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NetChoice
Defending Free Speech and Free Enterprise Online

COMMENT FOR THE RECORD

NetChoice Comments for the Record for Senate Judiciary Subcommittee on Competition Policy, Antitrust and Consumer Rights Hearing: *Competition in the Digital Advertising Ecosystem*

NetChoice respectfully submits the following comments for the record regarding the Senate Judiciary Subcommittee on Competition Policy, Antitrust, and Consumer Rights Hearing: *Competition in the Digital Advertising Ecosystem*.

NetChoice[1] is a trade association of leading online companies whose mission is to make the internet safe for free enterprise and for free expression. We work to promote the integrity and availability of the global internet and are engaged on issues in the states, in Washington, D.C., and in international internet governance organizations.

Digital advertising is a large and complex industry that encompasses everything from search ads (ads shown on search engines) and video ads (those that you might see before, say, watching a video on YouTube), to display ads and connected television ads. “Ad tech” is the catch-all phrase for the software that facilitates the buying, selling, and displaying of these ads.

Digital advertising is what makes the free and open internet that we all enjoy possible. Advertising supports free email, news, entertainment, search tools, navigation and more, which Americans love and are valued at thousands of dollars per person annually. In addition, small businesses have relied on online advertising to efficiently and cost-effectively reach new customers and grow their business.

In recent years, the digital advertising ecosystem has received growing scrutiny. Regulators and competition watchdogs have expressed concern about competition in the digital advertising business. They claim that digital advertising appears to be controlled by a few dominant firms, such as Google, Facebook, and—to a lesser extent—Amazon. As our

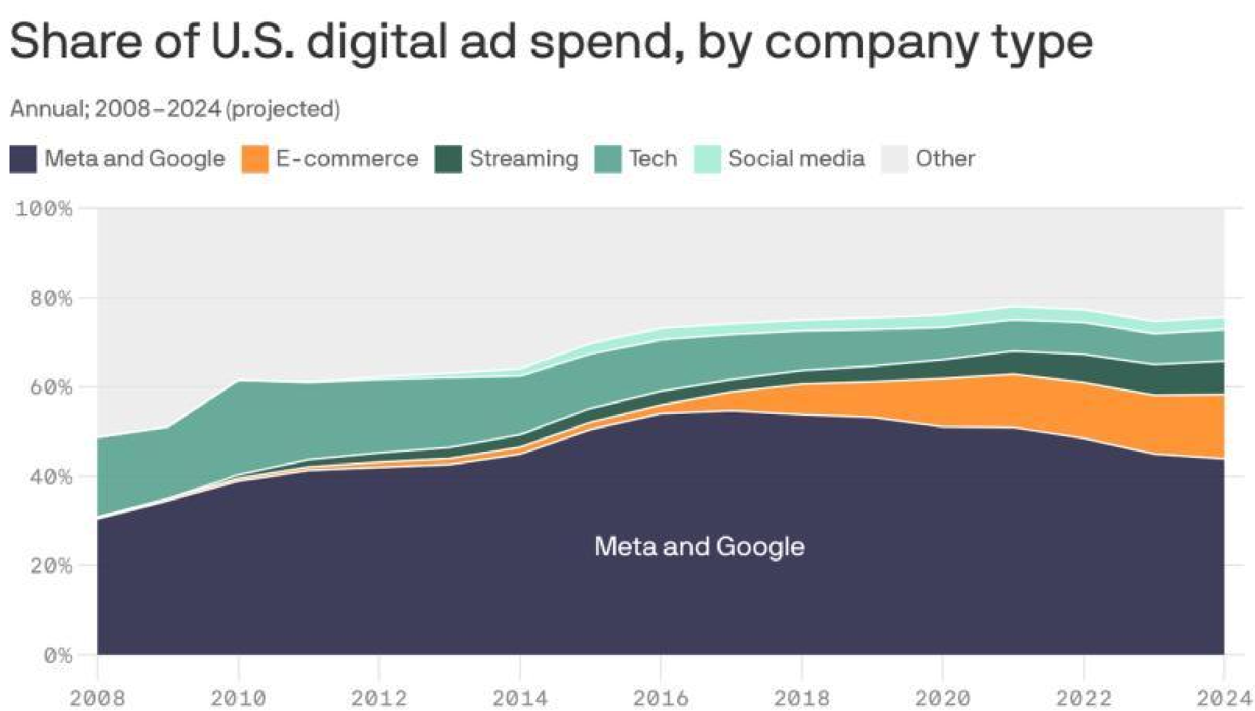
[1] NetChoice is a trade association of e-Commerce and online businesses, at www.netchoice.org The views expressed here do not necessarily represent the views of every NetChoice member company.

comments will show, however, digital advertising is a highly competitive market and that competition is only growing fiercer.

Online Advertising is Competitive and New Competitors are Growing Fast

Contrary to popular belief, the digital advertising ecosystem is highly competitive. Google faces competition not only from well-known companies like Oracle, Comcast, Adobe, Meta, and Amazon, but also from ones that may be unfamiliar like The Trade Desk and Rubicon Project. Some of these companies focus solely on the demand-side (buyers); others focus on the supply-side (sellers); and others, like Google, do a little of both.

In fact, Google and Meta, traditionally the two largest players, are expected to bring in less than half of all U.S. digital advertising this year for the first time since 2014.[2] Together, both companies captured 48.4% of all U.S. digital ad revenue in 2022 (28.8% for Google and 19.6% for Meta), down from 54.7% at their peak in 2017 (34.7% for Google and 20.0% for Meta). Google and Meta face competition from all corners, including from other tech platforms such as Microsoft, TikTok and Amazon. Additionally, we are seeing incredible competition from new startups and even Microsoft's multi-billion dollar investment in ChatGPT.



[2] Sarah Fischer, Dec. 20, 2022, *Slow fade for Google and Meta's ad dominance*. https://www.axios.com/2022/12/20/google-meta-duopoly-online-advertising

Smartphones, e-commerce platforms and connected devices, have made it possible for virtually any business to target customers with digital ad messages, thus expanding the number of companies challenging traditional leaders in this space.

This competitive market has benefitted both consumers (those buying and running ads), as well as the public more broadly. First, this competition has cut prices for advertisers. And second, it has helped many websites, including Google Search, Facebook, Twitter, and Amazon—remain free for us all to use. It has also helped boost content providers with small audiences who may struggle to attract paid subscribers and large digital news websites remain free or mostly free like Vox.com, MotherJones.com, and NationalReview.com.

Large online platforms help America's small businesses

Anti-business advocates claim that "big is bad," but that claim doesn't match the experience of consumers and advertisers using today's leading tech platforms and marketplaces. America's largest tech companies are also our largest spenders on research and development. In 2022, Google spent over $39.5 billion in R&D, including on Artificial Intelligence and machine learning for medical applications that can save lives and save billions in health care costs through earlier detection.

For America's small and mid-size businesses, the bigger the platform the better for reaching larger audiences. Consider the local custom furniture store. Just fifteen years ago businesses like this could barely afford to place an ad in a local newspaper, let alone on TV or radio. Thanks to large online platforms, for less than ten dollars a small business can reach thousands of potential customers and target them more accurately than ever. Large online platforms have given new growth opportunities to America's small businesses via app stores on the Apple and Android platforms. Software distribution used to require significant outlays for advertising, marketing, and logistics. But app stores allow even small software developers to reach millions of customers at minimal investment.

> ***Thanks to large online platforms, for less than ten dollars a small business can reach thousands of potential customers and target them more accurately than ever***

These benefits for small businesses and consumers are enabled by letting online platforms and marketplaces grow to achieve scale, reach, and unprecedented efficiencies. And America's antitrust law has no quarrel with large enterprises that benefit consumers, according to the long-standing 'consumer welfare standard'.

The Supreme Court has used the consumer welfare standard as the touchstone for competition enforcement. American tech companies have led the world in improving consumer experience, offering access to content from music to medical research; algebra help to business classes; driving directions to flight booking; and alerts for weather and traffic.

Polling shows that Americans oppose government limits on business acquisitions and Americans do not see consumers as the chief beneficiaries of big-tech breakups

Polling of Americans conducted by Echelon Insights, commissioned by NetChoice found overwhelming opposition to heavy-handed government regulations on tech companies.[3] Moreover, this polling found overwhelming concern with breaking-up large online platforms.

- Only 1% say regulating the tech industry is the biggest issue facing the country.
- 62% said new regulations should apply to all companies in an industry, rather than only the largest companies

Voters believe tech regulations will damage online services and worsen inflation:

- 54% said regulations will increase prices
- 51% said regulations would degrade online services.

Voters don't trust Congress to regulate tech:

- 56% said they don't trust Congress to regulate online services in a way that improves these services.

Big Tech Critics have failed to make their case

Proponents of breaking-up tech companies via new theories of antitrust have failed to show how consumers have been harmed by large tech platforms and marketplaces. Consider Sen. Elizabeth Warren's Medium post[4],where she proclaims Facebook and Google as "monopolies" while ignoring their individual market shares and growing competition in every market they serve.

With less than 20 million U.S. users, Facebook's messaging tool WhatsApp is much smaller than Apple's iMessage, which connects over 90 million American consumers. TikTok, a newer social media competitor, has over half a billion users worldwide.

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[3] https://netchoice.org/wp-content/uploads/2022/01/NetChoice-AntiTrust-Topline.pdf

[4] Sen. Elizabeth Warren, Here's how we can break up Big Tech, Medium (Mar. 8 2019)

And in search, Google's competition is a click away as we see the rapid ascent of new general search engines like DuckDuckGo[5] and TikTok. Google competes with tailored search like Yelp for restaurants and Angie's List for services.

America's current tech titans are not consumer-harming monopolies as some claim. They are social networking and marketplace services that have earned global success in a competitive market. American success stories, such as Google, Apple and Facebook empower small businesses to reach new customers all over the world like never before. From online marketplaces, to app stores, to photo sharing services, these platforms allow individuals to connect with the world in ways only dreamt of twenty years ago.

> ***The Kauffman Index of Growth Entrepreneurship shows that entrepreneurship is at its highest levels since 2008.***

Indexes show fewer large firms as evidence of consolidation, and a leading index shows a resurgence in small firms. The Kauffman Index of Growth Entrepreneurship shows that entrepreneurship is at its highest levels since 2008.[6] Main street growth and startup activity are likewise up. The US Bureau of Labor Statistics found self-employment is up since 2014 and is projected to grow at 7.9%—faster than the projected rate for all workers. This shows the inherent danger in making snap-decisions that ignore market changes over time.

There is a direct correlation between the growth of small entrepreneurs and online platforms like eBay, Facebook, and Google. These platforms are helping small businesses the same way a large retailer operates as an anchor for a shopping center or mall. The larger these platforms become, the more customers a small business can reach with better targeting and lower costs.

To America's entrepreneurs looking to maximize their advertising dollars, bigger is better. 58% of Americans, and 73% of those between 18 and 24 years old, say online platforms helped them discover a small business they had not previously known.[7]

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[5] Matt Southern, DuckDuckGo Traffic Up 50% from Last Year, Hits New Record of 30M Daily Searches, Search Engine Journal (oct. 11, 2018)

[6] Kauffman Indicators of Entrepreneurship, available at https://indicators.kauffman.org

[7] https://netchoice.org/techlash-polling-results/

We should attend to President Teddy Roosevelt's apprehension about the break-up of big oil in the early 1900s. Roosevelt lamented, "I do not see what good can come from dissolving the Standard Oil Company into 40 separate companies."

Biographer Ron Chernow captured Roosevelt's conflicting instincts about breaking up America's largest oil company:

> "In retrospect, it seems clear that the ambiguous signals from the White House reflected more than duplicity on Roosevelt's part, for he was genuinely reluctant to wield the big stick against Standard Oil. He preferred compromise to antitrust cases, which were slow, time-consuming, and fiendishly difficult to win. He wanted to supervise the trusts, not break them up and sacrifice their efficiency, and he was searching for some conciliatory overture from his adversaries, a suggestion that they would accept government oversight and voluntarily mend their ways."

Back in 2010, economist Tim Wu complained[8] that Facebook's size alone precludes new entrants. Yet Wu's prognostications missed emerging Facebook competitors Twitter, Snapchat, Reddit, YouTube, and LinkedIn. And since 2010, we've seen the rise of additional social media competitors like Twitch, TikTok, Pinterest, Truth Social, Rumble and Tumblr.

Conclusion

In conclusion, we would urge the Committee to proceed cautiously and avoid disrupting the advertising ecosystem by picking winners and losers in a highly competitive marketplace. Instead, we should retain the model on which consumers and businesses have relied – the consumer welfare standard for antitrust.

Thank you for your consideration of our comments.

Sincerely,

Carl Szabo
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NetChoice

[8] Tim Wu, In the Grip of the New Monopolists, Wall St. Jo (Nov. 13, 2010).