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June 22, 2021

Committee Members
House Judiciary Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative,

On Wednesday, June 23, 2021, you will be considering several pieces of legislation relating to antitrust law, digital content platforms, mergers, and acquisitions during a full Judiciary Committee markup. On behalf of the more than one million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I urge you to oppose these bills.

Antitrust laws have always been and should continue to be enforced based on the consumer welfare standard. Legislation that would dramatically amend, undermine, or thwart that standard should be considered with the utmost care and follow regular order. They should not be rushed to markup without lengthy hearings that fairly and impartially review the impact such legislation would have on consumers and providers of goods and services. These bills fall far short of this reasonable and regular process, since they were introduced less than two weeks ago. Consumers, businesses, and taxpayers had no opportunity to weigh in on the potential economic harm these bills would have on existing and new digital platforms, as well as on consumers whose personal identifying information (PII) would be put at risk if these bills were enacted. While all six bills being considered on Wednesday have issues that should prevent their passage, CCAGW believes the following four bills to be the most problematic.

[H.R. 3816](#), the American Choice and Innovation Online Act, bases the definitions of practices by “covered platforms” that are deemed “unlawful discriminatory conduct” on the Judiciary Committee’s flawed Majority Report from 2020. Citizens Against Government Waste noted when the report was released that, “While the authors claim they are promoting the ‘public good,’ if the recommendations in the report were enacted into law, it would both harm the many digital platforms Americans use today and eliminate the opportunity for new businesses to enter the marketplace.” H.R. 3816, if enacted, would ban the ability of covered platforms from selling or providing private-label goods in their marketplace, and would hinder the ability of small sellers using these platforms from finding new customers for their products. While the legislation appears to be aimed at the covered platforms, there should be a public review of the potential collateral damage to those who have developed products and sold them successfully on the platforms.

[H.R. 3825](#), the Ending Platform Monopolies Act, would empower government bureaucrats to determine “conflicts of interest” for platforms with more than fifty million users and a market cap of \$600 billion and imposes steep civil penalties on “any person” failing to sell off those alleged conflicts within two years of the bill’s enactment. The bill’s broad definition of “conflict of interest” removes the proof of consumer harm or the competitive process from antitrust litigation and would authorize antitrust enforcers to dismantle some of America’s most successful companies. This would undermine U.S. global technological leadership and stifle future innovation and investment.

[H.R. 3826](#), the Platform Competition and Opportunity Act of 2021 would prohibit covered digital platforms from making new acquisitions, which would severely limit economic growth and innovation, just as the nation emerges from the pandemic. It would also open up these opportunities to foreign companies, which like H.R. 3825, would reduce America’s leadership in technology.

[H.R. 3849](#), the Augmenting Compatibility and Competition by Enabling Service Switching Act of 2021 (ACCESS Act of 2021) would force companies to share not only their data with their competitors in the name of interoperability and data portability, but also application programming interfaces, which opens the path for disclosure of sensitive proprietary information about digital platforms to domestic and foreign competitors. The risk to consumer privacy and data security by forcing the sharing of user-generated data should cause every lawmaker in Congress to take pause after the incident involving Cambridge Analytica in 2016. Congress should strive to improve consumer privacy, not open another door that places PII at risk.

For these reasons, I strongly urge you to oppose all six “antitrust” bills during Wednesday’s markup.

Sincerely,

Handwritten signature of Thomas Schatz in black ink.