

Takeaways from U.S. Senate Hearing on Big Data, Big Questions: Implications for Competition and Consumers

On September 21, 2021, the U.S. Senate Subcommittee on Competition Policy, Antitrust, and Consumer Rights held a hearing on [Big Data, Big Questions: Implications for Competition and Consumers](#). This hearing was part of a series of hearings on a bipartisan review of competition issues in America. Senator Klobuchar led the hearing, with Senators Lee, Blumenthal, Hawley, Ossoff, Blackburn, and Cruz contributing questions to the witnesses. The witnesses included representatives from technology companies, an author, and a director of a nonprofit. Senator Klobuchar set the agenda to "explore the companies that control the data, the state of competition and barriers to entry, and the effects of big data on consumers, their choices, and their privacy." General concerns raised by the subcommittee include:

1. The value of data to companies and whether users should be compensated for the sale or use of their data.
2. The competitive impact of big technology companies' exclusive use of user data.
3. The lack of resources and enforcement of current antitrust laws, as opposed to the need for new legislation.
4. Restrictions on targeted advertising to encourage competition, not as a privacy concern.

A key takeaway from this hearing is the push for legislation to address data collection as alleged anticompetitive behavior. Two pieces of legislation repeatedly mentioned throughout the hearing were the Competition and Antitrust Law Enforcement Reform Act of 2021 and the Open App Markets Act. The subcommittee did not provide the details of the Competition and Antitrust Law Enforcement Act of 2021. However, the bill states that its purpose is: "[t]o reform the antitrust laws to better protect competition in the American economy, to amend the Clayton Act to modify the standard for an unlawful acquisition, to deter anticompetitive exclusionary conduct that harms competition and consumers, to enhance the ability of the Department of Justice and the Federal Trade Commission to enforce the antitrust laws, and for other purposes." The full text of the bill can be found [here](#). Senator Blumenthal did provide insight into the Open App Markets Act. He stated that the bill would set robust rules to strengthen consumer protection on app stores by preventing companies from using "gatekeeping" power to charge companies "excessive" app fees and blocking competition. According to Senator Blumenthal, this bill has garnered widespread support. Full text of the bill can be found [here](#). Finally, Senator Klobuchar stated that Congress has seen increased consolidation across the country, not just in the technology industry, and that Congress is seeking to put in place many bills to address these issues. To this end, Senator Klobuchar provided a lengthy list of pending antitrust legislation specific to both the technology sector and across industries more broadly. Overall, the hearing displayed the congressional push to regulate data collection as it relates to competition in the marketplace. Taking the subcommittee's statements as true, companies should be aware of the Competition and Antitrust Law Enforcement Reform Act of 2021 and the Open App Markets Act, as both pieces of legislation have gained widespread support and will directly impact the technology sector.

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