



February 3, 2022

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

The U.S. Chamber of Commerce opposes S. 2710, the "Open App Markets Act," because antitrust law should promote competition, not predetermine marketplace behaviors and outcomes as S. 2710 would.

Most app downloads on mobile devices come through official app store channels, where apps are screened and vetted. Consumers share sensitive information, including financial, location and other personal information, on apps because they have confidence that app stores prevent bad actors from infiltrating their mobile devices and accessing it.

This bill would fundamentally change the relationship among app stores, their customers, and app developers. This legislation would mandate that app stores with 50 million or more customers allow users to install third-party apps outside of their app stores, which would greatly increase the risk that users would unintentionally and unknowingly download malware. Moreover, the bill would establish a private right of action enabling developers to seek treble damages, which would effectively eliminate app vetting and prescreening.

Antitrust laws should not create two sets of competition rules, in which business conduct is either procompetitive or anticompetitive. Any evaluation of business conduct as a matter of antitrust law should not be artificially concerned with the number of users on the platform.

Beyond upending traditional antitrust law, we urge the Committee to reject this bill because it runs counter to advice from the Federal Trade Commission, the National Security Agency, and the National Institute of Standards and Technology, which have all encouraged mobile device users to download apps only from official app stores.

Finally, the markup of S. 2710 is especially troublesome because it is the second time significant changes to the antitrust laws have gone straight to mark-up without a hearing to identify, understand, and avoid consequences presented by this and other misguided legislative proposals. We urge the Committee to avoid the rush to legislate, and undertake a more deliberative process.

The Chamber opposes S. 2710.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a large, stylized flourish at the end.

Neil L. Bradley
Executive Vice President, Chief Policy Officer, and
Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Committee on the Judiciary