

# Alive & Well: Competition In The Digital Economy

February 2022

SPRINGBOARD

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# Executive Summary

This presentation outlines the facts about tech competition and the consequences of politicized antitrust policy. Specifically...

- The "Consumer Welfare Standard" remains the gold standard, allowing for objective enforcement while avoiding arbitrary, political "solutions."
- The tech industry is healthy and competitive. Tech companies face daily competition from an ever-growing list of American and global competitors.
- The tech industry benefits consumers, startups, and small businesses.
- Politicized antitrust reform would harm consumers, hurt small businesses, and hamstring American innovators trying to compete globally.

# CCIA Supports Antitrust Enforcement But Opposes The Politicization Of Antitrust Law

## CCIA Supports Innovation

- CCIA is an international, not-for-profit membership organization dedicated to promoting innovation and enhancing society's access to information and communications.
- CCIA promotes open markets, open systems, open networks, and full, fair, and open competition in the computer, telecommunications, and internet industries.
- CCIA believes supporting a climate of competition and innovation is central to economic success and that tech is important to society.



## CCIA Supports Enforcement

- Founded in 1972, CCIA has a long history of advocacy for competitive markets.
- CCIA has supported antitrust investigations and remedies when warranted, but opposes the misuse of antitrust law.
- CCIA has supported government regulators' antitrust actions against AT&T, Microsoft, and IBM.



## America's Antitrust System Works

Competition Is Alive And Well

The Tech Ecosystem Benefits Entrepreneurs And Small Businesses

Leading Tech Services Invest Heavily To Stay Competitive

Recent Antitrust Reform Bills: Harmful And Arbitrary

# Antitrust Law Exists To Remedy Uncompetitive Markets

## Characteristics of uncompetitive markets...



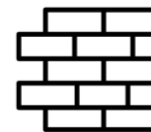
**High prices:** Without the fear of a competitor undercutting them, businesses are free to raise prices.



**Lack Of Innovation:** Incumbent businesses have no incentive to improve products and services; innovation stagnates.



**Few choices:** Consumers have few or no alternative products or services; if such products do exist, the cost of switching is high.



**Barriers To Entry:** It is difficult for new players to enter the market; investors are unwilling to fund new competitors.

# America's Consumer Welfare Standard Protects Competition, Not Competitors

## Arbitrary enforcement

### Punish Big Businesses

**Philosophy:** Big firms are inherently bad and should be broken up because of their size or banned from making acquisitions. Regulators should determine the structure of the market.

**Problems:**

- Who decides what "big" means?
- If economies of scale lead to lower costs for consumers, should size still be punished?
- What if entrepreneurs benefit from selling their businesses to larger firms?

### Solve All The World's Problems

**Philosophy:** Antitrust is a powerful tool that should not be limited to fighting anticompetitive conduct. Antitrust should be used to achieve socio-political goals, such as reducing income inequality.

**Problems:**

- How can overreach be prevented if there is no limiting principle to antitrust enforcement?
- How will businesses behave if there is no clarity to what is and is not an antitrust violation?

## Objective enforcement

### Consumer Welfare Standard

**Philosophy:** Businesses should be allowed to compete on the merits; antitrust should step in when consumers are harmed.

**Benefits:**

- If prices rise or output drops as a result of anticompetitive behavior, enforcement is warranted.
- Only a standard grounded in economic analysis can prevent arbitrary or politically-motivated enforcement.

# The Consumer Welfare Standard Is Strongly Supported By Democrats...

"Ultimately, an efficient economy that serves consumers well is the right criteria for antitrust policy. Any attempt to change the goal of antitrust policy to be protecting competitors rather than protecting competition I believe will do grave damage to the American economy."

- **Larry Summers, Former Treasury Secretary**

"I think, with some degree of conviction, that the attack on the consumer welfare standard is a complete red herring. It is a rhetorical device that is used by the populists to discredit antitrust law in pursuit of a very different objective. If you're focusing on economic welfare, the consumer welfare standard... is perfectly capable of addressing non-price harms, innovation harms, quality harms, and harms in buy-side markets."

- **A. Douglas Melamed, Stanford Law School**

"The federal Government--by nature the highest spokesman for all the people--has a special obligation to be alert to the consumer's needs and to advance the consumer's interests. Ever since legislation was enacted in 1872 to protect the consumer from frauds involving use of the U.S. mail, the Congress and Executive Branch have been increasingly aware of their responsibility to make certain that our Nation's economy fairly and adequately serves consumers' interests."

- **President John F. Kennedy**

# ...And Republicans

"Over the past several decades, antitrust law has responded to new and innovative products and markets to protect against novel threats to the competitive process. Enforcement agencies have developed a strong expertise as new types of assets emerge and consumer preferences shift, and have brought successful antitrust challenges to dismantle barriers to competition."

- **Makan Delrahim, Former Assistant Attorney General For Antitrust, DOJ**

"[A]ntitrust law has performed exceptionally poorly when it fails to focus exclusively upon issues of competition and consumer welfare, and is instead distracted by socio-political goals. Attempting to distort the consumer welfare focus of the modern antitrust laws by incorporating socio-political goals led historically to an antitrust regime that fostered corporate welfare over consumer welfare, perversely favoring corporations at the expense of individual consumer."

- **Joshua Wright, Former Commissioner, FTC**

"This focused, economically grounded approach to antitrust enforcement has been the rule for four decades. The consumer welfare standard has produced a more reliable, consistent approach to antitrust enforcement than in the abusive past. It has fostered innovation and economic activity."

- **Grover Norquist, President, Americans For Tax Reform**

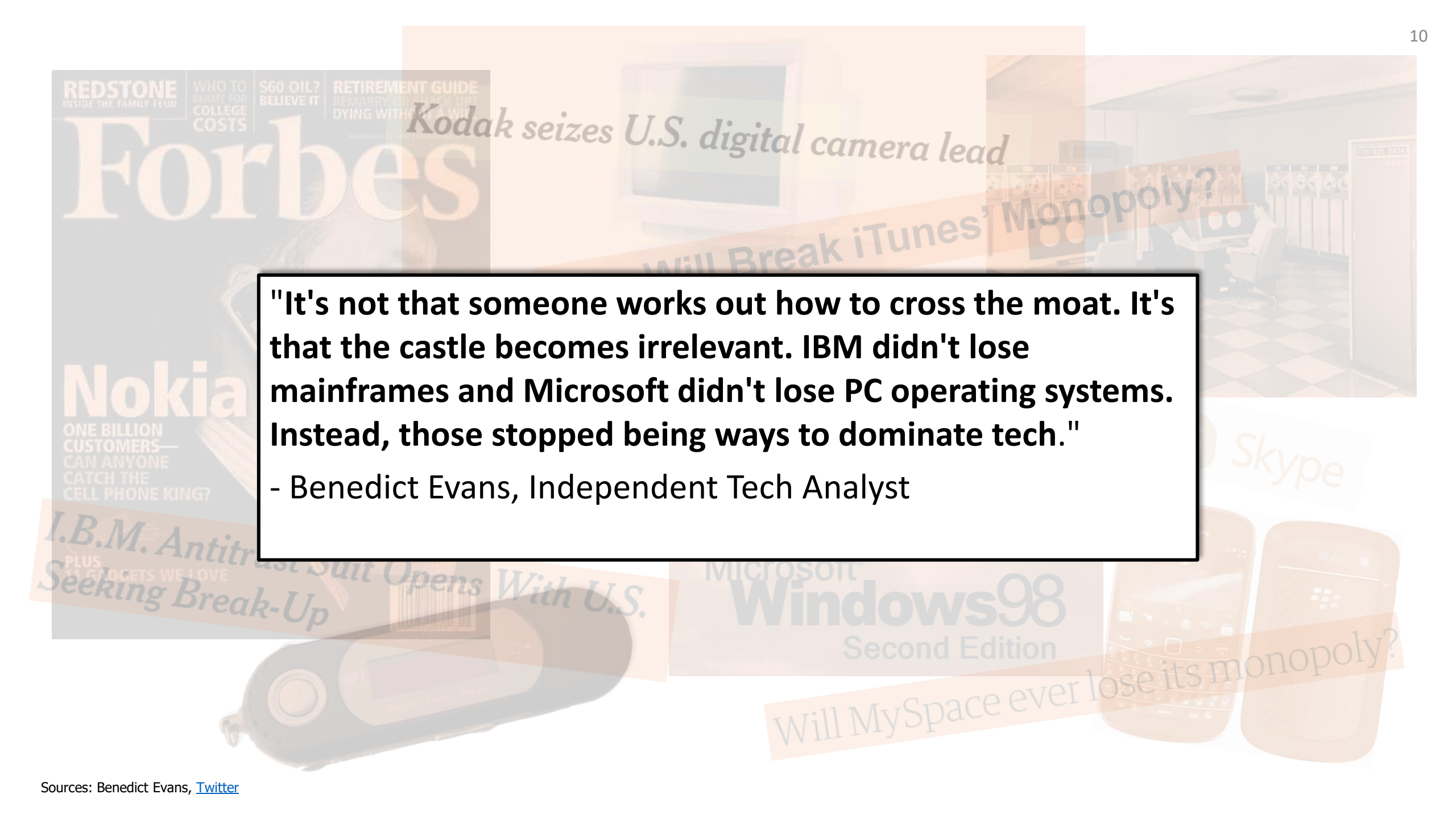
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**"It's not that someone works out how to cross the moat. It's that the castle becomes irrelevant. IBM didn't lose mainframes and Microsoft didn't lose PC operating systems. Instead, those stopped being ways to dominate tech."**

- Benedict Evans, Independent Tech Analyst

# History Is Littered With Leading U.S. Companies Toppled By Market Shifts...

## Leading Companies Are Not Immune From Disruption



In 1996, **Kodak's** U.S. market share in photographic film was 80%.

- *Shift:* In 2020, 85% of photos are taken with smartphones.



In 2008, **CDs** account for 62% of total music sales.

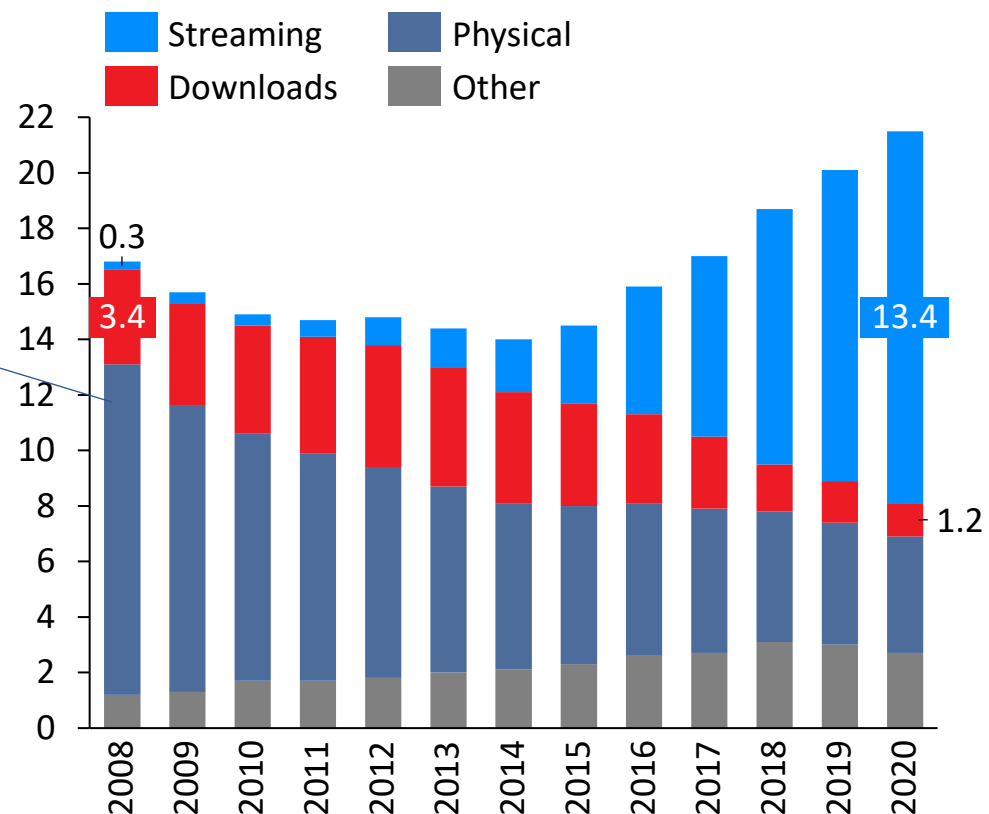
- *Shift:* In 2010, **iTunes** accounted for 69% of digital music sales.
- *Shift:* Streaming, rather than CDs or downloads, becomes the primary way to consume music. Spotify captures 42% of streaming market by 2018.



In 2014, **Texas Instruments** sold 93% of U.S. graphing calculators, at prices including markups over 50%.

- *Shift:* Free, online graphing calculators including Desmos are allowed in schools; physical calculators become unnecessary.

## Global Recorded Music Industry Revenues (\$B)

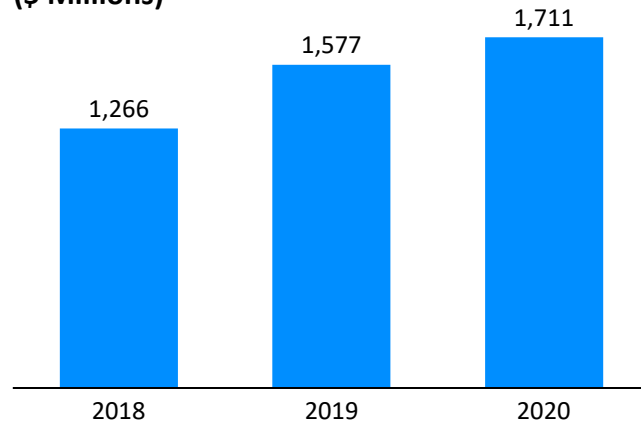


# ...And New Business Models Power The Shifts Underway Today

## Direct To Consumer (DTC)

- Well-known brands and startups increasingly sell directly to consumers.
- *Example:* New entrants such as Stitch Fix, Warby Parker, and Harry's have succeeded in bypassing retailers, and are building direct relationships with customers.

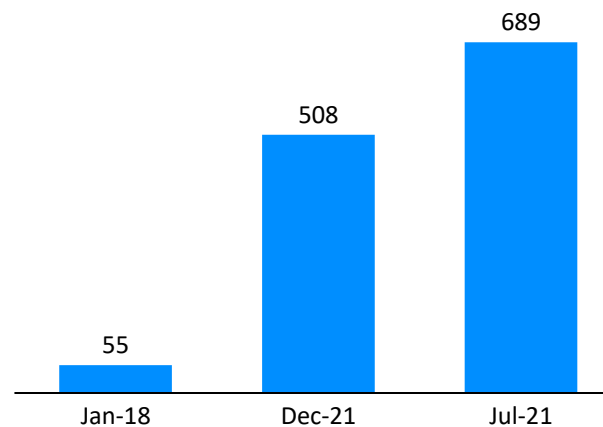
Stitch Fix Revenue 2017-2020  
(\$ Millions)



## Short-Form Video

- Network effects are not insurmountable in online video.
- *Example:* With a focus on short form, mobile-first content and a superior algorithm, TikTok has opened a new front in video ad competition, growing active users by more than 1,158% since 2018.

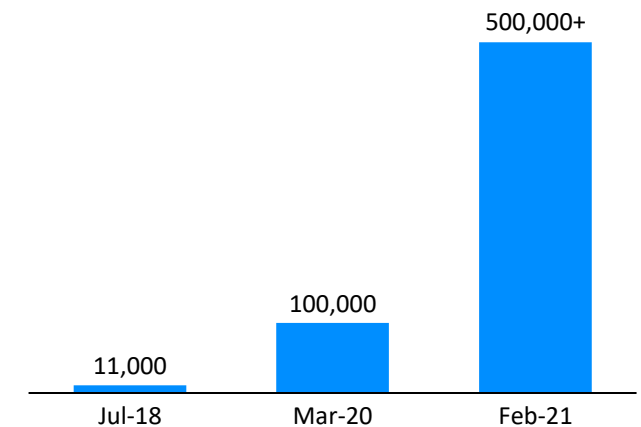
TikTok Global Monthly Active Users (Millions)



## Subscription-Based Media

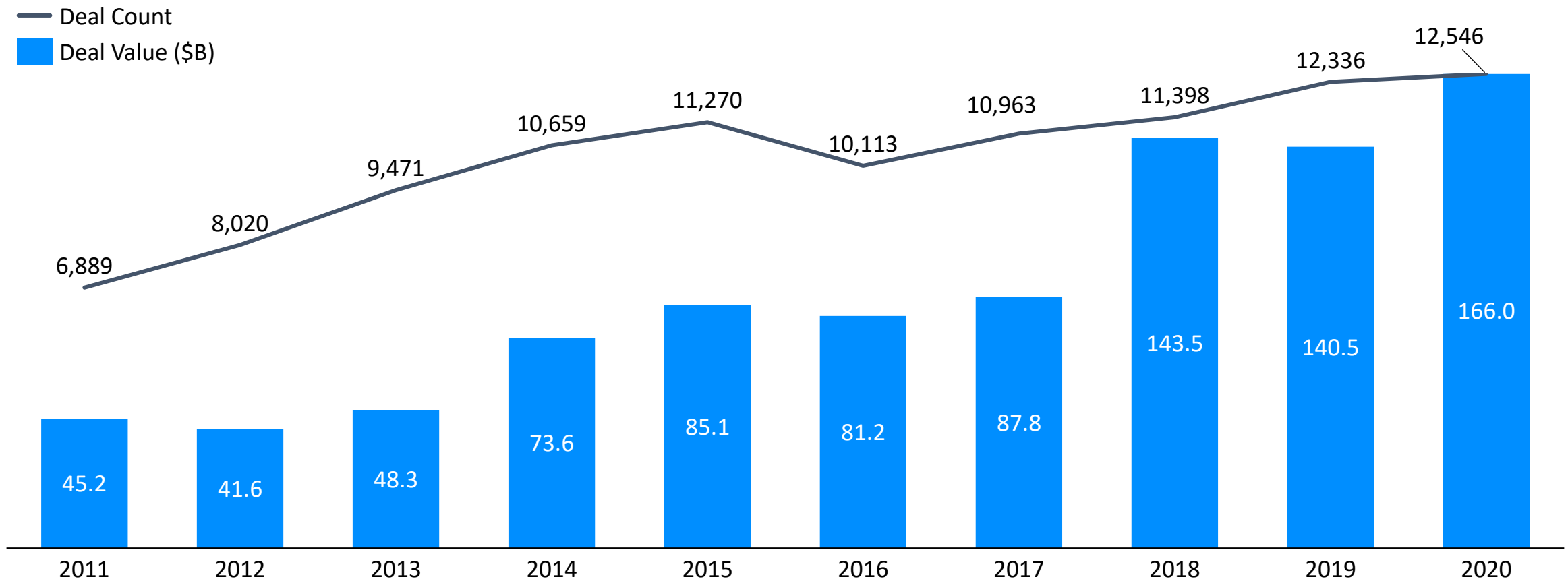
- Publishers are diversifying towards subscriptions-based revenue.
- *Example:* The top 10 authors on Substack collectively make over \$15m per year via subscription emails; the number of paying subscribers has increased 400% in less than a year.

Number Of Paying Substack Subscribers



# Investors Are Betting On New Competitors; Venture Capital Funding Is At An All-Time High

## U.S. Venture Capital Deal Activity, 2010-2020



# Companies Are Following Consumer Demand By Offering Different Ways To Search Online

The Google logo, featuring the word "Google" in its signature multi-colored font.The Bing logo, consisting of a green play button icon followed by the word "Bing" in a teal font.

DuckDuckGo

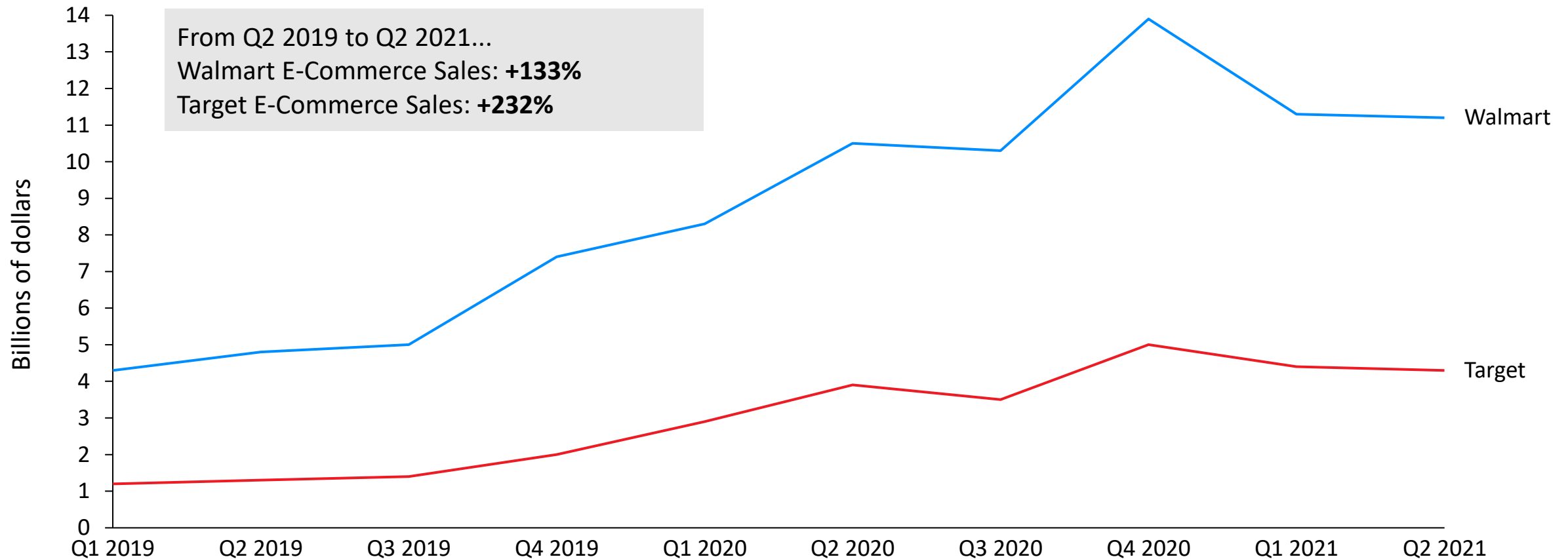
The YOU logo, where the word "YOU" is written in a colorful, multi-hued font.The Walmart logo, featuring the word "Walmart" in blue with a yellow six-pointed starburst icon to the right, and the tagline "Save money. Live better." below it.The neeva logo, featuring a blue stylized 'n' icon followed by the word "neeva" in a bold, black, lowercase sans-serif font.The Expedia logo, featuring a blue circle with a yellow airplane icon inside, followed by the word "Expedia" in a dark blue font.The Tripadvisor logo, featuring a green circle with a white owl icon inside, above the word "Tripadvisor" in a bold, black font.The travelocity logo, featuring three stylized starburst icons in blue, orange, and blue, followed by the word "travelocity" in a blue font.The Hotels.com logo, featuring a red stylized 'H' icon followed by the text "Hotels.com" in a red font.The spirit logo, featuring the word "spirit" in a bold, italicized, black font.The UNITED logo, featuring the word "UNITED" in a blue, all-caps font, followed by a blue globe icon.The Booking.com logo, featuring the text "Booking.com" in a bold, blue font.The KAYAK logo, where each letter of "KAYAK" is contained within its own orange square.The Southwest logo, featuring the word "Southwest" in a blue font, followed by a small red and blue wing icon.The yahoo! logo, featuring the word "yahoo!" in a bold, purple font.The American Airlines logo, featuring the text "American Airlines" in a grey font, followed by the airline's signature globe icon.

# In Retail, Too, Consumers Have A Variety Of Options And Channels To Choose From

Physical	Hybrid (Buy Online, Pick Up In-Store)	Online Delivery
 4,700 stores Save money. Live better.	 Save money. Live better.	 Save money. Live better.
 10,000 stores		
 1,897 stores	 	  
 834 stores	 	
 9,021 stores		  

# Legacy Retailers Are Finding Success In Online Retail

## E-Commerce Sales By Company, 2019-2021



# Tech, Publishers, And New Entrants Are Competing For The Future Of Digital Ads

As advertising grows more competitive, traditional publishers are turning toward acquisitions and partnerships to adapt to a changing market.



## AdTech Is A Booming Industry:

- There are 13 publicly-traded AdTech companies in 2021 (vs four in 2017), with five more on the way.
- The total market cap of publicly-traded AdTech companies is \$160 billion in 2021 (vs \$5 billion in 2017).

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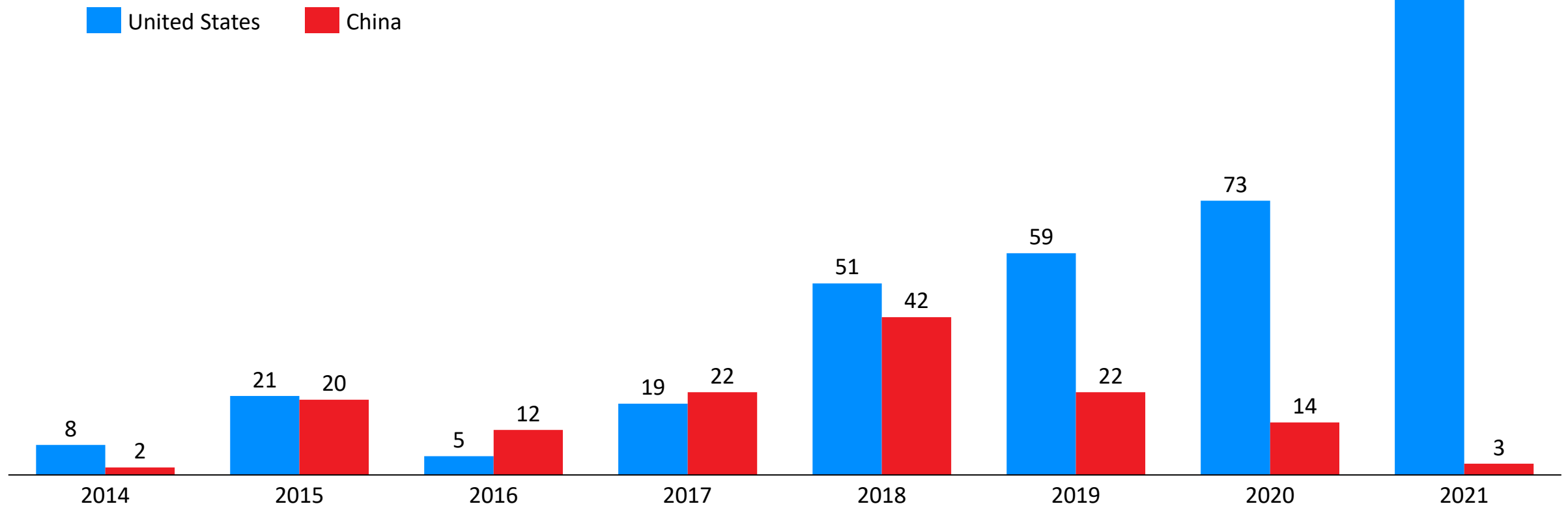
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# American Entrepreneurs Outpace Competitors, With More U.S. Unicorns Than Ever Before

Number Of Unicorns By Year Of Unicorn Designation, U.S. Vs. China\*

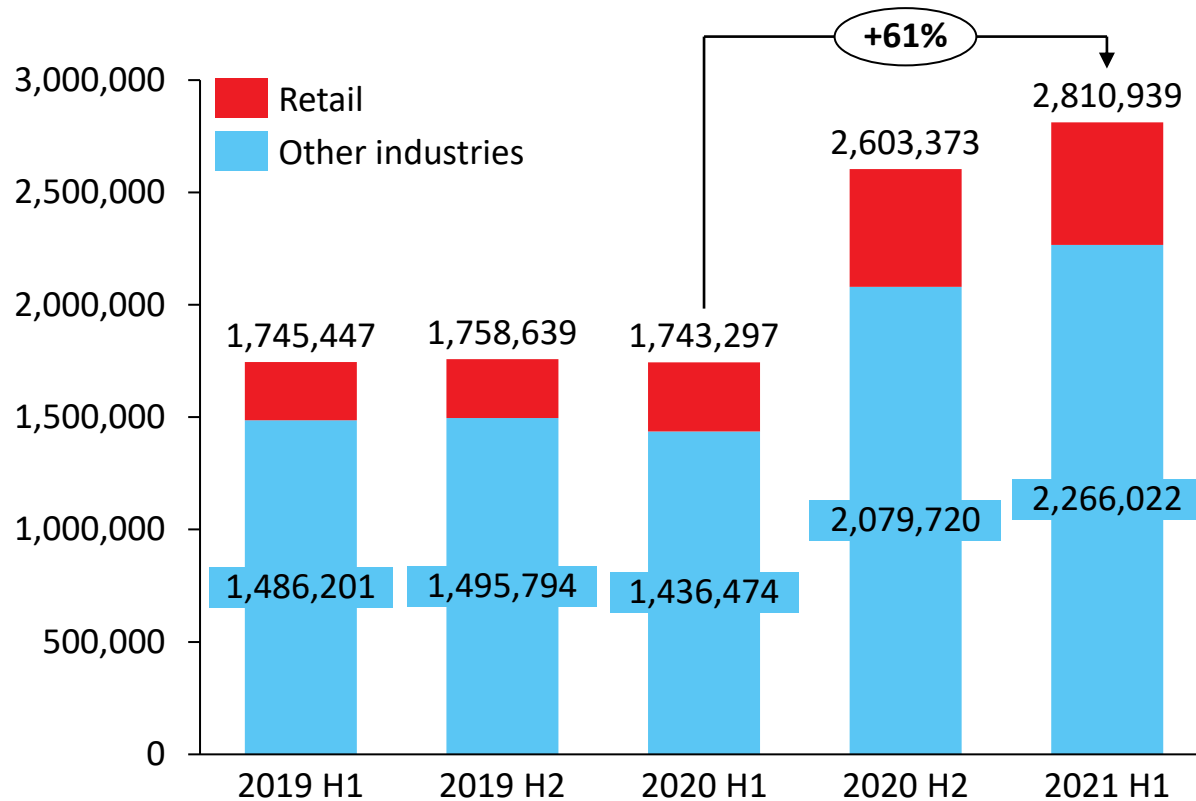


\*Unicorn = privately held startup that reaches a valuation of at least \$1 billion

Sources: "The Complete List Of Unicorn Companies," [CB Insights](#)

# Low-Cost Digital Tools Are Driving Record-Level New Businesses Starts, Especially In Retail

Number Of New Business Applications, 2019-2021

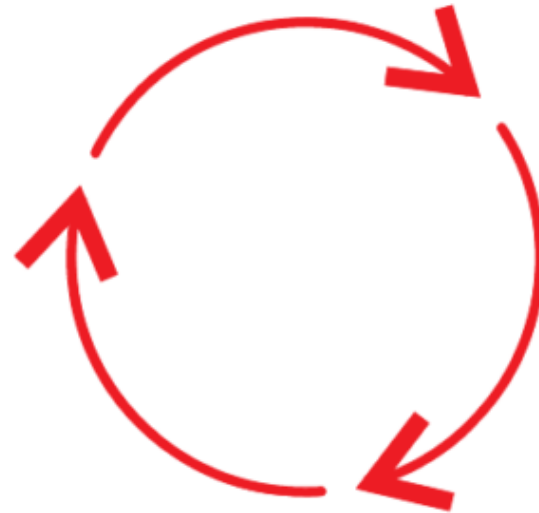


**Despite COVID, 2020 saw a record in new business starts, which has continued into 2021.** In 2020, there were 4.5 million applications for new businesses—51.0% higher than the 2010-19 average.

**Retail is the business of choice for entrepreneurs.** Almost 545,000 new retail businesses opened in H1 of 2021, a 110% increase vs. H1 of 2019.

# Startups And Established Players Form A Virtuous Cycle Of Innovation

**Step 1:** New entrants look for funding and support.



**Step 2:** New entrants become competitors themselves or are acquired and accelerated by large companies, scaling pro-consumer innovations.



**Step 3:** Employees leave their companies and start new ones.

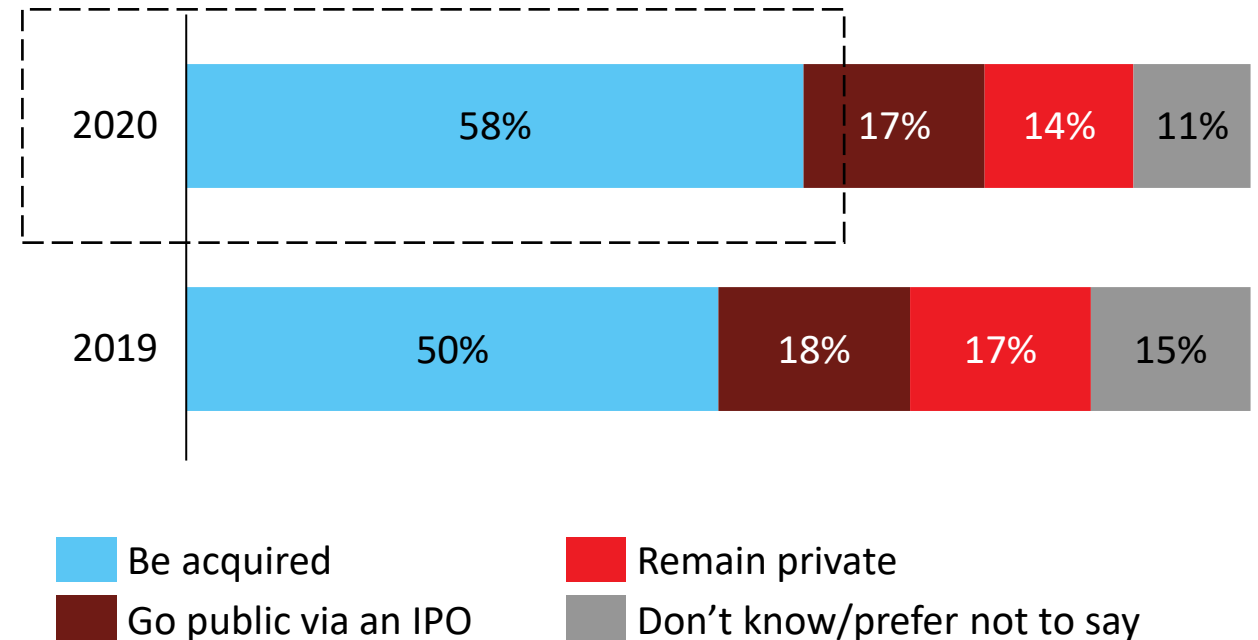
# Acquisitions Are The Primary Incentive For New Business Formation

**Acquisition is the top long-term goal for founders.** Only 1% of businesses that get venture funding eventually go public through an IPO.

**Less than 5% of venture-backed businesses reach a valuation at which they could theoretically IPO.** Businesses need a valuation of at least \$100 million to realistically go public; of a database of 35,000 venture-backed businesses, only 1,700 have ever reached such a valuation.

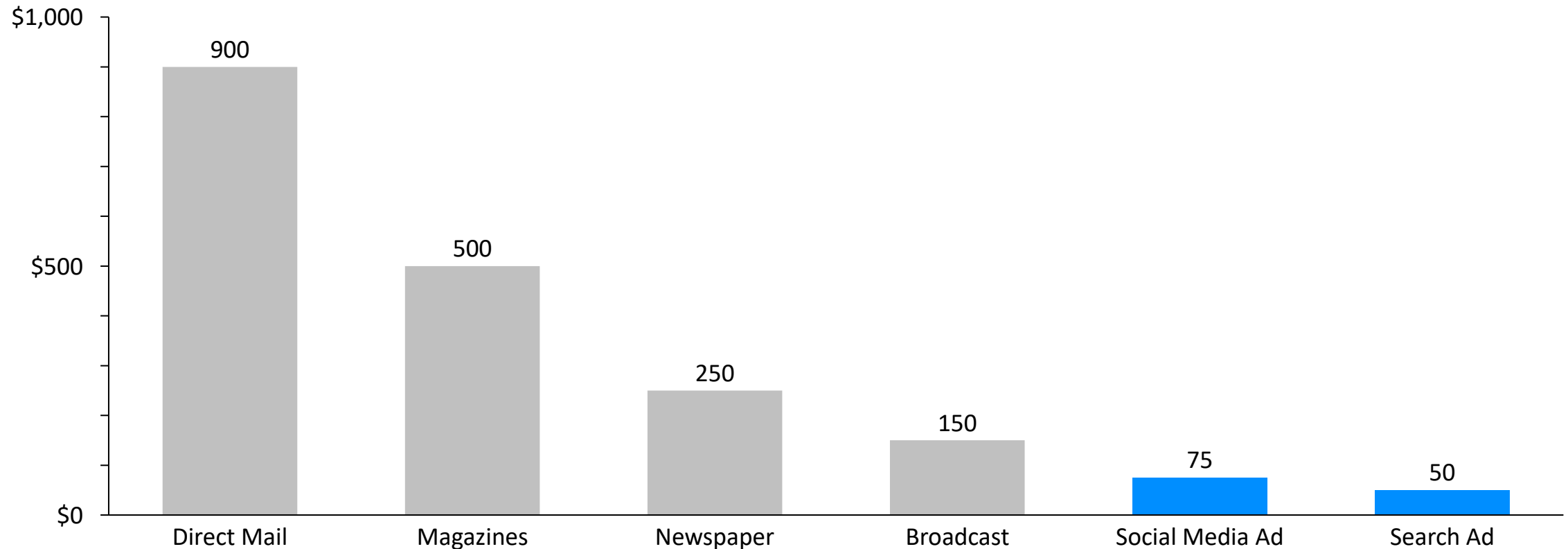
**Acquisitions help founders, businesses, and consumers.** Acquisitions provide a means for founders to receive a return on their investment, and enable acquiring technology companies to improve their products.

**What is the realistic long-term goal for your company?**  
*Percent of founders responding:*

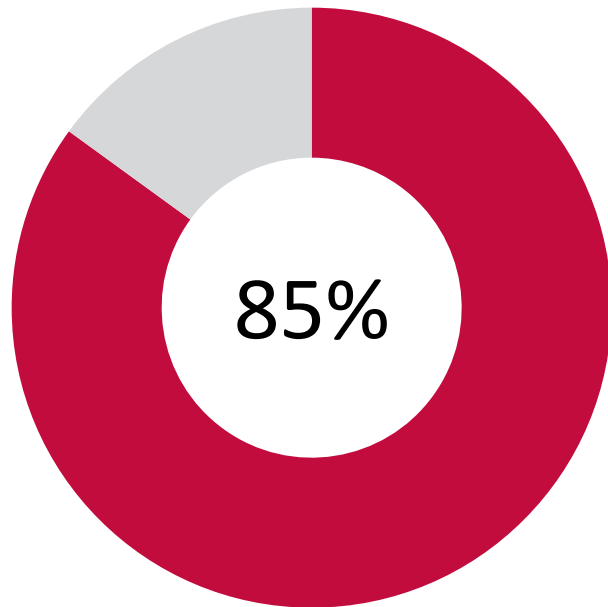


# Digital Advertising Enables Small Businesses To Reach Consumers At A Low Cost

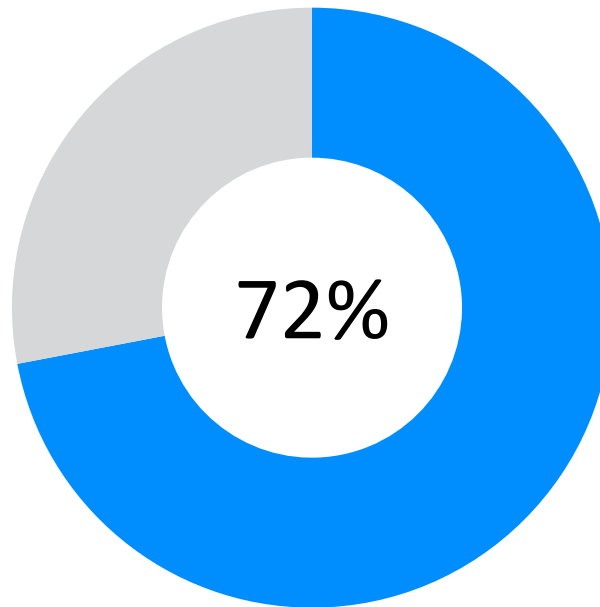
Cost To Reach An Audience Of 2000 People, Traditional Vs. Digital Media



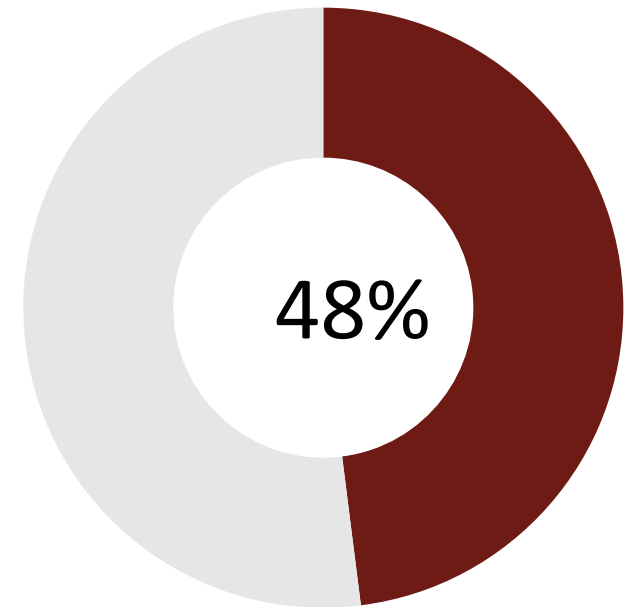
# Digital Tools Provided A Lifeline To Small And Medium Businesses During The Pandemic



Of SMBs say COVID-19 made them rethink their approach to digital tools.



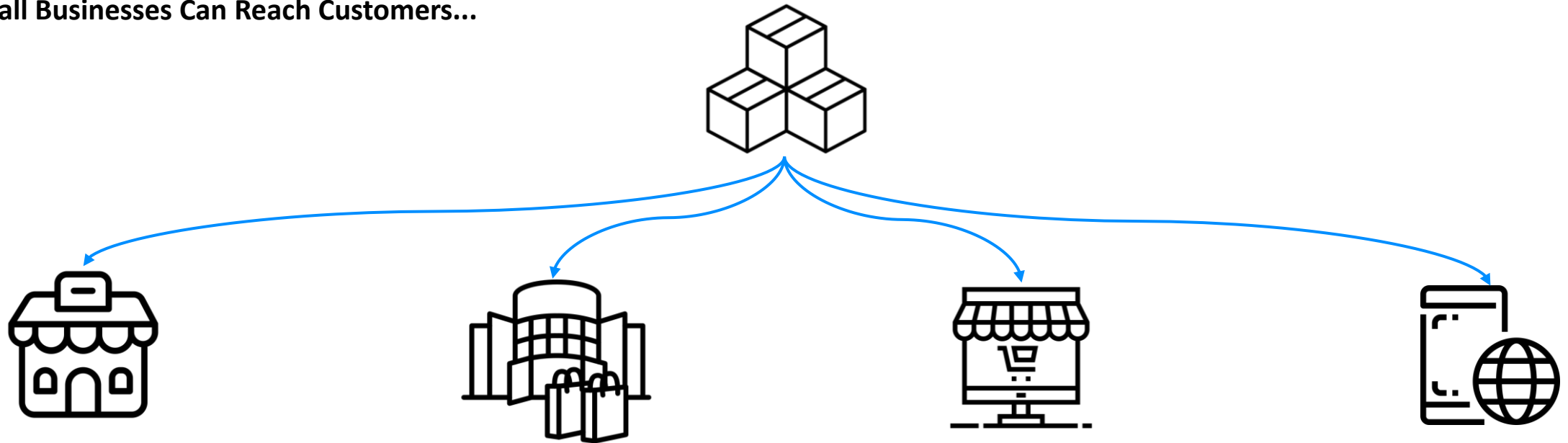
of SMBs increased their use of digital tools during the pandemic.



of SMBs deployed at least one new digital tool since the pandemic began.

# Small Businesses Have More Channels Than Ever To Market And Sell Their Products

Small Businesses Can Reach Customers...



Through their own storefront.

Through traditional wholesale retail, such as Target and Walmart.

Through their own website.

Through online marketplaces, such as Amazon, Walmart and Target.

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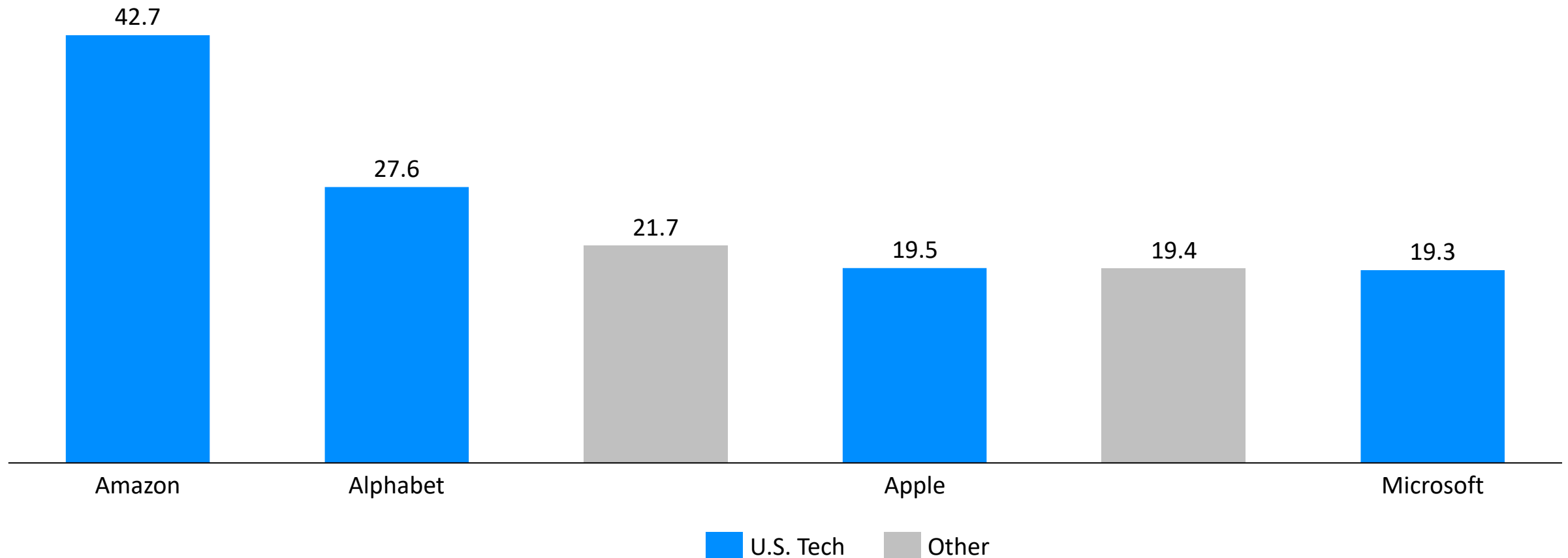
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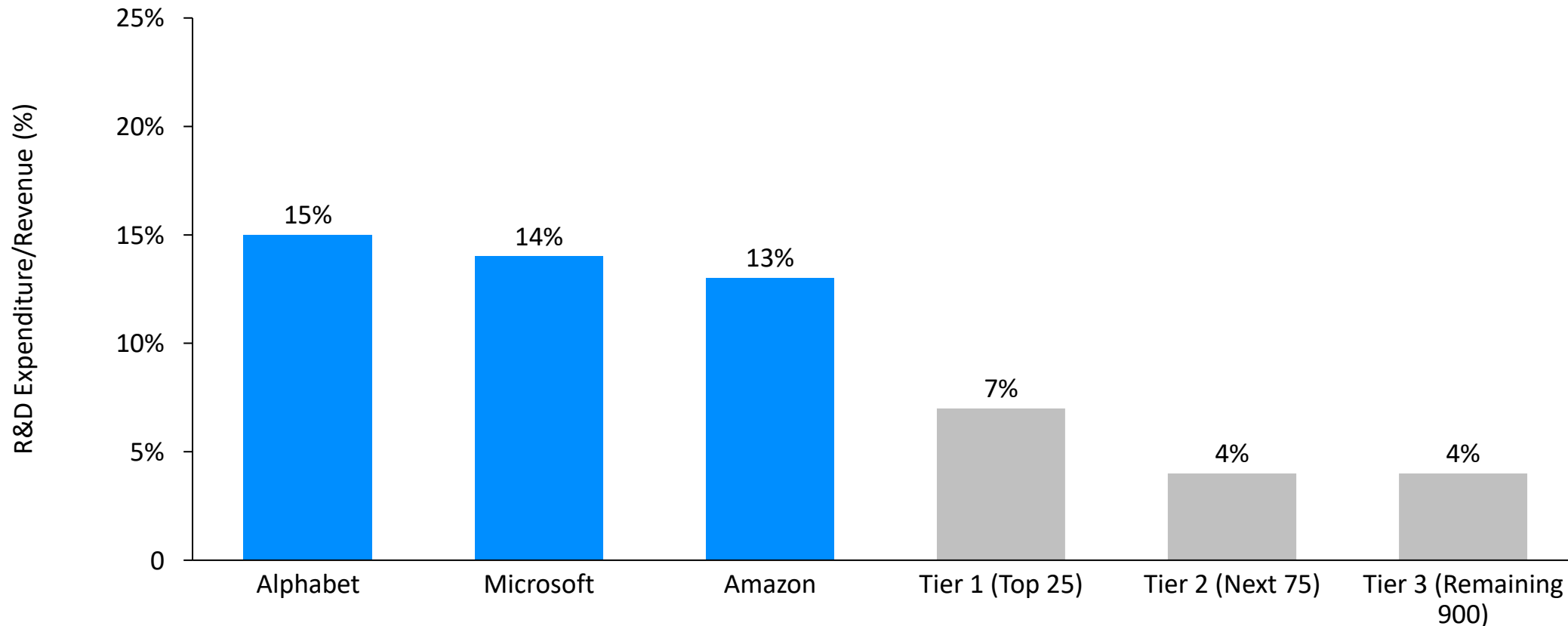
# Tech Companies Drive American Innovation, Investing in R&D to Compete Globally

Top Six Firms Globally By R&D Spending, (\$B, 2020)



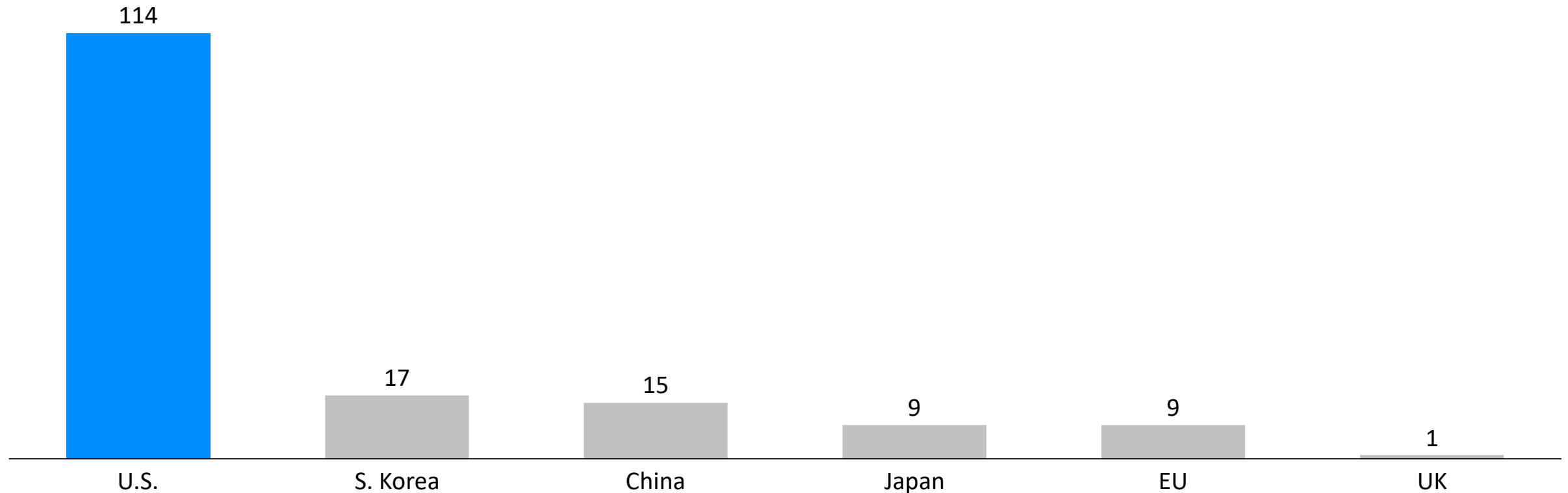
# Leading Tech Companies Spend A Higher Percentage Of Revenue On R&D

R&D Intensity (R&D Expenditure As a Percentage Of Revenue) For Firms In PwC Global Innovation 1000 Study, 2018



# The U.S. Is The Undisputed Leader In R&D Investment In The Digital Economy

R&D Spending By Software, Hardware, and Internet Companies, By Country (\$B, 2018)



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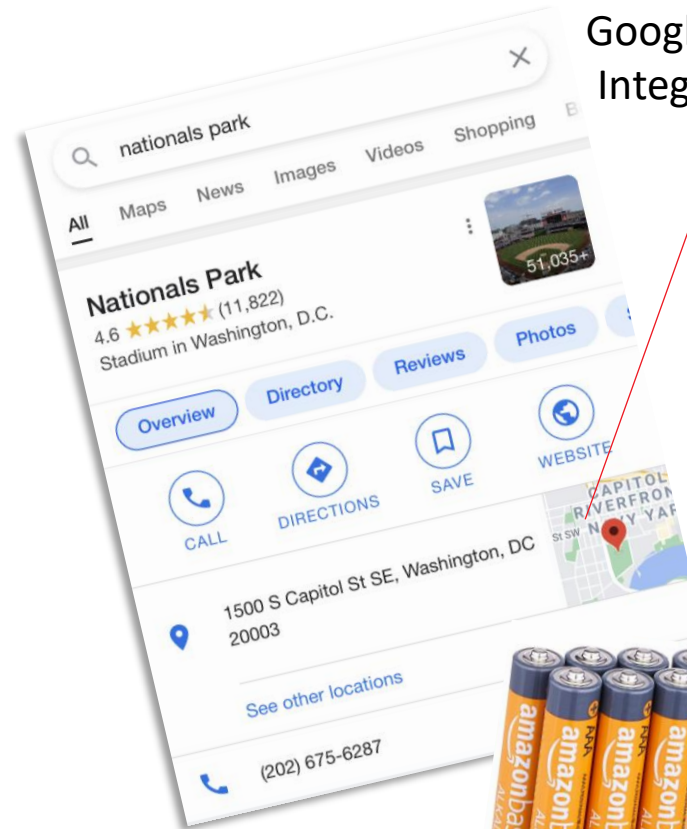
**Recent Antitrust Reform Bills: Harmful And Arbitrary**

# Splitting Companies By "Business Line" Would Crush Innovation And Harm Consumers

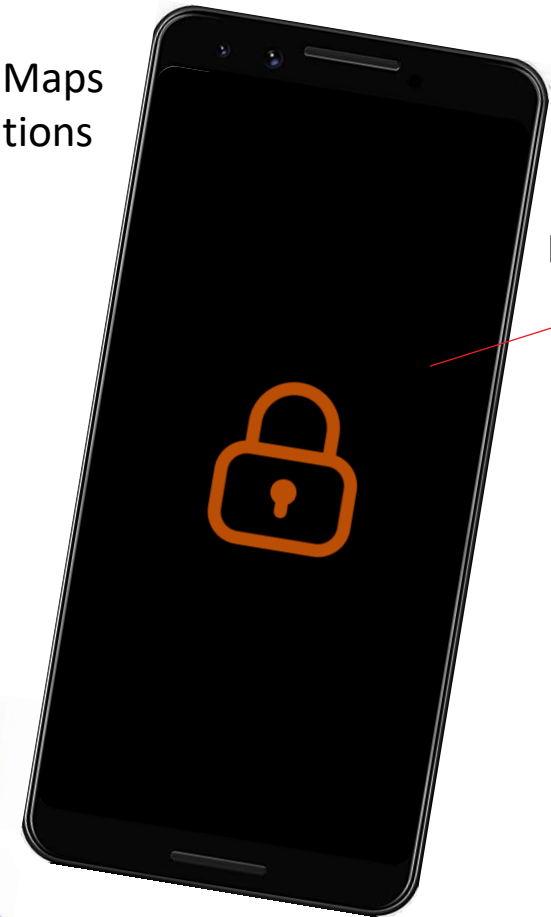
**Breakups would make consumers worse off.** Would consumers be better off if Google were only able to offer 10 blue links in response to a query? Or if Amazon were no longer able to offer a low-cost alternative to branded products?

**Breakups would destroy the incentive for companies to improve their services.** Arbitrarily forcing companies to remain in one "business line" would allow competitors to free-ride off leading companies' innovations.

## Examples of services at risk:



Google Maps Integrations



Device Security

Amazon Basics



# Anti-Tech Proposals Would Make Search Engines Less Helpful

2021

Google

old ebbitt grill

All News Images Maps Videos Shopping

**Old Ebbitt Grill**  
4.6 ★★★★★ (11,151) · \$\$\$  
American restaurant · Open

Overview Updates Menu Reviews

CALL DIRECTIONS SAVE WEBSITE

RESERVE A TABLE ORDER ONLINE

Iconic tavern offering American meals, including popular oyster specials, in Victorian-style digs.

✓ Dine-in · ✓ Curbside pickup ·  
✓ No-contact delivery

675 15th St NW, Washington, DC 20005

Located in: Metropolitan Square

2011

Google Old ebbitt grill

Search

**Old Ebbitt Grill 675 15th Street Northwest Delivery & Takeout**  
<https://www.trycaviar.com/>

Web Couriers will now leave food at your door, and text/call you when it has arrived. Order now to get free delivery fees on your first order. Indulge in Your Favorites.  
No-Contact Delivery · \$0 Delivery with DashPass

Images

Videos

News **Old Ebbitt Grill Delivery & Takeout | 675 15th Street Northwest**  
<https://www.doordash.com/>

Shopping With the Most Restaurants Available, Enjoy \$0 Delivery Fees on Your 1st Order! Quick & Reliable Delivery. Pizza, Chinese and More.

More

Show search tools

**Restaurants - Pub and Restaurant**  
<http://www.elephantcastle.com/>  
Great Britain Meets Great Food at Elephant & Castle Pub and Restaurant.

**Restaurant Equipment For Sale - Electric Hot Plates Available**  
<http://www.k2s-w.com/>  
Japanese Technologies To The World Commercial Kitchen Equipment/System.

**Old Ebbitt Grill | Nationwide Shipping on Goldbelly**  
Old Ebbitt Grill  
Old Ebbitt Grill now ships favorite items like clam chowder, reubens, burgers, and more nationwide on Goldbelly—straight from Washington, DC to your door.

**Old Ebbitt Grill - Wikipedia**  
[en.wikipedia.org/wiki/Old\\_Ebbitt\\_Grill](en.wikipedia.org/wiki/Old_Ebbitt_Grill)  
Old Ebbitt Grill is a historic bar and restaurant located at 675 15th Street NW in Washington, D.C., in the United States. It is Washington's oldest bar and ...

**Menus | Old Ebbitt Grill**  
Old Ebbitt Grill > menus  
Entrées · Shrimp Cake · Pan-Seared Atlantic Salmon\* · Fried Oyster Platter · Fried Chicken Rice Bowl · Duroc Pork Chop (GF) · Chicken Fettuccine · Spicy Sausage ...

**OLD EBBITT GRILL - 7430 Photos & 8613 Reviews - Bars - 675 15th ...**  
Yelp > Nightlife > Bars  
8613 reviews of Old Ebbitt Grill "There is nothing negative I can say about the Old Ebbitt Grille, it is just that good. Actually, good is too light a word to describe ...

**The proposals would reverse years of pro-consumer innovation.** Going back to the "ten blue links" may help some websites get more ad revenue, but will make it more tedious for consumers to get information.

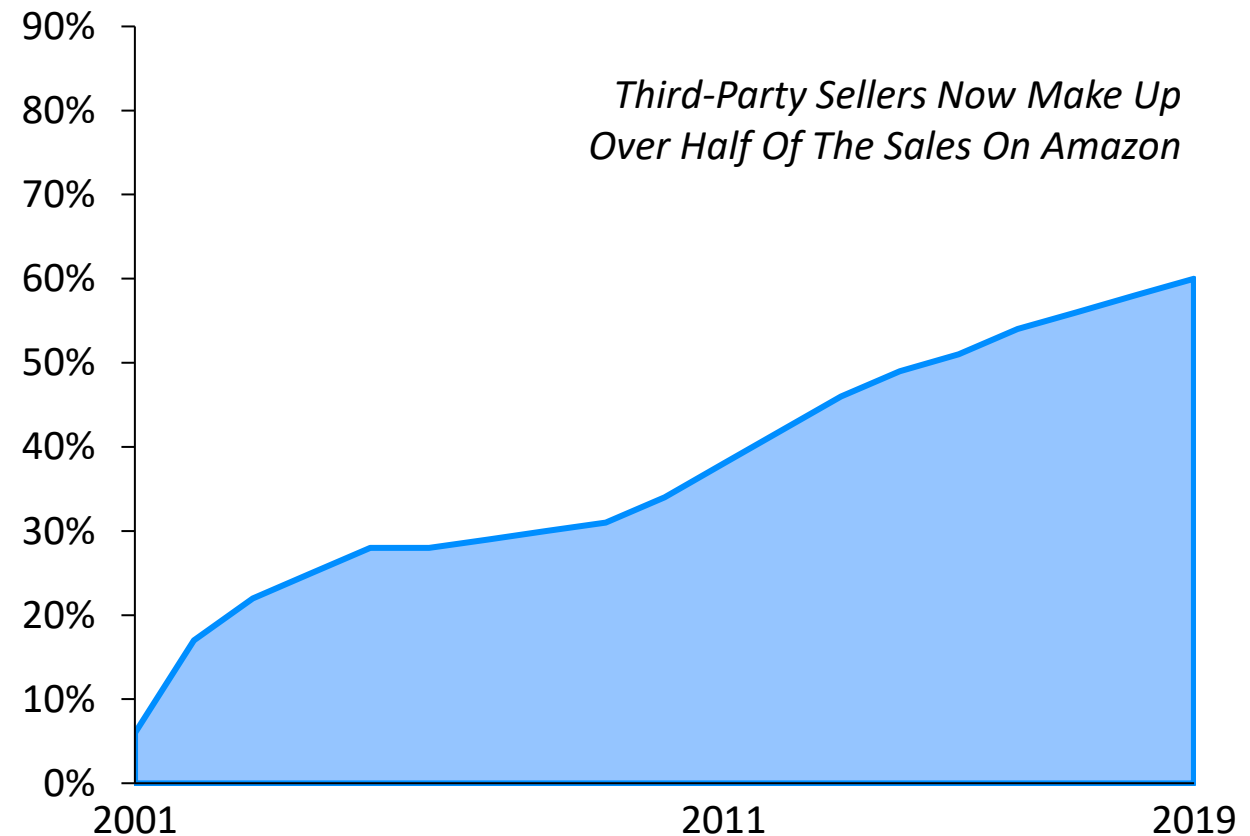
**Search innovations make products better.** By receiving information up front, consumers can more easily get more answers to their questions.

**Complaints come from competitors, not consumers.** Product improvement is what we want from competition. Should these innovations be banned in order to help angry competitors?

# Congressional Proposals Would Endanger The Amazon Marketplace For Third-Party Sellers

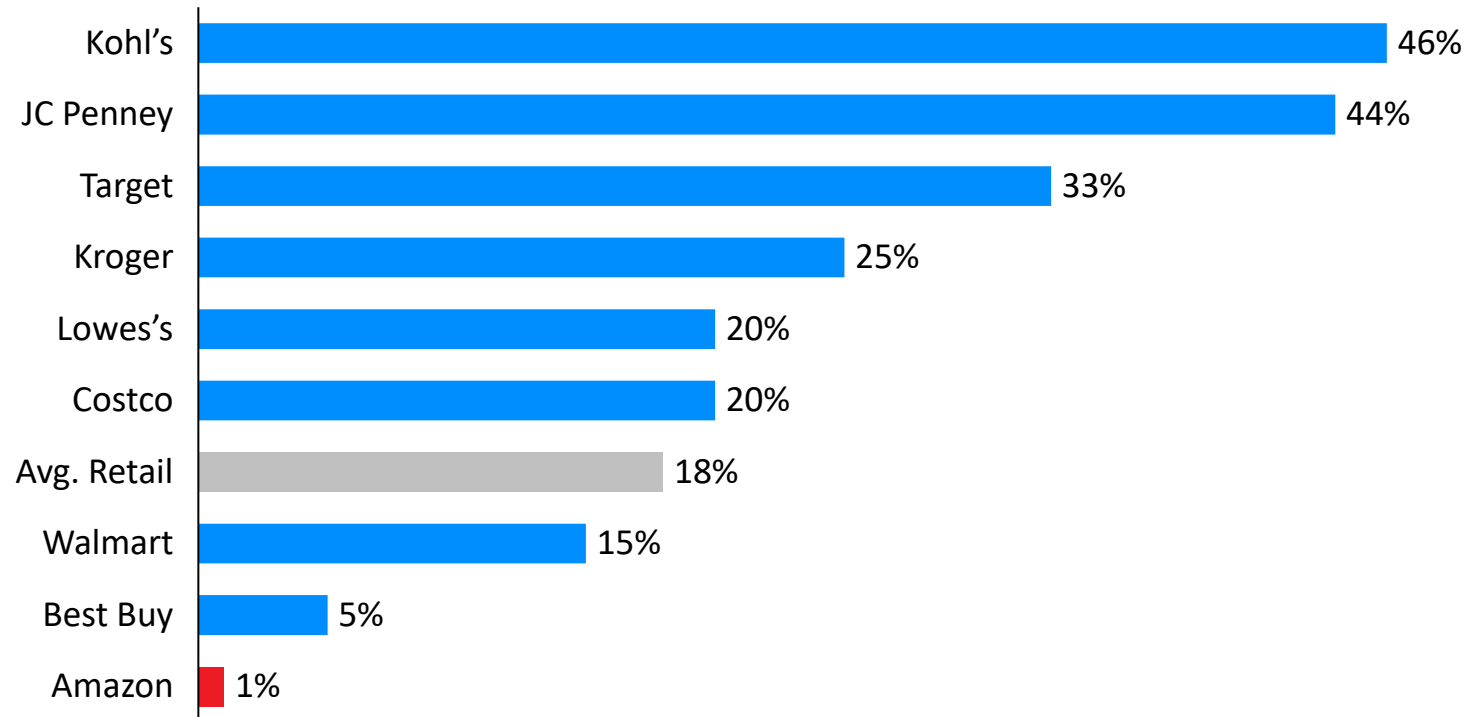
- **Small businesses succeed in partnership with Amazon.** By facilitating fast shipping, storing inventory, and processing payments, Amazon supports sellers with tools to scale their businesses.
- **Proposed bills reduce options for customers.** Amazon gives customers the options to shop brand name products alongside the offerings from millions of small businesses. Recent proposals would split these retail practices apart.
- **Amazon may find its safest route to complying with these laws is to remove third parties from its store.** The legal uncertainties these bill would impose would make it impossible for a retailer to reliably run a marketplace for SMBs.

The Amazon Marketplace Enables U.S. Small Businesses To Reach A Global Audience



# Private Label Goods Are Ubiquitous In Retail

Percent Of Revenue From Private Label, Various Retailers



**Private label brands are a cornerstone of the strategy for many leading retailers:**

- **Target** has 48 private label brands, including Made By Design and Everspring.
- **Bed Bath & Beyond** is planning to grow sales penetration of its private labels from 10% to 30% in three years.

**The bottom line:** Bills allegedly aimed at peeling off Amazon's comparatively small private label offering are in fact intended to destroy its retail business.

# The Bills Would Jeopardize Device Security And Consumer Privacy

**Share data with foreign competitors:** Data sharing mandates in these bills could force American tech companies to share their data with Chinese competitors, risking American consumers' privacy and security to benefit companies like Alibaba and Tencent.

**Break security practices that keep people safe from malicious actors and undermine privacy:** The bills' ban on vertical integration could prohibit platforms from deploying their own tools to fight malware, viruses, and DDOS attacks, reviewing apps for security standards, and preventing spam.

**Limit actions on bad actors:** By placing restrictions on companies' ability to "discriminat[e] among similarly situated business users," they could be forced to carry websites and content that may not comply with their terms of service.



# The Bills Would Hamstring Leading U.S. Companies, Giving A Leg-Up To Chinese Rivals

## Bipartisan concern about advantaging Chinese rivals:

"I'm really concerned about China, and if this bill would require a U.S. company to be interoperable with a Chinese company, and we all can imagine the dangers if the Chinese government has access to U.S. person data, particularly, you know, people who work in the government or work at companies that have valuable trade secrets."

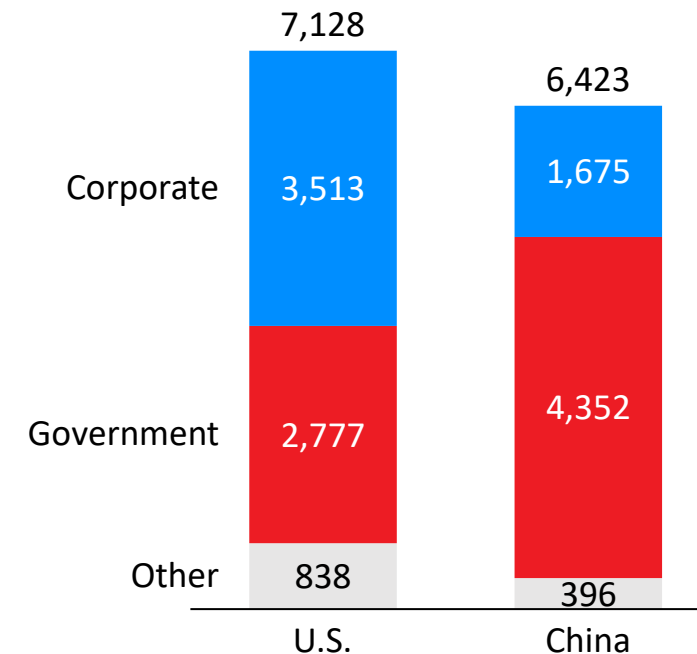
- Rep. Eric Swalwell (D-CA)

"[I]f interoperability needs to go from Facebook, Amazon, Apple, and Google, then doesn't it need to go from Alibaba back? On what basis would we have the dominant player in China and all over the rest of the world able to take from all four of these companies but have no requirement to be interoperable back?"

- Rep. Darrell Issa (R-CA)

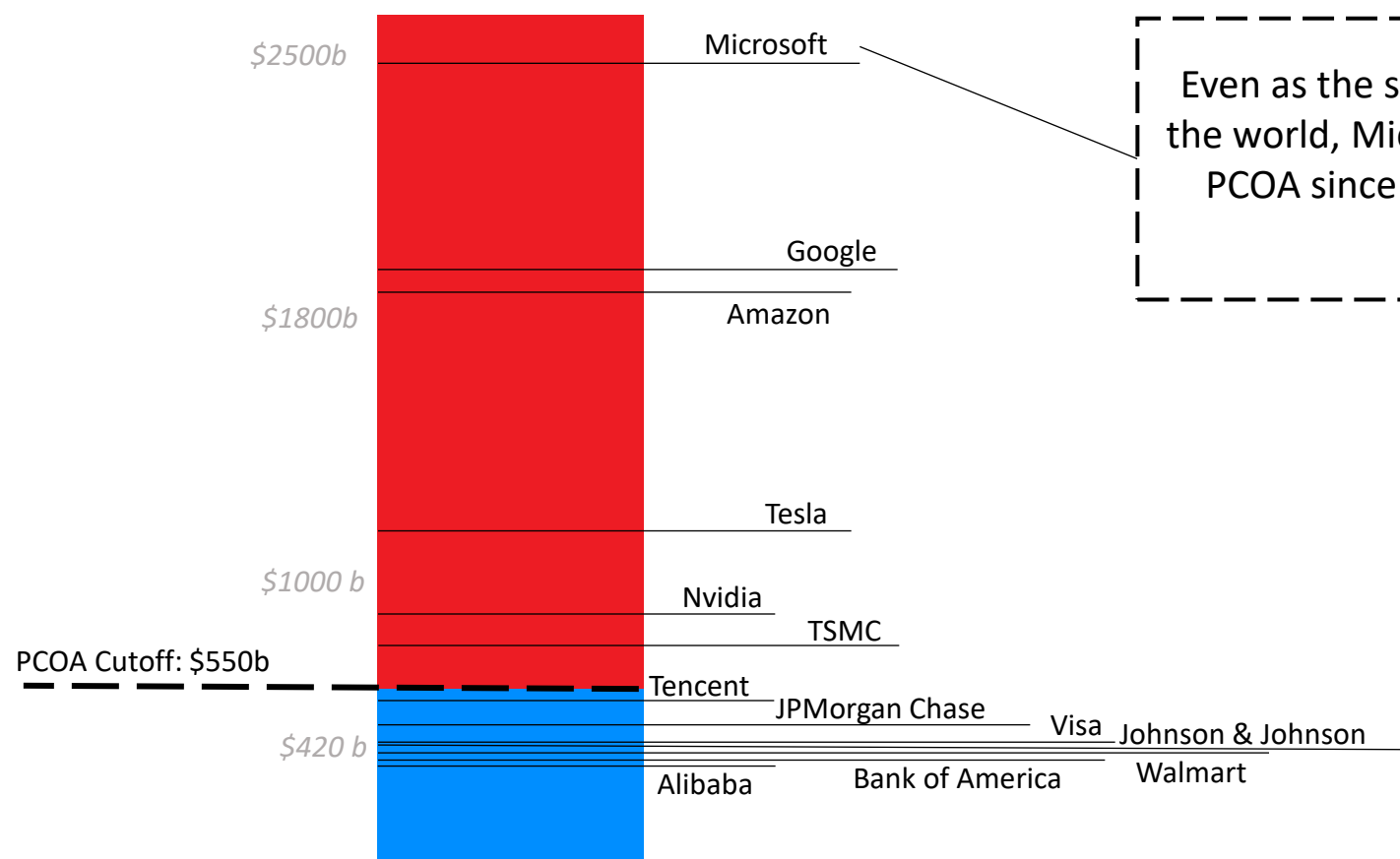
## Private Sector Research Enables The U.S. To Keep Up With Competitors In Next-Generation Industries:

### Number Of Peer-Reviewed Artificial Intelligence Publications By Institutional Affiliation, 2019



# Market Cap Thresholds Are Arbitrary, Carving Out Multiple Large Competitors

Market Capitalizations Of Select Companies,  
November 29, 2021



Even as the second-most valuable company in the world, Microsoft may **not** be covered under PCOA since the bill carves out PC operating systems.

# A Host Of Businesses Are Approaching Or Have Breached The Senate's Market-Cap Threshold

