



Promoting Open, Competitive, and Safe Artificial Intelligence

IBM welcomes the focused attention on Artificial Intelligence (AI) from policymakers and regulators and appreciates this opportunity to comment on how governments should approach competition and antitrust policy in AI.

AI is a revolutionary technology already changing how work is done and is poised to expand human productivity in the years ahead.

Like steam power and the internet, artificial intelligence will fundamentally change how economies work. From day-to-day human productivity and bottom-line business operations to complex societal and scientific problems like climate change and drug discovery, the stakes are high; AI is projected to create an astounding \$16 trillion in value by 2030.

The time to promote open competition in AI is now because the AI revolution is well underway - millions of people worldwide have begun experiencing the power of this technology firsthand, whether working directly with consumer-facing AI systems or benefiting from the improved user experience and efficiencies made possible by business deployment of AI. Focusing on pro-competition AI policies now is imperative for two reasons: 1) promoting competition and open innovation in AI is inherently safer and more equitable for the entire ecosystem, and 2) choice and flexibility in the use of AI models will unlock the greatest economic potential for this technology.

Start with a smart regulatory environment

As with many previous technological innovations, appropriate regulatory guardrails are needed to ensure that AI is used in ways that are legal, safe, and fair. IBM has advocated for a smart regulatory framework to enable AI innovation based on three core principles: 1) Regulate AI risks, not algorithms, 2) make AI creators and deployers accountable, not immune from liability, and 3) support open AI innovation, not an AI licensing regime.

With these core principles in mind, IBM offers below specific suggestions to promote open innovation and vigorous competition in AI.
Foster a competitive landscape through open innovation

The ubiquity of AI means that the direction and future of the technology cannot be shaped in relative secrecy by a handful of companies. There is significant risk that the world is heading toward highly concentrated and consolidated control of AI, driven by a small number of large firms with a closed, proprietary vision of the technology.

This risk feeds off a pessimistic and doomsday vision of the AI future, implying that open innovation is dangerous, and the only safe solution is to leave the control of AI in the hands of a few selected firms. They seek to buttress their dominant market position by advocating a restrictive government licensing regime that would – by its very nature – limit competition and innovation in AI.

IBM has a different vision. We believe that competition and open scientific innovation are critical for a vibrant AI ecosystem and that this model will inherently be safer, secure, and fair.

Policies to promote a competitive, level playing field would guarantee that many diverse voices shape the future and direction of AI models. For example, access to large datasets, which cannot be easily replicated, is increasingly important. Starving competitors of fair and non-discriminatory access to data would create significant competitive imbalances.

Fostering a competitive landscape is also critical for AI users, including consumers, enterprises, and governments, as AI will be consumed multi-modally. This means enterprise users and others will leverage a combination of AI models—from IBM, open source, their proprietary models, and those of other companies. Choice and flexibility allow users to deploy a variety of AI models and move their data and applications across multiple environments.

Target antitrust enforcement to unique market dynamics and actors

In light of the rapid acceleration in AI, the best approach to antitrust enforcement is to leverage existing tools and current antitrust laws tailored to the unique dynamics of the technology and the AI marketplace. Conceiving and implementing new, entirely novel competition regulation for AI is unnecessary and risks unintended consequences that could dampen open innovation.

This tailored and watchful enforcement approach should focus on preventing behavior that seeks to limit, control, or block the development of AI technologies or to limit user choice amongst those technologies.

Regulators must also take into account the nontraditional structures that increasingly make up the AI landscape. “Partnerships” forged between large companies outside typical merger and acquisition structures pose a competitive challenge to the free marketplace. This is precisely where tailored approaches to antitrust enforcement will be critical.

Enforcement that focuses on two distinct groups of AI market actors, **developers and users**, will better advance innovation that benefits the public and society.

For **developers**, enforcement attention should focus on:

- **Barriers to open innovation and AI governance.** Enabling many diverse, overlapping technology development ecosystems, including open and proprietary models, is critical for competition and for transparent and safe governance of AI throughout its lifecycle.
- **Barriers to market entry.** AI licensing schemes are counterproductive barriers to market entry, placing power in the hands of the relatively few large companies that have the ability to meet almost any licensing requirements. The best protection against perceived social and competitive harms of AI is an

emphasis on transparency and enforcement against blatantly anticompetitive activities.

- **Access to critical inputs.** The development of AI technologies is dependent on access to critical inputs. It follows that antitrust regulators should prevent incumbent firms from engaging in anti-competitive strategies designed to restrict developers' access to those inputs, including:

Data: Firms with a significant presence in consumer-facing markets enjoy privileged access to large datasets, including those extracted from consumers, which cannot be easily replicated. Restricted access to training data will create significant competitive imbalances and empower incumbent firms to unfairly extend their market position.

Computing power: Firms without their own significant computational resources may be reliant on cloud service providers (CSPs) who also are active in the development of foundation models and AI solutions. It is critical that CSPs not be permitted to engage in anti-competitive practices that restrict or otherwise disadvantage other AI developers' access to computing power.

To ensure **user choice**, enforcement should focus on:

- **Technical barriers.** Firms with market power may put in place technical barriers designed to force customer lock-in. One example is a lack of data portability, which can hinder customers from keeping the benefits of customization when they move between AI systems or use multiple vendors. More broadly, tightly integrated solutions that make AI capabilities available only in combination with specific computing platforms or other applications artificially stifle innovation.
- **Commercial or contractual barriers.** Restrictive practices by firms with market power limit customers' ability to switch providers or make it less attractive to do so. These may include

exclusivity arrangements, tie-up arrangements, or terms that make it cost-prohibitive for an existing customer to migrate to another provider.

- **Leveraging product portfolios and datasets.** Authorities should focus on attempts by firms to leverage their leading position in neighboring markets, such as internet search, online advertising, or cloud computing capacity, to expand or consolidate their position in providing AI solutions. For example, business practices that lock in customers by linking the supply of dominant non-AI products or services to AI solutions through discounted or inseparable product bundles.

Conclusion

Healthy competition in AI products and services is critical for reasons that stretch well beyond conventional price and quality metrics. AI will be ubiquitous, creating dazzling opportunities for increases in human advancement and well-being while impacting every aspect of our individual lives and institutions.

No one can predict with certainty how the AI landscape will develop, and therefore premature anti-trust regulatory action could dampen innovation, limit choice, and may prevent the public from thoroughly enjoying the benefits of AI technologies.

Now is the time for policymakers to promote open AI innovation based on core policy principles of risk, accountability, and openness. That is how we will advance safe, responsible AI for the benefit of all.