

The American Innovation and Choice Online Act Does Not Do What Its Authors Claim

Recently Sen. Klobuchar (D-MN), who authored this legislative proposal, circulated a defense of her bill. Upon analysis, the Senator's claims don't match the bill's text.

WHAT SEN. KLOBUCHAR CLAIMS:

"There is nothing in this bill that stops Amazon from continuing its Prime program."



THE FACTS:

The bill would eliminate bundled services like free Prime Video with Prime Shipping and Microsoft Teams as part of Office 365.

Section 2(b)(2) makes it illegal for a covered platform to "condition access" or "preferred status or placement" on the purchase or use of the platform's other services, removing the business's ability to offer discounted bundled services, a core function of Amazon Prime. The bill also gives the DOJ and the FTC the power to ban services they believe harm competition. FTC Chair Lina Khan has been loud and clear in her criticism of Amazon's business model.

WHAT SEN. KLOBUCHAR CLAIMS:

"This bill helps small businesses compete."



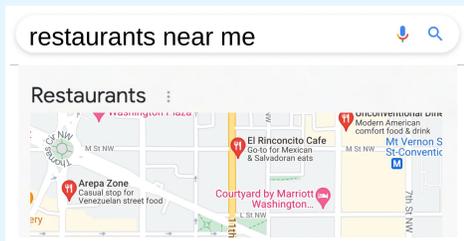
THE FACTS:

This bill forbids a platform from promoting the services and products offered by veteran-led, Black-owned businesses.

The broad definition of "business user" could pull in many unintended parties and prevent platforms like Google from promoting Black, Veteran, or LGBTQ-led businesses. Section 2(g)(2) defines "business user" as utilizing or having "a reasonable probability of utilizing the covered platform for the sale or provision of products and services. This bill actually harms small businesses that use platforms to grow while billionaire competitors benefit from their reduced opportunity.

WHAT SEN. KLOBUCHAR CLAIMS:

"There is nothing in the bill that stops Google from providing useful data in apps."



THE FACTS:

The bill doesn't just degrade Google's services. It would make services offered by other online companies worse too.

Section 2(b)(6) makes it illegal to treat a covered platform's own services more favorably in search and ranking. That means when looking up a local restaurant on a search engine, there will be no map or address listed. And also Section 2(a)(1) makes it illegal to "unfairly preference" the platform's offerings like Maps and YouTube over a competitor to "materially harm competition." This vague language will empower Khan and Kanter to regulate in ways unintended by the bill's sponsors.

WHAT SEN. KLOBUCHAR CLAIMS:

“This would merely require that the iPhone function like the MacBook... [which] is no less safe than it is for personal computers.”



THE FACTS:

This bill creates an environment on our mobile devices that is much more prone to viruses and hacks.

Today, our laptops are at far greater risk from viruses and security threats than our phones. But opening up our phones to new forms of security threats and viruses by providing bad actors with greater options of how to get into our devices would put huge amounts of sensitive consumer data at risk. Forcing device manufacturers to expose customers to more viruses and abusive apps is not good for consumers.

WHAT SEN. KLOBUCHAR CLAIMS:

“This bill specifically allows dominant platforms to protect safety, privacy and security.”



THE FACTS:

This bill forces covered business to share our personal information with third parties, including foreign software and app developers.

Section 2(b)(4) makes it illegal to “materially restrict or impede” a business user’s ability to access data created through the platform or limit portability. So, if businesses act to protect users, they risk being sued. While those businesses can try to prove they acted to protect privacy & security, the burden of proof is unfairly higher than the government’s, meaning businesses will be pressured to expose users to bad actors to avoid costly lawsuits.

WHAT SEN. KLOBUCHAR CLAIMS:

“This is about fostering competition and rejuvenating our economy.”



THE FACTS:

We agree that competition is what makes American companies great and that is why we oppose this bill.

Americans overwhelmingly like and rely on the products and services offered by the industries this bill targets. Instead of promoting American innovation, Senator Klobuchar’s bill succeeds only in delivering a win for corporate giants like Yelp, Spotify, and Match Group. Government-led crony capitalism doesn’t serve the American consumer and should not be enshrined through the passage of the American Innovation and Choice Online Act .