

**Comments of the National Consumers League to the Federal Trade Commission  
Regarding**

**“Competition and Consumer Protection in the 21st Century Hearings, Project  
Number P181201”**

**Question #3: The identification and measurement of market power and entry barriers, and the evaluation of collusive, exclusionary, or predatory conduct or conduct that violates the consumer protection statutes enforced by the FTC, in markets featuring “platform” businesses;**

**August 20, 2018**

**Introduction**

The National Consumers League (NCL) welcomes the opportunity to offer input to the Federal Trade Commission (FTC or Commission) on the topic of competition and consumer protection in the 21st century.

Since 1899, NCL’s non-profit mission has been to promote social and economic justice for consumers and workers in the United States and abroad. In furtherance of this mission, we are pleased to respond to the Commission’s request for comment on topic #3: “The identification and measurement of market power and entry barriers, and the evaluation of collusive, exclusionary, or predatory conduct or conduct that violates the consumer protection statutes enforced by the FTC, in markets featuring ‘platform’ businesses.”

**I. In examining market power and entry barriers related to “platform” businesses, the Commission should consider the impact on consumers that a platform’s dominance of one market has on seemingly unrelated markets.**

Today, it is not unusual for an American consumer to interact with a single platform dozens, or even hundreds of times per day.

To illustrate this, we consider the daily routine of a hypothetical working woman, “Jane Smith.” Jane, like millions of other consumers, utilizes modern technology to complete tasks and make her life more efficient. Jane has a conference to go to in a week, so she books a hotel using Google Flights.<sup>1</sup> On the day of her flight, Jane wakes up and gets a reminder from Google Calendar<sup>2</sup> on her Android<sup>3</sup> phone that she needs to pick up her dry cleaning before she boards her flight. Fully packed, Jane uses Google Maps<sup>4</sup> to find the best route to run some errands and then go to the airport. While waiting to get to her destination, Jane responds to emails on Gmail,<sup>5</sup> coordinates with coworkers through Google Hangouts,<sup>6</sup> and prepares her presentation using Google Docs.<sup>7</sup> The next day, Jane’s presentation goes great. She uploads her presentation to her YouTube<sup>8</sup> page in order to share it with her colleagues. Later that day, Jane has time to kill, so she decides visit some local landmarks she discovered on Google Earth<sup>9</sup> with her colleagues. The group has dinner at a restaurant they found with Google Assistant<sup>10</sup> and pay the tab with Google Pay.<sup>11</sup> That night, Jane uses Google Photos<sup>12</sup> to share the pictures with all her coworkers.

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<sup>1</sup> Online: <https://www.google.com/flights>

<sup>2</sup> Online: <https://www.google.com/calendar>

<sup>3</sup> Online: <https://www.android.com/>

<sup>4</sup> Online: <https://www.google.com/maps>

<sup>5</sup> Online: <http://www.gmail.com>

<sup>6</sup> Online: <https://hangouts.google.com/>

<sup>7</sup> Online: <https://www.google.com/docs/>

<sup>8</sup> Online: <https://www.youtube.com>

<sup>9</sup> Online: <https://www.google.com/earth/>

<sup>10</sup> Online: <https://assistant.google.com/>

<sup>11</sup> Online: <https://pay.google.com/>

<sup>12</sup> Online: <https://photos.google.com/>

As our hypothetical Jane Smith's daily interactions suggest, using platforms -- Google, in this case -- has become is very much a part of the daily lives of many consumers.

A related example is Amazon's "Amazon Prime" service. Amazon offers its ecommerce customers Amazon Prime for an annual fee, affording them free and faster shipping.<sup>13</sup> Amazon shipped more than 5 billion items through Prime in 2017, according to the letter CEO Jeff Bezos wrote to shareholders.<sup>14</sup> Prime customers also get access to other verticals -- Amazon Video and Amazon Music -- that are unrelated to the underlying ecommerce platform that Amazon dominates. Similarly, Amazon leveraged its dominance in the electronic book marketplace to gain market share in the tablet market with its Kindle and Fire tablets.

Facebook's market power in social media has allowed it (along with Google) to become a major player in the mobile advertising space, precisely because its dominance in social media allows its clients to sell more lucrative advertisements. Apple's role as a major manufacturer of mobile devices like smartphone, tablets, and laptops has enabled it to gain market share for online music streaming.

As these examples illustrate, network effects allow platforms to build large user bases that can be subsequently leveraged to enter and, in some cases dominate, seemingly unrelated markets.<sup>15</sup> The Commission's *Anticipating the 21st Century: Competition Policy in the New High-Tech Global Marketplace* report highlighted how these network effects can harm competition. As the report noted, "[w]hen network effects pervade a large segment of the marketplace, one may thus witness an increase in the rapid disappearance of products and technologies that cannot sustain a parallel existence with the dominant system."<sup>16</sup>

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<sup>13</sup>Heather Kelly, Amazon Reveals it Has More Than 100 Million Prime Members, CNN Tech (April 19, 2018 11:27 AM), <https://money.cnn.com/2018/04/18/technology/amazon-100-million-prime-members/index.html>

<sup>14</sup> Ibid.

<sup>15</sup> James Carrier, 70% of Value in Tech is Driven by Network Effects, (July 25, 2018), <https://medium.com/@nfx/70-of-value-in-tech-is-driven-by-network-effects-8c4788528e35>

<sup>16</sup> FTC Staff Report, *Anticipating the 21st Century: Competition Policy in the New High-Tech, Global Marketplace*, 14 (Susan S Desanti et. al. eds., Vol. 1 1996)

As consumers embrace more services on a single platform, the Commission should consider the ease with which consumers can disentangle their digital lives from a given platform. As Nithin Coca explains in his article, “How I Fully Quit Google (And You Can, Too),” the journey to completely separate from Google took layers of research and calculation.<sup>17</sup> To address this entry barrier for services that compete with those offered by dominant platforms, the Commission should seek to promote easy data portability, to make it as smooth as possible for consumers to “vote with their data,” as easily as they can “vote with their wallets.”

## **Conclusion**

Consumers’ daily interactions with the 21st century marketplace -- both in the online and offline contexts -- are increasingly affected by the business practices of digital platforms. As the Commission considers the dominance of a few of these giant tech platforms and their effects on competition, it should examine how easily consumers can take access competitive platforms. The Commission should consider policies that allow consumers to benefit from a robust market for their data, as it has historically done to promote a robust market for consumers dollars.

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[https://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc\\_v1.pdf](https://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc_v1.pdf)

<sup>17</sup> Nithin, Coca. “How I Fully Quit Google (and You Can Too),” Medium (July 9, 2018), <https://medium.com/s/story/how-i-fully-quit-google-and-you-can-too-4c2f3f85793a>