



June 22, 2021

The Honorable Jerrold Nadler  
Chairman  
U.S. House Committee on the Judiciary  
Washington, DC 20515

The Honorable Jim Jordan  
Ranking Member  
U.S. House Committee on the Judiciary  
Washington, DC 20515

Dear Chairman Nadler and Ranking Member Jordan,

The Institute for Local Self-Reliance strongly urges you and your fellow House Judiciary Committee members to take up and pass the bipartisan package of antitrust legislation currently before the Committee, including and especially H.R. 3825, the Ending Platform Monopolies Act.

A majority of Americans believe the four Big Tech companies — Amazon, Google, Facebook and Apple — should face stiffer regulation, including breaking them up, in order to curb their outsized power over the economy. For example, a recent poll found that nearly 80 percent of voters believe Amazon should be subject to greater regulation, and more than half support breaking it up.<sup>1</sup>

Committee members should have a clear understanding of how the Big Tech companies abuse their outsized power. An in-depth, 15-month investigation by the Committee's Antitrust Subcommittee revealed myriad anticompetitive abuses by the tech companies, resulting in a comprehensive 450-page report that recommended many of the legal changes included in this package of legislation.<sup>2</sup> The abuses detailed in that report demonstrated the deep harm the Big Tech companies' anticompetitive actions can inflict on small businesses, consumers, workers and the broader economy — and underscore the urgency with which this Committee must act to right those wrongs.

Amazon in particular is a significant threat to innovative small businesses, startups, and entrepreneurs. Amazon's business model creates a fundamental conflict of interest. For small

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<sup>1</sup> "Public Support for Regulation of Big Tech: Analysis of Survey Findings," Lake Research Partners, Feb. 2021.

<sup>2</sup> "Investigation of Competition in Digital Markets," U.S. House of Representatives, Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, 2020.

businesses, Amazon is both a gatekeeper that they must rely on to reach online shoppers and an aggressive competitor selling its own goods and services to those same shoppers. Amazon's overwhelming power as an online platform leaves small businesses trapped in its monopoly gambit: The tech giant controls access to the online market, which leaves them little choice but to sell on its platform. Yet doing so allows Amazon, also their competitor, to exploit and undermine them. Unless lawmakers eliminate this conflict of interest through structural separation, Amazon will continue to have an overwhelming incentive and ample opportunity to use its gatekeeper power to preference its own interests while exploiting and undermining smaller competitors.

Crucially, the bills would end Amazon's many conflicts of interest, as it leverages its monopoly over online retail to expand its market power elsewhere at the expense of the entrepreneurs and small sellers that rely on its platform to reach customers. For example, by making the use of its fulfillment service all but mandatory for its third-party sellers, Amazon has built a massive logistics business on the backs of independent business owners who would, in many cases, prefer to use another carrier. "I'd recommend Amazon if they were really good on price, but they're not. If it weren't for the algorithm... FBA wouldn't be attractive," according to Matthew White, a logistics consultant for e-commerce companies.<sup>3</sup> Amazon's *de facto* demands that sellers use its own logistics service is but one example of the dangerous conflicts of interest inherent to Amazon's business model — all of which disadvantage small businesses and innovators while growing the company's monopolistic power.<sup>4</sup>

All of the bills in this package are important, and combined will put necessary checks in place to end the unfair discrimination and predatory tactics of Amazon and the other Big Tech companies. For example, H.R. 3816, the American Choice and Innovation Online Act, takes significant steps toward ensuring the Big Tech platforms operate fairly toward small businesses and others that rely on their infrastructure. But without passage of the structural separation bill, Amazon will continue to leverage the market power and data gleaned from its dominant platforms to take over other industries. Amazon has already used its platform power to make major inroads into pivotal sectors such as consumer products, logistics, healthcare, and finance.

To solve this issue permanently and without fail, Amazon's various divisions must be spun off into separate companies to eliminate the conflicts of interest and monopoly leveraging that their integration invites and entails. Structural separation was once "a standard regulatory tool and key antitrust remedy in network industries," applied in industries including railroads, bank holding companies, television networks, and telecommunication carriers.<sup>5</sup> Today, we ask the members of this Committee to embrace that history, and pass this bill in order to ensure a fair, open, and competitive market that safeguards liberty and opportunity for all.

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<sup>3</sup> "Amazon's Monopoly Tollbooth," Stacy Mitchell, Ron Knox and Zach Freed, ILSR, July 28, 2020.

<sup>4</sup> "How Amazon Exploits and Undermines Small Businesses, and Why Breaking It Up Would Revive American Entrepreneurship," Stacy Mitchell and Ron Knox, ILSR, June 2021

<sup>5</sup> "The Separation of Platforms and Commerce," Lina M. Khan, Columbia Law Review, Vol. 119, No. 4

For any questions or follow-up, please contact Stacy Mitchell, co-director of ILSR, at [smitchell@ilsr.org](mailto:smitchell@ilsr.org), or Katy Milani, Senior Policy Advocate at ILSR, at [kmilani@ilsr.org](mailto:kmilani@ilsr.org).

Sincerely yours,

Stacy Mitchell  
Co-Director  
Institute for Local Self-Reliance