

The Problems with Sen. Klobuchar's Antidiscrimination Bill

The American Innovation and Choice Online Act Is...

- *Anti-Democracy*
- *Anti-Consumer*
- *Anti-Small Business*
- *Anti-Vulnerable Communities*
- *Anti-America*

NetChoice

September 2021

Problem #1: **Gives Enormous Power to the Radical, Progressive-Controlled FTC and DOJ**

- Makes Lina Khan and Jonathan Kanter the arbiters of what is and is not legal.
- Uses undefined terms like “unfairly preference” and “materially harm”, giving the FTC unprecedented discretion in deciding who is “guilty.”
- Allows the Biden’s Khan-controlled FTC and Kanter-controlled DOJ to designate “covered platforms”. The designation lasts for 8 years (nearly half as long as some of these companies have existed).
- Provides additionally expansive definitions for “Business User” and “Critical Trading Partner” that can further be interpreted as bureaucrats see fit.
- Makes businesses guilty until proven innocent by creating a higher standard of proof for private businesses to defend themselves than for the government to make its prime facie case.

Problem #2: Outlaws Products & Services that Consumers Enjoy Today

- Makes it illegal for Google to show relevant Maps and Reviews at the top of a search.
- Makes it impossible for Amazon to offer Prime shipping and Prime Video services.
- Prevents Amazon from showing recommended options through things like Amazon Choice.
- Makes it illegal for Amazon to show cheaper generic items in a comparison box so consumers can see and compare the best deals -- like Amazon Basics.
- Makes it illegal for Apple to show Editor's Choice Apps.
- Forces companies to expose users to the risk of breaking their phones by uninstalling a required service.

Problem #3: **Creates Major Risks for User Privacy and Security**

- Forces platforms to expose their system to security and privacy threats.
- Prevents platforms from removing third-party providers for failing to meet higher security standards used by the platform.
- Requires platforms to provide a way for third-party providers to access or interoperate with the platform, even when they pose considerable risk while limiting platforms from addressing security holes.
- Mandates that platforms hand over personal data generated on the platform to all third-party providers and foreign corporations.

Problem #4: Harms Small Businesses that Benefit from Digital Platforms

- Forces platforms to raise the costs of advertisements purchased by small businesses.
- Stops platforms from offering discounts and benefits for preferred partners or those who bundle services together.
- Erects a major barrier to product and service improvement by limiting platforms' use of non-public data.
- Makes it harder for users to find small businesses through services like Google Reviews.
- Prevents platforms from interoperating with some small businesses unless they also provide the same exact option to all of their competitors.

Problem #5: Prevents Businesses from Partnering with Vulnerable Communities

- Makes it illegal for platforms to help Veteran, LGBTQ, and Black-owned businesses as well as small businesses through targeted promotion campaigns.
- Stops platforms from offering discounts and benefits for preferred partners or those who bundle services together.
- Makes it much harder for users to find local non-profits and community-based organizations through services like Google Reviews.

Problem #6: **Harms America's Economic Position in the Global Economy**

- Targets five specific American businesses with (ironically) discriminatory regulation and weakens their position relative to their international competitors.
- Forces American businesses to share proprietary and American consumer data with international competitors.
- Adopts a similar approach to China's recent antitrust efforts which cost their country over a trillion dollars in market capitalization.
- Imposes incredibly harsh penalties of up to 15 percent of revenue over the time the FTC claims it has occurred, potentially crippling some of America's most successful businesses.