The American Innovation and Choice Online Act (AICOA)

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What's the issue?

Currently, a handful of the largest online platforms control critical access points that Americans and American businesses rely on to search for information, sell products and services, contact new customers and compete in the digital marketplace. This **drives up prices** for consumers, **restricts access** to superior products and **disadvantages small businesses and startups**.

What does AICOA do?

AICOA expands consumer choice, empowers online innovation and prevents large corporations from using unfair practices to disadvantage rivals and drive up prices across the digital marketplace.

Specifically, AICOA allows the Department of Justice (DOJ), the Federal Trade Commission (FTC) and state attorneys general to **challenge discriminatory or exclusionary conduct** by the **world's largest online platforms** if the conduct **materially harms competition**.

Here's how it works:

AICOA only covers platforms that (1) have at least $175 billion in average annual gross revenue and (2) reach at least 34% of U.S. subscriber households or 34% of U.S. monthly active users over the age of 12.

Covered platforms are prohibited from:

- Unfairly favoring their own products or services.
- Misusing nonpublic business-user data to copy and compete against small businesses.
- Unfairly limiting competitors' access to key platform features.
- Blocking business users from accessing or moving their own data from one digital platform to another.
- Retaliating against users or business users who raise legal concerns.
- Unfairly enforcing terms of service in ways that harm competition.
- Conditioning companies' access to the platform, or product placement on the platform, on purchase or use of unrelated services.
- Locking users into default settings.
- Skewing ranking or presentation against similarly situated business users.

AICOA empowers federal and state agencies to stop conduct by Big Tech platforms that has a real-world, negative impact. While AICOA may be triggered by size, liability is solely based on actions.

How is AICOA enforced?

Federal and state agencies would enforce AICOA through civil actions in federal district courts. Courts will control remedies, not political officials or career bureaucrats. AICOA does not create a private right of action, does not regulate every online platform and does not turn ordinary business disputes into federal claims.

By relying on fair judicial proceedings rather than burdensome agency regulations, AICOA limits the ability for government abuse.

Are there any safeguards or exceptions in AICOA?

Yes. AICOA was written to preserve safety, privacy, intellectual property, national security and constitutional rights, as well as popular services provided by large digital platforms.

1. AICOA includes language to ensure covered platforms can defend conduct necessary to comply with the law, prevent fraud or protect safety, user privacy, nonpublic data or platform security.
2. AICOA does not require disclosure or licensing of intellectual property, trade secrets, confidential business processes or legitimate copyright and trademark enforcement.
3. AICOA does not require data sharing with entities organized under the laws of, or controlled by, foreign adversaries, including sanctioned entities or entities identified as security, intelligence or law enforcement risks.
4. AICOA does not authorize the DOJ, FTC or state attorneys general to dictate AI development, product design, ranking policy or content outcomes – it only targets exclusionary conduct.