

The Agenda for America's Entrepreneurs: Antitrust and unfair competition

Small businesses are the backbone of our nation's economy; they employ nearly half the private sector workforce and create two-thirds of all new jobs. However, corporate consolidations, under-regulated technology platforms and pernicious business practices stifle competition and put small businesses at a distinct disadvantage. Small businesses face unfair competition challenges across multiple industries—technology and non-technology alike. Monopolies are not just bad for small businesses but are detrimental to our economy. Lack of competition hurts consumers too, because fewer and larger players having control over a market raises prices, and [research](#) confirms that mark-ups (charges over cost) have tripled. Market consolidation has also driven down wages for workers by as much as [17%](#) nationwide.

Anticompetitive practices result in limited access to markets for consumers and producers, stifled innovation, and an unequal playing field for small businesses. We must invest resources to build a strong small business ecosystem that counters monopolistic practices and promotes a thriving and equitable economy built upon fair competition. The following policy recommendations will ensure equitable competition for small businesses:

Antitrust

Large businesses and tech platforms have become the gatekeepers to consumer markets by using intricate data collection and online customer service features and tools to monopolize a so-called free market. And because small businesses don't have the resources for robust marketing strategies, they face an uphill battle when competing for business. Our [research](#) shows that 56% of small businesses say that one or more large companies dominate the market in their industry and 44% agree that there has been an increase in monopolistic practices in recent years. Market consolidation has ranging negative effects on our economy and these policy suggestions will help to break the strangle hold large corporations have on markets.

- Expand the Sherman Antitrust Act of 1890, which prohibits activities that restrict interstate commerce and competition in the marketplace to apply to online markets and technology companies.
- Ensure the Federal Trade Commission (FTC) stays true to its mission to structure fair trade rules and dismantle monopolization through the appointment of antitrust attorneys. In order to achieve that, policymakers should establish a bureau of data protection to ensure small businesses are not taken advantage of by large technology companies.
 - In light of President Biden's Executive Order on advancing racial equity and support for underserved communities, the FTC should restart and expand its [Every Community](#) project which was created to investigate fraud in vulnerable communities (seniors, veterans, Latinos, and African American).
- Increase opportunities for small businesses by directing all federal agencies to promote greater competition through their procurement and spending decisions.
- Support legislation, particularly at the state level, to counteract the Federal Communications Commission's repeal of net neutrality. Without a fair and open Internet, small businesses will be at a disadvantage when trying to compete with larger corporations that have the resources to ensure their websites receive special prioritization from their Internet service providers.

Anti-competition

During the pandemic many small businesses had to pivot to online platforms to keep their businesses afloat, which made them vulnerable to competitive inequalities. Small businesses desperate to survive had very little leverage dealing with large platform companies like Amazon, Google, DoorDash, and GrubHub that had the infrastructure to reach consumers. These larger companies used their market power to further monopolize the market and supply chain through anti-competitive practices. For example, small businesses were exploited with excessive fees, predatory pricing, forced advertising, being forced to use shipping and delivery methods, and [many other tactics](#). This is a particularly acute problem among new businesses and the smallest businesses in under-resourced communities, including businesses owned by people of color and women. We need policies that address the malicious and predatory practices deployed by large businesses.

- Strengthen the Robinson-Patman Act of 1936, also called Anti-Price Discrimination Act, that protects small businesses from being driven out of the marketplace by prohibiting discrimination in pricing, promotional allowances, and advertising by large, franchised companies.
- Pass bipartisan legislation such as the American Innovation and Choice Online Act (AICO) which addresses the harmful activity of self-preferencing concentrated online markets that are preventing our nation's job creators and innovators from thriving.

Franchises

Franchise agreements are written by and typically for the benefit of the franchisors that tend to be large, out-of-state corporations. What's more, few provisions in these contracts or in the laws that govern them protect franchisees from unscrupulous and overreaching franchisors. These policies help to restructure the power imbalance at play for franchise owners.

- Pass the Franchisee Freedom Act (H.R. 6551), which would ensure that small business owners who enter into franchise agreements with big corporations will be afforded the opportunity to address claims against the franchisor, putting them on a level playing field.
- Pass the Small Business Administration Franchise Loan Transparency Act (S. 1120), which requires a franchisor seeking guaranteed lending from the U.S. Small Business Administration to disclose historical revenue and store-closure information to any prospective franchisee before the loan will be approved.
- Ensure the FTC makes changes to the Franchise Rule to ensure more protections for prospective franchisees. For instance, the FTC should:
 - Require the disclosure of financial performance representations reflecting past and projected revenues, gross income and net profits on all franchise disclosure agreements.
 - Protect the ability of the franchisee to sell the license if they so choose.