

American Bar Association Antitrust Law Section Against S2992



Read the paper

The ABA Antitrust Law Section wrote a rebuttal of S2992 and its harms to consumers.

S2992 eliminates objectivity in antitrust law and opens it up to cronyism

“The Bill ... suggest[s] that the focus of this language is **not** on enhancement of market power **but instead a return to competition policy picking winners and losers by protecting certain competitors against others.**”

Bans on Self-Preferencing harms consumers

“Section 3(a)(9)’s prohibition on self-preferencing **similarly risks consumer harm.**”

Forced “interoperability” harms consumers and innovation

“Forced interoperability can, however, **cause consumer harm** by increasing costs and decreasing innovation.”

“Interoperability requirements can also **dampen incentives to innovate.**”

Arbitrary definitions for antitrust opens up the ability of abusive enforcement and harmful actions

“Prohibiting conduct without regard to market power **invites arbitrary enforcement and wasteful disruption** of normal competitive processes. **The risks of unintended consequences are especially severe in digital markets.**”