

## **Data Catalyst Institute Analysis of [S. 2992](#), the “American Innovation and Choice Online Act”**

### ***Software Developers and Small App Publishers Face Major Disruption***

Individual app developers and small app publishers (<20 employees) rely on integrated platforms to provide a variety of services and value-adds, including data security, payments, mapping, and advertising. Over-regulation - such as the policies proposed under S. 2992 - of these efficient, time- and cost-saving services will make the operations of developers and publishers more complex and expensive.

Over time, this will also drive America’s small businesses away from digital business - at the very time when they should be embracing it to stay competitive, as the Data Catalyst Institute (DCI) has shown across a series of research reports about [U.S. small business competitiveness and its relationship with digital tools](#). This is particularly true at the start of 2022, in the wake of shocks from the end of PPP loans, COVID-related and supply chain issues, and widespread inflation.

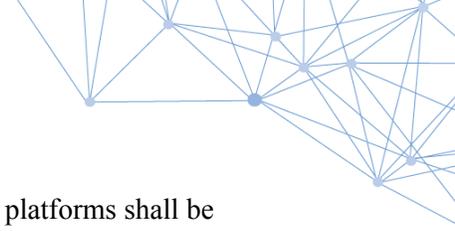
Policymakers in Washington DC are planning to disrupt a successful app ecosystem that benefits millions of developers and publishers and related small businesses. It is imperative that they hear from hardworking developers themselves, not just large technology companies and pundits. What’s missing in the discussion about S. 2992 is the knowledgebase, ideas, and experiences of individual developers and small app publishers (typically with fewer than 20 employees).

**The Data Catalyst Institute (DCI) strongly recommends that Members of the Senate reconsider S. 2992 and, at a minimum, address the downstream implications on America’s software developers and small app publishers and related small businesses before moving forward.**

### **Further Analysis: The American Innovation and Choice Online Act (S. 2992)**

Keeping pace with shifting markets and regulating technologies before they do harm is an admirable goal. DCI supports well-intentioned policymakers working for their constituencies, and we recognize that the Senate Judiciary Committee’s legislation is rooted in good intention. That said, S. 2992 is broadly written and would have many unintended consequences.

DCI is particularly concerned with the bill’s impact on individual software developers, small app publishers, and related small businesses in the software development ecosystem, such as app development studios (henceforth, “developers and publishers”). Here, we briefly outline our concerns with the bill with regard to such developers and publishers.



Stated Purpose: “To provide that certain discriminatory conduct by covered platforms shall be unlawful, and for other purposes.”

Probable Impact: S. 2992, as written, will have wide-ranging implications, including how app stores operate, how search results are integrated with maps or shopping suggestions, and how online stores position “house brands” in relation to other products.

Targeted Analysis: Across Apple- and Google-powered smartphone app stores, there are ~4.5 million apps. Most of these are not made by the “top 1%” of brand-name app publishers (e.g., Spotify), but by hundreds of thousands of “working class” app publishers that make an average app-driven revenue of \$40,000/company/year. For the most part, these developers and publishers do not have a voice in Washington DC debates, and yet it is critical to understand how changes to app stores and other major tech platforms will affect their businesses, products, and livelihoods.

Specific Concerns: Ultimately, this bill as currently drafted would make it harder for developers and publishers to create and market their products (apps), which would obviously have negative effects on their businesses. Specifically, we are concerned about two things: (1) increased complexity (time and cost) to make and publish apps, and (2) more difficulty (lack of integrated services) in scaling businesses and acquiring customers.

**1. S. 2992 would fragment the iOS and Android ecosystems, which would have the effect of increasing cost and complexity for developers and publishers.**

- Both iOS and Android currently offer a consistent and reliable set of their own Application Programming Interfaces ([APIs](#)) for developers and publishers. (APIs act as a shortcut for developers programming for specific platforms so that they don’t need to “reinvent the wheel” every time they, say, want their app to pull up a map of someone’s present location.)
- But under S. 2992, these ecosystems will be forced to introduce more third-party APIs (i.e., APIs for iOS and Android but *not* made by Apple and Google, respectively), increasing cost and complexity for developers by shifting more of the burden of platform-software integration from the platforms to hundreds of thousands of independent developers and publishers.
- This would in turn have downstream negative effects on developers and publishers, such as increasing the time and cost of developing new apps, more time spent learning and training with regard to programming environments and operating systems, and potentially compromising data privacy and security in some apps.



**2. S. 2992 would make it harder for developers and publishers to advertise across Apple, Google, and other covered platforms, in turn making it more costly to acquire customers and succeed as small businesses.**

- The iOS and Android app stores are just one part of much larger Apple and Google platform ecosystems. Not surprisingly, these different platforms are efficiently connected in ways that help developers and publishers promote their apps and the services they provide.
- For example, Google Ads help Android app developers efficiently reach current and potential customers at large scale and in a targeted manner, decreasing the cost of customer acquisition and making business models more efficient. But if S. 2992 is passed, Google (for example) may need to prevent software connections and data sharing between Google Ads from other Google-owned platforms like Play, Search, and YouTube, which would impair developers' ability to reach customers.
- Ironically, S. 2992 would inhibit the very thing it purports to solve for: helping small developers and publishers lean into their advantage as small and agile operators against larger and better funded competitors through the interconnections and efficiencies that large, integrated tech platforms provide.

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The Data Catalyst Institute (DCI), part of Catalyst Research, is a research organization focused on informing and improving global public policy and thoughtful discourse within our data-driven economy. DCI provides governments, academics, and industry partners with the latest market intelligence, expert working groups, regulatory analyses, and original research.

DCI supports stakeholders and policymakers as they undertake the important and difficult work of enacting sound, operational public policy governing the use of data by and for consumers and data-focused enterprises. DCI considers and reports on regulatory and legislative proposals to celebrate good policy and identify challenges of many proposals. (DCI has released a series of [detailed 'Report Cards' on policy legislation](#) in the U.S., EU, and other jurisdictions.)

Proposals often evolve — before and even after enactment. DCI will monitor amendments, court cases, and other changes to adjust our analyses and conclusions to reflect future changes. Our objective is not to criticize or condemn but rather to support a better, broader understanding among policymakers, the media, and stakeholders in general.