

NetChoice *Promoting Convenience, Choice, and Commerce on the Net*

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SUBMITTED ELECTRONICALLY

Federal Trade Commission

NetChoice Comments to Department of Justice workshop - *Competition in Television and Digital Advertising Workshop Information*

NetChoice submits these comments regarding the Department of Justice workshop - *Competition in Television and Digital Advertising Workshop Information*.

NetChoice is a trade association of leading e-commerce and online companies promoting the value, convenience, and choice of internet business models. Our 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 significantly engaged in privacy issues in the states, in Washington, and in international internet governance organizations.

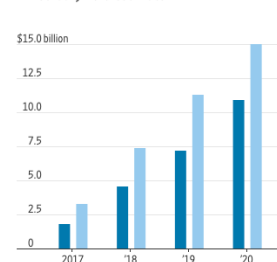
Online advertng is competitive and new competitors are growing

In the online advertising environment it is clear that there is robust competition in this narrowly defined market.

But regulators should first question why they are limiting any market analysis to an "online environment." Rather than look only at the online market, regulators should expand their analysis and market definition term to cover *all* advertising – this would include television, radio, and newspapers. When it comes to these three markets they are often controlled by a few large players – moreover, advertising on these stations is exclusively controlled by the owners.

Rather than look at online advertising in a vacuum it is incumbent on regulators to look at consumers as multi-homing. Americans are no longer spend their time just watching television or just listening to the radio.

Amazon Ad Estimates
EMarketer revised its estimates for Amazon's U.S. ad revenue after analyzing new data.



Source: eMarketer

Wall St. Jo. Amazon's Ad Business May Be Growing Faster Than Thought

Large platforms help small businesses

Anti-business advocates claim that “big is bad.” But 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. But now, 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.

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Large online platforms have given new growth opportunities to a panoply of small businesses. Consider the app stores on the Apple and Android platforms. Developers can reach markets of millions of customers. Fifteen years ago, this was only possible through significant outlays for advertising, distribution, and logistics to move their software to customers.

Or consider the platforms of Etsy and eBay enabling small sellers to find customers across the country and even around the world.

These benefits are the result of allowing online platforms to grow and flourish, because the FTC has relied upon the consumer welfare standard to regulate that growth.

Polling shows that Americans oppose government limitations on successful businesses from acquisitions and Americans do not see consumers as the chief beneficiaries of big-tech breakups

Polling of Americans conducted by Zogby Analytics and commissioned by NetChoice found overwhelming opposition to limitations on acquisitions by large online platforms.³ Moreover, this polling found overwhelming concern with breaking-up large online platforms.

Question: Some groups are calling for the break-up of large tech businesses. Who do you believe would most benefit from a break-up?

- 28% of those with an opinion said “Consumers” would most benefit.
- 53% of those with an opinion said “Traditional industries competing with tech businesses” and “Anti-business groups” would most benefit.

³ NetChoice.org/TechlashPoll.

Question: *If an online business becomes successful, should the government prevent them from acquiring any tech startups that seek to be acquired?*

- 86% of those with an opinion said “No”

Polling shows that:

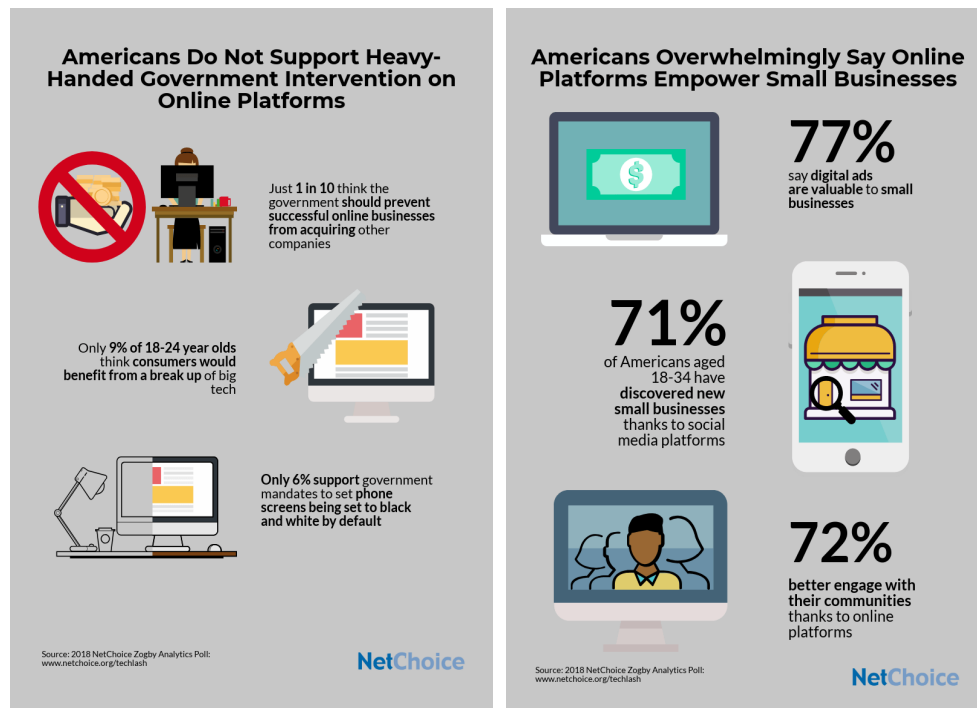
- Only 10% of Americans think the government should prevent successful online businesses from acquiring other companies, and

Americans said that the government should most focus its anticompetitive resources on sectors other than tech. When asked:

- Only 5% of Americans say the government should most focus its anticompetitive enforcement on pharmaceutical companies tech platforms.⁴

To compare:

- 29% of Americans say the government should most focus its anticompetitive enforcement on pharmaceutical companies, and
- 11% of Americans say the government should most focus on the electricity and gas industry.



⁴ *Id*

Disruptive and generational changes in technology provide new avenues for competition

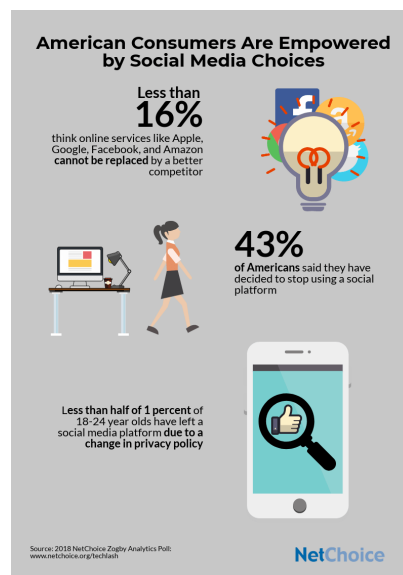
With changes in technology, and in particular the growth of online platforms, we've seen a breakdown of barriers for new entrants into established markets. Rapid innovation, combined with low barriers to entry, forces existing businesses to improve as well as providing opportunities for new entrants.

Despite claims by some that “consumers are locked into large platforms and will not leave” public opinion shows the opposite. Nationwide polling conducted by Zogby Analytics and commissioned by NetChoice⁵ showed consumers can and do leave platforms when better options are available.

Question: Do you think that the services offered by online platforms like Apple, Google, Facebook, and Amazon can be replaced if a better competitor comes along?

- 70% of those with an opinion said “Yes”

Competition is only an innovation away.



Failure of anti-business proponents to prove their case

It is clear that nothing is permanent. Competition is robust.

However, proponents of breaking-up technology businesses and adjusting antitrust law have failed to both prove their case and substantiate their allegations – note that the burden of proof rests with these accusers.

⁵ See Zogby Analytics survey of 1222 adults in the United States conducted from August 6, 2018 to August 8, 2018.

Consider Sen. Elizabeth Warren’s Medium post⁶ where she proclaims Amazon, Facebook, and Google as “monopolies” while ignoring the incredible competition in every market in which they operate.

Contrary to popular belief, Amazon is only the third largest retailer in the U.S. — far from a monopoly. And consumers can just as easily order goods with a touch of a mobile app from WalMart or quickly search for a lower price from a previously unknown business.

With less than 20 million U.S. users, Facebook’s messaging app WhatsApp is much smaller than alternatives such as Apple’s iMessage connecting over 90 million consumers in the U.S.

Tik Tok, a fairly new competitor in the social media market, has over half a billion users worldwide.

And in search, Google’s competition is a click away.

These American businesses are not “consumer-harming monopolies” but high quality social networking services that have earned global success in a competitive marketplace.

The American success stories — Google, Facebook, and Amazon — empower small businesses to reach new customers all over the world like never before. From online marketplaces to photo sharing services, they allow individuals to connect with the world in ways only dreamt of twenty years ago.

We have seen similar anti-business proclamations without facts from Tim Wu who fails to create a substantial case throughout his own book, *The Curse of Bigness*. Despite having 300 pages in which to make his case, Wu, not only fails to provide a cohesive factual argument for antitrust actions.

Consider one of Wu’s first points. He cites indexes showing fewer large firms as evidence of consolidation. But Wu ignores similar indexes showing the resurgence in *small* firms.

There is a direct correlation between the growth of small entrepreneurs and large online platforms like Amazon, eBay, Facebook, and Google.

The Kauffman Index of Growth Entrepreneurship shows that entrepreneurship is at its highest levels since 2008. Main street growth and startup activity are likewise up.⁷ The US Bureau of

⁶ Sen. Elizabeth Warren, *Here’s how we can break up Big Tech*, Medium (Mar. 8 2019).

⁷ Kauffman Indicators of Entrepreneurship, *available at* <https://indicators.kauffman.org>

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.⁸

In essence, there is a direct correlation between the growth of small entrepreneurs and large online platforms like Amazon, eBay, Facebook, and Google. These large platforms are helping small businesses the same way a large firm operates as an anchor for a shopping center or mall.

The larger these platforms grow means the more customer small businesses can access at increasingly lower and lower costs. To America's entrepreneurs, the bigger, the better for them. 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.⁹

To America's entrepreneurs and small businesses, the bigger the platform, the better for them.

Wu creates a world where one business controls the market and once it has dominance, it raises prices on consumers and businesses. Take for example the oil industry, around which Wu bases his entire book.

But under the existing consumer welfare standard, big oil's price gouging would violate our existing antitrust standards. Wu also cites actions against AT&T and IBM as evidence of antitrust failures. So, while Wu thinks he has found a slam-dunk argument against the consumer welfare standard, he inadvertently shows that the current system works well.

Back in 2010, Tim Wu complained¹⁰ that Facebook's size precludes new entrants. Yet Wu's prognostications ignored Facebook's competition from Twitter, Snapchat, Reddit, YouTube, and LinkedIn. And since 2010, we've seen the rise of additional social media competitors like Twitch, TikTok, Pinterest and Tumblr.

If the prosecutor fails to prove their case, as Sen. Warren, Tim Wu, and their allies have done, then governmental action cannot be justified.

New developments in markets and in business-to-business and business-to-consumer relationships show robust competition in the market

Today American consumers have more choices and more information than ever.

⁸ Bureau of Labor and Statistics, *Small-business options: Occupational outlook for self-employed workers*, available at <https://www.bls.gov/careeroutlook/2018/article/self-employment.htm>

⁹ NetChoice.org/TechlashPoll

¹⁰ Tim Wu, *In the Grip of the New Monopolists*, Wall St. Jo (Nov. 13, 2010).

Historically, consumers had only a handful of near-by businesses from which to purchase products and services. These businesses could set prices higher than near-by competitors, and customers had a difficult time researching the comparative value and quality of options.

Today, thanks to the internet, consumers have access to a smorgasbord of products, businesses, and information about pricing. Using a couple of clicks customers can find the lowest prices for goods they want. No longer limited to just nearby stores, the internet enables customers to buy from hundreds of thousands of stores across the country.

A cottage industry has evolved to help consumers find the lowest prices for products. Websites such as Slickdeals¹¹ help consumers find active discounts. Services such as Honey¹² enable real-time price comparison and coupon testing at checkout. With a couple of clicks, customers can find the products they want at the lowest prices.

For businesses, the internet has reduced barriers to entry and increased their potential marketplace. Now an art student can easily sell her paintings from her garage to anyone around the world, without first gaining access and giving markup to exclusive art galleries. A parent can sell their children's old toys in a large market rather than relying on a one-day neighborhood yard sale. Anyone can compete with any business, big or small.

There is no dearth of competition. The marketplace has never been more competitive.

The DOJ should avoid knee-jerk reactions to calls to "break-up" technology businesses. Instead the DOJ should retain and protect the model on which consumers and business have relied and it has and will continue to work.

We thank you for your consideration.

Sincerely,

Carl M. Szabo

Vice-President & General Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org

The views of NetChoice do not necessarily represent the views of its members.

¹¹ Slickdeals.net

¹² JoinHoney.com