

August 20, 2018

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex C)
Washington, District of Columbia 20580

Comments of ACT | The App Association to the Federal Trade Commission on Competition and Consumer Protection in the 21st Century (Question 1: “The state of antitrust and consumer protection law and enforcement, and their development, since the Pitofsky hearings”)

ACT | The App Association (App Association) appreciates the opportunity to submit views to the Federal Trade Commission (FTC) to inform its hearings on whether broad-based changes in the economy, evolving business practices, new technologies, or international developments might require adjustments to competition and consumer protection enforcement law, enforcement priorities, and policy,¹ specifically regarding “the state of antitrust and consumer protection law and enforcement, and their development, since the Pitofsky hearings.”

The App Association represents thousands of small business software application development companies and technology firms that create the software apps used on mobile devices and in enterprise systems around the globe. Today, the ecosystem the App Association represents – which we call the app economy – is valued at approximately \$950 billion and is responsible for 4.7 million American jobs. Alongside the world’s rapid embrace of mobile technology, our members have been creating innovative solutions that power the internet of things (IoT) across modalities and segments of the economy. The FTC’s approach to competition and consumer protection enforcement law, enforcement priorities, and policy directly affects each of the App Association’s members.

¹ Federal Trade Commission, *Hearings on Competition and Consumer Protection in the 21st Century*, Notice of Hearings and Request for Comments, 83 FR 38307 (August 6, 2018).

In its request for comment, the FTC seeks input on “the state of antitrust and consumer protection law and enforcement, and their development, since the Pitofsky hearings,” which took place in 1995. The App Association notes that incredible technological change and innovation relevant to American consumers has occurred since 1995, with the emergence of the smartphone, app stores, and digital platforms. Similarly, the role of antitrust and consumer protection law and enforcement has evolved during this period. The App Association, therefore, supports the FTC’s convening of hearings to examine whether broad-based changes in the economy, evolving business practices, new technologies, or international developments might require adjustments to competition and consumer protection enforcement law, enforcement priorities, and policy.

As the FTC considers whether any adjustments to competition and consumer protection enforcement law, enforcement priorities, or policy are needed, the App Association believes that it is important for the FTC to gain insight into the app economy, its impact on American consumers, and its contribution to the U.S. economy (e.g., economic weight, value creation, job creation, etc.). To this end, we urge the FTC’s consideration of two resources developed by the App Association, both of which are appended to this comment:

1. **The App Association’s *State of the App Economy* report**, now in its sixth edition, which explores the all-encompassing app ecosystem that results from software’s integration into new consumer platforms, identifies the value and potential of the app economy across the United States, and highlights the contributions of the App Association’s thousands of American members in this hypercompetitive ecosystem.²
2. **The App Association’s recently-released study, *The App Economy in the United States: A review of the mobile app market and its contribution to the United States economy***.³ This detailed economic study presents an overview of mobile applications’ contribution to the U.S. economy as well as the latest insights into the app economy’s economic weight (e.g., value creation, job creation, etc.).

The App Association reserves its more detailed comments on various issues raised through further questions posed by the FTC about competition and consumer protection enforcement law, enforcement priorities, or policy to companion responses. However, we believe that the App Association’s data resources should be strongly persuasive to the FTC in detailing the small business software development and high technology ecosystem’s unprecedented vibrancy and competitiveness that has – by and large – emerged since 1995 due to unbridled competition.

² Also available at <https://actonline.org/2018/04/16/state-of-the-app-economy-report-highlights-american-leadership-in-the-950-billion-app-economy/>

³ Also available at [link to study once published]

The App Association has no doubt that, in this proceeding, the FTC will receive calls from various organizations supporting an expansion of scope and enforcement activity (to both existing and new markets being revolutionized by the small business innovator community we represent) based on a wide range of speculative harms and hypotheticals. Whatever path the FTC chooses based on the input it receives in and around its hearings, the App Association urges that, above all else, the FTC should base its actions on data-demonstrated harms. Unwarranted FTC intervention into new and emerging markets will deeply damage the market opportunities our members seek to address through their investment and innovation, will impair competition, and – ultimately – will harm American consumers.

The App Association appreciates the FTC’s consideration of our responses to this question and urges FTC to contact the undersigned with any questions or ways that we can assist the FTC moving forward.

Sincerely,



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Appended: The App Association’s *State of the App Economy* report (6th Edition)
The App Association’s study, *The App Economy in the United States: A review of the mobile app market and its contribution to the United States Economy*