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Senator Amy Klobuchar
Chairwoman
Judiciary Subcommittee on Competition Policy,
Antitrust and Consumer Rights
425 Dirksen Senate Building
Washington DC 20510

Senator Chuck Grassley
Ranking Member
Senate Judiciary Committee
135 Hart Senate Office Building
Washington DC 20510

By Email

2nd, November 2021

Dear Chairwoman Klobuchar and Ranking Member Grassley

RE: American Innovation and Choice Online Act

I was extremely heartened by the bipartisan *American Innovation and Choice Online Act* and would like to congratulate you both on introducing this groundbreaking legislation that will halt the detrimental march of Big Tech – and create a level playing field for small American businesses like ours. This co-operation across the aisle sends a powerful message to monopolies, signaling that their behavior will not be tolerated nor the pettifogging tactics of their lobbyists.

What Google did:

To briefly recap, Kelkoo Group is a comparison shopping service (CSS) which was taken to a cliff edge by Google's abusive behaviour in the Comparison Shopping and search advertising markets. Our US presence is heavily constrained by Google's abuse of market power in search and its role in the buy and sell side of the supply chain further exacerbates the problem. The recently unsealed court papers in the Texas Adtech case reveal Google's calculated intent to be opaque in its pricing: "*by charging non-transparently on both sides, we give ourselves some flexibility to react and counteract market changes. If we face tons of pricing pressure on the buy-side, we can fall back on the sell-side, and vice-versa.*" This audacious behavior can no longer go unchecked in any of the markets in which Google operates.

As such, we welcome the tight focus of the *American Innovation and Choice Online Act*. It clearly outlines the harms that constitute unlawful conduct. Reining in these harms will make the required material difference to American small businesses and consumers, restoring competition, innovation, and choice.

The Bill's focus:

From our perspective, unfairly preferencing your own products and services and limiting competitors' abilities to compete (as highlighted in Section 2 (a) (1), (2) and (3) and Section 2 (b) 6) are the crux of the problem. In Europe, these key points remain unresolved due to an ineffective remedy. To this point, we also welcome (2) (e) and (g); a seven year designation period and the proposed suite of remedies.

Remedies:

Aside from the proposed injunctions, the focus on individual culpability may be the much needed gamechanger that will force behavioral change. Firstly, we believe the inclusion of civil penalties may act as a stronger deterrent than corporate fines which seem to be water off a duck's back for monopolies. Secondly, forfeiting 12 months compensation either preceding or following the filing of a complaint for repeat offending will certainly hit the offender where it hurts – in his/her personal pocket.

This two-pronged approach to remedies is well defined and prescriptive.

We also applaud the provision in Section 2 (b) (7) to class retaliation, against those small businesses who speak out against monopolies, as unlawful conduct. As we heard during last year's Congressional hearing, Brian Warner, founder of CelebrityNetWorth.com has suffered because of publicly complaining about Google's practices – and he testified about the existence of a mafia-like omerta amongst small businesses who are terrified of speaking out. We can relate to this fear only too well; in the early days of fighting Google, we also thought the same but realized that being vocal can afford protection. Your Bill will be instrumental in giving small business owners the confidence to come forward and legitimately complain to law enforcement about how their businesses have been crushed by Big Tech.

To conclude, we believe the Bill will modernize antitrust enforcement and the US will lead the way in holding Big Tech accountable for its litany of abuses. We wish you every success in the next stages of the Bill.

As always, we are more than happy to provide insights based on our decade-long experience of fighting Google and co-operating with the European Commission. If deemed necessary, I would be more than happy to be a witness or provide testimony for future hearings. I remain at your disposal.

I look forward to hearing from your office in due course.

Kind regards



Richard Stables
CEO, Kelkoo Group