

January 18, 2022

Senator Ted Cruz  
127A Russell Senate Office Bldg.  
Washington DC 20510

Dear Senator Cruz:

We write to you to share our serious reservations about S. 2992, the American Innovation and Choice Online Act, and to ask you to do your part to stop this bill in its tracks this week.

The Institute for Policy Innovation (IPI) is a 35-year-old conservative, free-market policy think tank based in Dallas. Hopefully you recall serving as our keynote speaker for our 25<sup>th</sup> Anniversary Gala in Dallas. We engage on issues related to economic liberty and individual liberty, and that includes issues related to competition, antitrust, and government regulation of business.

We are deeply concerned about Senator Klobuchar's misleadingly named legislation, and no elected official committed to market outcomes rather than federally regulated, top-down control of business should even consider supporting it.

Senator Klobuchar's bill is a very dangerous assault on the traditional consumer welfare standard the United States has wisely embraced during the past several decades as a result of the seminal work of Judge Robert Bork and other originalist scholars and free-market economists. By embracing the consumer welfare standard, the United States has avoided the problems Europe has imposed upon itself by pursuing competition policy and a "competitor welfare" standard. The resulting success of innovation in the United States as opposed to Europe is painfully obvious, especially to Europe.

We already face a Federal Trade Commission led by a radical progressive who wants to aggressively pursue antitrust remedies to achieve progressive ends, regardless of whether antitrust interventions are appropriate. The last thing Republicans should be signing onto is legislation that would give the federal government unprecedented power to pressure successful US companies. And use it they will.

We are literally months away from the likely shifting of political power in Congress. It would be madness at this point to agree to legislation that would create powers an Executive Branch still

controlled by progressive Democrats can use for the next several years, much less decades, to persecute and harass successful US businesses.

And, as you know, the idea that somehow antitrust powers are the solution to inflation is ludicrous. Inflation does not result from the price mechanism or from competitive success—it is everywhere a monetary phenomenon, as Milton Friedman taught us.

We know that you know all these things, but we are concerned that you may be subject to the pressure of the popular grassroots uprising against “Big Tech.” But supporting this legislation would not be the way to address those concerns, and it would be a betrayal of free-market, limited government principles to become an accomplice to progressive Democrats who are endeavoring to create new powers for the federal government to interfere in the market economy.

Finally, as you know, there have been no hearings on this legislation. Thursday’s markup is an attempt to railroad this dangerous legislation through the Senate without due scrutiny, and is a violation of regular order. This is not just bad legislation – this is bad governance.

We at the Institute for Policy Innovation have long supported your dedication to constitutional principles and to free-market economics. This is not the time to abandon them. We ask you to please refuse to support S. 2992, and we would be happy to discuss this further with you at your invitation.

We appreciate the opportunity to share our thoughts with you on this proposed legislation, and hope you’ll carefully consider these points as you do your important work.

Sincerely,



President