



January 13, 2022

TO THE MEMBERS OF THE SENATE COMMITTEE ON THE JUDICIARY:

The Chamber strongly urges you to oppose S. 2992, the “American Innovation and Choice Online Act,” which charts a dangerous new course for antitrust by singling out specific companies instead of focusing on conduct, as in current law.

This bill would emphasize impacts to competitor companies instead of potential harm to consumers. In addition, it would provide substantial new discretionary authority to antitrust agencies, at a time when the Administration is already attempting to expand and possibly exceed its existing statutory antitrust authority.

The outcome of such radical change to antitrust would drive inflation, hamper innovation, undermine job creation, and damage American’s global competitiveness. This legislation represents a gateway to supporting a larger and radical antitrust agenda that seeks to divorce economic analysis from the law with the aim of applying these same concepts to a much wider swath of our economy.

Advocates driving this agenda have spoken extensively about “concentration” and “economic power” touching on industries as numerous as casket makers to cat food manufacturers. Last summer, the President issued an Executive Order declaring the entire economy is stagnant and overconcentrated and has sought to marshal more than a dozen agencies to advance this unsupported narrative.

The Chamber strongly supports vigorous enforcement of existing antitrust law. We believe antitrust law must remain a narrow tool, with widespread application firmly guided by economic analysis that measures the total impact, both harms and benefits, that accrue to consumers. Antitrust should remain unconcerned with harm to competitors – highly competitive markets often adversely impact competitors, but routinely to the benefit of consumers. Antitrust laws should only intervene when analysis demonstrates consumer harm outweighs any corresponding benefits.

Regulation is where the government makes decisions that impact wide sectors of the economy. Legitimate policy debates that have arisen from the digitization of the economy are worthy of thoughtful discussion, but Congressional action should focus on other methods to address these concerns, not statutory changes that alter the role of antitrust enforcement.

For these reasons, the Chamber strongly opposes S. 2992.

Sincerely,

Neil L. Bradley