

Senate Judiciary Committee
Hearing on “Big Fixes for Big Tech”
April 7, 2025
Questions for the Record
Senator Amy Klobuchar

For Morgan Harper, American Economic Liberties Project

After five years of litigation, the FTC is going to trial to break up Meta’s social networking monopoly that stemmed from two anticompetitive acquisitions—Instagram and WhatsApp. Had enforcers had the proper tools to stop these acquisitions, this case may not have been necessary at all.

- How can vigorous enforcement of the antitrust laws—especially merger review—protect consumers from monopolies before they take hold?

Response:

Vigorous antitrust is essential to ensuring consumers have access to various, high-quality products and services at the best price. Antitrust enforcement incentivizes businesses to compete for consumers money and attention and allows consumers to put their money towards companies they support.

Preventing more monopolists from dominating technology and other industries requires vigorous antitrust enforcement.

Congress must fully fund the Department of Justice Antitrust Division and the Federal Trade Commission to enforce antitrust law and protect competition in the U.S. technology market. In fiscal year 2023, neither the DOJ ATR Division nor the FTC had more than roughly 1% of the resources as any of the 10 companies they are actively suing.

The FTC and DOJ must also have thorough information on proposed transactions. The bipartisan FTC – in collaboration with the DOJ – proposed and finalized changes to the premerger notification form and associated instructions and rules that implement the Hart-Scott-Rodino Act. These important changes help the antitrust enforcers more quickly clear mergers that do not threaten competition, while identifying and blocking those that do. The new form also implements

provisions of the bipartisan Merger Filing Fee Modernization Act, in which Congress required companies to disclose any subsidies received from a foreign entity of concern.

The antitrust enforcers and the courts must also utilize the 2023 merger guidelines to address monopolies in their incipency and before consummation. Effective merger review also requires a full commission at the FTC – with Commissioner Slaughter and Bedoya’s positions being rightfully restored.

In 2010, the Justice Department allowed Live Nation to acquire Ticketmaster based on promises to not use its power to monopolize online ticketing services. Nine years later, the Justice Department had to extend and strengthen these terms because Live Nation repeatedly broke them. Finally, last year, the Justice Department sued to break up Live Nation and Ticketmaster.

- Would it have been better for consumers and independent venues had the Justice Department pursued a strong remedy of blocking the Live Nation-Ticketmaster merger 15 years ago rather than relying on a difficult-to-enforce consent decree?

Response:

Yes, it would have been better if the DOJ had blocked the deal in 2010. The DOJ consent decree and subsequent extensions have failed to rein in Live Nation-Ticketmaster’s abusive conduct and monopoly power.

With the failed remedy, Live Nation-Ticketmaster has exploited its dominance and conflicts of interests, eroded competition and engaged in anti-competitive practices that hurt fans, independent venues, artists, and the entire music ecosystem. Fans pay higher fees, have little transparency around ticket prices, and are forced into restrictive arbitration clauses to see their favorite artists. Independent venues continue to be gobbled up by the company, and venue exclusivity contracts stifle competition. New and established artists suffer from the monopolization of ticketing and promotions.

The merged company has also repeatedly retaliated against or threatened concert venues –in direct violation of the behavioral remedy it agreed to with the DOJ as condition for merger approval.

The DOJ under President Biden and a bipartisan group of 40 state attorneys general sued Live Nation-Ticketmaster for monopolizing markets across the live concert industry. Senators Klobuchar and Lee sent a bipartisan letter to President Trump’s DOJ, urging for the continuation of the case. American Economic Liberties Project and the Break Up Ticketmaster Coalition similarly urge the DOJ to proceed.

- What lessons can today’s enforcers learn from the mistake of allowing Live Nation and Ticketmaster to merge?

Response:

Behavioral remedies alone are not sufficient to protect competition and market-place participants in monopolized industries, as demonstrated in the Live Nation-Ticketmaster case. Monitoring is difficult, while monetary penalties are ineffective. Live Nation-Ticketmaster clearly has considered previous government attempts to curtail their abusive conduct as nothing more than a cost of doing business, as they have disregarded the consent decree entirely.

To sufficiently protect competition and crack down on anti-competitive behavior, executive accountability and strong structural and behavioral remedies must be implemented.

While the public awaits the DOJ’s lawsuit, Live Nation-Ticketmaster has continued to squeeze fans, artists, and independent venues, while reporting record high revenue – \$23 billion – and concert profits in 2024.

Last month, the President illegally fired the two Democratic members of the Federal Trade Commission, who are tasked with enforcing our antitrust laws.

- How does the President’s illegal attempt to fire the Democratic FTC Commissioners undermine independent antitrust enforcement?

Response:

It is necessary for the FTC to remain an independent, bipartisan commission to effectively enforce the antitrust laws. Without true independence, Commissioners may be influenced by the fear of losing their position and make antitrust enforcement decisions based on this implied pressure. This would allow for antitrust enforcement to ultimately be at the whim of the President and his business allies. Commissioners must have the ability and freedom to administer the laws that Congress passed without fear or favor.

As Chair Ferguson noted at a recent event, “Congress set up the ... [bipartisan] commission ... to develop expertise” and that there are “advantages ... [to a] multi-member bipartisan commission ... [which] were created ... to stoke deliberation and care, and test theories internally.” And importantly, minority commissioners provide democratic accountability, transparency, and dissent that pushes the agency forward. For example, former FTC Commissioner Rohit Chopra used his minority position to push back on the Commission’s lackluster enforcement of antitrust and consumer protection laws, arguing for greater penalties and strong remedies. This included the FTC’s \$5 billion settlement with Facebook for violating a previous FTC order and violating users’ privacy. Commissioner Chopra noted that the settlement would “do[] little to change the business model or practices that led to the [violation].” Commissioner Chopra proved prescient, as Facebook for the third time has violated an FTC order for not protecting users’ data.

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QUESTIONS FROM SENATOR CORY A. BOOKER

1. In your testimony, you discussed how market concentration by the Big Tech companies tamps down on engineers' incentive to innovate, in part because of company bureaucracy.
 - a. How does the concentration of market power within Big Tech impact workers' capacity to innovate and develop new technologies?

Response:

Big Tech monopolies have grown so dominant and engage in anti-competitive conduct that is so destructive, they threaten future tech innovation – including within their own companies. Engineers are not incentivized to innovate or are bogged down by company bureaucracy. Managers are also disincentivized from introducing improvements that may be disruptive, as they may devalue skills or relationships that give the company power. For instance, Google had the capability to release a large language model-based chat bot, but delayed release because it was difficult to “tie [the LLM chat bot] to their existing search and advertising product markets.”

In addition, employees that speak out about the harms of Big Tech – internally or externally – often face retaliation, job termination, harassment, and litigation that lasts for years. These companies threaten the economic freedom of their own employees and stymie innovation.

Big Tech companies also stifle innovation outside of their companies. When start-ups have the possibility of being acquired, they are more likely to be conservative and create products that are similar to monopoly companies –including Big Tech. Startups can also struggle to raise funding if they operate within an industry dominated by a monopolist.

- b. How could this affect the United States' ability to compete globally in the tech industry?

Response:

Big Tech monopolies holding back innovation in their own companies and disincentivizing startup innovations hinders the U.S. from competing globally. As we have seen, Big Tech already isn't providing superior services, privacy, or security protections for users.

For example, Google has promoted harmful and unhelpful rehabilitation centers for users the company knew struggled with drug addictions. Apple has illegally copied a smaller U.S. company's pulse oximetry technology in several models of the Apple Watch, after a potential deal to share the technology fell through. Meta violated children's privacy to grow its AI and misled the public about the safety of its social media platforms.

Nor are these companies producing cutting-edge innovation, especially in A.I. And instead of challenging the interests of the Chinese government and economy to protect U.S. interests, Big Tech companies are instead integrating and cooperating with Chinese companies for their own gain.

And as the consolidated defense industry becomes more reliant on technology and Big Tech monopolies, national security risks will grow. We have already seen increased costs, reduced quality and availability of equipment with defense consolidation, and Big Tech dependence will only exacerbate this.

- c. If the monopolies were to be eliminated, would we eventually face the same issues with little tech as startup companies grow? Are there ways to avoid this?

Response:

The existence of monopolies is not inevitable but instead results from a lack of rigorous antitrust law enforcement. To prevent little tech and startups from becoming tomorrow's monopolists, Congress must fully fund the Department of Justice Antitrust Division and the Federal Trade Commission to enforce antitrust law and protect competition in the U.S. technology market. The bipartisan 2023 merger guidelines released by the Department of Justice and the Federal Trade Commission provide a robust roadmap for what factors the agencies will consider to prevent anti-competitive transactions from moving forward involving any company in the economy.

If "little tech" firms do eventually grow and engage in anti-competitive conduct, the antitrust laws also give the agencies authority to intervene to stop monopolizing conduct. This includes prohibiting anti-competitive activities that restrain trade and competition, any attempt to monopolize, or transactions that may be substantially to lessen competition or tend to create a monopoly.

2. Children are at a particular risk of harm from technology addiction and with online safety. How can eliminating monopolies help address some of these problems?

Response:

Currently, Big Tech firms like Meta use surveillance to monetize their platforms. This model of targeted algorithms encourages users to remain on the platform, allowing Big Tech firms to gather as much personal data on users as possible to sell to advertisers. These highly manipulative algorithms incentivize addiction for users – particularly children and teens.

If a safer technology product that was more private and safer for younger users came to market, it would likely be pushed out by Big Tech monopolists, or not receive funding in the first place. By acquiring or squashing all competitors, there is an innovation “kill zone” where investors are reluctant to provide funding or support for startups, as they view the tech industry as too dominant.

For example, tech startup Beeper introduced “Beeper Mini” – a messaging application – in 2023 to allow Android users to talk with Apple users via RCS technology – which enables end-to-end encryption and is critical for privacy and security of users. After Beeper Mini launched, Apple utilized its size and resources to kill the application by blocking Apple users’ access to Beeper Mini, forcing the company to abandon the application. A similar dynamic would likely play out for any social platform that developed that was safer for children and directly competed with Meta.

3. How are Americans’ individual economic and personal liberties affected by platform monopolies?
 - a. Do ideals like privacy, civil liberties, and redistribution have any place within discussions of remedies and antitrust law?

Response:

Platform monopolies directly threaten Americans’ individual economic and personal liberties on a daily basis.

Businesses have reported not appearing accurately in Google search results, being pushed down below Google-owned content, or disappearing entirely from the results and Google Maps. This causes businesses to not be found by potential customers, and ultimately leads to lower sales and revenue. Amazon charges sellers’ a 50% fee, uses confidential data to undercut sellers with its own products, deters small businesses from charging lower prices than Amazon does, and steers consumers toward Amazon products. Amazon also hurts workers’ economic and personal liberties when prioritizing profits over worker safety. Apple charges small app developers a 30% fee to offer apps on iPhones. More recently, sellers on Amazon legitimately trying to change prices due to tariffs are being kicked off the platform. Modern businesses have no choice but to engage with these platforms to participate in the marketplace, but have no control over the terms of engagement and are at the mercy of the Big Tech monopolists. For example, only about one-third of all searches in the U.S. leave the Google ecosystem, while nearly 50 percent of all U.S.

Big Tech monopolists also suppress speech and deplatform users – with no avenue for appeal – threatening personal liberties. Facebook bans users’ accounts without explanation, leading to pictures and connections being lost, while Google has pulled podcasts and other apps from the Play Store without explanation.

There is certainly a place for privacy and other civil liberties in antitrust law. Early on, Facebook and other companies competed on quality – with privacy being an important consideration early on. Facebook sought to compete with MySpace – which had a poor reputation, particularly regarding children’s safety and privacy concerns – marketing itself as a privacy-centered alternative that would not track its users. But as Facebook grew its monopoly power, the company went back on its word, not only degrading privacy protections, but surveilling users to increase profits.

Independent business ownership has also advanced civil rights and liberties in the U.S. When large companies did not want to serve black communities – particularly during the Jim Crow era – black-owned independent businesses stepped in. Not only do these businesses provide essential products and services for communities and allow for economic freedom and mobility, they also supplied financial support for the civil rights movement.

More than redistribution, effective antitrust law enforcement and remedies can ensure *pre-distribution* of economic power. Strong antitrust enforcement can prevent monopolists from forming and squeezing consumers, workers, and suppliers in the first place and stop rent seeking practices in their tracks. *Ex-post* attempts at redistribution can be more costly in terms of resources and time.

4. How has market dominance by Big Tech, coupled with tech dependency for nearly every aspect of life (i.e. in banking, shopping, health care, communications), influenced consumers’ expectation of privacy and willingness to divulge personal information?

Response:

Americans have become very dependent on these firms and the sharing of personal data that is required to utilize the platforms, but they are increasingly skeptical of the firms’ practices and seeking stronger privacy protections.

In 2023, over 80% of Americans reported being concerned about Big Tech’s use of their personal data, and over 85% were more concerned about privacy and data security than the U.S. economy. In fact, Americans trust Big Tech even less than the federal government with their private information.

As a result, people want more protections, with nearly 80% of all Americans in support of a law that regulates how Big Tech collects, stores, or shares their personal data. There is bipartisan support for limiting data collection to a need to know for service basis.

5. How do Big Tech monopolies, including killer acquisitions, limit workers’ and consumers’ employment opportunity and economic freedom?

Response:

As noted above, Big Tech monopolies limit their own employees' growth by disincentivizing innovation at their companies and bogging them down with bureaucracy with any attempts to develop new products.

But Big Tech firms' size and domination of the U.S. technology market also limits employee's ability to move to other firms – either by being the firm doing the most hiring in a particular industry, or by imposing restrictive employment contracts.

Big Tech monopolies are also keeping tech workers' wages low by buying up companies instead of allowing multiple, independent firms to bid for talented employees. Big Tech companies have a monopsony on skilled tech labor. Developers, IT professionals, information and data officers are particularly vulnerable. It is notable that the DOJ-FTC 2023 merger guidelines look to address the impact of concentration on workers. Labor markets are increasingly concentrated and contribute to stagnant wages and reduced economic freedom for workers.

And as Big Tech monopolies acquire other companies, they continue to lay off workers. In 2020, Amazon acquired a company that created a device designed to help women track their fertility, and subsequently shut down the project in 2024. Google also acquired a company in 2020 and shut it down in 2024 – a cloud migration service. And Meta has acquired a number of companies in the virtual/augmented reality space, laying off of employees in 2023 and shutting down the company in 2024.

Big Tech's monopoly power also limits consumer choice and results in fewer products that are more costly and worse quality. Even though many of these companies started off offering “free” products, Big Tech finds a way to charge. Amazon used a secret algorithm – Project Nessie – to raise prices on its users and utilized dark patterns to trick millions of consumers into unknowingly enrolling in Amazon Prime, and when Google had trouble selling its AI technology as a separate add-on, the company bundled it with existing products and businesses and upped the price of Google Suite – like Microsoft. Meta has repeatedly violated users' privacy, while Apple charges app developers' exorbitant fees that are likely passed onto consumers.