

Intelligence MEMOS



The C.D. Howe Institute's third Regent Debate recently addressed the question: Should Governments Regulate Big Tech to Protect the Public Interest? and Melanie Aitken, former Commissioner of the Competition Bureau of Canada, argued for the proposition.

From: Melanie Aitken

To: Canadians Concerned about Big Tech

Date: August 14, 2019

Re: **REGENT DEBATE: TECH HAS OUTSTRIPPED COMPETITION OVERSIGHT**

The cost of free is far too steep.

Without government intervention the steady march of the incumbent digital platforms to dominate, to manipulate and to exploit our every activity, in every conceivable corner of our personal and public lives, is inevitable.

There's no denying that innovation has spurred enormous development in tech and been of enormous value to society, bearing unlimited potential for ever greater advances in the future.

But only if we confront the uncomfortable truth about the exploding risks to our economic well-being, our liberty, our very democracy and our personal and national security. We have to learn from the past, we have to be courageous, we must accept the unassailable fact that markets distorted will not self-correct.

Sure we can identify current enforcement tools and standards like the antitrust merger control or the abuse of dominant standards, but one can't really debate that we have not seen much impediment put in the way of the steady march.

Do not be comforted by a "we got this" refrain from the international antitrust agencies. They're understandably jealous to protect their domain and, respectfully, naive about the consequences of having ignored this too long. At minimum they should have sought greater resources and/or sought to try to understand new measures of those all-important non-price effects.

Those are very central to what has both attracted consumers like moths to a flame and impeded the ability for any meaningful antitrust enforcement. It's a subject all its own, but at the heart of the inability of the antitrust agencies to prevent and redress the harms, is the challenge that it feels like consumers are benefiting from free access to this open market. What could be better? But this is an illusion. Remember the phrase: "if something feels too good it probably is."

Even if more resources and a more sophisticated approach to the economic analysis were available to us, I say this not lightly, as a free markets advocate, but there are significant elements of utility to these platforms and how they operate and they must yield to the overriding public interest.

Let's look for a moment at how it is that the online platforms have enjoyed this explosive growth and sketch the inevitability of the harm if they're left unchecked. Then you judge for yourself whether you think that the public outcry and alarm across all ideological lines are really an overreaction.

Digital platforms have a natural tendency to lead to monopoly power and the reasons are exceedingly complex, but in a sense very simple.

Network effects mean that the more people are on the platform, the more powerful it becomes. The more 'must-have' it becomes, the smarter the algorithm becomes, with strong economies of scale and scope owing to low marginal cost of expansion. Which all comes with an incentive to do anything necessary to eliminate pretenders so nobody is going to take you on.

The non-transparency of the activity it which the platform owner alone knows everything about everything that goes on in its platform, including all transactions by its competitors yields this vast and ever-expanding reach into areas previously thought impossible. And once established, the durability of that market power is robust.

Without intervention, the enormous profit incentive which we rely on in effective and working markets just isn't even close enough to take it on the barriers are simply too high.

The platform controls the gateway. It names the rules of the game. It can prefer its own goods by messaging and by placement. It can squash competitors like bugs.

It can exploit the massive consumer and business data it collects and in the case of consumers it is a deal done in the dark. Personal information is bargained away with only a fleeting opportunity to opt out or even begin to appreciate what that information is going to be used for.

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