117TH CONGRESS
1ST SESSION

S. ______

To promote competition in digital markets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on ________________

A BILL

To promote competition in digital markets, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bust Up Big Tech Act”.

SEC. 2. STRUCTURAL SEPARATION REQUIREMENTS FOR TECHNOLOGY PLATFORMS.

(a) DEFINITIONS.—In this section:

(1) BACK-END ONLINE SERVICES.—The term “back-end online services” means third-party internet infrastructure services, including domain name
resolution services, DDoS and other cyber threat
mitigation services, content delivery networks and
other load management techniques, and internet
backbone networks.

(2) COMMISSION.—The term “Commission”
means the Federal Trade Commission.

(3) COVERED PERSON.—The term “covered
person” —

(A) means a person that is in the business
of offering an online platform to connect third
parties to an online marketplace, exchange, or
search engine which—

(i) in any month during the most re-
cently completed 12-month period—

(I) more than 30,000,000 users
in the United States accessed, without
regard to the means by which the
users accessed the service; or

(II) more than 300,000,000
users worldwide accessed, without re-
gard to the means by which the users
accessed the service; and

(ii) during the most recently com-
pleted taxable year, had more than
$1,500,000,000 in global revenue; and
(B) does not include an organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code.

(4) **Online Hosting.**—The term “online hosting” means a service or set of services that provide processing, storage, or other computational resources that are used to implement any or all functions of any public or private internet-based services administered by third parties.

(5) **Online Platform.**—The term “online platform” means any publicly accessible online electronic medium that enables 1 or more users to view, generate, or modify content that can be viewed, shared, or otherwise interacted with by other third-party users of the medium.

(b) **Prohibitions.**—

(1) **Online Sales Platform.**—

(A) **In General.**—A covered person may not sell, advertise, or otherwise promote goods and services of the covered person on an online platform owned or operated by the covered company.

(B) **Targeted Prohibition on Affiliates.**—Not later than 1 year after the date of
enactment of this Act, any affiliation, common
ownership, or control by a covered person of an
entity that operates, sells, or advertises goods
and services on the online platform of the cov-
ered person shall be terminated or otherwise
liquidated.

(C) TARGETED PROHIBITION ON ACQUISI-
TIONS.—A covered person shall not acquire or
hold a controlling interest in any entity that
would sell, advertise, or otherwise promote
goods and services on an online platform owned
or operated by the covered person.

(2) ONLINE HOSTING AND BACK-END ONLINE
SERVICES.—

(A) IN GENERAL.—A covered person may
not provide online hosting services or back-end
online services to any other entity that is not
owned by the covered person.

(B) TARGETED PROHIBITION ON AFFILI-
ATES.—Not later than 1 year after the date of
enactment of this Act, any affiliation, common
ownership, or control by a covered person of an
entity that provides online hosting or back-end
online services to another entity not owned by
the covered company shall be terminated or otherwise liquidated.

(C) Targeted Prohibition on Acquisitions.—A covered person may not acquire or hold a controlling interest in any entity that provides online hosting or back-end online services not owned by the covered company.

(3) Exception.—Paragraphs (1) and (2) shall not apply to the operation of an online platform for any person that exclusively sells, advertises, or otherwise promotes the goods and services of the person.

(e) Authority of the Commission.—The Commission may—

(1) hire sufficient staff (whether on a part-time, full-time, or contract basis) to monitor compliance with subsection (b); and

(2) design and supervise annual audits for each covered person to ensure compliance with this Act and the amendments made by this Act.

(d) Enforcement by State Attorneys General.—

(1) In general.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been
or is threatened or adversely affected by the engage-
ment of any entity in a practice that violates sub-
section (b), the State, as parens patriae, may bring
a civil action on behalf of the residents of the State
in a district court of the United States or a State
court of appropriate jurisdiction to—

(A) enjoin that practice;
(B) enforce compliance with such section;
(C) on behalf of residents of the State, ob-
tain damages, statutory damages, restitution, or
other compensation, each of which shall be dis-
tributed in accordance with State law; or
(D) obtain such other relief as the court
may consider to be appropriate.

(2) REQUIREMENT.—Before filing an action
under paragraph (1), the attorney general of the
State involved shall submit to the Commission—

(A) written notice of that action; and
(B) a copy of the complaint for that ac-
tion.

(e) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—Any person who suffers an
injury as a result of an act or practice of a covered
person in violation of subsection (b) may bring a
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civil action against the covered person in any court
of competent jurisdiction.

(2) RELIEF.—In a civil action under paragraph
(1) in which the plaintiff prevails, the court may
award the plaintiff not more than $1,000,000 per
each violation per plaintiff.