



Connected Commerce
Council

CONNECTED COMMERCE COUNCIL'S COMMENTS ON COMPETITION AND CONSUMER PROTECTION IN THE 21ST CENTURY

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The Connected Commerce Council (3C) is a non-profit membership organization with a single goal: to promote small businesses' success through the adoption of essential digital technologies and tools. 3C provides small businesses with services to facilitate access to the market's most effective digital tools, delivers education and coaching to help small businesses optimize growth and efficiency, and works to cultivate a policy environment that considers and respects the interests of today's small businesses and that thereby promotes consumer welfare.

The digital economy has drastically changed how small businesses operate, and so 3C and its small business members have a strong interest in these hearings. Before, a small business might connect to consumers via the Yellow Pages and other print advertising, direct mail, billboards, brick-and-mortar stores, radio and television advertising, and trade shows. Small businesses would often need local lawyers, accounting firms, human resource managers, payroll providers and conference rooms for on-site meetings.

But now there are digital platforms, including Facebook, eBay, Google, Amazon, YouTube, Snap, Oath, Etsy, Expensify, Quickbooks, OpenTable, Slack, Square, Houzz, Pinterest and a host of others, that allow businesses to reach more potential customers, operate more efficiently and internationally, and offer better and innovative products at lower prices. For small businesses, especially startups with very small budgets, today's digital platforms and tools offer inexpensive ways to operate their business, reach prospective customers, learn which products and features customers value most, and then offer that value at competitive prices that drives sales and increases revenue.

Some 3C companies operate entirely digitally; some have physical product that they source, market and sell digitally; and many are traditional brick-and-mortar businesses that have adopted digital opportunities to increase revenue more quickly, operate more efficiently, and be more successful. One common thread is our member companies' delight upon discovering new digital tools.

"I had avoided hiring employees for so long because the paperwork involved with different states, tax systems and red tape seemed like a nightmare. Because Gusto made it easy I've been able to transform my team and create 5 new jobs in the last 18 months."

"I remember making my first website using Microsoft Front Page. Making that website launched my real estate career."



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“There are many firsts that I was excited about, but the first that comes to mind was being able to list my products for sale on Amazon. This now accounts for 15% of our revenue – a sizeable chunk that I would not be able to achieve through my wholesale customers.”

“Our a-ha moment was when we started playing around with Facebook. We joined because it was free and we had no marketing budget left. We had spent hundreds of thousands of dollars on print and television advertising and had seen no marked increase in sales volume. In contrast, Facebook delivered almost immediate growth in our day-to-day bookings.”

As the FTC turns its attention to digital tools, 3C urges the Commission to appreciate and accommodate the needs of small businesses that rely on these tools to compete (often against large industry incumbents), to gain digital economies of scale that small businesses simply cannot generate independently, and thereby to facilitate the supply of higher quality and lower-priced products to consumers from small businesses. Small businesses need “off the shelf” digital products that work quickly and seamlessly. Small businesses benefit tremendously by utilizing no-cost and low-cost services and tools offered by platforms, and as a result consumers benefit when small businesses can compete more aggressively and price more competitively.

Efforts to regulate digital networks, products and tools by “fixing” competition and data protection concerns may reduce those products’ capabilities – which will harm small businesses and cost consumers, who will face higher prices, reduced quality, and stunted innovation. It is critical that the FTC consider the cost and impact of potential regulation, investigation, and enforcement on the millions of small businesses that drive today’s economy—and on the consumers who benefit as a result.

(4) The intersection between privacy, big data, and competition

Data is important to all businesses, but particularly critical to startups and small businesses that are trying to understand their potential markets and attract new customers. Many small businesses launch without data and experiment in the market, collecting their own data as consumers respond. Alternatively, many small businesses are enabled by digital platforms that provide scale and reach, and that help them understand and use data. These partnerships accelerate go-to-market timetables and early small business success, which benefits competition and consumers.



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Most businesses make a point of knowing their customers, communicating with them frequently and trying to anticipate their needs. New businesses are different because they need to test more, experiment in the market and then adapt offerings to customer feedback.

Virtually every e-commerce and digital marketing platform helps small businesses know how long people are spending on a web or Facebook page; measure clicks and conversions on advertisements, videos and links; understand what consumer flows and pages lead to transactions or successful interactions; and how to optimize customer experience. The best platforms aggregate each small businesses' data with much larger (and anonymized) data sets in order to deliver customized guidance that the small business could never access using only its own data. Platforms democratize artificial intelligence by sharing the best (and anonymous) algorithms with small business partners.

By creating efficiencies for small businesses to compete aggressively, these platform partnerships allow consumers to benefit from lower prices, better products, and increased innovation. Consumers also benefit from superior choices offered based on their own preferences, as measured by their previous purchases and interactions.

Small businesses worry that an increasing focus on regulating data may increase market access barriers for small businesses and hinder small business success. For example, overly-restrictive privacy rules may seriously hinder marketing and payment tools that rely on the exchange of information. Startups can and do frequently launch new businesses with no existing data, relying on their innovative products to attract useful consumer data quickly. And in today's economy, digital tools and platforms allow small businesses to super-charge this data utilization, allowing them to collect better data more quickly. If regulators change the digital tools that small businesses purchase "off the shelf," the effect can be to raise barriers for small businesses to access the market.

Big companies that own the digital tools can respond to forceful regulation of data, but small businesses cannot. Further, even regulation of the digital platforms themselves may harm small businesses, which rely on those tools to work "off the shelf."

"My clients and millions of small businesses want nothing to do with personal data unless consumers directly choose to share it. But if the data privacy problem is "fixed" by regulating digital platforms and reducing their capabilities, I am sure that small businesses will be harmed far more than the giant digital companies."



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The FTC should carefully consider the impact of data regulation on small businesses, which would struggle or shut down in the face of aggressive regulation—creating fewer choices and higher prices for consumers.

“The big guys in the digital economy will survive. The true drivers of the economy are small business, and if the government restricts ways to identify consumers and potential consumers then the results will be drastic.”

For example, an overly-prescriptive emphasis on consumer-facing data flow processes, such as front-facing data disclosures and opt-in consent, may mean that consumers are hesitant about granting their trust to more than a handful of firms. This will decrease competition, meaning that only a few ‘full service’ firms (such as the largest tech companies) end up receiving consumers’ trust for their willingness to transact and provide data. This could entrench market power among the biggest players, and hurt market demand for small businesses.

Another proposed model – creating a new informational fiduciary duty – also risks consolidating power in increasingly fewer large technology firms. As the legal duties for data ownership increase, fewer companies will have the legal or technical sophistication to comply, locking user data behind the gates of fewer competitors. This would raise significant barriers to entry for small businesses and allow big tech companies to accrue even more power in digital marketing. Regulations – even on the biggest and wealthiest companies in the world – are not costless. As one 3C small business member stated:

“When I watched politicians interrogate Mark Zuckerberg it was very obvious that they know very little about how Facebook advertising and the Facebook ecosystem - including millions of small businesses – actually works. If misinformed policies undermine the ecosystem it will drastically harm small companies that rely on that ecosystem.”