



The Daily Dish

Evaluating Platforms and Competition

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Since today ends in “day,” the top policy item in Washington is an assault on America’s successful tech sector. Specifically, the Senate Judiciary Committee will meet to mark up the American Innovation and Choice Online Act (AICOA). There is also a similar bill entitled the Open App Markets Act (OAMA). AAF’s team tech – Jeff Westling and Juan Londoño – has a complete [analysis](#) for those interested.

At issue are situations in which a tech company both operates a platform and competes with other firms to offer goods and services on that platform. For example, Amazon sells its [AmazonBasics](#) over its online store, and Apple offers its [own applications](#) through its app store. The concern is that “self-preferencing” – having a preference for the products of the platform operator – will damage competition.

The authors note: “AICOA targets a wide array of practices, but almost all are related to some form of self-preferencing. Specifically, AICOA prohibits platforms from, in many cases, preferencing their own products and services, limiting the ability of another business to compete, or discriminating in the application of the terms of service among similarly situated businesses. The bill also imposes restrictions on covered platforms’ ability to harm individual competitors by [requiring interoperability](#) — access to the same platform, operating system, or features that are available to the covered platform — and restricting the ability of platforms to use non-public data to advantage their own products.”

Taken at face value, it does not seem like a crazy concern. But how does one decide if the situation is damaging?

If, for example, you Google “American Action Forum,” the search results helpfully include a Google map showing our location, an image of the exterior of the building so you get a dose of brutalist architecture, and the helpful note that the Renwick Gallery is a 3-minute walk away (because AAF makes everyone think of art). These bonus features leave me tickled pink and feeling warm and fuzzy all over. But they preference Google products.

An alternative would be to pop up a dialogue box asking me if I wanted a map, and then giving me a choice of Apple maps, Google maps, or another alternative. Similarly, there could be a query about whether I wanted to search for an image with a choice among Yahoo, Google, Flickr, Picsearch or another. Believe me, once I stumbled through the decisions and links, I’d no longer be tickled, I’d have morphed from pink to steaming red, and my feeling would be to burn it all down.

In this case, eliminating the self-preferencing simply makes me worse off. Put differently, one should decide on the impact of self-preferencing (and any other competition issue) by focusing on consumer welfare. If consumer welfare is improved (more tickled, more pink) then it does not matter if Picsearch is used less frequently. The effect on competitors is not the appropriate focus.

Westling and Londoño dig further into the detrimental knock-on effects of losing a focus on consumer welfare. But shifting focus is the fundamental error that policymakers should avoid.