>contains same or substantially similar language</i>	
§3(a)(7) CP denies businesses data retrieval, data portability	§2(b)(4) <i>contains same or substantially similar language</i>	
§3(a)(8) CP prevents users from deleting preinstalled software or amending default settings <b>UNLESS (A)</b> for CP security or functionality; or <b>(B)</b> to prevent foreign adversaries' data retrieval	§2(b)(5) CP prevents users from deleting preinstalled software or amending default settings that steer toward CP's products or businesses	
§3(a)(9) CP discriminates in search results to favor CP products or businesses that don't rank under "neutral, fair, or nondiscriminatory" criteria	§2(a)(7) CP favors own products or businesses on user interfaces or in searches, rankings	
§3(a)(10) CP retaliates against users who report violations	§2(b)(10) <i>contains same or substantially similar language</i>	

# OPEN APP MARKETS ACT

## SEC. 3 PROTECTING A COMPETITIVE MARKET (S. 2710 & H.R. 5017)

**§3(a)(1)** CP are prohibited from requiring developers to use CP in-app payment system as a condition to appear in the app store or access the operating system [\[H.R. 5017 §3\(a\)\(1\) contains same or substantially similar language\]](#)

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**§3(a)(2)** CP are prohibited from requiring a developer's pricing terms be equal to or more favorable on its app store than other app stores [\[§3\(a\)\(2\)\]](#)

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**§3(a)(3)** CP are prohibited from imposing unfavorable terms on a developer for offering different pricing terms elsewhere or using a different in-app payment system in other app stores [\[§3\(a\)\(3\)\]](#)

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**§3(b)** CP are prohibited from interfering with legitimate business communications between CP users and business users [\[§3\(b\)\]](#)

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**§3(c)** CPs are prohibited from using nonpublic business information from a third-party app to compete with that app

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**§3(d)** CP that controls a device or operating system or its configuration must allow users to: (1) make third-party apps and app stores default; (2) install third-party apps and stores through other means than the CP-affiliated app store, and (3) hide or delete pre-installed CP-affiliated apps.

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**§3(e)** CPs are prohibited from preferencing their own products businesses in organic or algorithmic searches by users, except for clearly disclosed advertising [\[§3\(e\)\]](#)

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**§3(f)** CPs must provide developers access to CP's operating system interfaces, development information, and hardware and software features on a timely basis and on terms functionally equivalent to the CP and its affiliates.