

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-0515

MEMORANDUM

TO: Members, Small Business Committee
FROM: Chairwoman Nydia Velázquez
DATE: November 14, 2019
RE: Full Committee hearing entitled, “A Fair Playing Field: Investing Big Tech’s Impact on Small Business” on Thursday, November 14, 2019 at 1:00 p.m. in Room 2360 of the Rayburn House Office Building

The Committee on Small Business will meet for a hearing titled, “A Fair Playing Field? Investigating Big Tech’s Impact on Small Business” The hearing is scheduled to begin at 2:00 P.M. on Thursday, November 14, 2019 in Room 2360 of the Rayburn House Office Building.

The Internet and information and communications technologies (ICT) have transformed American lives and spurred explosive economic growth by making instant communication seamless and intuitive. This is due, in large part, to the birth of powerful digital platforms, commonly referred to as Big Tech, that connect consumers to businesses in exceedingly efficient and innovative ways. However, the pervasive integration of Big Tech platforms and their near exclusive ability to direct online traffic has raised significant questions about the impact of Big Tech’s influence on consumers and small businesses. As a result, policymakers are considering ways to empower and protect platform users. The hearing gives Members the opportunity to hear from both large tech companies and small businesses about the opportunities and challenges online platforms pose for entrepreneurs and small firms. Witnesses include:

Panel 1

- Mr. Dharmesh M. Mehta, Vice President, Customer Trust and Partner Support, Seattle, WA; Testifying on behalf of Amazon, Inc.
- Ms. Erica Swanson, Head of Community Engagement for Grow with Google, Mountain View, CA; Testifying on behalf of Alphabet, Inc.
- Dr. Joe Kennedy, Senior Fellow, Information Technology & Innovation Foundation, Washington, D.C.; Testifying on behalf of the Information Technology & Innovation Foundation

Panel 2

- Ms. Allyson Cavaretta, Director of Sales & Marketing, Meadowmere Resort, Olgonquit, ME
- Mr. Molson Hart, CEO, Viahart Toy Co., Houston, TX

- Mr. Harold Feld, Senior Vice President, Public Knowledge, Washington, D.C.
- Ms. Theo Prodromitis, Co-Founder and CEO, Spa Destinations, Tampa, FL
- Mr. Jake Ward, President, Connected Commerce Council, Washington, D.C.
- Mr. Graham Dufault, Sr. Director of Public Policy, ACT | The App Association, Washington, D.C.

Background

Nearly 30 years ago, the world wide web went live and transformed global communications forever.¹ Although the Internet was initially developed for nuclear physicists to share information, the development of easy-to-use web browsers attracted users outside of the science community. The rapid development of commercial web browsers and Internet service providers (ISPs) was a result of the Internet creators' decision to allow developers to access and develop the Internet for free.² Free and open access to use and develop the Internet is the cornerstone of Internet policy and regulations that have encouraged the rapid maturity of the U.S. Internet ecosystem.³ For example, Section 230 of the Communications Decency Act of 1996, protects online platforms from liability resulting from user-generated content hosted on their websites to encourage freedom of speech and avoid interference by online platforms in public use and access of Internet tools and resources.⁴

As a result, the Internet has driven vast economic growth in the U.S. and abroad.⁵ In fact, the Internet sector accounted for \$2.1 trillion of the U.S. economy in 2018, or about 10% of gross domestic product (GDP).⁶ The Internet economy is the fourth largest sector behind real estate, government, and manufacturing.⁷ Similarly, the global digital economy is worth \$11.5 trillion, which amounts to 15.5 percent of global GDP.⁸ It has also grown 2.5 times faster than global GDP over the past 15 years.⁹ As the world leader in ICT, the U.S. Internet economy is growing so fast that the Bureau of Economic Analysis has had trouble quantifying its full economic impact because it is evolving at such a rapid pace.¹⁰

¹ Martin Bryant, *20 years ago today, the World Wide Web opened to the public*, The Next Web, August 6, 2011, <https://thenextweb.com/insider/2011/08/06/20-years-ago-today-the-world-wide-web-opened-to-the-public/> (last visited Nov. 12, 2019).

² *Id.*

³ *Id.*

⁴ VALERIE C. BRANNON, CONG. RESEARCH SERV., LSB10309, REGULATING BIG TECH: LEGAL IMPLICATIONS (2019).

⁵ James Manyika and Charles Roxburgh, *The great transformer: The impact of the Internet on economic growth and prosperity*, MCKINSEY GLOBAL INSTITUTE, (Oct. 2011), <https://pdfs.semanticscholar.org/7ec4/46434beb774e7ad707af22ea395f25a42922.pdf>.

⁶ Christopher Hooton, Ph.D., *Measuring The U.S. Internet Sector: 2019*, THE INTERNET ASSOCIATION, (Sep. 2019), https://internetassociation.org/wp-content/uploads/2019/09/IA_Measuring-The-US-Internet-Sector-2019.pdf.

⁷ *Id.*

⁸ Makada Henry-Nickie, et al., Trends in the Information Technology sector, Mar. 29, 2019, BROOKINGS INSTITUTE, <https://www.brookings.edu/research/trends-in-the-information-technology-sector/#footnote-2> (last visited Nov. 12, 2019).

⁹ *Id.*

¹⁰ *Id.*

Global Distribution of top 100 digital companies and market capitalization



Source: Brookings Institute representation of Forbes 2018 Digital 100 Data.

The Internet economy has also helped the small business sector grow by providing valuable tools that boost productivity, cut costs, and increase access to new markets and knowledge sharing.¹¹ In fact, a SAP study found that 80 percent of small businesses that embraced digital platforms have increased profitability by 85 percent.¹² Another study by the U.S. Chamber of Commerce found that small businesses that adopted technology had more confidence in their health and cash flow.¹³

Online platforms have also spurred modern business concepts like the gig economy. Because digital platforms can connect small businesses and entrepreneurs to consumers and other businesses at any time and place, the U.S. workforce is slowly shifting to flexible short-term, work arrangements, or “gigs.” Today a third of U.S. employees are gig workers and that number is expected to reach 50 percent by 2020.¹⁴ The gig economy enables entrepreneurs to start and scale businesses through flexible work arrangements that increase time and cost efficiencies.¹⁵ Additionally, e-commerce marketplaces have drastically increased the number of multinational micro-sellers by providing ease of access to global markets.¹⁶ Soon, emerging technologies like artificial intelligence, cloud computing, Internet of Things (IoT), and 5G mobile wireless access will enter the market place in non-ICT sectors and further improve opportunities for small businesses.¹⁷

¹¹ *Id.*

¹² Allison DeNisco Rayome, *Digital transformation leads to better profits for 80% of companies that pursue it, says report*, TechRepublic.com, Aug. 30, 2017, <https://www.techrepublic.com/article/digital-transformation-leads-to-better-profits-for-80-of-companies-that-pursue-it-says-report/>.

¹³ Henry-Nickie, *supra* note 8.

¹⁴ World Economic Forum – Centre for the New Economy and Society, *THE FUTURE OF JOBS REPORT 2018* (World Economic Forum) (2018), http://www3.weforum.org/docs/WEF_Future_of_Jobs_2018.pdf (last visited Nov. 12, 2019).

¹⁵ *Id.*

¹⁶ Henry-Nickie, *supra* note 8.

¹⁷ Henry-Nickie, *supra* note 8.

Despite these opportunities and improvements, the U.S. has experienced a sharp decline in entrepreneurship over the past 40 years.¹⁸ In fact, research shows the number of startups declined as a share of businesses by 44% between 1978 and 2012.¹⁹ The widespread decline is across multiple sectors and is consistent in all 50 states.²⁰ Large incumbents are rapidly increasing their market share, which limits the ability of smaller competitors to remain viable. In retail and services, existing companies opened 50% more branches in 2011 than they did in 1978.²¹ In tech, the growth is even more accelerated. As a result, markets are becoming increasingly concentrated across sectors.²²

Number of Startups as a Percentage of Total U.S. Firms



Source: Brookings Institute and Kauffman Foundation Analysis of U.S. Census Data

Consolidation in the Technology Sector: E commerce and Online Advertising

The trend in market concentration is particularly acute in online advertising and e-commerce. Much like telephone networks, large digital platforms benefit from “network effects” or increased value based on the number of subscribers. Although digital platforms operate in the layer of the Internet referred to as the edge and are not technically the “pipes,” the extreme concentration of influence and activity on certain digital platforms has made the cost of exclusion for small businesses too high. The impact on small businesses competing in the same industry and those as the end users of the technology may result in stifled innovation and entrepreneurial instability. In many cases, if an entrepreneur does not utilize the technology, he or she risks losing a promising

¹⁸ Leigh Buchanan, *American Entrepreneurship Is Actually Vanishing. Here’s Why*, Inc.com, May 2015, <https://www.inc.com/magazine/201505/leigh-buchanan/the-5c-vanishing-5c-startups-in-5c-decline.html>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Sam Fleming, *US Economy: Decline of the start-up nation*, Financial Times, Aug. 4, 2016, <https://www.ft.com/content/6497a4b2-5899-11e6-8d05-4eaa66292c32> (last visited Nov. 12, 2019).

customer base. And, in the technology sector itself, many startups face a reluctant investor market if a product directly competes with one of the larger companies.²³

Yet, Big Tech also creates opportunities for small firms. Big tech platforms enjoy influence because the consumers like using them. There are over 95 million domestic Amazon prime subscribers because Amazon offers low prices, fast shipping, and reliable customer service.²⁴ Consumers also prefer receiving personalized online advertising. In fact, 71% of consumers are frustrated when their shopping experience is not personalized and 54% expect to receive a discount once they have identified themselves to a brand.²⁵ This also benefits small businesses that are able to leverage Big Tech's audiences to reach consumers and leverage valuable resources.

Small firms are not necessarily impacted by the size of the digital platforms, but rather the lack of regulatory guidance creates the potential for large digital platforms to engage in business practices, arrangements, and relationships that prevent small firms using the platform to fairly compete. Small businesses need certainty in seller agreements, transparency and access in online marketing, along with procedures to prevent them from being excluded or taken advantage of in the digital economy. The hearing will allow companies on both sides of the debate to share the benefits and challenges of Big Tech with Members.

Small Business Opportunities and Challenges

The digital ecosystem has provided small businesses with boundless opportunities to reach consumers through e-commerce platforms and through powerful personalized digital advertising. As a result, the barrier to entry is much lower and cost efficiencies have given small businesses more financial flexibility to diversify and grow. Amazon launched 150 tools specifically aimed at benefiting small business sellers just last year.²⁶ Similarly, Google launched its Grow with Google platform to help small businesses receive training and tools to build their business at no cost. Facebook has also taken steps to improve its Facebook marketplace to enhance a firm's reach to consumers on social media and Apple launched an Apple Entrepreneur camp to benefit budding women app developers.²⁷ While these are admirable and useful steps to ensure the growth and success of the nation's small business community, it is critical to assess the need for more transparency between Big Tech and its users. Striking a balance is necessary to strengthen marketplace competition and continue spurring innovation.

²³ *American tech giants are making life tough for startups*, THE ECONOMIST, Jun. 2, 2018, <https://www.economist.com/business/2018/06/02/american-tech-giants-are-making-life-tough-for-startups?fsrc=rss> (last visited Nov. 12, 2019).

²⁴ Emily Dayton, *Amazon Statistics You Should Know: Opportunities to Make the Most of America's Top Online Marketplace*, Big Commerce, <https://www.bigcommerce.com/blog/amazon-statistics/#10-fascinating-amazon-statistics-sellers-need-to-know-in-2019>.

²⁵ *The 2017 Personalization Report*, SEGMENT, (2017), <http://grow.segment.com/Segment-2017-Personalization-Report.pdf>.

²⁶ Brock Blake, *Amazon: Small Business Friend or Foe?*, Sept. 23, 2019, Forbes, <https://www.forbes.com/sites/brockblake/2019/09/23/amazon-friend-or-foe/#4804a2e97367>.

²⁷ Joan Verdon, *The Social Dividend: Facebook is Creating New Ways for Businesses to Sell on 'Marketplace'*, U.S. CHAMBER OF COMMERCE, <https://www.uschamber.com/co/good-company/the-leap/new-business-opportunities-with-facebook-marketplace> (last visited Nov. 12, 2019); *see also* Celebrating the First Year of Apple Entrepreneur Camp, Apple Developer, <https://developer.apple.com/news/?id=10232019a> (last visited Nov. 12, 2019).

E-Commerce

Online shopping has swiftly moved from a nascent retail experiment to a major economic trend. Today, 76 percent of U.S. consumers shop online.²⁸ Nearly half of these online sales come through Amazon.²⁹ However, close to half of Amazon's annual sales are attributed to small business sellers.³⁰ As a result, Amazon has focused on creating tools and opportunities to increase small business sales. Through Amazon's Seller Central platform, small businesses can list items for sale on Amazon's online marketplace and even ship their products to Amazon's warehouse to have their products stored and shipped through their Fulfilled By Amazon program.³¹ Amazon also offers data analytics through its Brand Analytics feature which helps small businesses stock fast selling items and gauge customer satisfaction.³² For small businesses seeking to reach global audiences, Amazon offers Global Registration Experience to allow small firms to expand their reach.

However, many small businesses are concerned about the influence that Amazon has over their business.³³ Amazon's policies can cause sellers to be suspended right before critical sales opportunities like Prime Day, with little notice.³⁴ Facebook also offers small business retailers the opportunity to list products on Facebook Marketplace and partners with other e-commerce sites to link their product listings directly on their site. Google and Apple's app store gives small business software companies the opportunity to be in the hands of every smartphone user in the world. This is a huge opportunity for both developers and other brands because there are over 3.3 billion smartphone users today.³⁵ However, small businesses have raised concern their businesses being found on the platforms and lack of transparency in how to optimize the platform's ever-changing algorithms.³⁶

Digital Marketing

Digital platforms have provided small businesses with inexpensive access to millions of consumers. To reach an audience of 2000 consumers, a business would have to spend \$1450 on traditional marketing versus \$125 using digital marketing.³⁷ Digital marketing is also less disruptive, because many times consumers are already following a business or similar businesses

²⁸ Megan Brophy, *25 Online Shopping Statistics That You Should Know*, Fitsmallbusiness.com, Aug. 19, 2019, <https://fitsmallbusiness.com/online-shopping-statistics/>.

²⁹ Blake, *supra* note 26.

³⁰ *Id.*

³¹ *Id.*

³² Michael Guta, *Amazon Says It Has Released 50 New Tools for Small Business Sellers*, Apr. 9, 2019, Small Business Trends, <https://smallbiztrends.com/2019/04/amazon-seller-tools-small-business.html>.

³³ Eugene Kim, *Amazon's updated suspension policy still has sellers worried about getting inexplicably booted*, Jul. 20, 2019, CNBC, <https://www.cnbc.com/2019/07/20/amazons-updated-suspension-policy-still-has-sellers-worried.html>.

³⁴ *Id.*

³⁵ *How Many Phones are Connected in the World*, Bankmycell, <https://www.bankmycell.com/blog/how-many-phones-are-in-the-world> (last visited Nov. 12, 2019).

³⁶ Sarah Perez, *Apple's widened ban on templated apps is wiping small businesses from the App Store*, Dec. 8, 2017, Tech Crunch, <https://techcrunch.com/2017/12/08/apples-widened-ban-on-templated-apps-is-wiping-small-businesses-from-the-app-store/>.

³⁷ Cost Comparison – Digital Marketing vs Traditional Marketing, Endless Revenue Marketing (Oct. 31, 2018), <https://endlessrevenuemarketing.com/costs-comparison-digital-marketing-vs-traditional-marketing> (last visited Nov 12, 2019).

when they receive ads.³⁸ While small business budgets are hard-pressed to compete with big business in the print and television advertising marketplace, digital marketing enables them to build brand awareness to targeted audiences of niche consumers. Google ads is the largest pay-per-click ad network.³⁹ Google My Business also helps small businesses by generating a listing when consumers search a business's name on Google Search or Maps.⁴⁰

The advent of the mobile app economy and smartphone adoption affords small businesses opportunities to reach customers at any time and place. Social media has also unlocked opportunities for small firms. Facebook also has tools for small businesses to leverage their vast platform to place ads through the feed targeted to consumers. Small business owners who have leveraged social media platforms have experienced 75% more traffic and 90% have reported increased exposure.⁴¹ Because 93% of online experiences begin with a search engine and 47% of people click on the first three listings, search engine optimization (SEO) is also a critical component of an effective digital marketing strategy for small businesses.⁴² However, a rising number of searches are resulting in zero-clicks, meaning the consumer makes a google search and does not click on the results.⁴³ Many see this as Google's algorithm producing results that are too focused on ad information because it should result in more organic clicks.⁴⁴ Today, just over half of Google search result in zero clicks.⁴⁵

Big Tech Influence and Federal Policy

Although, Big Tech companies have created powerful solutions for small businesses, their dominance creates challenges for small firms that must connect to consumers through their platforms. The government has approached regulating big tech companies with a light touch to encourage innovation and much has been brought to bear. However, like telecommunications networks in the early days of the telephone, digital platforms increase in value based on the number of consumers that utilize them. As a result, market power has concentrated to just a few large companies and like the telecommunication networks, federal policy has been unable to keep up with innovations.

Unlike the large companies of the past the Big Tech companies offer consumers services at little to no cost and their influence actually drives prices down.⁴⁶ It has also been proven that innovation

³⁸ *Id.*

³⁹ Top 10 Google tools for your small business, Deluxe Enterprise Operations, <https://www.deluxe.com/sbr/seo-sem/top-10-google-tools-small-business> (last visited Nov. 12, 2019).

⁴⁰ *Id.*

⁴¹ Social Media Marketing Statistics Important to Small Businesses, <https://smallbiztrends.com/2016/12/social-media-marketing-statistics.html> (last visited May 1, 2019).

⁴² Betsy McLeod, 60+ Small Business Statistics to Help Your Digital Marketing Strategy, Blue Corona (Oct. 2, 2018), <https://www.bluecorona.com/blog/29-small-business-digital-marketing-statistics> (last visited May 1, 2019).

⁴³ George Nguyen, *Why Now, more than 50% of Google searches end without a click to other content, study finds*, Third Door Media, Aug. 14, 2019, <https://searchengineland.com/now-more-50-of-google-searches-end-without-a-click-to-other-content-study-finds-320574> (last visited, Nov. 12, 2019).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Why Breaking Up Big Tech Could Do More Harm Than Good*, WHARTON BUSINESS SCHOOL, May 26, 2019, <https://knowledge.wharton.upenn.edu/article/why-breaking-up-big-tech-could-do-more-harm-than-good/> (last visited, Nov. 12, 2019).

beats influence in the Internet landscape because despite Microsoft's outsized market share Internet Explorer lost its lead because Microsoft's competitors were able to innovate faster.⁴⁷

The constant race to innovate and bring products to the market has caused regulators to fall behind. Digital platforms are not regulated by a comprehensive federal law that imposes fair business practices like the Communications Act does for radio, television, and telephone services.⁴⁸ While there have been efforts by the Federal Trade Commission (FTC), Department of Justice (DOJ), United States Patent and Trade Office (USPTO), and Federal Communications Commission (FCC) to update regulations and use the current legal framework to police unfair business practices by Big Tech platforms, more must be done to ensure that small businesses are treated fairly.⁴⁹

Elected officials, scholars, and even Big Tech founders have made proposals to regulate digital platforms.⁵⁰ However, many of the current proposals could conflict with First Amendment protections, Section 230 of the Communications Decency Act, and the current legal antitrust framework.⁵¹ To ensure that small businesses are treated fairly, Congress should consider defining market dominance of digital platforms by assessing what the impact would be for businesses if they were excluded from using their platform.⁵² Future policies should also set out a core set of values that includes protections for small business and implement rules that give them the opportunities to resolve disputes with digital platforms when they are removed or suspended from the platform.⁵³ Entrepreneurs also need more transparency into how changes in algorithms or internal policies might impact their business in a reasonable amount of time. Members will hear how federal policy could be strengthened to protect competition without stifling innovative companies.

Conclusion

The Internet and its large digital platforms have transformed all corners of the global economy. As technology evolves at an increasingly rapid pace, it is more important than ever for small businesses to have equitable opportunities to build and grow their operations. While big tech platforms have made it easier for them to reach consumers, entrepreneurship in the U.S. continues to dwindle. The sizeable market influence of digital platforms benefits both consumers and small businesses, it is that same dominance which can hinder the ability of a small business concern to remain competitive. Federal policies play an inherent role in balancing the scales to sustain technological innovations while also promoting the needs of the small business community.

⁴⁷ *Id.*

⁴⁸ Brannon, *supra* note 4.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*