

117TH CONGRESS
1ST SESSION

S. 1204

To promote competition in digital markets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 19, 2021

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To promote competition in digital markets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bust Up Big Tech
5 Act”.

6 **SEC. 2. STRUCTURAL SEPARATION REQUIREMENTS FOR**
7 **TECHNOLOGY PLATFORMS.**

8 (a) DEFINITIONS.—In this section:

9 (1) BACK-END ONLINE SERVICES.—The term
10 “back-end online services” means third-party inter-
11 net infrastructure services, including domain name

1 resolution services, DDoS and other cyber threat
2 mitigation services, content delivery networks and
3 other load management techniques, and internet
4 backbone networks.

5 (2) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (3) COVERED PERSON.—The term “covered
8 person”—

9 (A) means a person that is in the business
10 of offering an online platform to connect third
11 parties to an online marketplace, exchange, or
12 search engine which—

13 (i) in any month during the most re-
14 cently completed 12-month period—

15 (I) more than 30,000,000 users
16 in the United States accessed, without
17 regard to the means by which the
18 users accessed the service; or

19 (II) more than 300,000,000
20 users worldwide accessed, without re-
21 gard to the means by which the users
22 accessed the service; and

23 (ii) during the most recently com-
24 pleted taxable year, had more than
25 \$1,500,000,000 in global revenue; and

1 (B) does not include an organization de-
2 scribed in section 501(c) of the Internal Rev-
3 enue Code of 1986 that is exempt from taxation
4 under section 501(a) of such Code.

5 (4) ONLINE HOSTING.—The term “online
6 hosting” means a service or set of services that pro-
7 vide processing, storage, or other computational re-
8 sources that are used to implement any or all func-
9 tions of any public or private internet-based services
10 administered by third parties.

11 (5) ONLINE PLATFORM.—The term “online
12 platform” means any publicly accessible online elec-
13 tronic medium that enables 1 or more users to view,
14 generate, or modify content that can be viewed,
15 shared, or otherwise interacted with by other third-
16 party users of the medium.

17 (b) PROHIBITIONS.—

18 (1) ONLINE SALES PLATFORM.—

19 (A) IN GENERAL.—A covered person may
20 not sell, advertise, or otherwise promote goods
21 and services of the covered person on an online
22 platform owned or operated by the covered com-
23 pany.

24 (B) TARGETED PROHIBITION ON AFFILI-
25 ATES.—Not later than 1 year after the date of

1 enactment of this Act, any affiliation, common
2 ownership, or control by a covered person of an
3 entity that operates, sells, or advertises goods
4 and services on the online platform of the cov-
5 ered person shall be terminated or otherwise
6 liquidated.

7 (C) TARGETED PROHIBITION ON ACQUI-
8 TIONS.—A covered person shall not acquire or
9 hold a controlling interest in any entity that
10 would sell, advertise, or otherwise promote
11 goods and services on an online platform owned
12 or operated by the covered person.

13 (2) ONLINE HOSTING AND BACK-END ONLINE
14 SERVICES.—

15 (A) IN GENERAL.—A covered person may
16 not provide online hosting services or back-end
17 online services to any other entity that is not
18 owned by the covered person.

19 (B) TARGETED PROHIBITION ON AFFILI-
20 ATES.—Not later than 1 year after the date of
21 enactment of this Act, any affiliation, common
22 ownership, or control by a covered person of an
23 entity that provides online hosting or back-end
24 online services to another entity not owned by

1 the covered company shall be terminated or oth-
2 erwise liquidated.

3 (C) TARGETED PROHIBITION ON ACQUISI-
4 TIONS.—A covered person may not acquire or
5 hold a controlling interest in any entity that
6 provides online hosting or back-end online serv-
7 ices not owned by the covered company.

8 (3) EXCEPTION.—Paragraphs (1) and (2) shall
9 not apply to the operation of an online platform for
10 any person that exclusively sells, advertises, or oth-
11 erwise promotes the goods and services of the per-
12 son.

13 (c) AUTHORITY OF THE COMMISSION.—The Commis-
14 sion may—

15 (1) hire sufficient staff (whether on a part-time,
16 full-time, or contract basis) to monitor compliance
17 with subsection (b); and

18 (2) design and supervise annual audits for each
19 covered person to ensure compliance with this Act
20 and the amendments made by this Act.

21 (d) ENFORCEMENT BY STATE ATTORNEYS GEN-
22 ERAL.—

23 (1) IN GENERAL.—In any case in which the at-
24 torney general of a State has reason to believe that
25 an interest of the residents of that State has been

1 or is threatened or adversely affected by the engage-
 2 ment of any entity in a practice that violates sub-
 3 section (b), the State, as *parens patriae*, may bring
 4 a civil action on behalf of the residents of the State
 5 in a district court of the United States or a State
 6 court of appropriate jurisdiction to—

7 (A) enjoin that practice;

8 (B) enforce compliance with such section;

9 (C) on behalf of residents of the State, ob-
 10 tain damages, statutory damages, restitution, or
 11 other compensation, each of which shall be dis-
 12 tributed in accordance with State law; or

13 (D) obtain such other relief as the court
 14 may consider to be appropriate.

15 (2) REQUIREMENT.—Before filing an action
 16 under paragraph (1), the attorney general of the
 17 State involved shall submit to the Commission—

18 (A) written notice of that action; and

19 (B) a copy of the complaint for that ac-
 20 tion.

21 (e) PRIVATE RIGHT OF ACTION.—

22 (1) IN GENERAL.—Any person who suffers an
 23 injury as a result of an act or practice of a covered
 24 person in violation of subsection (b) may bring a

1 civil action against the covered person in any court
2 of competent jurisdiction.

3 (2) RELIEF.—In a civil action under paragraph
4 (1) in which the plaintiff prevails, the court may
5 award the plaintiff not more than \$1,000,000 per
6 each violation per plaintiff.

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