

The Honorable Chuck Schumer
Senate Majority Leader
U.S. Senate
Washington, D.C. 20515

[January 31, 2022]

Dear Majority Leader Schumer:

We write to you to express our support for S.2992, the American Innovation and Choice Online Act (AICO). For too long, big tech firms like Google, Amazon, Facebook, and Apple have had free rein to abuse their market power. S.2992 is a groundbreaking measure that will update the antitrust laws to address digital harms that have allowed tech companies to grow into harmful monopolies. Now that S.2992 has advanced from the Senate Judiciary Committee with a strong 16-6 vote (well over 60% of the committee), we urge your leadership to move the legislation to a full floor vote expeditiously.

S.2992 prohibits “covered platforms” from “unfairly preferenc[ing]” their own products and services, “unfairly limit[ing]” competitors’ access to their platforms, and “discrimat[ing] in the application or enforcement” of platform rules.¹ This targets well-documented instances of anticompetitive conduct by tech monopolies, such as those outlined in the House Antitrust Subcommittee Report, which found that these “dominant platforms exploit their gatekeeper power to dictate terms and extract concessions that no one would reasonably consent to in a competitive market.”² For example, this bill would prohibit Amazon from requiring that third-party sellers use Amazon’s logistics services as a condition of their use of Amazon Prime. It would prevent Apple from using its App Store in a manner that disadvantages third-party apps while preferencing Apple’s proprietary apps. The bottom line is that S.2992 is a forward-looking measure that prohibits dominant platforms from preferencing their own products and services, which will promote innovation and competition in the digital sphere.

Big tech firms and their aligned industry groups claim that this bill will hurt consumers by restricting the companies’ ability to offer popular services, such as Amazon Prime and Gmail, or that it will threaten user security or privacy as a result of competition in app stores. However, these concerns are nothing but a bad faith effort to evade accountability for anticompetitive conduct. This bill will simply prevent tech monopolies from using their products and services in a manner that hinders competition and harms small businesses. Additionally, S.2992 is well-tailored to address anticompetitive conduct, allowing companies to put forward affirmative defenses proving that their actions did not, in fact, harm the competitive process to avoid liability under the Act.³

¹ *American Innovation and Choice Online Act*, S.2992, 117th Cong. § 2(a) (2021)
<https://www.congress.gov/bill/117th-congress/senate-bill/2992/text>.

² U.S. House Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, *Investigation of Competition in Digital Markets – Majority Staff Report and Recommendations* (2020) 11.

³ *American Innovation and Choice Online Act*, S.2992, 117th Cong. § 2(d)
<https://www.congress.gov/bill/117th-congress/senate-bill/2992/text>.

S.2992 is a critical measure to ensure that big tech firms are held accountable for the anticompetitive conduct which has allowed them to develop monopoly power in their respective markets. This bill will help chip away at that dominance, giving the antitrust enforcement agencies more adaptable tools to fight anticompetitive conduct in the digital era. We look forward to continuing to support this important legislation and urge a full vote on the legislation following its advancement from the Senate Judiciary Committee.

Sincerely,

Accountable Tech
American Family Voices
Athena
Bend the Arc: Jewish Action
Blue Future
Center for Digital Democracy
Center for Popular Democracy
Consumer Federation of America
Demand Progress
Farm Action Fund
Fight for the Future
The Freedom BLOC
Institute for Local Self-Reliance
International Brotherhood of Teamsters
Main Street Alliance
Nonprofit Technology Enterprise Network
Ocean Futures Society
Open Markets Institute
OpenMedia
Our Revolution
Presente Action
Progress America
Public Citizen
Public Knowledge
RootsAction.org
Social Security Works
Strategic Organizing Center
Sunrise Movement
Technology Oversight Project
UltraViolet
Writers Guild of America West
X-Lab