

119TH CONGRESS
2D SESSION

S. _____

To provide that certain discriminatory conduct by covered platforms shall be unlawful, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Ms. KLOBUCHAR, Mr. DURBIN, Mr. HAWLEY, Mr. WHITEHOUSE, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide that certain discriminatory conduct by covered platforms shall be unlawful, 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 “American Innovation
5 and Choice Online Act”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act:

8 (1) ANTITRUST LAWS; PERSON.—The terms
9 “antitrust laws” and “person” have the meanings

1 given the terms in subsection (a) of the first section
2 of the Clayton Act (15 U.S.C. 12).

3 (2) AVERAGE ANNUAL GROSS REVENUES.—The
4 term “average annual gross revenues” means, with
5 respect to a person, the average of the total gross
6 revenues or net sales of the person and all entities
7 controlled by the person for the 2 most recently
8 completed fiscal years, as reflected in the consoli-
9 dated financial statements of the person prepared in
10 the ordinary course of business.

11 (3) BUSINESS USER.—The term “business
12 user”—

13 (A) means a person that uses or is likely
14 to use a systemically important platform to ad-
15 vertise, sell, provide products or services, or ac-
16 cess users and customers, including such per-
17 sons that are operating a systemically impor-
18 tant platform or are controlled by a system-
19 ically important platform operator; and

20 (B) does not include a person that—

21 (i) is a clear national security risk; or

22 (ii) is organized under the laws of or
23 controlled by the Government of the Peo-
24 ple’s Republic of China or the government
25 of another foreign adversary.

1 (4) COMMISSION.—The term “Commission”
2 means the Federal Trade Commission.

3 (5) CONTROL.—The term “control” means,
4 with respect to a person—

5 (A) holding 25 percent or more of the
6 stock of the person;

7 (B) having the right to 25 percent or more
8 of the profits of the person;

9 (C) in the event of the dissolution of the
10 person, having the right to 25 percent or more
11 of the assets of the person;

12 (D) if the person is a corporation, having
13 the power to designate 25 percent or more of
14 the directors of the person;

15 (E) if the person is a trust, having the
16 power to designate 25 percent or more of the
17 trustees; or

18 (F) otherwise exercising substantial control
19 over the person.

20 (6) DATA.—The term “data” means informa-
21 tion that is collected by or provided to a systemically
22 important platform or business user that is linked,
23 or reasonably linkable, to a specific—

24 (A) user or customer of the systemically
25 important platform; or

1 (B) user or customer of a business user.

2 (7) FOREIGN ADVERSARY.—The term “foreign
3 adversary” has the meaning given the term in sec-
4 tion 8(c) of the Secure and Trusted Communications
5 Networks Act of 2019 (47 U.S.C. 1607(c)).

6 (8) MATERIALLY HARMS COMPETITION.—The
7 term “materially harms competition” means any ac-
8 tual or reasonable risk of lessening of competition or
9 impairing the competitive process that is more than
10 a de minimis amount.

11 (9) MONTHLY ACTIVE USER.—The term
12 “monthly active user” means a unique person in the
13 United States who, during a calendar month, initi-
14 ates an interaction with the online platform, regard-
15 less of whether the user logs in or otherwise authen-
16 ticates themselves.

17 (10) ONLINE PLATFORM.—The term “online
18 platform”—

19 (A) means a website, online or mobile ap-
20 plication, operating system, digital assistant, or
21 online service that—

22 (i) enables a user to generate or share
23 content that can be viewed by other users
24 on the platform or to interact with other
25 content on or through the platform;

1 (ii) facilitates the offering, adver-
2 tising, sale, purchase, payment, or shipping
3 of products or services, including software
4 applications, between and among con-
5 sumers or businesses not controlled by the
6 systemically important platform operator;
7 or

8 (iii) enables user searches or queries
9 that access or display a large volume of in-
10 formation; and

11 (B) does not include a service by wire or
12 radio that provides the capability to transmit
13 data to and receive data from all or substan-
14 tially all internet endpoints, including any capa-
15 bilities that are incidental to and enable the op-
16 eration of the communications service.

17 (11) PUBLICLY TRADED COMPANY.—The term
18 “publicly traded company”—

19 (A) means a company that has a principal
20 class of shares registered under subsection (b)
21 or (g) of section 12 of the Securities Exchange
22 Act of 1934 (15 U.S.C. 78l); and

23 (B) includes a subsidiary of a company de-
24 scribed in subparagraph (A).

1 (12) SIMILAR PLATFORM.—The term “similar
2 platform” means an online platform controlled by
3 the same person that offers substantially similar
4 functionality or serves substantially similar use cases
5 to users or business users.

6 (13) STATE.—The term “State” means a State,
7 the District of Columbia, the Commonwealth of
8 Puerto Rico, and any other territory or possession of
9 the United States.

10 (14) SUBSCRIBER HOUSEHOLD.—The term
11 “subscriber household” means a household in the
12 United States in which at least 1 member pays for
13 access to the online platform during a calendar
14 month.

15 (15) SYSTEMICALLY IMPORTANT PLATFORM.—

16 (A) IN GENERAL.—The term “systemically
17 important platform” means an online platform
18 that—

19 (i) is controlled by a person with aver-
20 age annual gross revenues of not less than
21 \$175,000,000,000, as adjusted under sub-
22 section (c); and

23 (ii)(I) during a period of not fewer
24 than 3 consecutive calendar months in
25 each of the 2 consecutive 12-month periods

1 preceding the filing of an action under this
2 Act, has monthly active users in the
3 United States equal to not less than 34
4 percent of the population of the United
5 States over the age of 12, as determined
6 by the most recent decennial census of
7 population conducted by the Bureau of the
8 Census; or

9 (II) during a period of not fewer than
10 3 consecutive calendar months in each of
11 the 2 consecutive 12-month periods pre-
12 ceding the filing of an action under this
13 Act, has subscriber households in the
14 United States equal to not less than 34
15 percent of households in the United States,
16 as determined by the most recent decennial
17 census of population conducted by the Bu-
18 reau of the Census.

19 (B) COUNTING RULES; AGGREGATION.—In
20 determining the number of monthly active users
21 and subscriber households under this para-
22 graph, the platform shall—

23 (i) exclude non-human, automated, or
24 test accounts to the extent identified in the
25 ordinary course of business;

1 (ii) use reasonable ordinary-course
2 methods to avoid double-counting the same
3 individual or household across multiple ac-
4 counts;

5 (iii) the monthly active users and sub-
6 scribe households of similar platforms
7 controlled by the same person shall be ag-
8 gregated; and

9 (iv) if such aggregation causes the
10 threshold described in subclause (I) or (II)
11 of subparagraph (A)(ii) to be met, each
12 such similar platform shall be treated as
13 satisfying the applicable threshold.

14 (16) SYSTEMICALLY IMPORTANT PLATFORM OP-
15 ERATOR.—The term “systemically important plat-
16 form operator” means a person that owns, controls,
17 or operates a systemically important platform.

18 (b) REGULATIONS.—Not later than 180 days after
19 the date of enactment of this Act, the Commission shall
20 promulgate regulations in accordance with section 553 of
21 title 5, United States Code, to define the term “data” for
22 the purpose of implementing and enforcing this Act.

23 (c) ANNUAL ADJUSTMENT OF REVENUE THRESH-
24 OLD.—

1 (1) IN GENERAL.—Beginning with the first cal-
2 endar year that begins after the date that is 1 year
3 after the date of enactment of this Act, and annually
4 thereafter, the Commission shall revise the dollar
5 amount set forth in subsection (a)(15)(A)(i) to re-
6 flect the percentage change in gross national prod-
7 uct, as most recently published by the Department
8 of Commerce.

9 (2) PUBLICATION.—The Commission shall pub-
10 lish any revised dollar amount under paragraph (1)
11 in the Federal Register.

12 (3) ROUNDING.—Any revised dollar amount
13 under paragraph (1) shall be rounded to the nearest
14 \$1,000,000,000.

15 (4) APPLICABILITY.—Any revised dollar
16 amount published under paragraph (2) shall apply
17 to any action filed on or after the effective date
18 specified in the notice published by the Commission.

19 **SEC. 3. UNLAWFUL CONDUCT.**

20 (a) PROHIBITIONS.—

21 (1) PROHIBITION ON PREFERENCING, LIMITING,
22 AND DISCRIMINATION.—It shall be unlawful for a
23 person operating a systemically important platform
24 in or affecting commerce to—

1 (A) preference the products, services, or
2 lines of business of the systemically important
3 platform over those of another business user in
4 a manner that would materially harm competi-
5 tion;

6 (B) limit the ability of the products, serv-
7 ices, or lines of business of another business
8 user to compete on the systemically important
9 platform relative to the products, services, or
10 lines of business of the systemically important
11 platform operator in a manner that would ma-
12 terially harm competition; or

13 (C) apply or enforce the terms of service of
14 the systemically important platform among
15 similarly situated business users in a discrimi-
16 natory manner that would materially harm
17 competition.

18 (2) PROHIBITION ON ACCESS TO PLATFORM
19 FEATURES.—It shall be unlawful for a person oper-
20 ating a systemically important platform in or affect-
21 ing commerce to restrict, impede, or unreasonably
22 delay the capacity of a business user to access or
23 interoperate with the same platform, operating sys-
24 tem, or hardware or software features that are avail-
25 able to the products, services, or lines of business of

1 the systemically important platform operator that
2 compete or would compete with products or services
3 offered by business users on the systemically impor-
4 tant platform.

5 (3) PROHIBITION ON TYING.—It shall be unlaw-
6 ful for a person operating a systemically important
7 platform in or affecting commerce to condition ac-
8 cess to the systemically important platform, any part
9 of the systemically important platform, or preferred
10 status or placement on the systemically important
11 platform on the purchase or use of other products
12 or services offered by the systemically important
13 platform operator that are not part of or intrinsic to
14 the systemically important platform.

15 (4) PROHIBITION ON ACCESS TO PLATFORM
16 DATA.—It shall be unlawful for a person operating
17 a systemically important platform in or affecting
18 commerce to—

19 (A) use nonpublic data that are obtained
20 from or generated on the systemically impor-
21 tant platform by the activities of a business
22 user or by the interaction of a platform user
23 with the products or services of a business user
24 to offer, or support the offering of, the products
25 or services of the systemically important plat-

1 form operator that compete or would compete
2 with products or services offered by business
3 users on the platform; or

4 (B) restrict or impede a business user from
5 accessing data generated on the systemically
6 important platform by the activities of the busi-
7 ness user, or through an interaction of a user
8 with the products or services of the business
9 user, such as by establishing contractual or
10 technical restrictions that prevent the port-
11 ability by the business user to other systems or
12 applications of the data of the business user.

13 (5) PROHIBITION ON USER LOCK-IN.—It shall
14 be unlawful for a person operating a systemically
15 important platform in or affecting commerce to re-
16 strict or impede users from changing default settings
17 or selecting an alternative default product or service,
18 if the default directs or steers users to products or
19 services offered by the systemically important plat-
20 form operator, unless necessary—

21 (A) for the security or functioning of the
22 platform; or

23 (B) to prevent data from the systemically
24 important platform operator or another busi-
25 ness user from being transferred to the Govern-

1 ment of the People’s Republic of China or the
2 government of another foreign adversary.

3 (6) PROHIBITION ON RANKING AND PRESEN-
4 TATION.—It shall be unlawful for a person operating
5 a systemically important platform in or affecting
6 commerce to treat the products, services, or lines of
7 business of the systemically important platform op-
8 erator more favorably relative to those of another
9 business user in connection with any user interface,
10 including search or ranking functionality offered by
11 the platform, except pursuant to standards that are
12 neutral, nondiscriminatory, and fairly applied to all
13 similarly situated business users.

14 (7) PROHIBITION ON RETALIATION.—It shall be
15 unlawful for a person operating a systemically im-
16 portant platform in or affecting commerce to retali-
17 ate against any user or business user that raises
18 concerns with any law enforcement authority about
19 actual or potential violations of State or Federal
20 law.

21 (b) AFFIRMATIVE DEFENSES.—

22 (1) COMPLIANCE WITH LAW; PROTECTION OF
23 SAFETY, PRIVACY, AND SECURITY; PREVENTION OF
24 FRAUD.—It shall be an affirmative defense to an ac-
25 tion under this section if the defendant establishes

1 by clear and convincing evidence that the conduct at
2 issue was—

3 (A) necessary to—

4 (i) comply with Federal or State law;

5 or

6 (ii) protect safety, user privacy, the
7 security of nonpublic data or of the plat-
8 form, or any other significant cybersecurity
9 risk, or to prevent fraud or spam; and

10 (B)(i) applied on a consistent basis;

11 (ii) not used as a pretext to exclude or dis-
12 advantage competitors;

13 (iii) narrowly tailored in scope; and

14 (iv) could not be achieved through less
15 anticompetitive means.

16 (2) NO HARM TO COMPETITION.—It shall be an
17 affirmative defense to an action under paragraphs
18 (2) through (6) of subsection (a) if the defendant es-
19 tablishes by a preponderance of the evidence that
20 the conduct has not materially harmed and would
21 not materially harm competition.

22 (3) EFFECT OF OTHER LAWS.—Notwith-
23 standing any other provision of law, whether user
24 conduct would constitute a violation of section 1030
25 of title 18, United States Code, shall have no effect

1 on whether the defendant has established an affirm-
2 ative defense under this Act.

3 (4) CONTEMPORANEOUS RECORDS REQUIRE-
4 MENT.—

5 (A) IN GENERAL.—A defendant may not
6 rely on the affirmative defense under paragraph
7 (1) unless the defendant produces records, cre-
8 ated in the ordinary course of business at or be-
9 fore the time the challenged conduct was under-
10 taken, that—

11 (i) describe the specific purpose for
12 which the conduct was undertaken; and

13 (ii) identify the material risks or
14 harms the conduct was intended to ad-
15 dress.

16 (B) RULE OF CONSTRUCTION.—Nothing in
17 this paragraph may be construed to require a
18 defendant to create records that were not other-
19 wise created in the ordinary course of business.

20 (c) ENFORCEMENT.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in this Act—

23 (A) the Commission shall enforce this Act
24 in the same manner, by the same means, and
25 with the same jurisdiction, powers, and duties

1 as though all applicable terms of the Federal
2 Trade Commission Act (15 U.S.C. 41 et seq.)
3 were incorporated into and made a part of this
4 Act;

5 (B) the Attorney General shall enforce this
6 Act in the same manner, by the same means,
7 and with the same jurisdiction, powers, and du-
8 ties as though all applicable terms of the Sher-
9 man Act (15 U.S.C. 1 et seq.) were incor-
10 porated into and made a part of this Act; and

11 (C) any attorney general of a State may
12 bring a civil action in the name of such State,
13 or as *parens patriae* on behalf of natural per-
14 sons residing in such State, for a violation of
15 this Act.

16 (2) COMMISSION INDEPENDENT LITIGATION AU-
17 THORITY.—If the Commission has reason to believe
18 that a person violated this Act, the Commission may
19 commence a civil action, in its own name by any of
20 its attorneys designated by it for such purpose, to
21 recover a civil penalty under paragraph (4), and seek
22 other appropriate relief, including any form of relief
23 provided for in paragraph (4), in a district court of
24 the United States. Except as otherwise provided in
25 section 16(a)(3) of the Federal Trade Commission

1 Act (15 U.S.C. 56(a)(3)), the Commission shall have
2 exclusive authority to commence or defend, and su-
3 pervise the litigation of, any civil action under this
4 paragraph and any appeal of such action in its own
5 name by any of its attorneys designated by it for
6 such purpose, unless the Commission authorizes the
7 Attorney General to do so. The Commission shall in-
8 form the Attorney General of the exercise of such
9 authority, and such exercise shall not preclude the
10 Attorney General from intervening on behalf of the
11 United States in such action and any appeal of such
12 action as may be otherwise provided by law.

13 (3) ENFORCEMENT IN FEDERAL DISTRICT
14 COURT.—The Commission, the Attorney General, or
15 any attorney general of a State may enforce this Act
16 only through a civil action brought before a district
17 court of the United States.

18 (4) REMEDIES.—

19 (A) CIVIL PENALTIES.—In an action
20 brought by the Commission, the Attorney Gen-
21 eral, or a State attorney general under this Act,
22 the court may impose a civil penalty on a per-
23 son that violates this Act.

24 (B) CIVIL PENALTY AMOUNT.—Any person
25 who violates this Act shall be liable to the

1 United States for a civil penalty, to be depos-
2 ited in the Treasury of the United States, in an
3 amount not greater than 10 percent, and not
4 less than 1 percent, of the total United States
5 revenue of the person for the period during
6 which the violation occurred.

7 (C) INJUNCTIVE AND OTHER EQUITABLE
8 RELIEF.—

9 (i) IN GENERAL.—The Attorney Gen-
10 eral, the Commission, or the attorney gen-
11 eral of any State may seek, and the court
12 may order, equitable relief as necessary to
13 prevent, restrain, or prohibit violations of
14 this Act.

15 (ii) TEMPORARY INJUNCTIONS.—

16 (I) IN GENERAL.—The Commis-
17 sion, the Attorney General, or any at-
18 torney general of a State may seek a
19 temporary injunction requiring the
20 systemically important platform oper-
21 ator to take or stop taking any action
22 for not more than 120 days.

23 (II) GRANT.—The court may
24 grant a temporary injunction under
25 this clause if the Commission, the At-

1 general of the State seeking relief
2 under this subsection has not
3 taken reasonable steps to inves-
4 tigate whether a violation has oc-
5 curred; or

6 (bb) allowing the temporary
7 injunction to continue would
8 harm the public interest.

9 (IV) OTHER EQUITABLE RE-
10 LIEF.—Nothing in this clause shall
11 prevent or limit the Commission, the
12 Attorney General, or the attorney gen-
13 eral of any State from seeking, or a
14 court from granting, other equitable
15 relief.

16 (D) FORFEITURE FOR REPEAT OFFEND-
17 ERS.—

18 (i) IN GENERAL.—In addition to any
19 other remedy provided in this Act, if a
20 court finds that a person engaged in a pat-
21 tern or practice of conduct that violates
22 this Act, the court shall consider requiring,
23 and may order, the forfeiture by the chief
24 executive officer, and any other corporate
25 officer as appropriate to deter violations of

1 this Act, of any compensation received dur-
2 ing the 12-month period preceding or fol-
3 lowing the filing of a complaint for an al-
4 leged violation of this Act.

5 (ii) PROCEDURE.—Prior to ordering
6 any chief executive officer or corporate of-
7 ficer to forfeit compensation under clause
8 (i), the court shall provide such chief exec-
9 utive officer or corporate officer reasonable
10 notice that the court is considering order-
11 ing forfeiture under this subparagraph and
12 provide an opportunity for such chief exec-
13 utive officer or corporate officer to appear
14 and be heard before the court at a hearing
15 on such potential forfeiture.

16 (5) STATUTE OF LIMITATIONS.—An action
17 under this Act shall be barred unless commenced not
18 later than 6 years after the date on which the cause
19 of action accrues.

20 (6) RULES OF CONSTRUCTION.—

21 (A) IN GENERAL.—Nothing in subsection
22 (a) may be construed—

23 (i) to require a systemically important
24 platform operator to divulge or license any
25 intellectual property, including any trade

1 secrets, business secrets, or other confiden-
2 tial proprietary business processes, owned
3 by or licensed to the systemically impor-
4 tant platform operator;

5 (ii) to prevent a systemically impor-
6 tant platform operator from asserting its
7 preexisting rights under intellectual prop-
8 erty law to prevent the unauthorized use of
9 any intellectual property owned by or duly
10 licensed to the systemically important plat-
11 form operator;

12 (iii) to require a systemically impor-
13 tant platform operator to interoperate or
14 share data with persons or business users
15 that are on any list maintained by the
16 Federal Government by which entities are
17 identified as limited or prohibited from en-
18 gaging in economic transactions as part of
19 United States sanctions or export control
20 regimes, or have been identified as national
21 security, intelligence, or law enforcement
22 risks;

23 (iv) to prohibit a systemically impor-
24 tant platform operator from promptly re-
25 questing and obtaining the consent of a

1 user prior to providing access to the non-
2 public, personally identifiable information
3 of the user to another user;

4 (v) in a manner that would likely re-
5 sult in data on the systemically important
6 platform or data from another business
7 user being transferred to the Government
8 of the People's Republic of China or the
9 government of another foreign adversary;
10 or

11 (vi) to impose liability on a system-
12 ically important platform operator solely
13 for offering—

14 (I) full end-to-end encrypted mes-
15 saging or communication products or
16 services; or

17 (II) a fee-for-service subscription
18 that provides benefits to users on the
19 platform.

20 (B) COPYRIGHT AND TRADEMARK VIOLA-
21 TIONS.—An action taken by a systemically im-
22 portant platform operator that is reasonably
23 tailored to protect the rights of third parties
24 under section 106, 1101, 1201, or 1401 of title
25 17, United States Code, or rights actionable

1 under section 32 or 43 of the Act entitled “An
2 Act to provide for the registration and protec-
3 tion of trademarks used in commerce, to carry
4 out the provisions of certain international con-
5 ventions, and for other purposes”, approved
6 July 5, 1946 (commonly known as the
7 “Lanham Act” or the “Trademark Act of
8 1946”) (15 U.S.C. 1114, 1125), or corollary
9 State law, shall not be considered unlawful con-
10 duct under subsection (a).

11 **SEC. 4. EXPEDITED ANTITRUST PROCEEDINGS FOR SYS-**
12 **TEMICALLY IMPORTANT PLATFORMS.**

13 (a) **ASSIGNMENT AND PRIORITY DOCKETING.**—

14 (1) **IN GENERAL.**—Upon the filing of a civil ac-
15 tion by the United States or the Commission against
16 a systemically important platform under this Act or
17 any of the antitrust laws, the chief judge of the dis-
18 trict court in which the action is filed shall assign
19 the matter for expedited consideration consistent
20 with this section.

21 (2) **PRIORITY.**—Any such action shall be ad-
22 vanced on the docket and expedited to the greatest
23 extent practicable. The court shall give the matter
24 priority over all other civil actions, except matters of

1 the same character given equal precedence by stat-
2 ute.

3 (3) FINAL JUDGMENT.—The district court shall
4 endeavor to issue final judgment not later than 1
5 year after the date on which the complaint is filed.

6 (4) APPEAL.—An appeal from a final judgment
7 under this section shall be taken to the court of ap-
8 peals for the circuit in which the action was filed,
9 which shall expedite such appeal to the greatest ex-
10 tent practicable. If the Supreme Court of the United
11 States grants a writ of certiorari, the Supreme
12 Court shall advance the appeal on the docket and
13 expedite the appeal to the greatest extent prac-
14 ticable.

15 (b) USE OF INVESTIGATIVE MATERIALS.—

16 (1) IN GENERAL.—Any documentary material,
17 interrogatory response, deposition, testimony, or
18 data obtained by the United States pursuant to a
19 civil investigative demand or other compulsory proc-
20 ess under this Act or the Antitrust Civil Process Act
21 (15 U.S.C. 1311 et seq.) shall not be required to be
22 produced to a party during discovery if that party
23 provided the material to the United States or ob-
24 tained the material during the course of the inves-
25 tigation of the United States, unless—

1 (A) the United States uses the material to
2 support its claims against that party; or

3 (B) the court orders production of the ma-
4 terial for good cause shown.

5 (2) NO DUPLICATIVE DISCOVERY.—The district
6 court shall not permit duplicative discovery of mate-
7 rials referenced in paragraph (1) absent a showing
8 of good cause.

9 (c) EXPEDITED ENFORCEMENT OF CIVIL INVESTIGA-
10 TIVE DEMANDS.—

11 (1) IN GENERAL.—In any proceeding brought
12 by the United States or the Commission to enforce
13 compliance with a civil investigative demand issued
14 in an investigation relating to a violation of this Act,
15 the chief judge of the district court in which the de-
16 mand is sought to be enforced shall assign the mat-
17 ter for expedited consideration.

18 (2) ADVANCEMENT.—Any such action shall be
19 advanced on the docket and expedited to the great-
20 est extent practicable, and absent extraordinary cir-
21 cumstances, the court shall endeavor to issue a rul-
22 ing not later than 30 days after the date on which
23 the petition is filed.

24 **SEC. 5. RULE OF CONSTRUCTION.**

25 Nothing in this Act may be construed to limit—

1 (1) any authority of the Department of Justice
2 or the Commission under the antitrust laws, section
3 5 of the Federal Trade Commission Act (15 U.S.C.
4 45), or any other provision of law;

5 (2) any right guaranteed by the Constitution of
6 the United States, including under the First Amend-
7 ment; or

8 (3) the application of any law.

9 **SEC. 6. SEVERABILITY.**

10 If any provision of this Act, or the application of such
11 provision to any person or circumstance is held to be un-
12 constitutional, the remainder of this Act, and the applica-
13 tion of the provisions of this Act to any person or cir-
14 cumstance, shall not be affected.

15 **SEC. 7. EFFECTIVE DATE.**

16 This Act shall take effect 1 year after the date of
17 enactment.